

GST in India : An Introduction

Overview of Tax

It is a compulsory charge levied by the Government . There are two types of taxes :

1. Direct Tax
2. Indirect Tax

Direct & Indirect Tax

Direct taxes	Indirect taxes
A direct tax is charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons on whom it is imposed. The burden of this tax cannot be shifted by the taxpayer to someone else.	Indirect taxes are imposed on goods and services. Its incidence is borne by the consumers who ultimately consume the product or service. It is also called consumption taxes.
A significant direct tax imposed in India is Income tax.	Indirect taxation in India has witnessed a drastic change on July 01, 2017 and all indirect taxes have been amalgamated into – GST & Customs.
Direct taxes are progressive in nature. Hence a rich person pays more compared to a poor person.	Indirect taxes are regressive in nature because they equally impact the rich or the poor.
Example : Income Tax , Property Tax , Corporate Tax , etc.	Example : GST , Custom Duty , etc.

FEATURES OF INDIRECT TAXES

- **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
- **Tax on commodities and services:** It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.
- **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
- **No perception of direct pinch:** Since, the value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the taxpayer pays the same without

actually knowing that he is paying tax to the Government. Thus, the taxpayer does not perceive a direct pinch while paying indirect taxes.

- **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.
- **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.



CONCEPT OF GST

- GST is a **value added tax** levied on manufacture, sale and consumption of goods and services.
- GST offers a comprehensive and continuous chain of tax credits from the producer's point/service provider's point up to the retailer's level/consumer's level thereby taxing only the value added at each stage of the supply chain.
- The supplier at each stage is permitted to **avail credit of GST paid on the purchase** of goods 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.
- Since, only the value added at each stage is taxed under GST, there is **no tax on tax or cascading of taxes** under the GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate.



Illustration 01

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.

Solution

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.

Illustration 02

A dual GST has been implemented in India. Elaborate.

Solution

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.

Why India Needed GST – Read IT Once

Following reasons demanded implementation of GST:

- **Double taxation** of a transaction as both goods and services.
- Non-inclusion of several local levies in State VAT such as luxury tax, entertainment tax, etc.
- Non-integration of VAT & service tax.
- No CENVAT after manufacturing stage



Excise duty ITC

Analysis ✓

Particulars	A Manufacturer Delhi	B Manufacturer Delhi	C Trader Kanpur	D Trader Bhopal	E Trader Bhopal
Input	1000	2000	4000	4500	5400
Processing	500	1000	—	—	—
Profit	500	1000	500	900	1000
Selling Price	2000	4000	4500	5400	6400
GST@12%	240	480	540	648	768
Invoice price	2240	4480	5040	6048	7168
Output Tax Liability	240	480	540	648	768
Input Tax Credit	—	240	480	540	648
Net Tax Liability	240	240	60	108	120

Illustration 03

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)?

Solution

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 I: 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.

✓ **FRAMEWORK OF GST**

1. **Dual GST:** India has adopted a Dual GST model in view of the federal structure of the country.
 - **Centre and States** simultaneously levy GST on taxable supply of **goods or services** or both, which takes place within a State or Union Territory. Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services.
 - **GST is a destination based tax** applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof. GST in India comprises of:
 - i. On **intra-State supplies** of taxable goods and/or services
 - a) **Central Goods and Services Tax (CGST)** - levied and collected by Central Government,
 - b) **State Goods and Services Tax (SGST)** - levied and collected by State Governments/ Union Territories with Legislatures and
 - c) **Union Territory Goods and Services Tax (UTGST)** - levied and collected by Union Territories without Legislatures.

Union Territories	
Without State Legislature	With State Legislature
• Andaman & Nicobar islands	• Delhi

• Lakshadweep	• Jammu & Kashmir
• Ladakh	• Puducherry
• Dadra and Nagar Haveli & Daman and Diu	
• Chandigarh	

- ii. **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 Centre on all inter-State supplies.
2. **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.**
- a) **Alcoholic liquor for human consumption:** is outside the scope 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.



- c) 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.
- d) **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.
- e) **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.
- f) 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.

Illustration 04

GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement.

Solution

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.

Illustration 05

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

Solution

- 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.

Illustration 06

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.

Solution

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.

BENEFITS OF GST → Just Read 2-3 Times.

GST is a win-win situation for the entire country.

It brings benefits to all the stakeholders of industry, Government and the consumer.

The significant benefits of GST are discussed hereunder:

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 thus paving the way for an integrated economy at the national level.

Boost to 'Make in India' initiative:

GST gives 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 will create India as a — Manufacturing hub.



Enhanced investment and employment:

The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input tax on goods and services and phasing out of Central Sales Tax reduces the cost of locally manufactured goods and services and increases the competitiveness of Indian goods and services in the international market and thus, gives boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment is generated and GDP is increased.

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. The uniformity in laws, procedures and tax rates across the country makes doing business easier.

Certainty in tax administration:

Common system of classification of goods and services ensures certainty in tax administration across India.

Easy Tax Compliance

Automated procedures with greater use of IT:

There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All interaction is through the common GSTN portal, therefore, less public interface between the taxpayer and the tax administration.

Reduction in compliance costs:

The compliance cost is lesser under GST as multiple record keeping for a variety of taxes is not needed, therefore, there is lesser investment of resources and

manpower in maintaining records. The uniformity in laws, procedures and tax rates across the country goes a long way in reducing the compliance cost.

Advantages for Trade and Industry

Benefits to agriculture and Industry:
GST has given more relief to industry, trade and agriculture through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in industry, trade and agriculture.
Mitigation of ill effects of cascading:
By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of the businesses.
Benefits to small traders and entrepreneurs:
GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

Illustration 07

List some of the benefits that GST may accrue to the economy.

Solution

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.

Illustration 08

Enumerate the deficiencies of the existing indirect taxes which led to the need for ushering into the GST regime.

Solution

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 and at the State level in the form of State VAT – its application always remained piecemeal and fragmented on account of the following reasons:

1. Double taxation of a transaction as both goods and services as the distinction between goods and services was often blurred, e.g. software was liable to both VAT and service tax.
2. CENVAT did not include a chain of value addition in the distributive trade below the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed leading to the cascading of taxes. To illustrate, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied.
3. 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.
4. There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT.
5. VAT on goods was not integrated with tax on services, at the State level, to remove the cascading effect of the Service Tax. With the 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.
6. 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.

Constitutional Provisions Regarding GST

ONLY FOR KNOWLEDGE

Power to levy taxes emerges from the Constitution of India.

Article 265: No tax shall be levied or collected except by authority of Law.

Article 245: Subject to the provisions of the 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.

Article 246: It gives the respective authority to Union and state Governments for levying tax and such authority is given in Seventh Schedule of Indian Constitution and there are three lists in Seventh Schedule.

Union list – List I (Parliament)	State list – List II (State legislature)	Concurrent list - List III
It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws.	It contains the matters in respect of which the State Government has the exclusive right to make laws.	It contains the matters in respect of which both the Central & State Governments have power to make laws.
There are 97 entries	There are 66 entries	There are 47 entries

Some of the important entries in the Union List are as given below:

Union List No. 82: Taxes on income other than agricultural income.

Union List No. 83: Duties of customs including export duties.

Union List No. 84: Duties of excise on following goods manufactured or produced in India, namely

- a) petroleum crude;
- b) high speed diesel;
- c) motor spirit (commonly known as petrol);
- d) natural gas;
- e) aviation turbine fuel; and
- f) tobacco and tobacco products.



Some of the important entries in State List are as given below:

State List No. 46	Taxes on agricultural income.
State List No. 51	Duties of excise on alcoholic liquors for human consumption; opium, Indian hemp and other narcotic drugs.
State List No. 53	Taxes on the consumption or sale of electricity.
State List No. 54	Taxes on sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural Gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of international trade or commerce of such goods.

AFTER AMENDING CONSTITUTION

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

1. This article grants power to Centre and State Governments to make laws with respect to Intra state supply of goods/services and GST imposed by Centre or such State for Intra state supply.
2. Centre has the exclusive power to make laws with respect to inter-state supply of goods/services and GST imposed by Centre on inter-state supply of goods/services.

Article 269A: Levy and collection of GST on inter-state supply

1. It 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 GST Council.
2.	Import of goods/services into India will also be deemed to be Inter State supply.

Illustration 09

Why was the need to amend the Constitution of India before introducing the GST?

Solution

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.

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 the GST Council came into force on 12th September, 2016. The 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.
- It shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.



Taxes to be subsumed & not subsumed in GST

Central Levies to be Subsumed	State Levies to be Subsumed	Taxes not subsumed under GST
Central Excise Duty & Additional Excise Duty	State surcharges and Cesses in so far as they relate to supply of goods and services	Custom duty & Stamp duty

Service Tax	Entertainment Tax (except those levied by local bodies)	Vehicle Tax
Excise Duty under Medicinal and Toilet Preparation Act	Tax on lottery, betting and gambling	Excise on Liquor
Countervailing Duty & Special Countervailing Duty	Entry tax (All forms) & Purchase tax	Tax on sale & Consumption of electricity
Central Sales Tax	VAT/Sales tax	Road Tax
Central surcharges and Cesses in so far as they relate to supply of goods and services	Luxury tax&Taxes on advertisements	Entertainment tax levied by Local Bodies

Illustration 10

Discuss Article 269A pertaining to levy and collection of GST on inter-State supply.

Solution

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.

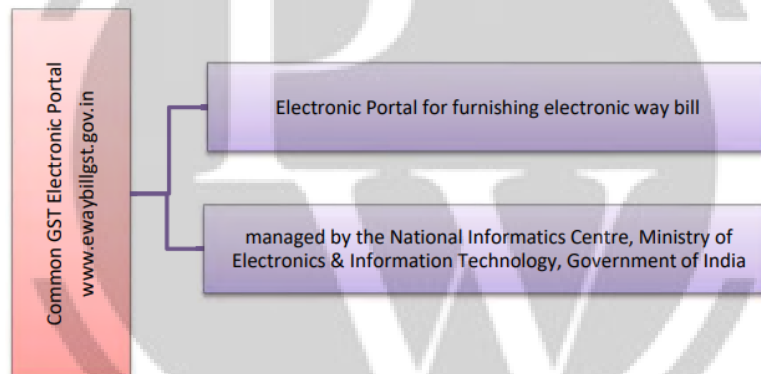
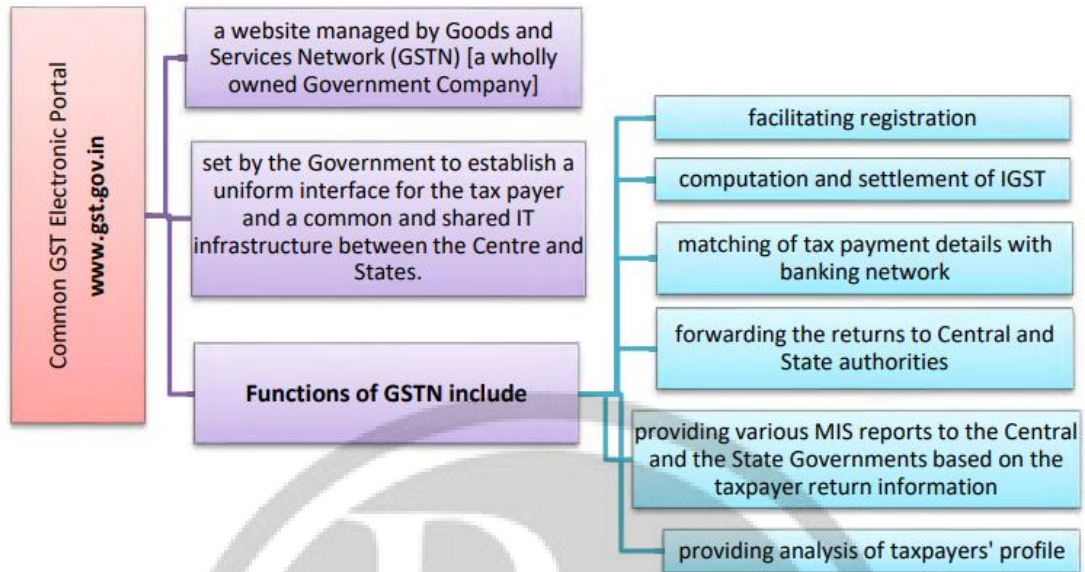
Illustration 11

Discuss Article 246A which grants the power to make laws with respect to Goods and Services Tax.

Solution

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.

GST Common Portal



QUESTION BANK

Illustration 01

Differentiate between direct and indirect taxes.

Solution

Direct taxes	Indirect taxes
A direct tax is charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons on whom it is imposed. The burden of this tax cannot be shifted by the taxpayer to someone else.	Indirect taxes are imposed on goods and services. Its incidence is borne by the consumers who ultimately consume the product or service. It is also called consumption taxes.
A significant direct tax imposed in India is Income tax.	Indirect taxation in India has witnessed a drastic change on July 01, 2017 and all indirect taxes have been amalgamated into – GST & Customs.
Direct taxes are progressive in nature. Hence a rich person pays more compared to a poor person. Example: Income tax is higher for higher income groups and lower for lower income groups.	Indirect taxes are regressive in nature because they equally impact the rich or the poor. Example: GST paid on food in restaurant is same whether a person is rich or poor.

Illustration 02

Explain the salient features of indirect taxes.

Solution

- a) **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
- b) **Tax on commodities and services:** It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.
- c) **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
- d) **No perception of direct pinch:** Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the taxpayer pays the same without actually knowing that he is paying tax to the Government. Thus, the taxpayer does not perceive a direct pinch while paying indirect taxes.
- e) **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trends.

- f) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- g) **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as ‘sin goods’) such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- h) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

Illustration 03

Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.

Solution

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.

Union list – List I (Parliament)	State list – List II (State legislature)	Concurrent list - List III
It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws.	It contains the matters in respect of which the State Government has the exclusive right to make laws.	It contains the matters in respect of which both the Central & State Governments have power to make laws.

Illustration 04

Why is Dual GST required?

Solution

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 will, therefore, be in keeping with the Constitutional requirement of fiscal federalism.

Illustration 05

Which of the existing taxes are subsumed under GST? List any four State levies, which subsumed in GST.

Solution

The GST replaced the following taxes:

1. Taxes which was levied and collected by the Centre:
 - a) Central Excise duty
 - b) Duties of Excise (Medicinal and Toilet Preparations)
 - c) Additional Duties of Excise (Goods of Special Importance)
 - d) Additional Duties of Excise (Textiles and Textile Products)
 - e) Additional Duties of Customs (commonly known as CVD)

- f) Special Additional Duty of Customs (SAD)
 - g) Service Tax
 - h) Central Surcharges and Cess so far as they relate to supply of goods and services
2. State taxes which was subsumed under the GST:
- a) State VAT
 - b) Central Sales Tax
 - c) Luxury Tax
 - d) Entry Tax (all forms)
 - e) Entertainment and Amusement Tax (except when levied by the local bodies)
 - f) Taxes on advertisements
 - g) Purchase Tax
 - h) Taxes on lotteries, betting and gambling
 - i) State Surcharges and Cess so far as they relate to supply of goods and services

The GST Council made recommendations to the Union and States on the taxes, Cess and surcharges levied by the Centre, the States and the local bodies which were subsumed in the GST.

Illustration 06

List the taxes, which are not subsumed in GST

Solution

1. Basic Customs Tax
2. Property tax and stamp duty
3. Electricity duty
4. Excise duty on alcohol
5. Excise duty on petrol, diesel etc.
6. Entertainment tax charged by Local Bodies (Municipality)

Illustration 07

What is IGST?

Solution

Under the GST regime, an Integrated GST (IGST) would be levied and collected by the Centre on Inter-State supply of goods and services. Under Article 269-A of the Constitution, the 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 GST Council.

Illustration 08

What would be the role of the GST Council?

Alternative, Enumerate any five matters on which the GST Council may make recommendations under Article 279A of the Constitution of India.

Solution

A GST Council would be constituted comprising the Union Finance Minister (who will be the Chairman of the Council), the Minister of State (Revenue) and the State Finance/Taxation Ministers to make recommendations to the Union and the States on:

1. the taxes, cess and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;
2. the goods and services that may be subjected to or exempted from the GST;
3. the date on which the GST shall be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel;
4. model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;
5. the threshold limit of turnover below which the goods and services may be exempted from GST;
6. the rates including floor rates with bands of GST;
7. any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;
8. special provision with respect to the North-East States, J&K, Himachal Pradesh and Uttarakhand; and any other matter relating to the GST, as the Council may decide.

Illustration 09

How will decisions be taken by the GST Council?

Solution

- Article 279-A of the Constitution of India makes provisions as to the GST Council. It provides that every decision of the GST Council shall be taken at a meeting by a majority of not less than $\frac{3}{4}$ th of the weighted votes of the members present and voting.
- The vote of the Central Government shall have a weightage of $\frac{1}{3}$ rd of the votes cast and the votes of all the State Governments taken together shall have a weightage of $\frac{2}{3}$ rd of the total votes cast in that meeting.
- One half of the total number of members of the GST Council shall constitute the quorum at its meetings.

Illustration 10

What is GSTN and its role in the GST regime? Discuss any two functions of GSTN.

Solution

GSTN stands for Goods and Services Tax Network (GSTN). It is a not-for Profit Company incorporated under provisions of Section 8 of Companies Act, 2013. GSTN has been set up to cater to the needs of GST. GSTN has made a site/portal which has been notified as a common GST electronic portal (under section 146 of CGST Act).

Thus, GSTN has provided IT infrastructure under GST law. The GST portal developed by it is used by the Central Government as well as by the State Governments. GST portal is referred as 'common portal'. This portal is the taxpayer interface with the Government. GSTN is providing facilities to taxpayers as well as the Government.

Following are some important functions which are performed by GSTN

1. Facilitation of registration (as under GST, registration is online);
2. Payment of GST (Challan for GST payment is created online);
3. Returns filing (as under GST, all returns are online);
4. Maintenance of ledgers of taxpayers (e-liability, e-credit and e-cash ledger for each registered taxpayer);

5. Running the matching engine for matching, reversal and reclaim of input tax credit (presently, it has been deferred);
6. Providing analysis of taxpayers' profile (based on such analysis, cases will be selected for scrutiny/audit);
7. Sharing of information in taxpayers returns with Centre and State Governments/tax authorities;
8. providing various MIS reports to the Central and the State Governments based on the taxpayer return information;
9. Computation and settlement of IGST (transfer of funds in between Central Tax Account, State Tax Accounts and Integrated Tax Account)

Illustration 11

No act or proceedings of the Goods and Services Tax Council shall be invalid merely by certain reasons. What are they?

[PYQ Sep 2024]

Solution

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.

