GOODS AND SERVICE TAX

GST ACT, 2017

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OVERVIEW OF GST ACT, 2017

INTRODUCTION

Tax is a compulsory payment to be made by every resident of India. The foundation of an effective and stable finance system of a country lies in its tax system. The taxation policy of a government aims to address its legitimate need to collect tax revenues to fund public services and to eliminate competitive distortions faced by local industries, trade and commerce. Tax act as an important instrument of a stimulating industrial growth, promoting exports, regulating imports, improving domestic trade and commerce and thereby generating employment and furthering economic progress of the state.

Constitution of India is the foundation and source of powers to legislate all laws in India. The authority to levy a tax is derived from the Constitution of India which allocates the power to levy various taxes between the Central and the State. **Article 246** of the Indian Constitution, distributes legislative powers including taxation, between the Parliament of India and the State Legislatures. In the previous tax regime, 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 a tax (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.

MEANING OF TAX

The word tax was derived from the Latin word ‘Taxore’ which means to censure or charge. In other words, it means to estimate, appreciate or value. It is the amount paid by the person staying within the territorial limit of a sovereign state and is levied on individuals, goods, property, business, services etc. tax constitute government revenue. The amount so collected is used to meet the general expenses incurred by the government for public welfare, without any corresponding benefit to the tax payer. Constitution of India empowers both central government and state government to make laws for the levy and collection of taxes. There are two types of taxes which are levied in India and they are;

- **Direct tax** which is levied directly to an individual’s income in the form of Income Tax
- **Indirect tax** that is paid indirectly by the final consumer of goods and services while paying for purchase of goods or for enjoying services.

MEANING OF INDIRECT TAXES

Indirect taxes are those whose burden can be shifted to others so that those who pay these taxes to the government do not bear the whole burden but can pass it on to others. Thus, a tax in which the impact of tax falls on one person and incidence on another is called indirect tax. Indirect taxes are levied on production and sale of goods and services. An indirect tax is a tax collected by an intermediary such as retailer or manufacturer from the person who bears the ultimate economic burden of the tax such as customer. It can be shown as below;

Some important indirect taxes include excise duty, service tax, VAT, custom duty, central sales tax. In April 2017, all these indirect taxes has been abolished and Goods and Service taxes has been introduced. Thus, the tax payer may be one person but the tax bearer is always the consumer. Thus, these taxes are evaded by shopkeeper who do not give cash memo regarding sale of goods and by producers who under disclose their production.

DIFFERENCE BETWEEN DIRECT TAX AND INDIRECT TAX

The main points of difference direct and indirect tax are given below;

Basis of Difference	Direct Tax	Indirect Tax
1. Incidence and Impact of Tax	Incidence and impact is on the same person.	Incidence of tax is on one person but its impact is shifted to other person and ultimately borne by consumer.
2. Point of levy	Direct taxes are charged on the income which reaches in the hands of the taxpayer.	Indirect taxes are paid before goods and services reach to the taxpayers.
3. Types	Important direct taxes are income tax, gift tax, wealth tax, expenditure tax etc.	Important indirect taxes are excise duty, CST, VAT, Service tax, custom duty etc.
4. Tax evasion	Tax evasion is more in case of direct tax.	Tax evasion is less in case of indirect tax because burden is shifted on the consumer.
5. Cost of collection	Cost of collection of direct taxes is higher.	Cost of collection of indirect tax is less as compared to direct tax.
6. Impact on the price of goods and services	Direct taxes do not affect prices of the goods and services.	Indirect taxes are included in the cost of goods and services and hence cost of the goods and services increases.
7. Principle of Equity	Direct taxes confirm to principle of equity.	They do not discriminate between rich and poor. The levy is against the principle of equity.
8.Element of certainty	Direct tax have element of certainty. Tax payer knows the amount of tax payable.	But in case of indirect taxes, there is no element of certainty. Tax payer do not know the amount of tax payable.
9. Distributive Effect	Direct taxes are progressive and they help to reduce the inequalities.	Indirect taxes are regressive and they widen the gap of inequalities.
10. Growth Oriented	Direct taxes are not growth oriented.	Indirect taxes are growth oriented as compared to direct taxes.

CHALLENGES OF PREVIOUS TAX STRUCTURE AND NEED OF GST

Taxes Central Excise, Service Tax, VAT etc., is levied by the Central and State Governments are multistage value added taxes. Before introduction of VAT in Sales Tax and CENVAT in Central

Excise and Service Tax, the tax system is very complex and has cascading effect. The product or services are taxed on various stages or destinations. The tax levied at one destination is also be taxed on another destination. In recent past there is much significant progress in the taxation scenario, which not only improved the tax structure by using new and improved technologies.

Many changes held on taxation front such as single point sale has been replaced by Value Added Tax, service tax has been introduced by the Central Government. In Central Excise government has introduced CEVAT by allowing set off taxes paid on inputs, while producing output products. The introduction of VAT System in India is a progressive step towards implementation of Goods and Services Tax in India. There are some deficiencies in the Current System of Taxation. These challenges are discussed below:

1. Cascading Effect: Current system of multiple levies distributed between Center & States results into cascading (i.e. tax on tax) effect. For instance, no credit of State VAT is allowed against Central Tax. CST credit paid in the originating State is also not allowed in the receiving State. This results in the increase in the overall burden of tax in the hands of end customer and creates distortion in the market.

2. Exemptions & Concessions: Under the current system, businesses enjoy many kinds of exemptions & concessions under different levies which break the chain of VAT and thus create distortion. Also these kinds of benefits do not create a level playing field especially when the same commodity is taxed at different rates in different jurisdictions.

3. Lack of transparency: Under excise & service tax law, currently there is no mechanism to cross verify the claim of CENVAT credit made by the manufacturer/service provider. Even under State VAT laws, all the States in India do not have the mechanism to cross verify the credits.**4. Lack of uniformity in provisions and rates:** Present VAT structure across the States lacks uniformity which is not restricted only to the rates of tax but also the credit provisions as well as procedures.

5. Multiple points of taxation: Under the current system there are multiple points of taxation. Excise is levied when goods manufactured are cleared from the factory premises irrespective of the fact that the clearance is on account of sale or otherwise. State VAT is levied on sale of goods. Entry tax is levied on entry of goods in a particular State.

6. Complexity in determining the nature of transaction – Goods vs. Service: The distinction between goods and services found in the Indian Constitution has become more complex. Today, good and service are being packaged as composite bundles and offered for sale to customers under a variety of supply-chain arrangements. Under the current division of taxation powers in the Constitution, neither the Center nor the States can apply the tax to such bundles in a seamless manner. Each Government can tax only parts of the bundle, creating overlaps in taxation.

7. Narrow base: Due to different thresholds under different laws as well as numerous exemptions and concessions, the current tax base under indirect tax is narrow as compared to other countries.

8. Multiple administrations: Under the current system, businessmen are required to visit different tax offices according to the applicable laws to his business. These increases the compliance cost of businesses and breeds unnecessary complexity.

9. Change in Economic Situation: Old tax structure of indirect taxes is based on 7th Schedule to constitution of India (1950). During last 67 years, both Indian and world economy have undergone many changes, resulting into change in taxation structure which is compatible with global standard.

10. Artificial Logistic barriers: Due to presence of state information collection systems movement of goods from one state to another state is hampered and each movement costs at least 2% CST plus working capital blockages due to delay in clearances.

GST INTERNATIONAL SCENARIO

Internationally, countries are moving towards simplification of tax structures. The adoption of Goods and Services Tax has been the most important development in several countries over the last half-century. Today, it is one of the widely accepted indirect taxation system prevalent in more than 140 countries across the globe. Globally, GST has been structured as a destination based comprehensive tax levied at a specified rate on sale and consumption of goods and services within a country. It facilitates creation of national tax standards with consumers paying uniform rates of GST, thereby enabling flow of seamless credit across the supply chain.

GST was first levied by France in 1954. Today, Malaysia is the most recent country to join the bandwagon. In countries where GST has been adopted, manufacturers, wholesalers, retailers and service providers charge GST at the specified rate on price of the goods and services from consumers and claim input credits for GST paid by them on procurement of goods and services (raw material). Globally, the broad principles of GST are as under:

- GST is a broad-based tax.
- GST is a destination based tax.
- GST is technically paid by suppliers but it is actually funded by consumers.
- GST is collected through a staged process i.e. a tax on the value added to goods or services at every point in the supply chain.
- GST is a tax on the consumption of products from business sources, and not on personal or hobby activities.
- Under GST, input tax credit is provided throughout the value chain for creditable acquisition.

Although most countries have adopted similar principles of GST, there remain significant differences in the way it is implemented. These differences result not only from the continued existence of exemptions and special arrangements to meet specific policy objectives, but also from differences of approaches in the definition of the jurisdiction of consumption and therefore of taxation. In addition, there are a number of variations in the application of GST, and other consumption taxes, including different interpretation of the same or similar concepts; different approaches to time of supply and its interaction with place of supply; different definitions of services and intangibles and inconsistent treatment of mixed supplies. Different countries follow different model of GST based upon their own legislative and administrative structure and their requirements. Some of these models are:

- Australian Model wherein, tax is collected by the Centre and distributed to the States
- Canadian Model wherein there are three variants of taxes
- Kelkar-Shah Model based on Canada Model wherein taxes are collected by the Centre however, two different rates of tax are to be levied by the Centre and the States
- Bagchi-Poddar Model which envisages a combination of Central Excise, Service Tax and VAT to make it a common base of GST to be levied both by the Centre and the States separately.

Most countries follow a unified GST regime. However, considering the Federal nature of Indian Constitution, dual model of GST was proposed, where the power to levy taxes would be subjectively distributed between Centre and States thus, GST will be levied by both, the Centre as well as the States and there will be separate levies in the form of Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST) and Integrated Goods and Services Tax (IGST) enabling the tax credit across these three variants of taxes. Currently, Brazil and Canada also follow dual GST model.

MEANING OF GST

GST is an Indirect Tax which has replaced many Indirect Taxes in India. The Goods and Service Tax Act was passed in the Parliament on 29th March 2017. The Act came into effect on 1st July 2017. GST is a tax that we need to pay on supply of goods & services. Any person, who is providing or supplying goods and services, is liable to charge GST. GST is collected on value-added goods and services at each stage of sale or purchase in the supply chain. GST paid on the procurement of goods and services can be set off against that payable on the supply of goods or services. The manufacturer or wholesaler or retailer will pay the applicable GST rate but will claim back through tax credit mechanism. But being the last person in the supply chain, the end consumer has to bear this tax and so, in many respects, GST is like a last-point retail tax. GST is going to be collected at point of Sale.

In simple words, Goods and Service Tax is an indirect tax levied on the supply of goods and services. GST is one indirect tax for the entire country. In case of interstate sales, Central GST and State GST will be charged. Intra-state sales will be chargeable to Integrated GST. Thus, **"GST is a comprehensive, multi-stage, destination-based tax that will be levied on every value addition."** Some important terms are discussed below:

a. Multi-stage: There are multiple change-of-hands an item goes through along its supply chain from manufacture to final sale to the consumer. Let us consider the following case:

- Purchase of raw materials
- Production or manufacture
- Warehousing of finished goods
- Sale to wholesaler
- Sale of the product to the retailer
- Sale to the end consumer

Goods and Services Tax will be levied on each of these stages, which make it a multi-stage tax.

b. Value Addition: The manufacturer who makes biscuits buys flour, sugar and other material. The value of the inputs increases when the sugar and flour are mixed and baked into biscuits. The manufacturer then sells the biscuits to the warehousing agent who packs large quantities of biscuits and labels it. That is another addition of value after which the warehouse sells it to the retailer. The retailer packages the biscuits in smaller quantities and invests in the marketing of the biscuits thus increasing its value. GST will be levied on these value additions i.e. the monetary worth added at each stage to achieve the final sale to the end customer.

c. Destination-Based: Consider goods manufactured in Maharashtra and are sold to the final consumer in Karnataka. Since Goods & Service Tax (GST) is levied at the point of consumption, in this case, Karnataka, the entire tax revenue will go to Karnataka and not Maharashtra.

HISTORY OF GST

The origin of Goods and Services could be traced back to July 17, 2000, when the Government of India set up the Empowered Committee of State Finance Ministers with the Hon'ble State Finance Ministers of West Bengal, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Uttar Pradesh, Gujarat, Delhi and Meghalaya as members with the following objectives:

- To monitor the implementation of uniform floor rates of sales tax by States and Union Territories.
- To monitor the phasing out of the sales-tax based incentive schemes; to decide milestones and methods of States to switch over to VAT.
- To monitor reforms in the Central Sales Tax system existing in the country.

Subsequently, Hon'ble State Finance Ministers of Assam, Tamil Nadu, Jammu & Kashmir, Jharkhand and Rajasthan were also notified as the members of the Empowered Committee.

On August 12, 2004, the Government of India decided to reconstitute the Empowered Committee with all the Hon'ble State Finance/Taxation Ministers as its members. Later on, it was decided to register the body as a Society under the Societies Registration Act, 1860. GST has been in the pipeline for a long time, for its passage and implementation. Here is a brief flash back mentioning the key milestones of the journey of GST in India:

2003: The Kelkar Task Force on Indirect Tax had suggested a comprehensive Goods and Services Tax (GST) based on VAT principle.

February, 2007: An announcement was made by the then Hon'ble Union Finance Minister in the Central Budget (2007- 08) to the effect that GST would be introduced with effect from April 01, 2010.

September, 2009: The Empowered Committee (EC) decided to constitute a Working Group consisting of Principal Secretaries / Secretaries (Finance / Taxation) and Commissioners of Trade Taxes of all States/UTs to give their recommendations on:

- The commodities and services that should be kept in the exempted list
- The rules and principles of taxing the transactions of services including the transactions in inter-State services
- Finalization of the model suggested for inter-state transaction/movement of goods including stock transfers in consultation with the State Bank of India and some other nationalized banks.

November, 2009: Based on inputs from Government(s) of Centre and States, Empowered Committee released its First Discussion Paper on GST.

March, 2011: The Constitution (One Hundred and Fifteenth Amendment) Bill, 2011 to give concurrent taxing powers to the Union and States was introduced in Lok Sabha. The Bill suggested the creation of Goods and Services Tax Council and a Goods and Services Tax Dispute Settlement Authority. The Bill was lapsed in 2014 and was replaced with the Constitution (122nd Amendment) Bill, 2014.

November, 2012: A "Committee on GST Design", consisting of the officials of the Government of India, State Governments and Empowered Committee (EC) was constituted.

January, 2013: The Empowered Committee deliberated on the proposed design including the Constitution (115th) Amendment Bill and submitted the report. Based on this Report, the EC recommended certain changes in the Constitution Amendment Bill and decided to constitute three below mentioned Committees of Officers to discuss and Report on various aspects of GST:

- Committee on Place of Supply Rules and Revenue Neutral Rates
- Committee on dual control, threshold and exemptions

- Committee on IGST and GST on imports.

March, 2013: A not for profit, non-Government, private limited company was incorporated in the name of Goods and Services Tax Network (GSTN) as special purpose vehicle setup by the Government primarily to provide IT infrastructure and services to the Central and State Government(s), tax payers and other stakeholders for implementation of the Goods and Services Tax (GST).

August, 2013: The Parliamentary Standing Committee submitted its Report to the Lok Sabha. The recommendations of the Empowered Committee and the recommendations of the Parliamentary Standing Committee were examined by the Ministry in consultation with the Legislative Department. Most of the recommendations made by the Empowered Committee and the Parliamentary Standing Committee were accepted and the Draft Amendment Bill was suitably revised.

September, 2013: The final draft Constitutional Amendment Bill incorporating the above stated changes was sent to the Empowered Committee (EC) for consideration.

November, 2013: The EC once again made certain recommendations on the Bill after its meeting in Shillong. Certain recommendations of which were incorporated in the draft Constitution (115th Amendment) Bill and the revised draft was again sent to EC for its consideration.

June, 2014: The draft Constitution Amendment Bill in March, 2014 was sent to the Empowered Committee after approval of the new Government.

December, 2014: The Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014 seeking to amend the Constitution to introduce the Goods and Services Tax (GST) and subsume state Value Added Tax, octroi and entry tax, luxury tax, etc. was introduced in the Lok Sabha on December 19, 2014 by the Hon'ble Minister of Finance, Mr. Arun Jaitley.

May, 2015: Constitution Amendment (122nd) Bill was passed by Lok Sabha on May 06, 2015.

May, 2015: In Rajya Sabha, Bill was referred to a 21-member Select Committee of Rajya Sabha.

July, 2015: Select Committee submitted its report to Rajya Sabha on July 22, 2015.

June, 2016: On June 14, 2016, the Ministry of Finance released draft model law on GST in public domain for views and suggestion.

August, 2016: On August 03, 2016, the Constitution (122ndAmendment) Bill, 2014 was passed by Rajya Sabha with certain amendments.

August, 2016: The changes made by Rajya Sabha were unanimously passed by Lok Sabha, on August 08, 2016.

September, 2016: The Bill was adopted by majority of State Legislatures wherein approval of at least 50%of the State Assemblies was required

September, 2016: Final assent of Hon'ble President of India was given on 8th September,2016

April, 2017: Parliament passed the following four bills:

- Central Goods and Services Tax (CGST) Bill
- Integrated Goods and Services Tax (IGST) Bill
- Union Territory Goods and Services Tax (UTGST) Bill
- Goods and Services Tax (Compensation to States) Bill

April, 2017: President's assent was given to four key legislations on Goods and Services tax.

DIFFERENCE BETWEEN PREVIOUS TAX STRUCTURE AND GST

With an aim of simplifying tax structure in India, GST proposes to remove the geographical obstacles for trading, and transforming the entire nation to 'One Common Market Place.' While it is believed that the 'One Nation- One Tax' regime is paving path towards a better economy of our country, questions related to how is this reform going to be any better than the earlier tax transformations India has seen over the past years (VAT-Service Tax-Excise), is a matter of concern. Some key differences between GST and the previous tax structure are discussed below:

1. Broad scheme: Previously, there were separate laws for separate levy. For instance, Central Excise Act, 1944, respective State VAT laws etc. With GST regime, there will only be one such law, as GST will subsume various indirect taxes.

Subsumed in GST	Not subsumed in GST
Service Tax	Electricity Duty
VAT/ Sales Tax	Basic Customs Duty
Central Tax	Toll Tax
Entertainment Tax	Alcohol for human consumption
Tax on Lottery	Property Tax
Luxury Tax	
Purchase Tax	
Entry Tax	

2. Tax Rates: The previous tax regime had separate rates, such as, Excise @ 12.36 % and Service Tax @ 14%. With GST, there is only one CGST rate and a uniform rate of SGST across all states.

3. Cascading Effect: Credit of CST and various other indirect taxes is not allowed in the previous tax structure, whereas under GST the entire concept of CST has been eliminated with introduction of IGST.

4. Tax burden on Tax Payer: Previously the tax burden on tax payer was considerably high. With GST on board, tax burden has reduced significantly since all taxes are integrated, and the burden is split equitably between manufacturing and services.

5. Cost Burden on Consumers: Certain taxes became part of cost due to presence of cascading effect. But, with the simple mechanism of GST, cost burden has reduced by removing such effect and providing credit.

6. Concurrent Power: Pre-GST, there was no such power to both Centre and State on same subject tax matter. With GST on board, both Centre and State are vested with the concurrent power to make laws with respect to goods and services tax, as proposed in Article 246A of the Constitution. The intra-state trade now comes under the jurisdiction of both centre and state; while inter-state trade and commerce is "exclusively" under central government jurisdiction.

7. Compliance: Previously, tax compliance was complicated owing to the multiplicity of laws and their provisions to be followed. With GST, tax compliance would be much easier, as only one law subsuming other taxes would need to be followed.

8. Transparent Tax Administration: Previously, tax was levied at two stages in broad manner production and consumption, i.e., when product moves out of factory. and also at retail outlet. GST is to be levied only at final destination of consumption and not at various points. This brings more transparency and corruption free tax administration.

To conclude, fundamentals of GST, a dual concept tax system. Under this system, tax is administered, collected, and shared by both the Centre and the State governments, based on the nature of transaction (within the state or interstate).

FEATURES OF GST

Some important features of the GST are discussed as under:

1. GST would be applicable on "supply" of goods or services as against the present concept of tax on the manufacture of goods or on sale of goods or on provision of services.
2. GST would be based on the principle of destination based consumption taxation as against the present principle of origin-based taxation.
3. It would be a dual GST with the Centre and the States simultaneously levying it on a common base. The GST to be levied by the Centre would be called Central GST (central tax- CGST) and that to be levied by the States including Union territories with legislature would be called State GST (state tax- SGST). Union territories without legislature would levy Union territory GST (union territory tax- UTGST).
4. An Integrated GST (integrated tax- IGST) would be levied on inter-State supply (including stock transfers) of goods or services. This would be collected by the Centre so that the credit chain is not disrupted.
5. Import of goods would be treated as inter-State supplies and would be subject to IGST in addition to the applicable customs duties.
6. Import of services would be treated as inter-State supplies and would be subject to IGST.
7. CGST, SGST & IGST would be levied at rates to be mutually agreed upon by the Centre and the States under the aegis of the GSTC.
8. GST would apply to all goods and services except Alcohol for human consumption.
9. GST on five specified petroleum products (Crude, Petrol, Diesel, ATF & Natural gas) would be applicable from a date to be recommended by the GSTC.
10. Tobacco and tobacco products would be subject to GST. In addition, the Centre would continue to levy Central Excise duty.
11. A common threshold exemption would apply to both CGST and SGST. Taxpayers with an annual turnover of Rs. 20 lakh (Rs. 10 lakh for special category States (except J&K) as specified in article 279A of the Constitution) would be exempt from GST. A compounding option (i.e. to pay tax at a flat rate without credits) would be available to small taxpayers (including to manufacturers other than specified category of manufacturers and service providers) having an annual turnover of up to Rs. 75 lakh (Rs. 50 lakh for special category States (except J&K and Uttarakhand) enumerated in article 279A of the Constitution). The threshold exemption and compounding scheme would be optional.
12. The list of exempted goods and services would be kept to a minimum and it would be harmonized for the Centre and the States as well as across States as far as possible.
13. All Exports and supplies to SEZs and SEZ units would be zero-rated.
14. Accounts would be settled periodically between the Centre and the State to ensure that the credit of SGST used for payment of IGST is transferred by the originating State to the Centre. Similarly the IGST used for payment of SGST would be transferred by Centre to the destination State. Further the SGST portion of IGST collected on B2C supplies would also be transferred by Centre to the destination State. The transfer of funds would be carried out on the basis of information contained in the returns filed by the taxpayers.

15. Input Tax Credit (ITC) to be broad based by making it available in respect of taxes paid on any supply of goods or services or both used or intended to be used in the course or furtherance of business.
16. Electronic filing of returns by different class of persons at different cut-off dates.
17. Various modes of payment of tax available to the taxpayer including internet banking, debit/ credit card and National Electronic Funds Transfer (NEFT) / Real Time Gross Settlement (RTGS).
18. Obligation on certain persons including government departments, local authorities and government agencies, who are recipients of supply, to deduct tax at the rate of 1% from the payment made or credited to the supplier where total value of supply, under a contract, exceeds two lakh and fifty thousand rupees. The provision for TDS has not been notified yet.
19. Refund of tax to be sought by taxpayer or by any other person who has borne the incidence of tax within two years from the relevant date.
20. Obligation on electronic commerce operators to collect 'tax at source', at such rate not exceeding two per cent (2%) of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals. The provision for TCS has not been notified yet.
21. System of self-assessment of the taxes payable by the registered person.
22. Audit of registered persons to be conducted in order to verify compliance with the provisions of Act.
23. Limitation period for raising demand is three (3) years from the due date of filing of annual return or from the date of erroneous refund for raising demand for short-payment or non-payment of tax or erroneous refund and its adjudication in normal cases.
24. Limitation period for raising demand is five (5) years from the due date of filing of annual return or from the date of erroneous refund for raising demand for short-payment or non-payment of tax or erroneous refund and its adjudication in case of fraud, suppression or willful mis-statement.
25. Arrears of tax to be recovered using various modes including detaining and sale of goods, movable and immovable property of defaulting taxable person.
26. Goods and Services Tax Appellate Tribunal would be constituted by the Central Government for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority. States would adopt the provisions relating to Tribunal in respective SGST Act.
27. Provision for penalties for contravention of the provision of the proposed legislation has been made.
28. Advance Ruling Authority would be constituted by States in order to enable the taxpayer to seek a binding clarity on taxation matters from the department. Centre would adopt such authority under CGST Act.
29. An anti-profiteering clause has been provided in order to ensure that business passes on the benefit of reduced tax incidence on goods or services or both to the consumers.
30. Elaborate transitional provisions have been provided for smooth transition of existing taxpayers to GST regime.

ADVANTAGES OF GST

The benefits of GST can be summarized as under:

I. For business and industry

1. Easy compliance: A robust and comprehensive IT system would be the foundation of the GST regime in India. Therefore, all tax payer services such as registrations, returns, payments, etc. would be available to the taxpayers online, which would make compliance easy and transparent.

2. Uniformity of tax rates and structures: GST will ensure that indirect tax rates and structures are common across the country, thereby increasing certainty and ease of doing business. In other words, GST would make doing business in the country tax neutral, irrespective of the choice of place of doing business.

3. Removal of cascading effect: A system of seamless tax-credits throughout the value-chain, and across boundaries of States, would ensure that there is minimal cascading of taxes. This would reduce hidden costs of doing business.

4. Improved competitiveness: Reduction in transaction costs of doing business would eventually lead to an improved competitiveness for the trade and industry.

5. Gain to manufacturers and exporters: The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

6. Higher threshold for registration: Earlier, in the VAT structure, any business with a turnover of more than Rs 5 lakh (in most states) was liable to pay VAT. Please note that this limit differed state-wise. Also, service tax was exempted for service providers with a turnover of less than Rs 10 lakh. Under GST regime, however, this threshold has been increased to Rs 20 lakh, which exempts many small traders and service providers.

7. Composition scheme for small businesses: Under GST, small businesses (with a turnover of Rs 20 to 75 lakh) can benefit as it gives an option to lower taxes by utilizing the Composition scheme. This move has brought down the tax and compliance burden on many small businesses.

<u>II. For Central and State Governments</u>

1. Simple and easy to administer: Multiple indirect taxes at the Central and State levels are being replaced by GST. Backed with a robust end-to-end IT system, GST would be simpler and easier to administer than all other indirect taxes of the Centre and State levied so far.

2. Better controls on leakage: GST will result in better tax compliance due to a robust IT infrastructure. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an in-built mechanism in the design of GST that would incentivize tax compliance by traders.

3. Higher revenue efficiency: GST is expected to decrease the cost of collection of tax revenues of the Government, and will therefore, lead to higher revenue efficiency.

4. Unorganized sector is regulated under GST: In the pre-GST era, it was often seen that certain industries in India like construction and textile were largely unregulated and unorganized. Under GST, however, there are provisions for online compliances and payments, and for availing of input credit only when the supplier has accepted the amount. This has brought in accountability and regulation to these industries.

5. Good for weak states: Previous tax system was “origin of Goods” based, so tax used to go to manufacturing states (Uttar Pradesh, Tamil Nadu, Gujarat, etc.) Now, the tax collection of poor states like Bihar, Madhya Pradesh, etc. will also increase. This will give a chance to all weak states to develop fast.

6. Easy registration: Previously, any new start up needs to have a registration from different department. A firm working in several States faces a lot of issues concerning the different procedures/fees in each state. GST is said to bring about evenness in the process and centralized certification that will make starting/expanding business in various States much easier.

III. For the consumer

1. Single and transparent tax proportionate to the value of goods and services: Due to multiple indirect taxes being levied by the Centre and State, with incomplete or no input tax credits available at progressive stages of value addition, the cost of most goods and services in the country today are laden with many hidden taxes. Under GST, there would be only one tax from the manufacturer to the consumer, leading to transparency of taxes paid to the final consumer.

2. Relief in overall tax burden: Because of efficiency gains and prevention of leakages, the overall tax burden on most commodities will come down, which will benefit consumers.

DISADVANTAGES OF GST TAX

GST also suffers from various disadvantages which are discussed below:

1. Would impact the Real-State Market: GST Tax would swell negative remarks on the real-estate as perceived, GST will increase the cost of the new homes by 8% which in turn will cease the demand by 12%.

2. Old Wine in a New Bottle: According to the experts, terms such as GST which includes CGST, SGST, and IGST is nothing but just a new name in accordance with the existing tax systems. It is a kind of old wine in a new bottle.

3. Costlier Service: The current Service Tax stands at 15% as of now which will increase to 18%-20% when GST is levied. As such many services will be on the costlier side with telecom, airline and banking affected majorly. In fact, insurance and petroleum are also said to be majorly affected by the enactment of GST Tax.

4. Complexity for the Businessmen: According to the proposal of the GST Tax, the control on business will be rendered to Central and State Governments with businessmen binding by-laws. As such complexity may arise for many businessmen across the nation.

5. Registration in the Many States Required: As per GST, the seller would require registering in all the states that it does business in and that would increase the complexity for the seller. The government should have created a provision for centralized registration of State GST as this would have helped many sellers during the rollout.

6. Changing Tax Slabs: Earlier the government had a higher tax slab for many products but in a recent revision, the government has changed the tax slabs for the many products. This includes the restaurants as well. The changing tax slab means the higher operational cost for the organizations and it also makes the changes in software complicated.

7. Online Taxation: Online taxation system is an advantage as well as disadvantage. Many people are not able to process their taxes and this forces them to reach out to a third party for tax filing purpose. This has increased the overall cost for such small businessman who needs to approach the third party for filing tax.

8. Higher Tax Burden for SME: There is a certain tax burden on small and medium enterprise because of this GST. As per the information, earlier, the organization with a turnover of over Rs

1.5 crore had to pay excise duty but now even a businessman with a revenue of over Rs 20 Lakh has to pay the GST.

9. Increase in Operating Costs: Most small businesses do not employ professionals and prefer to pay taxes and file returns on their own to save costs. For GST though, as it is a completely new tax system, they will require professional assistance. While this will benefit the professionals, the small businesses will have to bear the additional costs of hiring experts. Also, businesses will need to train their employees in GST compliance increasing their overhead expenses.

10. Change in Business Software: Most businesses use accounting software or ERPs for filing tax returns which have excise, VAT, and service tax already incorporated in them. The change to GST will require them to change their ERPs, too, leading to increased costs of purchasing new software and training employees.

11. Composition Scheme is Not Available for Many Businesses: Composition scheme is available for only businesses selling goods. It is not available to service providers or for online sellers. This sets SMEs at par with large organizations in an unfair move.

12. No Anti-Inflationary Measures: Every country that follows GST experienced a hike in inflation when they first introduced it. They countered the inflation by keeping tabs on prices and initiating anti-profiteering measures at the retail level to protect consumers from price swindling. While there have been similar discussions in the GST council, India still does not have concrete anti-inflationary measures to curb the inflation that is an inevitable outcome of GST.

CONSTITUTIONAL ASPECTS OF GST

India being a federal country, 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 was therefore proposed keeping in mind the Constitutional requirement of fiscal federalism. Along with the amendment in the Constitution, to empower the Centre and the States to levy and collect the GST, four legislations were given assent by the President, which are:

- The Central GST Act, 2017
- The Integrated GST Act, 2017
- The GST (Compensation to States) Act, 2017
- The Union Territory GST Act, 2017

Thus, there will be two components of GST – Central GST (CGST) and State GST (SGST). Both Centre and States will simultaneously levy GST across the value chain. Tax will be levied on every supply of goods and services. Centre would levy and collect Central Goods and Services Tax (CGST), and States would levy and collect the State Goods and Services Tax (SGST) on all transactions within a State. The input tax credit of CGST would be available for discharging the CGST liability on the output at each stage. Similarly, the credit of SGST paid on inputs would be allowed for paying the SGST on output. No cross utilization of credit would be permitted.

Constitution (122nd Amendment) Bill, 2014

The Union Government in third week of December, 2014 (19 December, 2014) introduced Constitution (122nd Amendment) Bill, 2014 in Parliament which when passed shall pave the way for introduction of proposed Goods and Service Tax (GST) in India. This is an improvised version of lapsed 115th Amendment Bill of 2011.

Contrary to the general perception amongst many quarters that this Bill itself is a GST Bill, let it be very clearly understood that this is not a GST Bill. In fact, GST Bill is not in sight at all at this point in time. What has been introduced is only the Constitutional Amendment Bill enabling or empowering the union Government to levy a tax to be called GST which it cannot levy under the present Constitution. The Bill on passage would enable the Central Government and the State Governments to levy GST. This tax (GST) shall be levied concurrently by various states as well as Union Government. Once this is passed by two-third majority in the Parliament, atleast 50 percent of the states will have to pass it. Once this amendment is through, the road will be clear for GST Bill (and then Act), given the political will. Eventually, we will then have the following taxes –

- National level GST [Central GST (CGST) and Inter-state GST (IGST)]
- State Level GST (SGST)

Salient Features

The Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014 was introduced in the Lok Sabha on December 19, 2014. The following is the gist of amendments proposed by this Bill:

1. Insertion of new article 246A to confer simultaneous power to Union and State legislatures to legislate on GST.
2. To do away with the concept of ‘declared goods of special importance’ under the Constitution.
3. Central taxes like Central Excise Duty, Additional Excise Duties, Service Tax, Additional Customs Duty (CVD) and Special Additional Duty of Customs (SAD), etc. will be subsumed in GST.
4. At the State level, taxes like VAT/Sales Tax, Central Sales Tax, Entertainment Tax, Octroi and Entry Tax, Purchase Tax and Luxury Tax, etc. would be subsumed in GST.
5. All goods and services, except alcoholic liquor for human consumption, will be brought under the purview of GST, though it has also been provided that petroleum and petroleum products shall not be subject to the levy of GST till notified at a future date on the recommendation of the GST Council. The present taxes levied by the States and the Centre on petroleum and petroleum products, i.e., Sales Tax/VAT, CST and Excise duty only, will continue to be levied in the interim period.
6. Both Centre and States will simultaneously levy GST across the value chain. Centre would levy and collect Central Goods and Services Tax (CGST), and States would levy and collect the State Goods and Services Tax (SGST) on all transactions within a State. 7. The Centre would levy and collect the Integrated Goods and Services Tax (IGST) on all inter-State supply of goods and services. There will be seamless flow of input tax credit from one State to another. Proceeds of IGST will be apportioned among the States.
8. GST will be a destination-based tax. All SGST on the final product will ordinarily accrue to the consuming State.
9. Levy of non-vatable additional tax up to 1% on supply of goods in the course of inter-State trade or commerce. for a period not exceeding 2 years. This tax will be for a period not exceeding 2 years, or further such period as recommended by the GST Council. This additional tax on supply of goods shall be assigned to the States from where such supplies originate.
10. The term "services" is proposed to be exhaustively defined as "anything other than goods".

Constitution (One Hundred and First) Amendment Act, 2016

In order to address prevalent issues in taxation, the Constitution 122nd Amendment Bill was put forth in the 16th Lok Sabha on 19 Dec 2014.

- The Bill suggests levy of GST on all goods and services, except alcohol that humans consume.
- The tax is levied as Dual GST by the Centre and states/union territories. The component levied by the Centre is Central Tax - CGST, while that levied by the state is State Tax - SGST. The tax levied by union territories is Union Territory Tax - UTGST.
- The Centre would levy the GST on inter-state trade or imports of services and goods. This tax is referred to as Integrated Tax - IGST.
- The Central Government will also levy excise duty on tobacco products, in addition to GST.
- The tax on five petroleum products, i.e., high speed diesel, crude, petrol, natural gas, and Aviation Turbine Fuel (ATF) will be outlined later after a decision is made by the GST Council.

September 2016: A Goods and Services Tax Council (GSTC) was created by the union finance minister, revenue minister, and ministers of state to take decisions on GST rates, thresholds, taxes to be subsumed, exemptions, and other features of the taxation system. The state finance ministers mentioned that the EC would be a platform for states where there would be discussions of their regional issues. The GST Council is a separate entity that would oversee the implementation of the GST system.

IMPLEMENTATION OF GST

India’s biggest tax reform is now a reality. A comprehensive dual Goods and Services Tax (GST) has replaced the complex multiple indirect tax structure from 1 July 2017. The concept of GST was visualized for the first time in 1999. On 8 August 2016, the Constitutional Amendment Bill for roll out of GST was passed by the Parliament, followed by ratification of the bill by more than 15 states and enactment of the bill in early September.

First Phase

The GST Council consisting of representatives from the Central as well as state Government, met on several occasions and cleared –

- GST laws
- GST Rules
- Tax rate structure including Compensation Cess
- Classification of goods and services into different rate slabs
- Exemptions
- Thresholds
- Tax administration

On 12 April 2017, the Central Government enacted four GST Bills:

- Central GST (CGST)
- Integrated GST (IGST)
- Union Territory GST (UTGST)
- Bill to Compensate States

In a short span of time, all the states approved their State GST (SGST) laws. Union territories with legislature, i.e., Delhi & Puducherry, have adopted SGST Act and the balance 5 Union territories without legislatures have adopted UTGST Act. The government has also notified GST rules, tax rates on goods and services, exemption list and categories of services on which reverse charge is applicable.

Second Phase

At the second phase, for the implementation of GST in the country, the Central and State Governments have jointly registered Goods and Services Tax Network (GSTN) as a not-for-profit, non-Government Company to provide shared IT infrastructure and services to Central and State Governments, tax payers and other stakeholders. The key objectives of GSTN are to provide a standard and uniform interface to the taxpayers, and shared infrastructure and services to Central and State/UT governments.

GSTN is working on developing a state-of-the-art comprehensive IT infrastructure including the common GST portal providing frontend services of registration, returns and payments to all taxpayers, as well as the backend IT modules for certain States that include processing of returns, registrations, audits, assessments, appeals, etc. All States, accounting authorities, RBI and banks, are also preparing their IT infrastructure for the administration of GST. There would no manual filing of returns. All taxes can also be paid online. All mis-matched returns would be auto-generated, and there would be no need for manual interventions. Most returns would be self-assessed.

Till 31 March 2018, all registered persons have to file monthly return in form GSTR3B (containing summary of outward and inward supplies) by 20th of succeeding month. The due dates for filing form GSTR-1 (containing invoice wise details of outward supplies) are as follows:

a. For taxpayers having the annual aggregate turnover up to INR 1.5 crore:

Period	Dates
Jul- Sep 2017	10 Jan 2018
Oct- Dec 2017	15 Feb 2018
Jan- Mar 2018	30 April 2018

For taxpayers having the annual aggregate turnover more than INR 1.5 crore:

Period	Dates
Jul- Nov 2017	10 Jan 2018
Dec 2017	10 Feb 2018
Jan 2018	10 Mar 2018
Feb 2018	10 Apr 2018
Mar 2018	10 May 2018

The time period for filing Form GSTR-2 and GSTR-3 for the period July 2017 to March 2018 would be worked out by a Committee of Officers and hence the same is not required to be filed till such time.

Benefits of GST Implementation

Key benefits of the GST announcement are detailed below:

- The GST system will create a common national market that boosts foreign investment.
- The cascading effect of taxation will be mitigated.
- There will be uniformity in laws, rates of tax, and procedures across states.

- The GST regime is expected to boost manufacturing activities and exports. This would, in turn, generate more employment and lead to the growth of the economy.
- Indian products would be more competitive in the international markets.
- The GST system is likely to improve the overall investment climate in India.
- Uniformity in the rates of SGST and IGST will reduce tax evasion to a large extent.
- The average sales burden experienced by companies is expected to come down, thereby increasing consumption and boosting subsequent production of goods.
- GST is a simpler system of taxation with smaller number of exemptions.
- There are automated and simplified methods for processes such as registration, refunds, returns, tax payments, etc.
- All interactions will be handled by the common GSTN website.
- The input tax credit process will be more accurate and transparent, as electronic matching will be performed.
- The final price of most goods will be lower when taxation is at the new GST rates. There will also be a seamless input tax credit flow between the manufacturer, retailer, and supplier of service.
- A huge segment of small-scale retailers may be either exempt from tax or may benefit from low tax rates based on the compounding scheme. Consumers will further benefit if purchases are made from these small retailers.

GST COUNCIL

MEANING

GST council is a governing body to regulate and direct each and every step for the implementation of goods and service tax in the nation with decisions over tax rates and further implementation measures. GST council assimilates suggestions and regulation into one form and improvise the changes formally through notifications and circulars with its departments and finance ministry.

Cabinet Ministry has given approval for the establishment of GST Council while the notification regarding the establishment of Council was issued on Saturday the 10th day September 2016 and the provisions came into force on Monday the 12th day of September 2016. Also, the Article 279A having provisions regarding establishment of GST Council was inserted after Article 279 of The Constitution (One Hundred And First Amendment) Act, 2016. The Union Finance Minister Mr Arun Jaitley who is the head of GST Council while the First Meeting of the council was held on 22nd and 23rd September 2016 in New Delhi and the latest 23rd council meeting was held on 10th November 2017 at Guwahati, Assam.

NEED FOR GST COUNCIL

The GST council is the key decision-making body that will take all important decisions regarding the GST. The GST Council dictates tax rate, tax exemption, the due date of forms, tax laws, and tax deadlines, keeping in mind special rates and provisions for some states. The predominant responsibility of the GST Council is to ensure to have one uniform tax rate for goods and services across the nation.

GST COUNCIL CONSTITUTION

According to the Article 279A, it is on the part of Prime Minister to give the order to constitute the council of GST within the 60 days from the 12th September 2016 which is already notified by the Government. Following are the designated personnel, who will form the GST Council together:

- The Union Finance Minister who will be the Chairman of the council
- The Union Minister of State in charge of Revenue or Finance who will be the Member of council
- One member from each state who is Minister in charge of Finance or Taxation or any other Minister and anyone of them will be Vice Chairman of the GST Council who will be mutually elected by them.

Apart from above, following will constitute the members of the council:

- The Secretary of Revenue Department will work as EX-Officio Secretary to the GST Council,
- The Chairperson of Central Board of Excise and Customs will be the permanent invitee in all the proceedings of the GST Council who will not have the voting rights.

GST COUNCIL RECOMMENDATIONS

Article 279A (4) specifies that the Council will make recommendations to the Union and the States on the important issues related to GST, such as, the goods and services will be subject or exempted from the Goods and Services Tax. They lay down GST laws, principles that govern the following:

- Place of Supply
- Threshold limits
- GST rates on goods and services
- Special rates for raising additional resources during a natural calamity or disaster
- Special GST rates for certain States

FEATURES OF GST COUNCIL

Following are the main features of the GST Council:

- GST Council office is set up in New Delhi
- Revenue Secretary is appointed as the Ex-officio Secretary to the GST Council
- Central Board of Excise and Customs (CBEC) is included as the chairperson as a permanent invitee (non-voting) to all proceedings of the GST Council
- Create a post for Additional Secretary to the GST Council
- Create four posts of commissioner in the GST Council Secretariat (This is at the level of Joint Secretary)
- GST Council Secretariat will have officers taken on deputation from both the Central and State Governments
- The cabinet also provides funds for meetings the expenses (recurring and nonrecurring) of the GST Council Secretariat. This cost is completely borne by the Central government.

GST COUNCIL MEETINGS

The GST Council meets to discuss and lay GST laws that will benefit dealers across the nation. The outcome of the previous latest GST Council meet was that the Council decided to implement GST provisions on e-way bills that requires goods of more than Rs.50,000 in value to be registered online before they can be moved. They have also extended the deadline to file GSTR-1. The Council will also set up anti-profiteering screening committees that will make the National Anti-Profiteering Authority stronger under the GST law. Other than laying GST laws, the GST Council have taken decisions as such:

- The threshold limit for exemption of GST would be set at Rs.20 lakh per year for all States (except for special category states)
- The threshold for special States is set at Rs 10 lakh per year
- For composition scheme is set at Rs. 75 lakh for all States (except for the North East States and Himachal Pradesh – Set at Rs 50 lakh per year)
- Ice cream, tobacco, pan masala, and other edible ice manufacturers shall not be eligible for composition levy (except for restaurant services)
- GST Council also looks into drafting GST rules on registration, payment, valuation, input tax credit, composition, return, refund and invoice, and transitional provisions, among other things.

QUORUM AND DECISION-MAKING

1. For a valid meeting of the members of GST Council, at least 50 percent of the total number of the member should be present at the meeting.

2. Every Decision made during the meeting should be supported by at least 75 percent majority of the weighted votes of the members who are present and voting at the meeting. In “article 279A” a principle is there which divides the total weighted vote cast between Central Government and State Government:-

- The vote of Central Government shall have the weighted of one-third of the total votes
- The votes of State Government shall have the weighted of two third of the total votes, cast in the meeting

3. Any act, decision or proceedings shall not be declared as invalid on the basis of any remaining deficiency at the time of establishment of GST Council i.e.

- If there is any vacancy remained in the Council
- If there is any defect in the constitution of Council
- If there is any defect in the appointment of a person as a member of the Council
- If there is any procedural non-compliance.

FUNCTIONS OF GST

Functions of the GST Council seek to include making recommendations on:

- Taxes, cesses, and surcharges levied by the Centre, States and local bodies which may be subsumed in the GST
- Goods and services which may be subjected to or exempted from GST
- Model GST laws, principles of levy, apportionment of IGST and principles that govern the place of supply
- Threshold limit of turnover below which goods and services may be exempted from GST
- Rates including floor rates with bands of GST

- Special rates to raise additional resources during any natural calamity
- Special provision with respect to Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand
- Any other matters.