

GST IN INDIA – AN INTRODUCTION



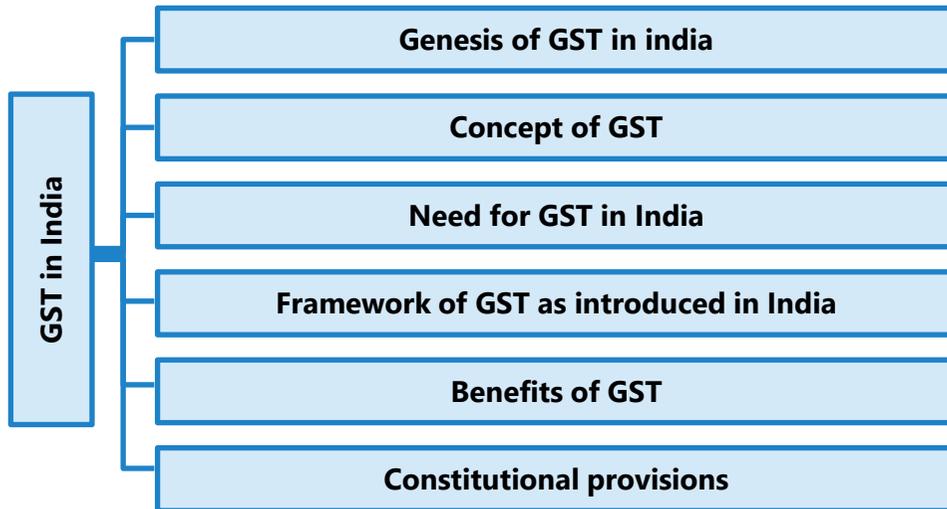
Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 31.10.2024.

LEARNING OUTCOMES

After studying this Chapter, you will be able to:

- ❑ explain the concept of GST and the need for GST in India.
- ❑ discuss the framework of GST as introduced in India and comprehend the various benefits to be accrued from implementation of GST.
- ❑ explain the constitutional provisions pertaining to levy of various taxes
- ❑ appreciate the need for constitutional amendment paving way for GST.
- ❑ discuss the significant amendments made by the Constitution (101st Amendment) Act, 2016.

CHAPTER OVERVIEW



1. OVERVIEW OF TAXATION SYSTEM IN INDIA

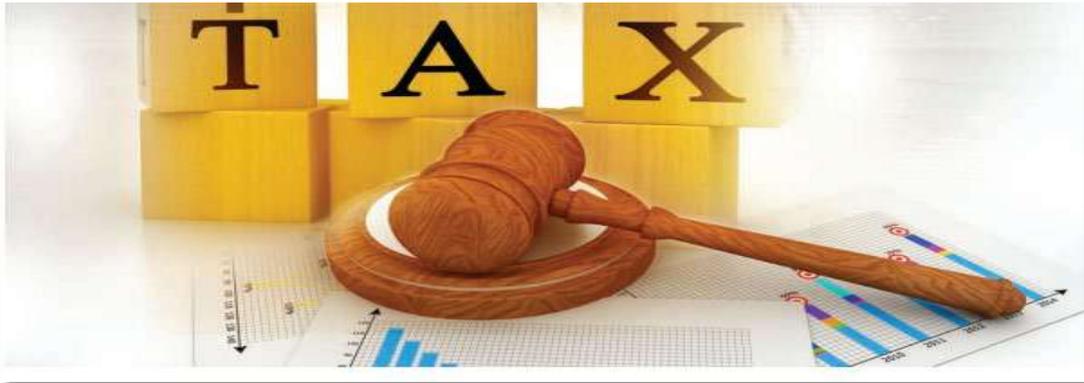
In any Welfare State, it is the prime responsibility of the Government to fulfill the increasing developmental needs of the country and its people by way of public expenditure.

India, being a developing economy, has been striving to fulfill the obligations of a Welfare State with its limited resources; the primary source of revenue being the levy of taxes.

Though the collection of tax is to augment as much revenue as possible to the Government to provide public services, over the years it has been used as an instrument of fiscal policy to stimulate economic growth. Thus, taxes are collected to fulfill the socio-economic objectives of the Government.

Collect taxes from the citizens as honeybees collect nectar from the flowers, gently and without inflicting pain.

-Chanakya



Now, the question arises, what is tax? A tax is defined as a "pecuniary burden laid upon individuals or property owners to support the Government, a payment exacted by legislative authority. A tax "is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority".

In simple words, tax is nothing but money that people pay to the Government, which is used to provide public services.

A direct tax is a kind of charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons (juristic or natural) on whom it is imposed. A direct tax cannot be shifted by the taxpayer to someone else. A significant direct tax imposed in India is income tax.

If the taxpayer is just a conduit and at every stage the tax-incidence is passed on till it finally reaches the consumer, who really bears the brunt of it, such tax is indirect tax. An indirect tax can be shifted by the taxpayer to someone else.

Its incidence is borne by the consumers who ultimately consume the product or the service, while the immediate liability to pay the tax may fall upon another person such as a manufacturer or provider of service or seller of goods.

Also called consumption taxes, they are regressive in nature because they are not based on the principle of ability to pay. All the consumers, including the economically challenged bear the brunt of the indirect taxes equally.

Indirect taxes are levied on consumption, expenditure, privilege, or right but not on income or property. Earlier, a number of indirect taxes were levied in India,

Taxes, after all, are dues that we pay for the privileges of membership in an organized society.

-Franklin D. Roosevelt

namely, excise duty, customs duty, service tax, central sales tax (CST), value added tax (VAT), entry tax, purchase tax, entertainment tax, tax on lottery, betting and gambling, luxury tax, tax on advertisements, etc.

However, indirect taxation in India witnessed a paradigm shift on July 01, 2017 with usherance into a unified indirect tax regime wherein a large number of Central and State indirect taxes were amalgamated into a single tax – Goods and Services Tax (GST).

The introduction of GST has been a very significant step in the field of indirect tax reforms in India. Customs duty continues in post-GST regime.

Economists world over agree that direct and indirect taxes are complementary and therefore, a rational tax structure should incorporate in itself both types of taxes.

According to the renowned physicist Albert Einstein, *“The hardest thing in the world is to understand income tax.”* Nevertheless, we are committed to ensure that your journey to India's historic indirect tax system is effortless, engaging, and enjoyable!



At Intermediate level, we will study the select provisions of substantive and procedural law of GST - concept of supply, charge of GST, exemptions, basic concepts of time, value and place of supply, input tax credit, registration, tax invoice, credit and debit notes, accounts and records, e-way bill, returns & payment. Remaining provisions of the GST law and entire Customs law will be discussed at Final level.

2. GENESIS OF GST IN INDIA

In the year 2000, the then Prime Minister mooted the concept of GST and set up a committee to design a Goods and Services Tax (GST) model for the country. In 2003, the Central



Government formed a task force on Fiscal Responsibility and Budget Management, which in 2004 strongly recommended fully integrated 'GST' on national basis.



Subsequently, the then Union Finance Minister, Shri P. Chidambaram, while presenting the Union Budget (2006-2007), announced that GST would be introduced from April 1, 2010. Since then, GST missed several deadlines and continued to be shrouded by clouds of uncertainty.



The talks of ushering in GST, however, gained momentum in the year 2014 when the NDA Government tabled the Constitution (122nd Amendment) Bill, 2014 on GST in the Parliament on 19th December, 2014. The Lok Sabha passed the Bill on 6th May, 2015 and Rajya Sabha on 3rd August, 2016.

Subsequent to ratification of the Bill by more than 50% of the States, Constitution (122nd Amendment) Bill, 2014 received the assent of the President on 8th September, 2016 and became the **Constitution (101st Amendment) Act, 2016**, which paved the way for introduction of GST in India.



In the following year, on 27th March, 2017, the Central GST legislations - Central Goods and Services Tax Bill, 2017, Integrated Goods and Services Tax Bill, 2017, Union Territory Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in Lok Sabha.

Lok Sabha passed these bills on 29th March, 2017 and with the receipt of the President's assent on 12th April, 2017, the Bills were enacted.

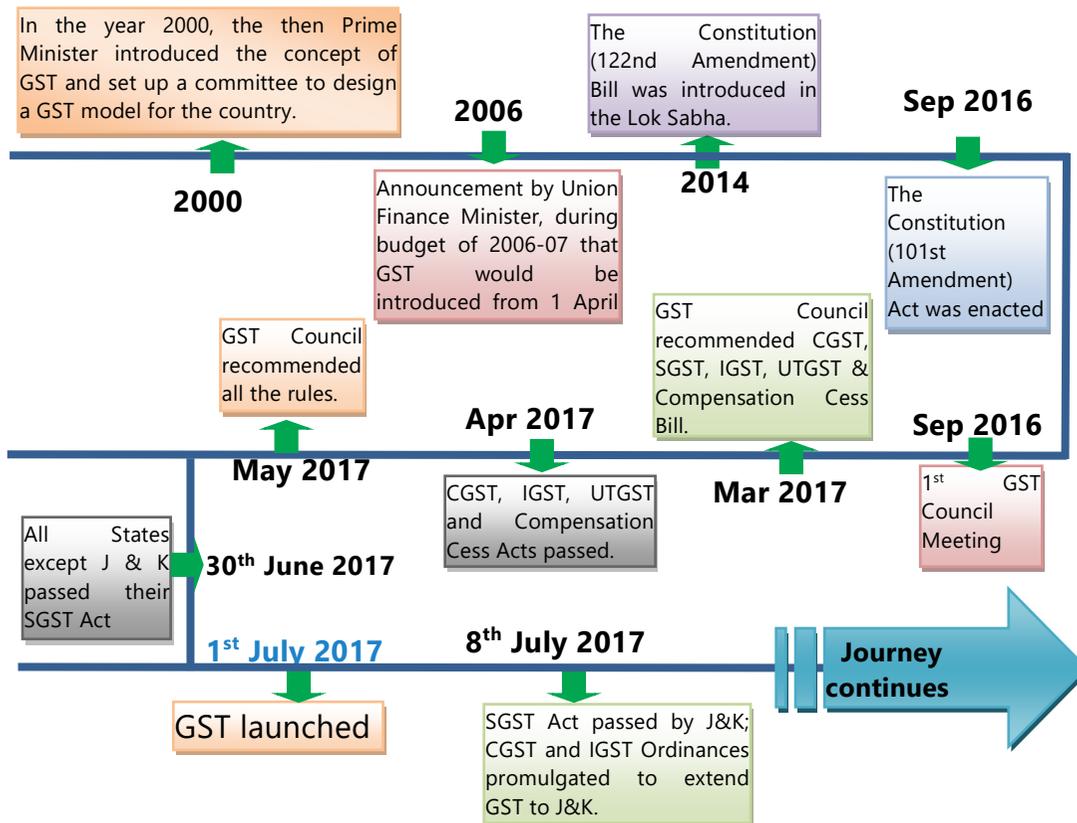
It's a win for democratic ethos of India and a victory for everyone, GST will improve the way of doing business.

-Narendra Modi

The enactment of the Central Acts was followed by the enactment of the State GST laws by various State Legislatures. Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar were among the first ones to pass their respective State GST laws. By 30th June, 2017, all States and Union Territories had passed their respective SGST and UTGST Acts except Jammu and Kashmir. With effect from 1st July, 2017, the historic indirect tax reform - GST was introduced. GST law was extended to Jammu and Kashmir on 8th July, 2017.

It is not the end but start of the Journey.

-Arun Jaitely



GST is a path breaking indirect tax reform which attempts to create a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc.

VAT and GST are often used inter-changeably as the latter denotes comprehensiveness of VAT by coverage of goods and services. **France was the first country to implement VAT/GST in 1954.** Presently, more than 160 countries have implemented VAT/GST in some form or the other because this tax has the capacity to raise revenue in the most transparent and neutral manner. Most of the countries follow unified GST i.e., a single tax applicable throughout the country.



However, in federal polities like Brazil and Canada, a dual GST system is prevalent. Under dual system, GST is levied by both the federal and the State Governments. India has adopted dual GST model because of its unique federal nature.

3. CONCEPT OF GST



Before we proceed with the finer nuances of Indian GST, let us first understand the basic concept of GST.

- ❑ GST is a value added tax levied on supply i.e., manufacture or sale of goods and provision of services. **VALUE ADDED TAX**
- ❑ GST offers comprehensive and continuous chain of tax credits from the producer's point/service provider's point upto the retailer's level/consumer's level thereby taxing only the value added at each stage of supply chain. **CONTINUOUS CHAIN OF TAX CREDITS**

- The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.

BURDEN BORNE BY FINAL CONSUMER

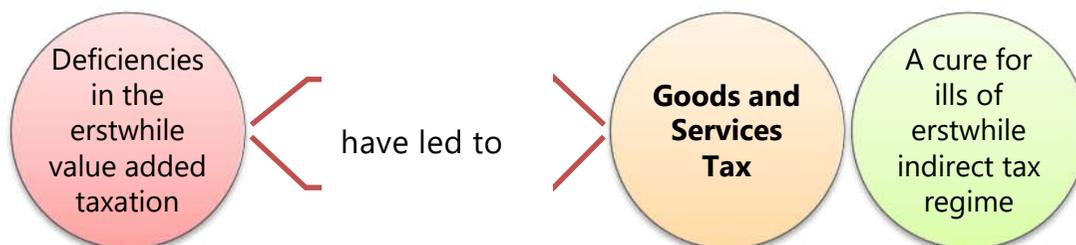
- Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system. The same can be understood better with the help of the following **example**:

NO CASCADING OF TAXES

Manufacturer (₹)	Distributor (₹)	Retailer (₹)	Consumer (₹)
Cost: 1,00,000 GST @ 18%= 18,000	Cost: 1,00,000 Profit: 11,200 Sale Price: 1,11,200 GST @ 18% 20,016	Cost: 1,11,200 Profit: 24,640 Sale Price: 1,35,840 GST@ 18% 24,451.20	Cost: 1,60,291.2 (1,35,840+24,451.20)
Input Tax Credit= NIL	Input Tax Credit= 18,000	Input Tax Credit= 20,016	Input Tax Credit= NIL
Paid to Government GST = 18,000	Paid to Government GST = 2,016 (Output tax - Input tax)	Paid to Government GST= 4,435.20 (Output tax - Input tax)	Tax Borne by the Consumer 18,000+2,016+4,435.20= 24,451.20
Value Addition = 1,00,000 GST @ 18% = 18,000	Value Addition= 11,200 GST @ 18%= 2,016	Value Addition= 24,640 GST @ 18%= 4,435.20	Value Addition= NIL



4. NEED FOR GST IN INDIA



Deficiencies in the value added taxation system

Under the earlier indirect tax regime, despite the introduction of the principle of taxation of value added in India – at the Central level in the form of CENVAT (Central Excise) and at the State level in the form of State VAT - its application always remained piecemeal and fragmented on account of the following reasons:

- Certain transactions were subject to double taxation and were taxed as both goods and services, since under the earlier regime, distinction between goods and services was often blurred.



(1) Under the earlier tax regime, software was subject to both service tax and VAT. This was so because both sale of goods and provision of service were involved and therefore taxable event under both the Statutes i.e. respective VAT law and service tax law got triggered. This aspect has been taken care of under GST law.

- CENVAT did not include chain of value addition in the distributive trade after the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed. This led to the cascading of taxes. Below mentioned example illustrates that under the earlier indirect tax regime, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied.



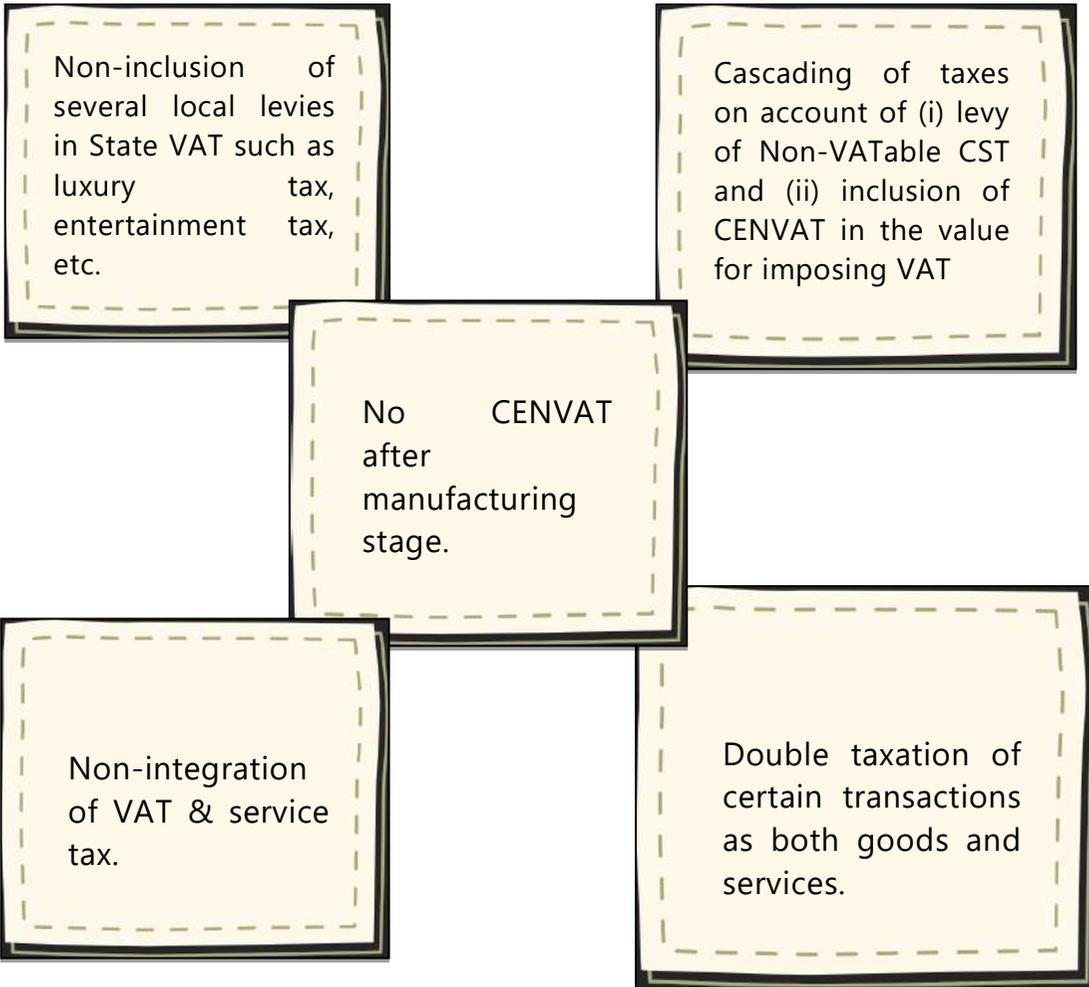
(2) Under the earlier tax regime, if goods were manufactured for ₹ 1000/- and excise duty was payable @ 12.5% and VAT was payable @ 14.30%, the billing was being done as under:

Assessable value of goods under excise law	₹ 1,000
Excise duty @ 12.5%	₹ 125
Taxable value for VAT	₹ 1,125
VAT @ 14.30%	₹ 160.88
Total invoice value	₹ 1,285.88

- ❑ Though CENVAT and State-Level VAT were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.
- ❑ There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT. Hence for a single transaction, multiple taxes in multiple forms were required to be paid.
- ❑ VAT on goods was not integrated with tax on services, at the State level, to remove the cascading effect of service tax. With service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax- buoyancy.
- ❑ CST was another source of distortion in terms of its cascading nature since it was non-VATABLE. Being an origin-based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.



(3) Under the earlier tax regime, if a dealer in Delhi purchases goods from a manufacturer in Punjab for ₹ 1000 + ₹ 20 (2% CST) = ₹ 1020/- and sells such goods within Delhi for ₹ 1200/-. The tax rate on sales is 12.5% and hence output tax liability is ₹ 150/-. Credit of ₹ 20/- is not allowed while making payment of ₹ 150/- and hence the dealer has to pay ₹ 150 as VAT.



GST – A cure for ills of existing indirect tax regime

GOODS AND SERVICES TAX (GST)
The crucial piece in India's development strategy

- Creating one Economic India
- Fillip to 'Make in India' initiative
- Unfettered flow of goods & services
- Increased economic activity to boost employment

NATION TAX MARKET

A comprehensive tax structure covering both goods and services viz. Goods and Services Tax (GST) addresses most of the above stated issues. Simultaneous introduction of GST at both Centre and State levels has integrated taxes on goods and services for the purpose of set-off relief and ensures that both the cascading effects of CENVAT and service tax are removed and a continuous chain of set-off from the original producer's point/ service provider's point upto the retailer's level/ consumer's level is established.



In the GST regime, the major indirect taxes have been subsumed in the ambit of GST. The erstwhile concepts of manufacture or sale of goods or rendering of services are no longer applicable since the tax is now levied on "Supply of Goods and/or services".

5. FRAMEWORK OF GST AS INTRODUCED IN INDIA

I. Dual GST:

India has a unique federal structure. In view of the same, India has adopted a **Dual GST Model**. Under Dual GST Model, the Centre and States simultaneously levy GST on complete supply chain, i.e. starting from production to distribution stage.

Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services.

Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services. GST extends to whole of India including the Union Territory of Jammu and Kashmir.

Dual GST

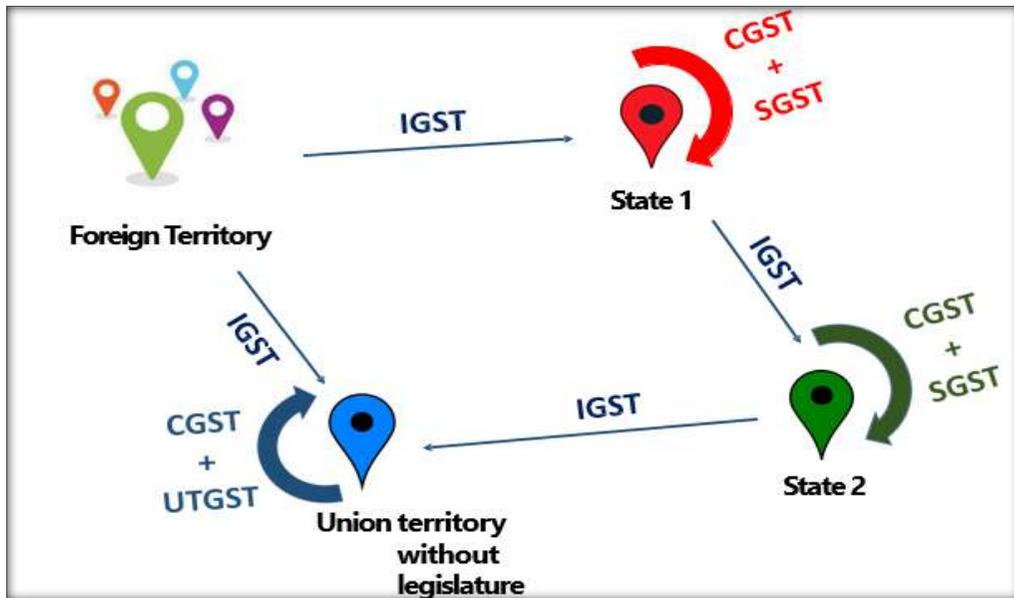


II. CGST/SGST/UTGST/IGST

GST is a destination-based tax applicable on all transactions involving supply of goods or services or both for a consideration subject to exceptions thereof. GST in India comprises of Central Goods and Services Tax (CGST) - levied and collected by Central Government, State Goods and Services Tax (SGST) - levied and collected by State Governments/Union Territories with Legislatures and Union Territory Goods and Services Tax (UTGST) - levied and collected by Union Territories without Legislatures, on intra-State supplies of taxable goods and/or services.

As a general rule, where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as intra-State supply of goods or services respectively.

Further, where the location of the supplier and the place of supply of goods or services are in (i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory, it is treated as inter-State supply of goods or services respectively. Inter-State supplies of taxable goods and/or services are subject to Integrated Goods and Services Tax (IGST). IGST is the sum total of CGST and SGST/UTGST and is levied by the Centre on all inter-State supplies.



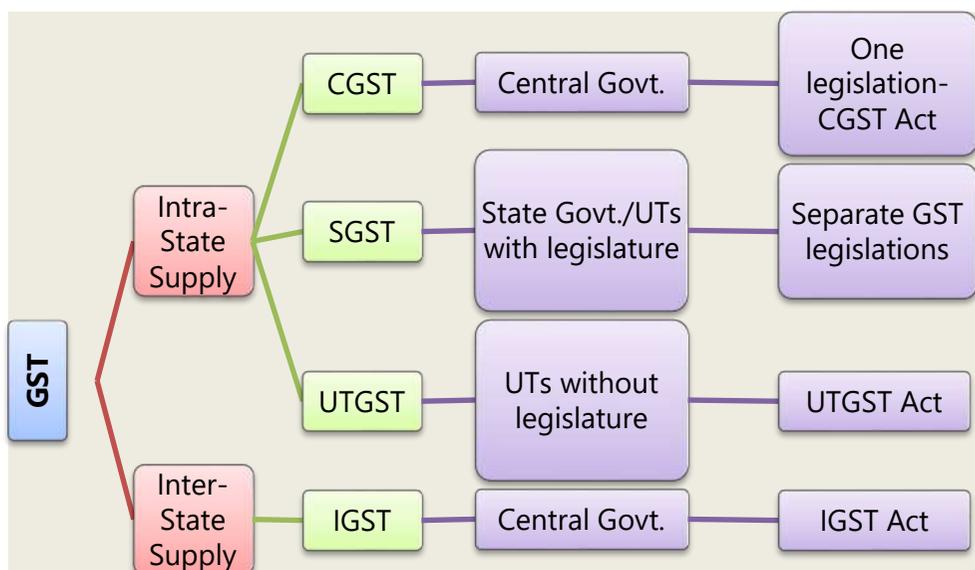
III. Legislative Framework

There is single legislation – CGST Act, 2017 - for levying CGST. Similarly, Union Territories without Legislatures [i.e. Andaman and Nicobar Islands, Lakshadweep, Ladakh, Dadra and Nagar Haveli & Daman and Diu and Chandigarh] are governed by UTGST Act, 2017 for levying UTGST. States and Union territories with their own legislatures [i.e. Delhi, Jammu and Kashmir and Puducherry] have their own GST legislation for levying SGST.



(4) In Ladakh, CGST and UTGST is levied on supply of goods or services or both. In Delhi, CGST and SGST is levied on supply of goods or services or both.

Though there are multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like are uniform in all the SGST legislations, as far as feasible. This is necessary to preserve the essence of dual GST.



IV. Classification of goods and services

Classification determines the rate of tax applicable on a particular supply of goods/services. HSN (Harmonised System of Nomenclature) is used for classifying the goods under the GST. Chapters referred to in the Rate Schedules for goods are the Chapters of the First Schedule to the Customs Tariff Act, 1975.

Classification of goods and services

A new **Scheme of Classification of Services** is devised wherein the services of various descriptions have been classified under various sections, headings and groups. Each group consists of various Service Codes (Tariff). SAC (Services Accounting Code) is used for classifying the services under the GST like HSN for goods.

V. Composition Scheme

In GST regime, tax (i.e. CGST and SGST/UTGST for intra-State supplies and IGST for inter-State supplies) is payable by every taxable person and in this regard provisions have been prescribed in the law.

Composition Scheme

However, for providing relief to small businesses, manufacturers, service providers, suppliers of food articles, traders, etc., making intra-State

supplies, a simpler method of paying taxes is prescribed, known as composition levy.

VI. Registration

Every supplier of goods and/ or services is required to obtain registration in the State/UT from where he makes the taxable supply if his aggregate turnover exceeds the threshold limit during a FY. Different threshold limits have been prescribed for various States and Union Territories depending upon the fact whether the supplier is engaged exclusively in supply of goods, or exclusively in supply of services or in supply of both goods and services. The threshold limit of aggregate turnover prescribed for various States/UTs are as follows:

Registration

States with threshold limit of ₹ 10 lakh for supplier of goods and/or services	States with threshold limit of ₹ 20 lakh for supplier of goods and/or services	States with threshold limit of ₹ 20 lakh for exclusive supplier of services/both goods and services and threshold limit of ₹ 40 lakh for exclusive supplier of goods making only intra-State supplies
<input type="checkbox"/> Manipur <input type="checkbox"/> Mizoram <input type="checkbox"/> Nagaland <input type="checkbox"/> Tripura	<input type="checkbox"/> Arunachal Pradesh <input type="checkbox"/> Meghalaya <input type="checkbox"/> Sikkim <input type="checkbox"/> Uttarakhand <input type="checkbox"/> Puducherry <input type="checkbox"/> Telangana	<input type="checkbox"/> All other States

However, in certain specified cases mandatory registration is required under GST irrespective of the quantum of aggregate turnover.

VII. Exemptions

Apart from providing relief to small-scale business, the law also contains provisions for granting exemption from

Exemptions

payment of tax on essential goods and/or services.

VIII. Seamless flow of credit

Since GST is a destination-based consumption tax, revenue of SGST ordinarily accrues to the consuming States. The inter-State supplier in the exporting State is allowed to set off the available credit against the IGST payable on inter-State supply made by him (*order of utilisation of credit is explained in brief below*).

Seamless flow of credit

The buyer in the importing State is allowed to avail the credit of IGST paid on inter-State purchases made by him.

Thus, unlike the earlier scenario where the credit chain used to break in case of inter-State sales on account of non-VATable CST, under GST regime there is a seamless credit flow in case of inter-State supplies too.

The revenue of inter-State sale does not accrue to the exporting State and the exporting State transfers to the Centre the credit of SGST/UTGST used in payment of IGST.

The Centre transfers to the importing State the credit of IGST used in payment of SGST/UTGST.

Order of utilization of credit - There is a specified order in which ITC should be utilized. First, IGST credit should be utilized towards IGST payment, and then towards payment of CGST and SGST/UTGST in any order and in any proportion.

After entire ITC of IGST is utilized, ITC of CGST should be utilized for payment of CGST and IGST in that order. Thereafter, ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order.

It may be noted that ITC of CGST cannot be utilized for payment of SGST/UTGST and vice versa. Also, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully.

The seamless flow of credit under GST, in case of intra-State and inter-State supplies, can be better understood with the help of the following illustrations:

Intra-State Supply**ILLUSTRATION 1**

In case of local supply of goods/ services, the supplier would charge dual GST i.e., CGST and SGST at specified rates on the supply.

(i) Supply of goods/ services by A to B

	Amount (in ₹)
Value charged for supply of goods/ services	10,000
Add: CGST @ 9%	900
Add: SGST @ 9%	<u>900</u>
Total price charged by A from B for local supply of goods/ services	<u>11,800</u>

The CGST & SGST charged on B for supply of goods/services will be remitted by A to the appropriate account of the Central and State Government respectively.

A is the first stage supplier of goods/services and hence, does not have credit of CGST, SGST or IGST.

(ii) Supply of goods/services by B to C – Value addition @ 20%

B will avail credit of CGST and SGST paid by him on the purchase of goods/ services and will utilise such credit for being set off against the CGST and SGST payable on the supply of goods/services made by him to C.

	Amount (in ₹)
Value charged for supply of goods/ services (₹ 10,000 x 120%)	12,000
Add: CGST @ 9%	1,080
Add: SGST @ 9%	<u>1,080</u>

Total price charged by B from C for local supply of goods/ services	<u>14,160</u>
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Computation of CGST, SGST payable by B to Government

	Amount (in ₹)
CGST payable	1,080
Less: Credit of CGST	<u>900</u>
CGST payable to Central Government	<u>180</u>
SGST payable	1,080
Less: Credit of SGST	<u>900</u>
SGST payable to State Government	<u>180</u>

Note: Rates of CGST and SGST have been assumed to be 9% each for the sake of simplicity.

Statement of revenue earned by Central and State Government

Transaction	Revenue to Central Government (₹)	Revenue to State Government (₹)
Supply of goods/services by A to B	900	900
Supply of goods/services by B to C	180	180
Total	1080	1080

Inter-State Supply

ILLUSTRATION 2

In case of inter-State supply of goods/ services, the supplier would charge IGST at specified rates on the supply.

(i) **Supply of goods/services by X of State 1 to A of State 1**

	Amount (in ₹)
Value charged for supply of goods/services	10,000
Add: CGST @ 9%	900
Add: SGST @ 9%	<u>900</u>
Total price charged by X from A for intra-State supply of goods/services	<u>11,800</u>

X is the first stage supplier of goods/services and hence, does not have any credit of CGST, SGST or IGST.

(ii) **Supply of goods/services by A of State 1 to B of State 2 – Value addition @ 20%**

	Amount (in ₹)
Value charged for supply of goods/services (₹ 10,000 x 120%)	12,000
Add: IGST @ 18%	<u>2,160</u>
Total price charged by A from B for inter-State supply of goods/services	<u>14,160</u>

Computation of IGST payable to Government

	Amount (in ₹)
IGST payable	2,160
Less: Credit of CGST	900
Less: Credit of SGST	<u>900</u>
IGST payable to Central Government	<u>360</u>

The IGST charged on B of State 2 for supply of goods/services will be remitted by A of State 1 to the appropriate account of the Central

Government. State 1 (Exporting State) will transfer SGST credit of ₹ 900 utilised in the payment of IGST to the Central Government.

(iii) Supply of goods/services by B of State 2 to C of State 2 – Value addition @ 20%

B will avail credit of IGST paid by him on the purchase of goods/services and will utilise such credit for being set off against the CGST and SGST payable on the local supply of goods/services made by him to C.

	Amount (in ₹)
Value charged for supply of goods/ services (₹ 12,000 x 120%)	14,400
Add: CGST @ 9%	1,296
Add: SGST @ 9%	<u>1,296</u>
Total price charged by B from C for local supply of goods/services	<u>16,992</u>

Computation of CGST, SGST payable to Government

	Amount (in ₹)
CGST payable	1,296
Less: Credit of IGST	<u>1,296</u>
CGST payable to Central Government	<u>Nil</u>
SGST payable	1,296
Less: Credit of IGST (₹ 2,160 - ₹ 1,296)	<u>864</u>
SGST payable to State Government	<u>432</u>

Central Government will transfer IGST credit of ₹ 864 utilised in the payment of SGST to State 2 (Importing State).

Note: Rates of CGST, SGST and IGST have been assumed to be 9%, 9% and 18% respectively for the sake of simplicity.

Statement of revenue earned by Central and State Governments

Transaction	Revenue to Central Government (₹)	Revenue to Government of State 1 (₹)	Revenue to Government of State 2 (₹)
Supply of goods/services by X to A	900	900	
Supply of goods/services by A to B	360		
Transfer by State 1 to Centre	900	(900)	
Supply of goods/services by B to C			432
Transfer by Centre to State 2	(864)		864
Total	1,296	Nil	1,296

IX. GST Common Portal

Before GST, since the Centre and State indirect tax administrations worked under different laws, regulations, procedures and formats, their IT infrastructure and systems were also independent of each other. Integrating them for GST implementation was complex since it required integrating the entire indirect tax ecosystem so as to bring all the tax administrations (Centre, State and Union Territories) to the same level of IT maturity with uniform formats and interfaces for taxpayers and other external stakeholders.

Besides, GST being a **destination-based tax**, the inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre. A Common Portal was needed which could act as a

clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT infrastructure.

Resultantly, Common GST Electronic Portal – www.gst.gov.in – a website managed by Goods and Services Network (GSTN) [a wholly owned Government Company] is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.

The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates etc.) and Intranet by Tax Officials etc. The portal is one single common portal for all GST related services.

A common GST system provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders. The eco-system consists of all stakeholders starting from taxpayer to tax professional to tax officials to GST portal to Banks to accounting authorities.

GST Common Portal



The functions of the GSTN include facilitating registration; forwarding the returns to Central and State authorities; computation and settlement of IGST; matching of tax payment details with banking network; providing various MIS reports to the Central and the State Governments based on the taxpayer return information; providing analysis of taxpayers' profile.



However, it is important to note that the Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in [managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India]. E-way bill is an electronic document generated on the GST portal evidencing movement of goods.

Further, Invoice Registration Portal (IRP) is the website for uploading/reporting of e-invoices by the notified persons*. It is managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India.



**All registered businesses with an aggregate turnover (based on PAN) in any preceding financial year from 2017-18 onwards greater than ₹ 5 crore are required to issue e-invoices.*

X. GSPs/ASPs

GSTN has selected certain Information Technology, Information Technology enabled Services and financial technology companies, to be called GST Suvidha Providers (GSPs). GSPs have access to GST System and have the capability to develop applications to be used by taxpayers for interacting with the GSTN.

GSPs/ASPs

GSP develops applications having features like return filing, reconciliation of purchase register data with auto populated data for acceptance/rejection/modification, dashboards for taxpayers for quick monitoring of GST compliance activities. They may also provide role-based access to divide various GST related activities like uploading invoice, filing returns etc., among different set of users inside a company (medium or large companies will need it), applications for tax professional to manage their client's GST compliance activities, integration of existing accounting packages/ERP with GST System, etc.



GSP is an additional channel being made available for facilitating the taxpayers for performing some of the functions and use of their services is optional. GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.

XI. Compensation Cess

A GST Compensation Cess at specified rate is imposed under the Goods and Services Tax (Compensation to States) Cess Act, 2017 on the specified luxury items or demerit goods, like pan masala, tobacco, aerated waters, motor cars etc., computed on value of taxable supply. Compensation cess is leviable on intra-State supplies and inter-State supplies with a view to provide for compensation to the States for the loss of revenue arising on account of implementation of the GST. Initially, it was levied for a period of 5 years upto 30th June, 2022. However, its levy and collection is extended till **31st March, 2026**.

Compensation Cess



Compensation is to be provided to a State for a period of 5 years from the date on which the State brings its SGST Act into force.

XII. GST – A tax on goods and services

GST is levied on all goods and services, except alcoholic liquor for human consumption and petroleum crude, diesel, petrol, ATF and natural gas.

❑ **Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to **State excise duty** and inter-State/intra-State sale of the same is subject to **CST/VAT** respectively.



❑ **Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.

Till such date, **central excise duty** continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and

natural gas and inter-State/intra-State sale of the same is subject to **CST/ VAT** respectively.

- ❑ **Tobacco:** Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, **tobacco is subject to GST as well as central excise duty.**
- ❑ **Opium, Indian hemp and other narcotic drugs and narcotics:** Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are **subject to GST as well as State excise duties.**
- ❑ Further, **real estate sector** has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property.

Taxes subsumed in GST

The various central, State and local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

- (i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.
- (ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
- (iii) The subsuming of taxes should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that were not specifically related to supply of goods & services would not be subsumed under GST.
- (iv) Revenue fairness for both the Union and the States individually would need to be attempted.

Taking the above principles into account, following taxes were subsumed in the GST:

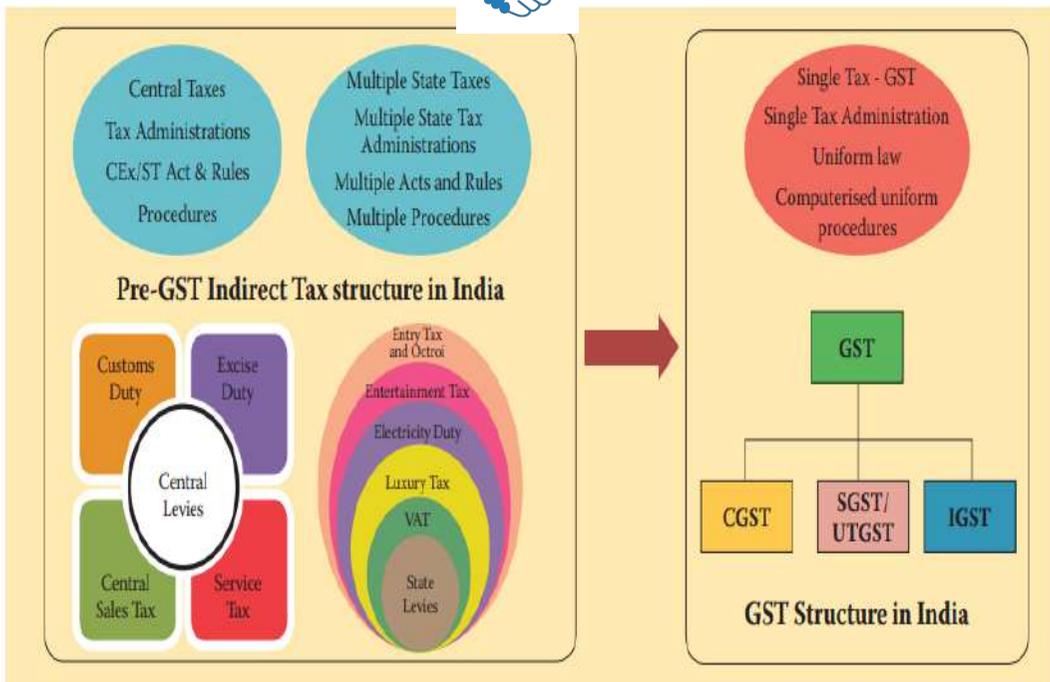
Central Taxes

- Central Excise Duty & Additional Excise Duties
- Service Tax
- Excise Duty under Medicinal & Toilet Preparation Act, 1955
- CVD & Special CVD
- Central Sales Tax
- Central surcharges & Cesses in so far as they relate to supply of goods & services

State Taxes

- State surcharges and cesses in so far as they relate to supply of goods & services
- Entertainment Tax (except those levied by local bodies)
- Tax on lottery, betting and gambling
- Entry Tax (All Forms) & Purchase Tax
- VAT/ Sales tax
- Luxury Tax
- Taxes on advertisements

GST



Within GST or outside GST?



Alcohol for human consumption

Power to tax remains with the State.



Five petroleum products - crude oil, diesel, petrol, natural gas and ATF.

GST Council to decide the date from which GST will be applicable



Entertainment tax levied by local bodies

Power to tax remains with the local bodies



Tobacco

Within the purview of GST. Power to levy excise duties, also retained.

Quiz Time!



1

Which of the following statements is incorrect?

(a) Alcoholic liquor for human consumption is outside the realm of GST

(b) Manufacture/production of alcoholic liquor is subject to State excise duty.

(c) Inter-State/intra-State sale of the alcohol is subject to CST/VAT respectively.

(d) Alcoholic liquor for human consumption is subject to GST.

6. BENEFITS OF GST

GST is introduced with a vision to bring benefits to all the stakeholders of industry, Government and the citizens. GST is a win-win situation for the entire country. It is envisaged that GST will accrue following significant benefits to the stake holders:



Benefits to economy

- ❑ **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.

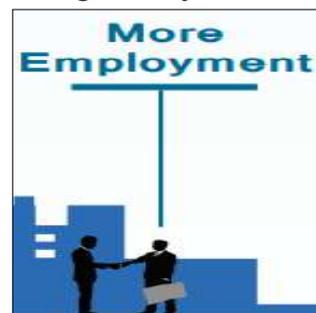


- ❑ **Boost to 'Make in India' initiative:** GST has given a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.



Further, all imported goods are being charged integrated tax (IGST) which is more or less equivalent to CGST + SGST. This brings parity in taxation on local and imported goods or services.

- ❑ **Boost to investments and employment:** The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of



Indian goods and services in the international market may increase to give boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase.

Simplified tax structure

- **Ease of doing business:** Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity in tax structure. The uniformity in laws, procedures and tax rates across the country makes doing business easier.

Common definitions, common forms/formats, common interface through GST portal result in efficiencies and synergies across the board.



- **Certainty in tax administration:** Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base, common system of classification of goods or services along with timelines for every activity ensures certainty in tax administration across India.

Easy tax compliance

- **Automated procedures with greater use of IT:** GST is largely technology driven. The interface of the taxpayer with the tax authorities is through the common portal (GSTN). There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All processes, like applying for registration, filing of returns, payment of taxes, filing of refund claims etc., are online through GSTN. The human interface between the taxpayer and the tax administration has greatly reduced thereby leading to speedy decisions. The measures like e-



Invoice and auto populated returns has eased the compliance for the registered person.

- ❑ **Easier tax compliance:** Harmonization of laws, procedures and rates of tax has made compliance easier and simple. There are common definitions, common forms/ formats, common interface through common portal (GSTN) resulting in efficiencies and synergies across the board. All this has also helped in reduction in compliance costs, alleviate the need for multiple record keeping for a variety of taxes leading to lesser investment of resources and manpower in maintaining records to the registered person.

Advantages for trade and industry

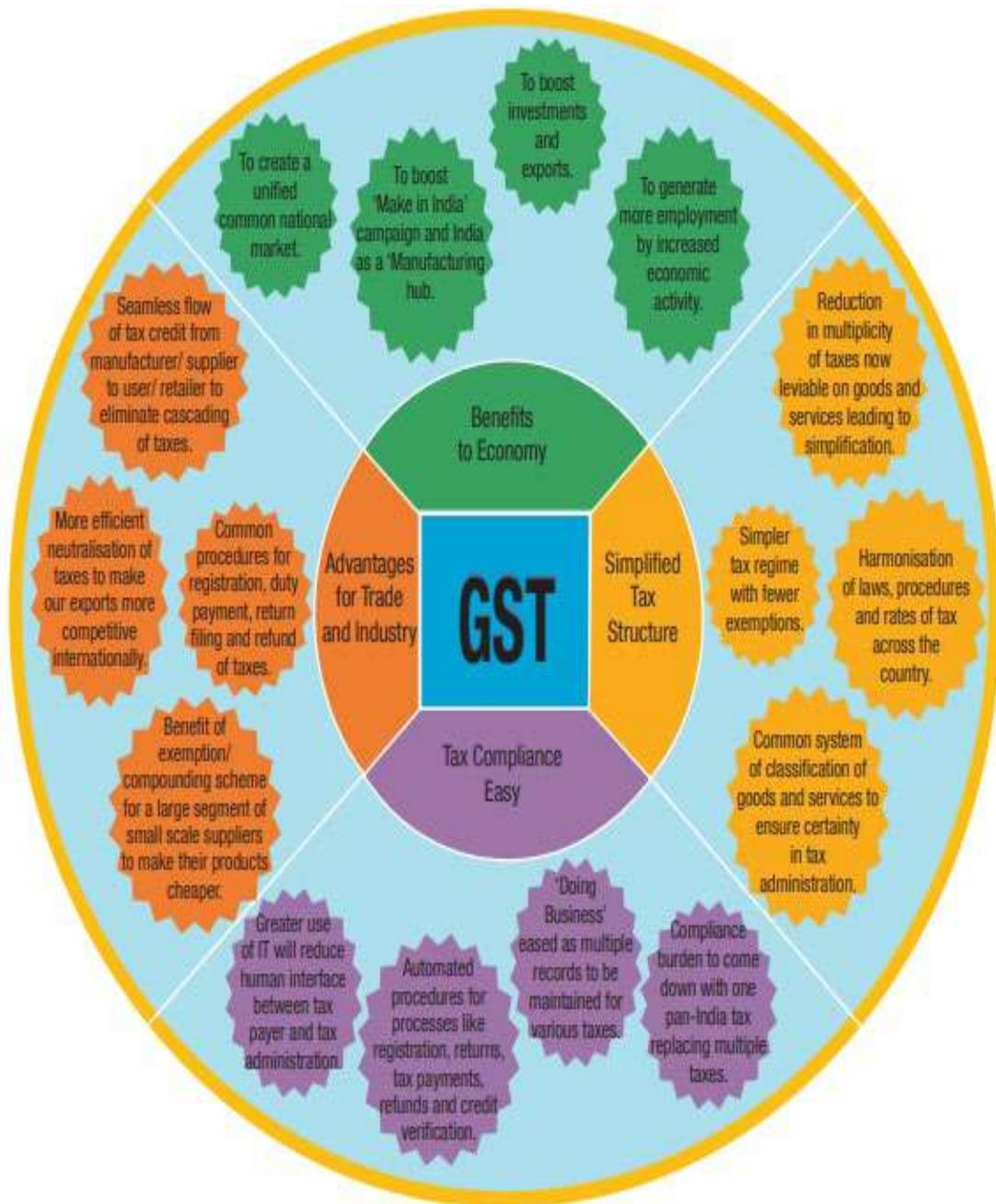
- ❑ **Benefits to industry:** Average tax burden on trade and industry has come down, which has resulted in reduction in prices of goods and services. This has resulted in more consumption, which in turn means more production and thereby boosting the growth of the industries.
- ❑ **Mitigation of ill effects of cascading:** GST is a destination-based consumption tax. It has been designed in a manner so that tax is collected at every stage and the credit of tax paid at the previous stage is available to set off the tax to be paid at the next stage of transaction. This eradicates “**tax on tax**” and allows cross utilization of input tax credits which benefit the industry by making the entire supply chain tax neutral.



Thus, GST prevents cascading of taxes by providing a comprehensive input tax credit mechanism across the entire supply chain. Such a seamless **Seamless flow of credit** availability of input tax credit across goods or services at every stage of supply helps in mitigating the ill effects of cascading, enables streamlining of business operations, improving competitiveness in the markets in India and across globe.

- ❑ **Benefits to small traders and entrepreneurs:** GST has increased the threshold limit for GST registration for small businesses. Small businesses have also been provided the benefit of a composition scheme. With the creation of a seamless national market across the country, small enterprises will have an opportunity to expand their national footprint with minimal investment.





 Quiz Time!

Presently, _____ is leviable on _____ of petroleum and diesel.

- (i) GST; supply
- (ii) Central excise duty; manufacture/production
- (iii) Central sales tax; inter-State sale
- (iv) Value Added Tax; intra-State sale
- (v) State excise duty; manufacture

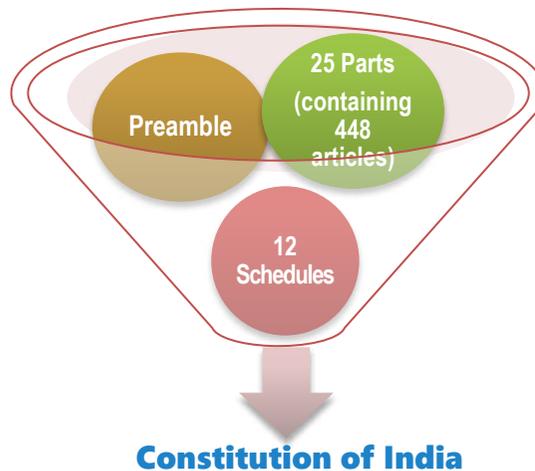
Choose the most appropriate option.

(a) (ii), (iii) and (iv)	(b) (i)	(c) (i) and (ii)	(d) (i) and (v)
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7. CONSTITUTIONAL PROVISIONS

India has a three-tier federal structure, comprising the Union Government, the State Governments and the Local Government. The power to levy taxes and duties is distributed among the three tiers of Governments, in accordance with the provisions of the Indian Constitution.

The Constitution of India is the supreme law of India. It consists of a Preamble, 25 parts containing 448 Articles and 12 Schedules.



Power to levy and collect taxes whether, direct or indirect emerges from the Constitution of India. In case any tax law, be it an act, rule, notification or order is not in conformity with the Constitution, it is called *ultra vires* the Constitution and is illegal and void.

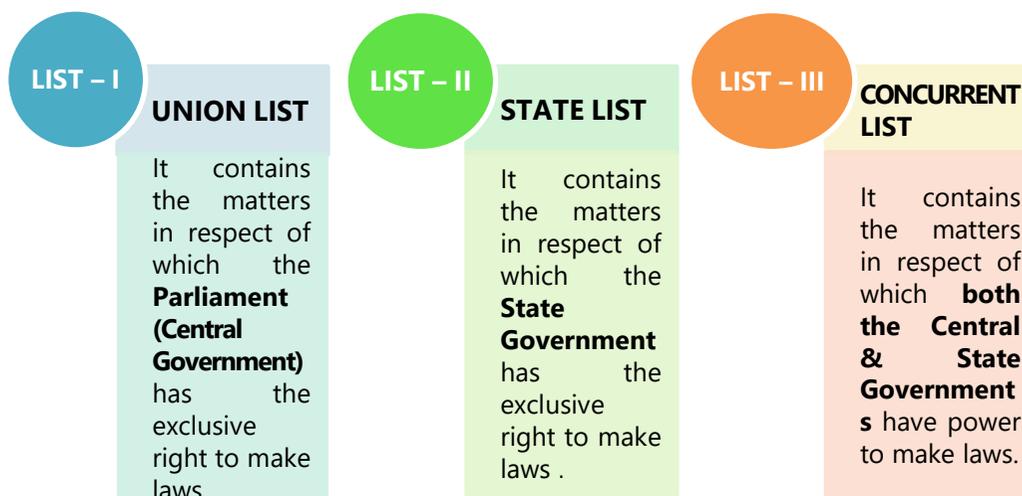
Thus, a study of the basic provisions of the Constitution is essential for understanding the genesis of the various taxes being imposed in India. The significant provisions of the Constitution relating to taxation are:

Those of us who understand human history know the role taxation has played in shaping the destiny of mankind. The matter of taxes – more specifically, the right to tax – is clearly no stranger to controversy and has frequently served as the catalyst for revolutionary change.

-Owen Arthur

- I. **Article 265:** Article 265 of the Constitution of India prohibits arbitrary collection of tax. It states that **“no tax shall be levied or collected except by authority of law”**. The term “authority of law” means that tax proposed to be levied must be within the legislative competence of the Legislature imposing the tax.

- II. Article 245:** Part XI of the Constitution deals with relationship between the Union and States. The power for enacting the laws is conferred on the Parliament and on the Legislature of a State by Article 245 of the Constitution. The said Article provides as under:
- ❑ Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the legislature of a State may make laws for the whole or any part of the State.
 - ❑ No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.
- III. Article 246:** It gives the respective authority to Union and State Governments for levying tax.
- IV. Seventh Schedule to Article 246:** It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.



Entries 82 to 91 of List I enumerate the subjects where the Central Government has power to levy taxes. Entries 45 to 63 of List II enumerate the subjects where the State Governments have the power to levy taxes. Parliament has a further power to make any law for any part of India not comprised in a State even if such matter is included in the State List.

Income tax is levied by virtue of Entry 82 - Taxes on income other than agricultural income and customs duty vide Entry 83 - Duties of customs including export duties of the Union List.

Power to levy Goods and Services Tax (GST) has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101st Amendment) Act, 2016. Before discussing the significant provisions of the Constitution (101st Amendment) Act, 2016, let us first understand why there arose a need for such constitutional amendment.

Need for constitutional amendment

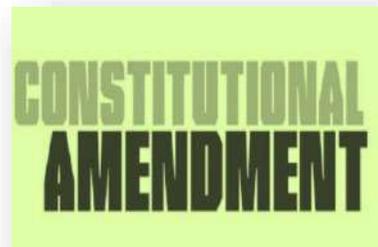
The Constitutional provisions hitherto had delineated separate powers for the Centre and the States to impose various taxes. Whereas the Centre levied excise duty on all goods produced or manufactured in India, the States levied Value Added Tax once the goods entered the stream of trade upon completion of manufacture.

In the case of inter-State sales, the Centre had the power to levy a tax (the Central Sales Tax), but the tax was collected and retained entirely by the States (from where the movement of goods start). Services were exclusively taxed by the Centre together with applicable cesses, if any.

Besides, there were State specific levies like entry tax, Octroi, luxury tax, entertainment tax, lottery and betting tax, local taxes levied by Panchayats etc.

With respect to goods imported from outside the country into India, Centre levied basic customs duty and additional duties of customs together with applicable cesses, if any.

Introduction of the GST required amendment in the Constitution to enable integration of the central excise duty, additional duties of customs, State VAT and certain State specific taxes and service tax into a comprehensive Goods and Services Tax and to empower both Centre and the States to levy and collect it.



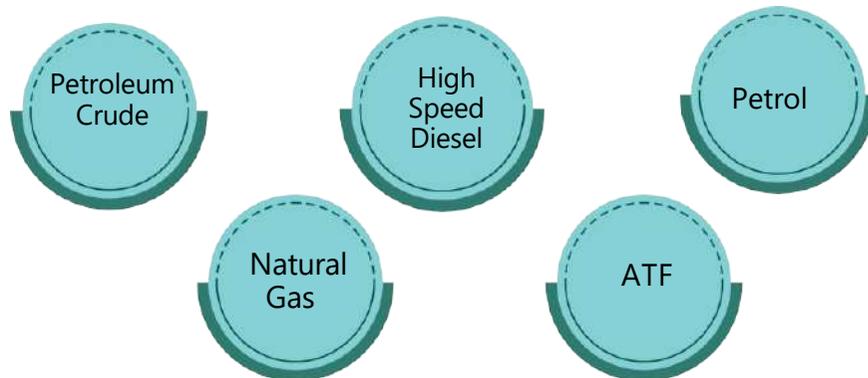
Consequently, Constitution (101st Amendment Act), 2016 (hereinafter referred to as CAA) was passed. It has 20 sections. Newly inserted Article 279A empowering President to constitute GST Council was notified on 12.09.2016. Remaining provisions were notified with effect from 16.09.2016.

CAA also provides for compensation to States for loss of revenue on account of introduction of goods and services tax. Parliament shall, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years.

Significant provisions of Constitution (101st Amendment) Act, 2016

Key changes in brief

- Concurrent powers on Parliament and State Legislatures to make laws governing taxes on goods and services.
- Levy of integrated goods and services tax on inter-State transactions of goods and services to be levied and collected by the Central Government and apportioned between the Union and the States in the manner provided by Parliament by Law as per the recommendation of the GST Council.
- Principles for determining the place of supply and when a supply takes place in the course of inter-State trade or commerce shall be formulated by the Parliament, by law.
- GST will be levied on all supply of goods and services except alcoholic liquor for human consumption.
- On the following products GST shall not be levied, till a date to be notified on the recommendations of the GST Council:
 - Petroleum Crude
 - High Speed Diesel
 - Motor Spirit (commonly known as Petrol)
 - Natural Gas
 - Aviation Turbine Fuel



- ❑ The Union Government shall retain the power to levy duties of excise on the aforesaid products besides tobacco and tobacco products manufactured or produced in India.
- ❑ Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- ❑ The provisions relating to GST Council came into force on 12th September, 2016. President constituted the GST Council on 15th September, 2016.
- ❑ The Union Finance Minister is the Chairman of this Council and Ministers in charge of Finance/ Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of Revenue or Finance is also its member. The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- ❑ The concept of 'declared goods of special importance' under the Constitution is done away with. Earlier, certain restrictions were placed on the powers of States in regard to tax on such goods.
- ❑ Transitional provisions to take care of any inconsistency with respect to any law relating to tax on goods or services or both, in force in any State. Such tax to continue to be in force until amended or repealed or until expiration of one year from commencement of GST, whichever is earlier.

Quiz Time!



3

_____ is leviable on _____ of Tobacco

- (i) GST; supply
- (ii) Central excise duty; manufacture
- (iii) Central sales tax; inter-State sale
- (iv) Value Added Tax; intra-State sale
- (v) State excise duty; manufacture

Choose the most appropriate option.

(a) (ii), (iii) and (iv)	(b) (i)	(c) (i) and (ii)	(d) (i) and (v)
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Quiz Time!



4

_____ is leviable on _____ of opium and Indian hemp.

- (i) GST; supply
- (ii) Central excise duty; manufacture
- (iii) Central sales tax; inter-State sale
- (iv) Value Added Tax; intra-State sale
- (v) State excise duty; manufacture

Choose the most appropriate option.

(a) (ii), (iii) and (iv)	(b) (i)	(c) (i) and (v)	(d) (i) and (ii)
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Key changes in detail

Significant amendments made by Constitution Amendment Act are discussed below in detail:

V. Article 246A: Power to make laws with respect to Goods and Services Tax:

Newly inserted Article 246A

- (1) Notwithstanding anything contained in Articles 246 and 254, Parliament, and, subject to clause (2), 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.
- (2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.

- This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State.
- Centre has the exclusive power to make laws with respect to GST in case of inter-State supply of goods and/or services.
- However, in respect to the following goods, the aforesaid provisions shall apply from the date recommended by the GST Council:

Article 246A



- ❑ The provisions of Article 246A are notwithstanding anything contained in Articles 246 and 254. Article 254 deals with the supremacy of the laws made by Parliament.

VI. Article 248 amended: Residuary powers of legislation amended

- ❑ Article 248 grants the residuary powers to Parliament to make laws with respect to any matter not enumerated in the Concurrent List or State List. Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists. **Article 248**
- ❑ This article has been amended. Now, this power has been subjected to Article 246A, namely the power to make laws with respect to goods and service tax to be imposed by the Centre and States.

VII. Power of Parliament to legislate with respect to a matter in the State List, in the national interest/in case of emergency, extended to GST provided under Article 246A

- ❑ Article 249 grants the Parliament the power to make laws with respect to a matter in the State list in national interest in a case where the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting on any matter enumerated in the State List. **Article 249**
- ❑ Similarly, Article 250 grants the Parliament the power to make laws with respect to any of the matters enumerated in the State List if a proclamation of Emergency is in operation. **Article 250**
- ❑ Articles 249 and 250 have been amended to grant power to Parliament to make laws with respect to the Goods and Services Tax provided under Article 246A also alongwith the matters in the State list, in the national interest/in case of emergency.

VIII. Article 268: Duties levied by the Centre but collected and appropriated by the States

Article 268

- ❑ Article 268 pertains to the duties levied by the Centre but collected and appropriated by the States. It stipulates that such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected in the case where such duties are leviable within any Union territory, by the Government of India, and in other cases, by the States within which such duties are respectively leviable.
- ❑ The CAA omits "and such duties of excise on medicinal and toilet preparations" from Article 268.
- ❑ Duties of excise on medicinal and toilet preparations have been subsumed into the goods and service tax to be levied by the Centre and States.

IX. Article 268A: Article 268A empowering Union to levy service tax omitted

Service tax was levied in 1994 under the residual Entry 97 of the Union list. Article 268A was inserted by the Constitution (88th) Amendment Act, 2003 to usher in service tax under a separate entry 92C in the Union List. However, it was not notified ever since. This article has been omitted by the CAA.

Article 268A

X. Article 269A: Levy and collection of GST on inter-State supply

Newly inserted article 269A.

Levy and collection of goods and services tax in course of inter-State trade or commerce

(1) 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.

Explanation — For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

- (2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.
- (3) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.
- (4) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.
- (5) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

- Article 269A stipulates that GST 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.
- Further, import of goods or services or both into India will also be deemed to be supply of goods and/ or services in the course of Inter-State trade or Commerce. This will give power to Central Government

Article 269A

to levy IGST on the import transactions which were earlier subject to Countervailing duties under the Customs Tariff Act, 1975.

- ❑ Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India/State¹ respectively. This is to facilitate transfer of funds between the Centre and the States.
- ❑ Parliament is empowered to formulate the principles regarding place of supply and when supply of goods, or of services, or both occurs in inter-State trade or commerce.

XI. Article 270: Distribution of the goods and services tax (GST) between the Centre and the States

- ❑ Article 270 is amended to provide for distribution of the goods and services tax between the Centre and the States, by order of the President after considering recommendations of the Finance Commission.
- ❑ This applies for those tax amounts apportioned or payable to the Central Government for taxes levied by it under articles 246A(1) and (2) and Clause (1) of 269A.

Article 270

XII. Article 271 amended

Article 271 empowers Parliament to increase any of the duties, or taxes referred to in articles 269 or 270. It further provides that such surcharge is

Article 271

¹ All revenues received and loans raised by the Government of India are credited to the Consolidated Fund of India and all expenditure of the Government are incurred from this Fund. All revenues received and loans raised by the Government of a State are credited to the Consolidated Fund of the State and all expenditure of that Government are incurred from this Fund.

not shareable and remains with the Centre. Now this article is amended to exclude GST from its purview.

XIII. Definitions of 'Goods and Services Tax', 'Services' and 'State' incorporated under Article 366

□ The terms **Goods and Services Tax**, **services** and **State** have been defined under respective clauses of Article 366 as follows:

✓ **Goods and services tax** means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption. Consequently, GST can be levied on supply of all goods and services except alcoholic liquor for human consumption.

Article 366(12A)

✓ **Services** means anything other than goods.

Article 366(26A)

✓ **State**, with reference to articles 246A, 268, 269, 269A and article 279A, includes a Union territory with Legislature.

Article 366(26B)

□ **Definition of "goods"**: The term goods has already been defined under clause (12) of Article 366 in an inclusive manner to provide that **"goods includes all materials, commodities, and articles"**.

XIV. Article 286: Article 286 imposing restrictions as to imposition of tax on the sale or purchase of goods amended

□ Article 286 which restrains the States from framing laws for imposition of any tax on the sale or purchase of goods where such sale or purchase takes place outside the State or in course of the import of the goods into, or export of the goods out of, the territory of India.

Article 286

- ❑ This article has been amended to incorporate the changes arising out of GST by substituting the words “sale or purchase” with “supply” and words “goods” with “goods or services or both”.
- ❑ Consequently, States have no right to impose GST on inter-State supply of goods or services or both. It will be levied by Union Government under Article 269A as mentioned earlier.
- ❑ Further, clause (3) of Article 286 which stipulates that any law of a State shall, in so far as it imposes, or authorises the imposition, of a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subjected to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax, as Parliament may, by law, specify, has been omitted.

XV. GST Council: Article 279A

- ❑ Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- ❑ The provisions relating to GST Council came into force on 12th September, 2016. President constituted the GST Council on 15th September, 2016.
- ❑ The GST Council shall consist of the following members, namely:—
 - (a) the Union Finance Minister is the Chairperson;
 - (b) the Union Minister of State in charge of Revenue or Finance is the Member;
 - (c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government are the Members.



- The Members of the GST Council referred to clause (c) above shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.
- The GST Council shall make recommendations to the Union and the States on—
 - (a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
 - (b) the goods and services that may be subjected to, or exempted from the goods and services tax;
 - (c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;
 - (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
 - (e) the rates including floor rates with bands of goods and services tax;
 - (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
 - (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand [*Such States are referred as **Special Category States***]; and
 - (h) any other matter relating to the goods and services tax, as the Council may decide.
- GST Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

- While discharging the functions conferred by this article, the GST Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.
- One-half of the total number of Members of the GST Council shall constitute the quorum at its meetings.
- The GST Council shall determine the procedure in the performance of its functions.
- Every decision of the GST Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:
 - (a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and
 - (b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.
- No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—
 - (a) any vacancy in, or any defect in, the constitution of the Council; or
 - (b) any defect in the appointment of a person as a Member of the Council; or
 - (c) any procedural irregularity of the Council not affecting the merits of the case.
- The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute —
 - (a) between the Government of India and one or more States; or



- (b) between the Government of India and any State or States on one side and one or more other States on the other side; or
- (c) between two or more States, arising out of the recommendations of the Council or implementation thereof.

XVI. Article 368 amended

Article 368 has been amended to include Article 279A also within its purview. Consequently, at least two-thirds of the majority in each House of the Parliament and ratification by at least half of the States is specifically required to make any amendment in Article 279A relating to GST Council.

Article 368



Which of the following taxes is/are not subsumed in GST?

- (i) Service tax
- (ii) Customs duty
- (iii) Luxury tax
- (iv) Tax on lottery, betting and gambling
- (v) Entertainment tax levied by local bodies

(a) (ii)

(b) (ii) and (v)

(c) (i), (iii), (iv) and (v)

(d) (v)



TEST YOUR KNOWLEDGE

1. List some of the benefits that GST may accrue to the economy.
2. Explain with the help of examples how a particular transaction of goods and services is taxed simultaneously under Central GST (CGST) and State GST (SGST)?

3. *Why was the need to amend the Constitution of India before introducing the GST?*
4. *GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement.*
5. *Discuss the leviability of GST or otherwise on the following:*
 - (a) *Alcoholic liquor for human consumption*
 - (b) *Petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas*
 - (c) *Tobacco*
 - (d) *Opium, Indian hemp and other narcotic drugs and narcotics*
6. *Under Goods and Services Tax (GST), only value addition is taxed and burden of tax is to be borne by the final consumer. Examine the validity of the statement.*
7. *Which are the commodities which have been kept outside the purview of GST? Examine the status of taxation of such commodities after introduction of GST.*
8. *A dual GST has been implemented in India. Elaborate.*
9. *Discuss Article 269A pertaining to levy and collection of GST on inter-State supply.*
10. *Discuss Article 246A which grants the power to make laws with respect to Goods and Services Tax.*



ANSWERS

1. GST may accrue following benefits to the economy:
 - (a) **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.

- (b) **Boost to 'Make in India' initiative:** GST may give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market. This would make India a manufacturing hub.
- (c) **Boost to investments, exports and employment:** Under the GST regime, the principle of exporting only the cost of goods or services and not taxes is being followed. This may boost Indian exports thereby improving the balance of payments position. Exporters are being facilitated by grant of provisional refund of 90% of their claims within 7 days of issue of acknowledgement of their application, thereby resulting in the easing of position with respect to cash flows.

Further, the subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of Central Sales Tax (CST) may reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of Indian goods and services in the international market may increase to give boost to investments and Indian exports.

With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase.

2. The Central GST and the State GST is levied simultaneously on every intra-State supply of goods or services or both made by registered persons except the exempted goods and services as well as goods and services which are outside the purview of GST. Further, both are levied on the same price or transaction value. The same can be better understood with the help of following examples:

Example 1: Suppose that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a construction company which is also located within the same State for, say ₹ 100, the dealer would charge CGST of ₹ 10 and SGST of ₹ 10 in addition to the basic price of the goods. The CGST component will go into a Central Government account while the SGST portion into the account of the concerned State Government (viz. U.P.).

It is important to note that he might not actually pay ₹ 20 (₹ 10 + ₹ 10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (inputs, input services and capital goods) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. CGST credit cannot be used for payment of SGST and *vice versa*.

Example II: Suppose, again the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say ₹ 100, the ad company would charge CGST of ₹ 10 as well as SGST of ₹ 10 at the basic value of the service. The CGST component will go into a Central Government account while the SGST portion into the account of the Maharashtra Government.

He might not actually pay ₹ 20 (₹ 10+₹ 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (say, of inputs such as stationery, office equipment, services of an artist etc.) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on its purchase while for SGST, he can utilise the credit of SGST alone. CGST credit cannot be used for payment of SGST and *vice versa*.

3. Earlier, the fiscal powers between the Centre and the States were clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre had the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States had the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre had the power to levy the Central Sales Tax but the tax was collected and retained entirely by the States. As for services, it was the Centre alone that was empowered to levy service tax.

Introduction of the GST necessitated the amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India was amended by the Constitution (101st

Amendment) Act, 2016 for this purpose. Article 246A of the Constitution introduced thereby empowered the Centre and the States to simultaneously levy and collect the GST.

4. The given statement is valid. GST is a destination-based tax on consumption of goods or services or both. GST is known as destination-based tax since the tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.

For example, if A in Delhi produces the goods and sells the goods to B in Haryana. In this case, the tax would accrue to the State of Haryana and not to the State of Delhi. On the other hand, under pre-GST regime, origin-based taxation was prevailing in such cases.

Under origin-based taxation, the tax used to accrue to the State from where the transaction originated. In the given case, under origin-based taxation, the central sales tax would have been levied by Centre and collected by the State of Delhi and not by the State of Haryana.

5. (a) **Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.
- (b) **Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.

Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

- (c) **Tobacco:** Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.

(d) Opium, Indian hemp and other narcotic drugs and narcotics:

Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.

6. The statement is correct. Goods and Services Tax is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and burden of tax is to be borne by the final consumer.
7. Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out of the purview of GST; GST Council shall decide the date from which they shall be included in GST. The erstwhile taxation system (CST/VAT & central excise) still continues in respect of the said commodities.
8. A dual GST has been implemented in India with the Centre and States simultaneously levying it on a common tax base. The GST levied by the Centre on intra-State supply of goods and / or services is called the Central GST (CGST) and that levied by the States/ Union territory is called the State GST (SGST)/ Union GST (UTGST). Similarly, Integrated GST (IGST) is levied and administered by Centre on every inter-State supply of goods and/or services.

India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST, therefore, keeps with the Constitutional requirement of fiscal federalism.

- 9.** 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.

Here, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

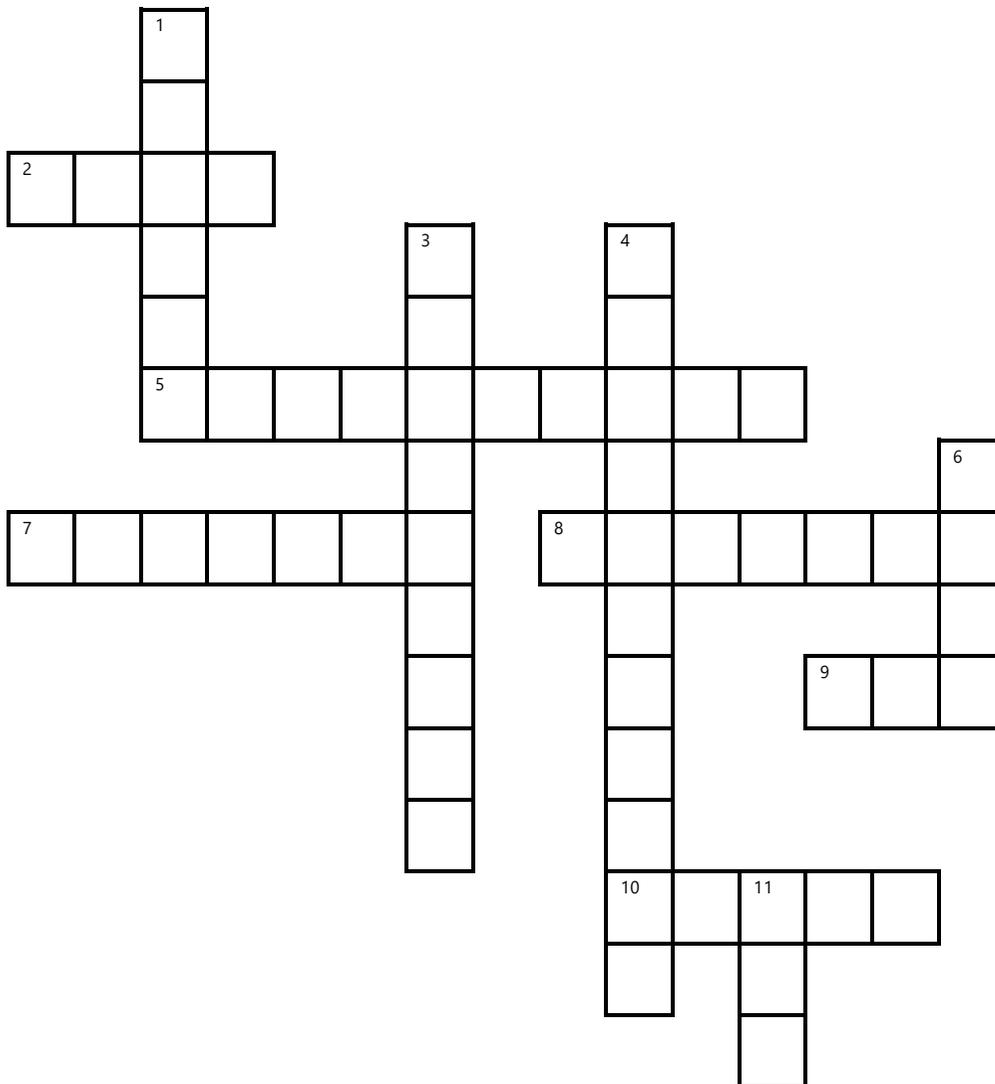
The amount so apportioned to a State shall not form part of the Consolidated Fund of India. Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India/State respectively. This is to facilitate transfer of funds between the Centre and the States.

Parliament is empowered to formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

- 10.** 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.

Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

However, in respect to petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, the aforesaid provisions shall apply from the date to be notified by the Government on the recommendations by the GST Council.



ACROSS

2. India has adopted _____ GST model because of its unique federal nature.

5. Common GST Electronic Portal for furnishing _____way bill is www.ewaybillgst.gov.in
7. _____ is subject to GST as well as central excise duty.
8. _____ duty is not subsumed in GST.
9. _____is used for classifying the goods under the GST. (acronym)
10. _____ is subject to GST as well as State excise duties.

DOWNWARDS

1. _____ was the first country to implement VAT/GST in 1954.
3. Article 265 of the Constitution of India states that “no tax shall be levied or collected except by _____ of law”.
4. GST is a _____ based tax.
6. Common GST Electronic Portal – www.gst.gov.in is a website managed by _____. (acronym)
11. _____ is the website for uploading/reporting of e-invoices by the notified persons. (acronym)

Scan the following QR code for accessing the answers to MCQs in Quiz Time and Cross word puzzle of this chapter.



Scan the code