

CHAPTER : 1

OVERVIEW | INTRODUCTION of GST

History | Background of GST
Constitutional Provisory under GST

⇒ Introduction | GST Journey

1. Full Form of Gst - Goods & Services Tax
2. Gst is a Tax
 - Compulsory Payment (+)
 - Collected by govt (+)
 - Under an Act
3. Indirect Taxes are a Major Source of Govt. Revenue
4. CBIC is the Apex Authority of Indirect Tax.
(It Means, CBIC is the Top Regulatory Body responsible for Administration of IDT.)
CBIC = Central Board of Indirect Taxes & Custom.
5. CBIC works under the Ministry of Finance,
{ CBIC Functions under the Department of Revenue of Ministry of Finance, Govt. of India }

6. Functions of CBIC

CBIC is responsible for Policy Formulation, levy and Collection of following Taxes

- Custom Duty
- Excise Duty
- Goods & Services Tax

7. GST is a type of Indirect Tax

8. In India, there are 2 types of Taxes

- Direct Tax
- Indirect Tax

9. Direct Tax

• Direct Tax is a tax which is levied on a person and burden of same falls on same person

Progressive in Nature

Taise - Taise income Badhegi, Vaise - 2 Tax Badhega

• Department of DT
↓
Central Board of Direct Taxes

Indirect Tax

Regressive
in Nature

Department of IDT

↓
CBIC

• Indirect Tax is a tax which is levied on person and Burden of which falls on Different person.

10. Difference between Tax & Duty

| Particulars | Tax | Duty |
|--------------|--|---|
| • Definition | Tax is a financial charge under an Act. | A Duty is a type of Tax - which specifically imposes on Import, Export or Manufact. |
| • Types | Income Tax, Gift Tax, Corporate Tax, VAT | Custom Duty, Excise Duty |
| • Objective | To Raise Revenue for Public Welfare | To Regulate International Transactions |
| • Scope | Wide | Narrow |

A-366 (12A)

11. Definition of Gst

GST is a Tax which is levied on supply of Goods or Services or Both

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EXCEPT

the tax on supply of

- Alcoholic liquor for Human Consumption
- And Un-Denatured extra Neutral Alcohol
- Or A Rectified Spirit used for Manufacturing of Alcoholic liquor for Human Cons.

12. GST is a Destination Based Tax

13. GST is levied on Goods (or) Services (or) Both

14. Applicability of GST

1/7/17 - 7/7/17 GST all over India except J & K

8/7/17 onwards GST all over India Including J & K.

15. Types & Combination of Gst

| Types | Combinations |
|---------|----------------|
| • CGST | • CGST + SGST |
| • SGST | • CGST + UTGST |
| • UTGST | • IGST |
| • IGST | |

Most Imp.

*

16. GST is a Value Added Tax levied on every stage of supply & ITC Available under Gst

17. GST reduced Cascading effects of Tax



Tax on Tax

18. India has 4 GST Rates

0% 5% 18% 40%

Gold = 3%

Rough Diamond = 0.25%

19. Taxable event under GST is Supply

20. GST me किसी भी Person ka Registration

Origin State me Hota hai (It Means jaha se supply Hogi But Revenue Consumption State ko Milega.

21. GST Replaces Multiple IDT

Such as

- VAT
- CST
- Service Tax
- Tax on lottery
- Luxury Tax
- Excise Duty
- and so on

Total 17 IDT.

22. Initially GST recommended by Kelkar Shah Committee in 2005

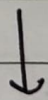
23. Announcement of GST in Budget 2006-07 that it would be Applicable from 1/4/2010

24. India follow Dual Gst Model

- CGST
- SGST

$$IGST = CGST + SGST + UTGST$$

25. Service Charge is Not a Tax



It is a Tip collected by Restaurant

* Not Mandatory

26. Initial Gst Return System in India is too Complex

Total 37 Gst Returns

GSTR-1, GSTR-2, GSTR-3 Return

3 Return Monthly

3 x 12 = 36 Returns

+ 1 Annual Return

GSTR-9

37 Return

27. Law Making Authority / Constitutional Provisory under GST

246 A
 Article 269 A
 Article 279 A
 Article 265
 Article 270

Intra State Supply Definition
 (Sec 8 of IGST Act)

Inter State Supply
 (Sec 7 of IGST Act)

Zero Rated Supply
 Sec 16 of IGST Act
 Supply in TWI
 Section 9 of IGST

Constitutional Provision - Introduction

- (a) Supreme Authority of India is COI
- (b) Architect of COI - Dr. BR - Ambedkar
- (c) Uniqueness of COI - Longest written Constitution
- (d) Effective Date - 26/01/1950
- (e) Total Article in COI - 395
- (f) Total Schedule in COI - 12 Schedule

Limitations / Problems in old IDT

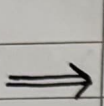
- (a) Multiple Taxes
- (b) Multiple Taxable event
- (c) Cascading effect (Tax on Tax)
- (d) Double Tax (Same value pay 2 Baar Tax)
- (e) No Uniformity
- (f) Classification Issue (What is goods or What is Service)?
- (g) Different Departments
- (h) Higher Compliance Burden
- (i) Higher Compliance Cost
- (j) More litigation
- (k) and so on

What after GST ?

1. Multiple Taxes ki आत्मा Shift ho gayi GST Me.
(excise , VAT , CST , Service Tax)
2. Multiple Taxable event ki आत्मा Shift हो गई।
Supply में।
(Manufacturing , Service , Sale etc)
3. Assesse Name Shift Ho gaye Taxable Person।
Supplier में।
(Seller , Trader , Wholesaler , Dealer)
4. Intra State से अब → Intra State [हो]
Inter State → Inter State [गई]
International Trade
5. Double Tax से अब → No Double Tax
(Now Classify what is supply of goods / Supply of Services)
6. Cascading effect से अब → No Cascading effect
(ITC Allowed)
7. Different department से अब → Only One Department
(CBIC)

8. No Uniformity से अब → One Nation / One Market / One Tax

9. Higher Compliance Cost से अब → Less Cost
Higher Litigation Cost



Finally GST introduced in India

W.e.f 1/07/17 through

Article 246A

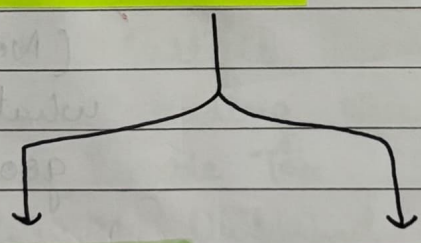
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Article 246 A : Special Provision to GST

Article 246 A

Over Rule

Article 246 & 254



246 A(1)

246 A(2)

• Nature of Supply

Inter State Supply

• Intra State Supply

Article 246 A (1)

Intra State Supply

Provisions made by Parliament and State Assembly

- GST Charge →
- CGST + SGST
 - CGST + UTGST

Article 246 A (2)

Inter State Supply

Provisions Made by Only Parliament

- GST Charge → Only IGST [Refer Article 269 A]

Above GST NOT applicable on following Goods

- Petroleum Crude
- High Speed Diesel
- Motor Spirit (Petrol)
- Natural Gas
- Aviation Turbine Fuel

GST on 5 Petroleum Products applicable on the date when GST Council will "Recommend"

↓

state supply -

TU supply -

state supply -

TU supply -

CRUX

Permanent Outside the Perview of GST

1. Alcoholic liquor for human Consumption
2. Un-Denatured extra Neutral Alcohol & Rectified Spirit for the use of Manufacturing Alcohol

GST "Abhi NAHI" "KABHI NAHI"

⇒ Meaning of INTRA STATE SUPPLY Vs. INTER STATE SUPPLY

Section 7 | 8 of IGST Act 2017

Sec 8 of IGST Act

Sec 7 of IGST Act

Intra State Supply

Inter State Supply

Where the Location of Supplier and Place of supply

• Location of Supplier and Place of supply

- Same State
- Same UT

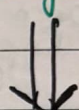
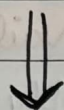
- Two different State
- Two different UT

Two different Country

One State One UT

Supply to SEZ

Supply by SEZ



GST Levied

GST Levied

CGST + SGST

IGST

CGST + UTGST

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What is Zero Rated Supply

Sec 16 of IGST Act

1. Meaning of ZRS 16(1)

ZRS Includes the following types of Supply :->

-> Export of Goods or Services

-> Supply of Goods or Services to a

- SEZ Developer
- SEZ Unit

For their Authorized Operations

2. ITC is Allowed 16(2)

Even though NO GST is charged on ZRS
- The Supplier is still allowed to take ITC on the input used for Making such Supply

SPECIAL POINT

This Rule (ITC Availability) applies even if the Supply treated as Exempted Supply.

3. Refund of Unutilised ITC 16(3)

A Registered person making Zero Rated Supply can claim refund of Unutilised ITC

This can be Done when —

- (1) Goods (or) Services are supplied without payment of IGST by Filing Bond.
- (OR)
- (2) Letter of Undertaking

4. Condition for Export of Goods

If a person export goods and services and receiving Refund of ITC, But does not receive Sale Proceeds in Foreign Currency within the time limit prescribed by FEMA →

• The exporter must Deposit the Refund Amount Back to the govt. and

• Interest will also be payable under Section 50



CASE LAW



• The Applicant planned to provide Hotel Accommodation Services to Employee of SEZ Units and -

Ask whether services would be Treated as Zero Rated Supply?

• Under Section 16, Supply of Goods/ Services to an SEZ Units or Developer for their Authorized Operations is to be treated as Zero Rated Supply

• The Specified Officer of the SEZ Unit Must Confirm that the Service used for authorized Operations.

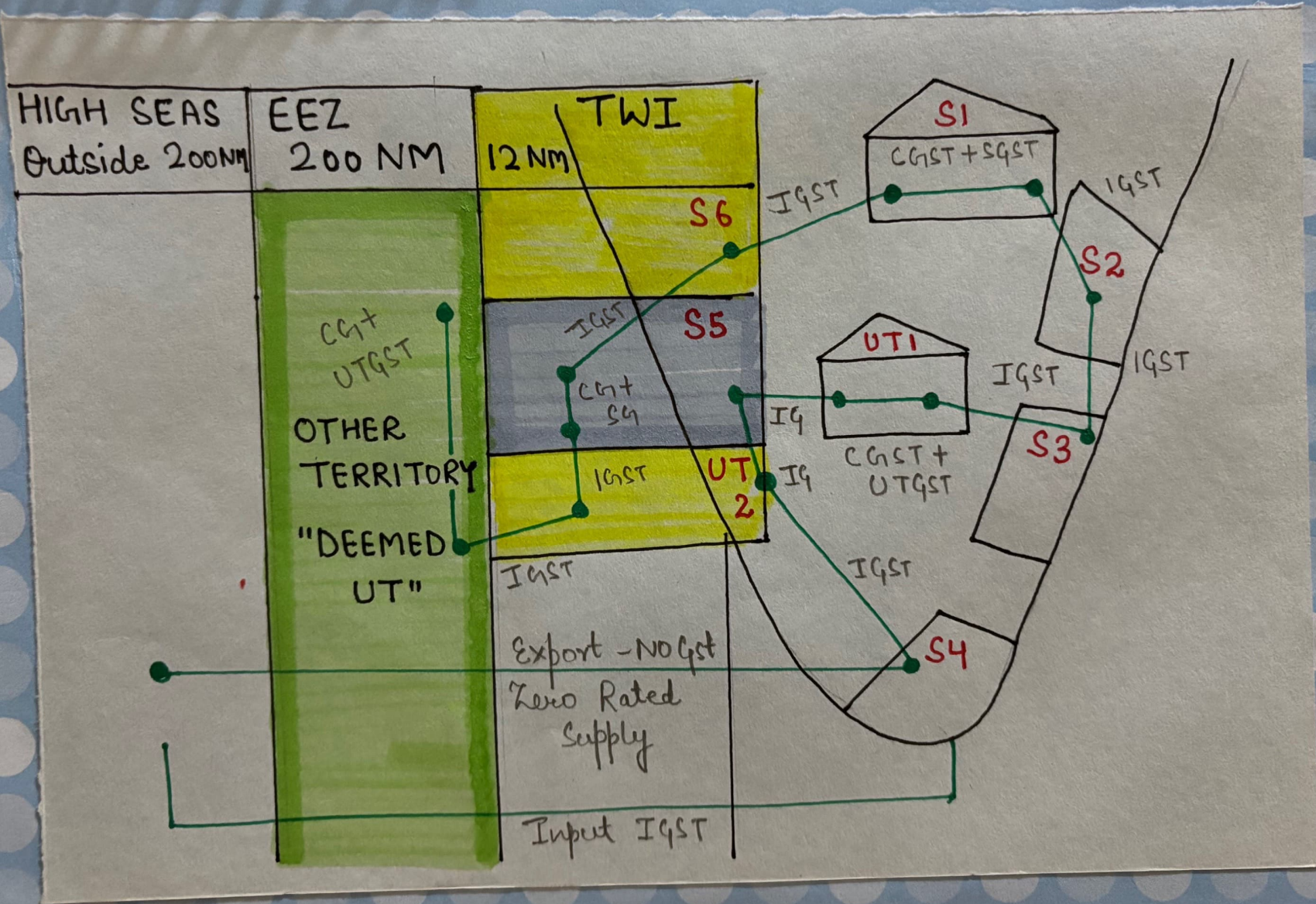
• AAR Karnataka held that Accomodation Service are used for Authorized Operations

→ Then such services will Qualify as Zero Rated Supply.

⇒ **Difference Between ZRS | Nil-Rated Exempted | Non-Taxable Supply**

| | Zero Rated | Nil-Rated | Exempted | Non-Taxable |
|------------------|---|--|--|--|
| Meaning | Supply to SEZ Units @ Developer for their authorised operations | Supply that have a declared rate of 0% GST | Supply which attracts Nil Rate of Tax @ Fully Exempt and includes Non Taxable Supply | These Supplies do not come under Purview of GST |
| Examples | Supply to USA Supply to SEZ | Salt, Grains, Jaggery etc. | Milk, Fruits, Curd, Bread, Lassi etc. | Alcoholic liquor for Human Consumption 5 Petroleum Products |
| ITC Avail | Available | Not Available | Not Available | Not Available |

Definition of India under GST



⇒

Sec 9 of IGST

Supply in TWI

- PANI जिस गी Nearest State or UT ke Paas Hoga, Us Pani ke wali State or UT Mankar GST laga Diya Jaega.
- जो PANI 12 NM के बाहर है, i.e. 188 Nautical Mile waha Sec 9 Not Apply wo Sara Pani ek Other Territory Hai.

And, Other territory ko Union Territory माना जाता है।

Hence, waha Union Territory ke according GSt lagga.

CRUX

(a) 28 State Actual + 3 UT Deemed State
(Delhi, Pondicherry, J&K)

= 31 States

(b) 5 UT Actual + 1 UT Deemed

= 6 UT

(Other Territory)

Levy and Collection of GST on Inter-State Supply

Article 269A

Levy & Collection of IGST

1.

— GST on inter State supply of Goods & Services shall be levied and collected by CG.

— This Tax is known as IGST

2.

Apportionment of IGST

— The IGST Collected by Central Government shall be Apportioned between Union & State

— The Matter of distribution is decided by the Parliament on the Recommendation of GST Council

3. Supply of Goods & Services in the course of Import into India is deemed to be Inter State Supply and IGST shall be levied

4. State share not a part of Consolidated Fund of India

5. — The portion of IGST that belongs to state will Not form a part of Consolidated Funds of India.
— It will be transferred to the Respective State Government (i.e Consumption State)

5. Adjustment when IGST Credit used to Pay SGST

- If IGST Credit is used for the payment of GST, corresponding amount will be transferred to State by Central Government
- Therefore such amount will not be part of Consolidated Funds of India

6. Adjustment when SGST Credit used to pay IGST

- If SGST Credit is used to pay IGST then corresponding amount will be transferred by State to Centre.
- Hence, such amount will not be part of Consolidated Funds of the state.

7. Power to Determine Place of Supply

- Parliament empowered to Formulate Principles regarding POS with the recommendation of GST Council

Article-265

No Tax shall be Levied ~~or~~ Collected without authority of Law (i.e Act)

Example: For income Tax Income Tax Act, 1961

For GST Total 35 Act

- 1 CGST Act 2017
- 1 IGST Act 2017
- 1 UTGST Act 2017
- 31 SGST Act 2017
- 1 GST Compensation Act, 2017

Article-270

Distribution of Taxes b/w Union & State

— All the Taxes and Duties referred in Union List

— Shall be levied & Collected by Govt. of India

— Shall be distributed between Union and States

Amendment through CAA, 101

CGST levied on Intra-State Supply shall be also distributed Among **CG** And **SG**.

IGST Component apporportioned to **Union** shall also be Distributed to **SG**.

EXAMPLE

| TAXES | Payment TO | Distributed To |
|-------------|------------|--|
| Income Tax | CG | SG |
| Custom Duty | CG | SG |
| CGST | CG | SG |
| SGST | SG | No Distribution (only Sg Revenue) |
| UTGST | CG | No Distribution (only for UT) |
| IGST | CG | IGST $\left\{ \begin{array}{l} \text{CG} \begin{array}{l} 270 \\ \text{CG} \end{array} \\ 269A \\ \text{SG} \end{array} \right.$ |

Article-279A Formation of Gst Council

President → has power to constitute GST Council within 60 Days from the Date of Approval of CAA, 101 i.e (8/9/16)

GSTC Formed 12/9/16

GSTC Notified 15/9/16

Total Member in GST Council 33 Member

2 Member from Govt. of India

31 Member from SG

2 Members from GOI = (1) Union FM (Chairperson of GSTC)

(2) Member from CG = (Union Minister of State) Revenue

31 Members from SG Finance Minister of every State

Nominated person by SG

Vice Chairperson One Member from 31 State govt. Member

- Quorum Required Minimum 50.%
- Voting in Favour 75.0% (3/4th)
- CG Share in Voting 1/3rd i.e 33.33.0%
- SG Share in Voting 2/3rd i.e 66.67.0%

⇒ GST Makes recommendation on the following

- Taxes to be Subsumed under GST
- Goods (or) Services exempted from GST
- Apportionment of IGST
- Threshold limit of Turnover for Registration
- Special provision for Special Category State
- Other important Matters related to GST.

Example

| | | | | | | |
|---------------------|------------------------------|------------------------------|---------------|------------------------------|------------------------------|------------------------------------|
| Total Member | 33 | 33 | 33 | 33 | 33 | 33 |
| Member Present | 30 | 20 | 25 | 33 | 28 | 16 |
| Central Govt. Memb. | 2 | 2 | 2 | 2 | 2 | 2 |
| State Memb. | 28 | 18 | 23 | 31 | 26 | 14 |
| Voting Chall Member | Yes | Yes | Yes | Yes | Yes | Yes |
| SG | 22 Yes 6 No | 10 Yes 8 No | 23 Yes | 25 Yes 6 No | 18 Yes 8 No | 14 Yes |
| Voting in favour | Cg $33 \cdot 33$ | $33 \cdot 33$ | $33 \cdot 33$ | $33 \cdot 33$ | $33 \cdot 33$ | $33 \cdot 33$ |
| SG | $\frac{66.67 \times 22}{28}$ | $\frac{66.67 \times 10}{18}$ | 66.67 | $\frac{66.67 \times 25}{31}$ | $\frac{66.67 \times 18}{26}$ | |
| | 52.38 | 37.04 | | 53.77 | 46.16 | Meeting Not conducted i.e. Invalid |
| Decision | 85.71% | 70.37% | 100% | 87% | 79.49% | Since Quorum Not Valid |
| approved or Not | Yes Approved | Not approved | Yes approved | Yes approved | Yes approved | |

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GST Compensation Act, 2017 | GST Compensation Cess

1. Why was Gst Compensation Needed?

When Gst was introduced on 1/7/17, Many state opposed it.

The main reason was Gst is a Destination Based Tax.

It means tax goes to the state where goods are consumed, Not the state where goods are produced.

2. What Solution did the Govt. give?

To convince the states, the CGI gave a guarantee that if state suffer Revenue loss due to Gst,

The CGI will compensate them for 5 years

3. The CGI enacted a Separate Law called GST (Compensation to States) Act 2017 —

For the purpose to compensate state for the Revenue loss due to GST.

Compensation was promised for 5 year starting from 1/7/2017.

4. To fund the Compensation, the govt. imposed a **Special Tax** called **Compensation Cess** under **Section - 8** of **GST (Compensation to State) Act 2017**.

The cess is levied on certain goods such as +

- Tobacco
- Cigarettes
- Coal
- Aerated Drinks
- Luxury Cars etc.

So, these goods attract \rightarrow **GST \oplus Compensation Cess**.

The Money collected from the Cess is used to **pay Compensation to States**.

5. The Compensation Calculated is based on **3[↑] Key Concepts**

(1) **Base Year** **FY 2015-16** (i.e. year of revenue of each state is taken as **Benchmark**)

(2) **Projected Growth Rate** **14.1%**

(3) **Projected Revenue** **Base year Revenue \times (1 + 14.1%)**

Example

Base year Revenue = 100
growth rate = 14%

Projected Revenue for 16-17
= 100×1.14
= 114

Projected Revenue for 17-18
= 114×1.14
= 129.96

18-19 = 129.96×1.14
= 148.15

If the actual revenue of the state is less than this projected Revenue, the difference will be paid as Compensation by the CG.

Originally Compensation was promised for 5 years

i.e. period = 1/7/17 - 30/6/22

But Due to Covid-19 the revenue collected dropped and the Compensation fund becomes Insufficient, So, CG Borrowed Money and Compensate.

So, to repay those loans, Compensation Cess was extended until March 2026.

Hence, after 30/6/22 Compensation to state has Stopped,

Cess Calculated is now used only to repay the loan taken by CG.