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**CONSTITUTIONAL VALIDITY AND JUDICIAL
INTERPRETATION OF GST: A STUDY OF CENTRE-STATE
FISCAL RELATIONS POST 101ST AMENDMENT**

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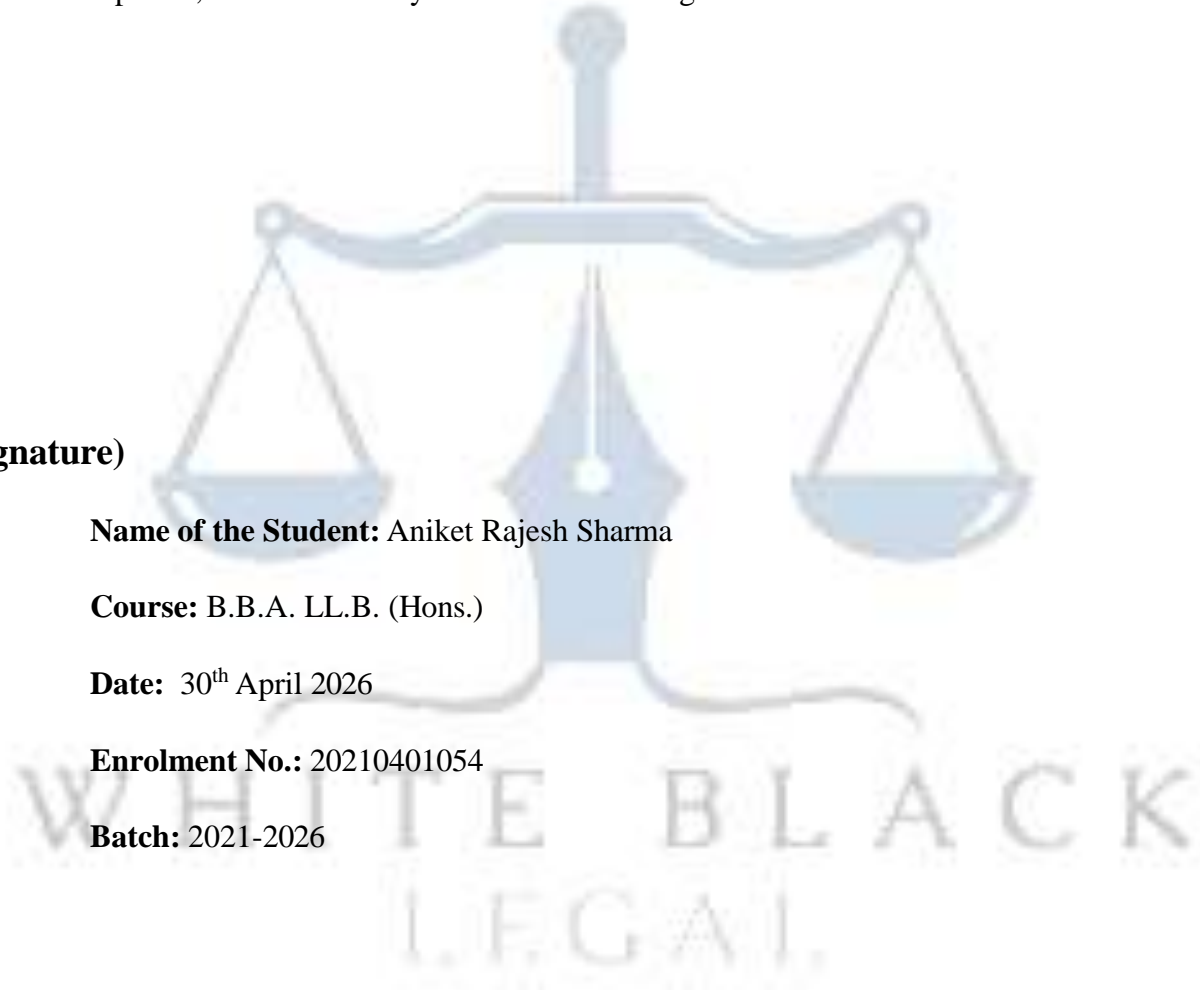
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7.	R.K. Garg v. Union of India, (1981) 4 SCC 675	

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LIST OF ABBREVIATIONS

ART.	Article
AIR	All India Reporter
CGST	Central Goods and Services Tax
CIF	Cost, Insurance and Freight
CST	Central Sales Tax
EU	European Union
FC	Finance Commission
GST	Goods And Services Tax
GSTC	Goods And Services Tax Council
HST	Harmonized Sales Tax
HC	High Court
HON'BLE	Honourable
IGST	Integrated Goods and Services Tax
ITC	Input Tax Credit
PRI	Panchayati Raj Institution
PST	Provincial Sales Tax
RCM	Reverse Charge Mechanism
SC	Supreme Court Of India
SCC	Supreme Court Cases
SGST	State Goods And Services Tax
SEC.	Section
SC	Supreme Court of India



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ULB	Urban Local Body
UTGST	Union Territory Goods and Services Tax
VAT	Value Added Tax
UN	United Nations
V.	Versus



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ABSTRACT

The Constitution (One Hundred and First Amendment) Act, 2016, is the greatest reform of the Indian fiscal architecture since the establishment of the Republic. The amendment also brought a paradigm of concomitant jurisdiction by demolishing the sole legislative areas of the Union and the States in the sphere of indirect taxation under the amendment and implemented by the Goods and Services Tax (GST) Council under Article 279A. Though the economic justification behind the Goods and Services Tax of bringing about a single national market, abolition of cascading taxes, and equalization of tax rates has been largely recognized, the constitutional implication of such a taxation on the quasi-federal system in India has been highly debated. The dissertation is a comprehensive doctrinal examination of the constitutionality and judicial interpretation of the Goods and Services Tax system with reference to its influence on Centre-State fiscal relations.

The analysis follows the historical development of fiscal federalism, especially focusing on the change in the policy of the traditional division of taxing powers to the policy of the pooled sovereignty. It explores the structural imbalances that were brought by the tax regime in the form of the substantial decline in state fiscal autonomy, the crisis of the Compensation Cess in the pandemic of 2020, and its spillover effects on local self-governments. In addition, the report breaks down scrupulously the historic Supreme Court ruling in *Union of India v. ...* which acted as a recalibration of the constitution, stating that the recommendations of the Council only were persuasive not binding (*Mohit Minerals Pvt. Ltd. 2022*). Through a comparative approach to the constitutional analysis with the Canadian and Australian models, the study brings out the conflict between cooperative and uncooperative federalism. Finally, the report recommends structural changes needed in the works of the voting procedures and dispute resolution procedures in order that the endeavour to pursue economic integration will not override the fundamental fabric of Indian federalism.

Keywords: GST; Federalism; Article 246A; 101st Amendment; Constitutio



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CHAPTER I

1. INTRODUCTION

Goods and Services tax (GST) is widely recognized as the most significant and vast indirect tax reform to have been made in India since it gained independence. The GST system in its current form was envisaged as a means to bring together a very fragmented and multifaceted domestic market and was officially implemented on July 1, 2017, under the Constitution (One Hundred and First Amendment) Act, 2016.¹ Before this paradigm change, the Indian indirect taxation environment was typified by a plethora of taxes that were charged independently by the Centre and the States such as Central Value Added Tax (VAT), State VAT, octroi, entry tax, and luxury tax which together gave rise to drastic forms of tax cascading and economic distortions.² The new regime tried to operationalize the grand vision of one nation, one tax, one market by incorporating these dispensable levies into one, multi-staged, destination-based taxation system.

Nonetheless, this process of economic integration required a wholesale structural transformation of the Indian constitutional system, especially in terms of the fiscal relation between the Centre and States. The 101 st Amendment essentially changed the financial framework of the country by giving the fiscal powers to be exercised by both the Parliament and the State Legislatures simultaneously and concurrently. Although economical gains of doing away with cascading effect of taxes and simplifying compliance are well documented, legal, and political implications of this shift have caused heated debate. GST has necessitated the states to devolve their financial autonomy, which has largely changed the conventional power of balance.³ It is therefore important to know the constitutional soundness, the institutional structure of the GST Council as well as the judicial interpretations that followed thereof in understanding

¹ Constitution (One Hundred and First Amendment) Act 2016,

² Mihir Shyam Asolekar, 'The Dynamics of Centre-State Relationship under GST Regime: A Case Study on One-Nation One-Tax in India' (2021) 4(5) *International Journal of Law Management & Humanities* 1833 <https://ijlmh.com/paper/the-dynamics-of-centre-state-relationship-under-gst-regime-a-case-study-on-one-nation-one-tax-in-india/> accessed 17 March 2026.

³ Eunice Tryphena J, 'Impact of GST on State Local Body Taxes' ;(2022) 4(1) *Indian Journal of Law and Legal Research* 174 <https://www.ijllr.com/post/impact-of-gst-on-state-local-body-taxes> accessed 17 March 2026.



whether this reform has enhanced effective cooperative federalism or whether it has unknowingly diminished fiscal autonomy of the states.

1.1 HISTORICAL EVOLUTION OF FISCAL FEDERALISM

Federalism is an underlying system of governance that incorporates several levels of government in one political system and consciously maintains the legislative and executive independence of its component parts. The evolution of the theory and philosophical basis of federalism spans centuries since the early days of Greek systems of cooperation up to the contemporary form of dual rule as stated by the pioneering scholars. The theory of political governance based on a contract was introduced by Johannes Althusius whereas Baron de Montesquieu defended the distribution of power in the intermediary local authorities. Moreover, John Stuart Mill stressed the complete necessity of an independent judiciary as the only means to solve inter-governmental conflicts and preserve the federal balance, and Immanuel Kant hoped that federal forms would be used as the peace-institution on international level.⁴

The framework within the context of the Indian Constitution is a holding together model of federation more than a coming together one, and this was identified specifically as a Union of States, under Article 1. Constitutional law scholars, the most notable one being K.C. Where, have traditionally considered the Indian constitutional structure as being quasi-federal. This categorization is based on the inherent centripetal bias of the Constitution that intentionally concentrated residual and overriding powers to the Union government because of the need to assure the integrity of the country, economic stability, and internal security. Fiscal federalism in India before introduction of Goods and Services Tax was working in a strict and demarcation of taxation powers that was carefully laid down in the Seventh Schedule of the Constitution. The major revenue collecting taxes including customs duty, excise duty on the production of goods, and service tax were under the exclusive jurisdiction of the Union, which was subsequently codified through Entry 92C. On the other hand, State Legislatures had a monopoly of taxation of the sale of goods within the State, port tax, octroi and entertainment tax. This rigid constitutional separation although effective in eliminating jurisdictional overlaps and the same taxable event being subject to two taxes, created a very highly

⁴ John Dickinson, *The Evolution of Fiscal Federalism in India* (GIFT Research Series 2025) https://www.gift.res.in/wp-content/uploads/2025/11/The-Evolution-of-Fiscal-Federalism-in-India_John-Dickinson.pdf; accessed 20 March 2026.

fragmented internal market. The harsh cascading impact of taxes, imposing taxes on taxes applied previously without input tax credits across jurisdiction boundaries, caused systemic economic inefficiency in the system, cross-border tax arbitrage, and the virtual balkanization of the Indian domestic economy, which were the hallmarks of the pre-reform era.

A historical process of trying to offset this functional asymmetry has characterized the evolution of the fiscal relationship between India and the rest of the world. Another significant development in this evolutionary path was the 80th Constitutional Amendment Act in 2000⁵, which adopted the recommendations of the Tenth Finance Commission. This amendment changed the fiscal landscape with close to all the central taxes and duties being included in a divisible pool to be shared with the states and the effect of this was to reduce previously unrestricted influence of the Centre over total tax revenues and to seek to correct the vertical fiscal imbalance in which the states had to shoulder the developmental burden but were not given equivalent ability to raise revenue.

1.2 THE GLOBAL TRANSITION TO VALUE ADDED TAXATION

The move towards destination-based consumption taxes as opposed to origin-based manufacturing taxes has been a characteristic and irreversible trend in world-wide fiscal policy in the last half century. Although France was the first nation to introduce the concept of a systematic introduction of the Value Added Tax in 1954, more than one hundred and sixty countries are now implementing some version of the value-added or goods and services tax⁶. To come up with a system that would work best in a multi-faceted, widely diverse federal democracy, the Indian policymakers reviewed a number of other international systems in the search to balance between economic integration and regional autonomy.

The structural decisions by various federations provide the differences in the levels of centralization of federal tax systems. Comparative studies of the Canadian and the Australian model with the Indian framework show that there is a great divergence on the use of fiscal federalism. The Indian architectural structure was very much

⁵ Constitution (Eightieth Amendment) Act 2000

⁶ Dr K Venkatesham Goud, 'A Comparative Study of India's GST and Other Tax Systems' (2025) 10(11) *International Journal of Novel Research and Development* a394



influenced by the Canadian model. Both India and Canada have a Common Law tradition and have complicated federal systems that require ineffective cooperation among the federal government to work effectively. The similarities are however more structural than functional. Although the provinces in Canada have a substantial unilateral control to change their types of sales tax and still have a high level of fiscal sovereignty, the Indian model puts the power to decide the rate and policy making functions to the constitutional apparatus of the GST Council. On the other hand, the Australian model is a very centralized practice in which the federal government gathers the tax and horizontal fiscal equalization is administered by an independent commission. India did not set a course consciously to imitate the Australian model and deprive the states of their constitutional taxation power, which instead adopted a concurrent legislative system.

FEATURE	CANADIAN MODEL	AUSTRALIAN MODEL	INDIAN MODEL
System Architecture	Dual GST (Federal & Provincial)	Centralized National GST	Dual GST (Central & State)
Calculating Tax Rates	Flat 5% federal rate, provinces set different PST, QST or HST rates individually.	Even nationwide rate of 10% which is centrally determined.	Jointly-determined; multi-tiered slabs (5%, 12%, 18%, 28%).
State/Provincial Fiscal Autonomy.	High. The provinces have a strong legislative independence concerning regional tax rates, bases and modes of collection.	The states gave up their powers to levy indirect taxes with all the grants to federal revenue.	Medium-to-Low. States have overlapping authority yet have extreme dependence on the centralized GST Council in changing rates.
Distribution of Revenue Mechanism	Gathered either by levels or in collaboration with	Gathered by the Commonwealth only, and made to	Owing to the system of raising both the CGST and

	certain harmonization agreements.	the states through the independent Grants Commission.	SGST together (at the same time) and sharing under the mechanism of IGST settlement.
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1.3 THE GENESIS OF THE 101ST CONSTITUTIONAL AMENDMENT

The formal process of developing a unified indirect tax regime in India was initiated by the Kelkar Task Force on Indirect Taxes in 2000 that suggested a consolidated, nationwide consumption tax in place of the existing complex and fragmented web of indirect taxes. It took more than 10 years of tedious political deliberations, heated discussions about compensation assurances to manufacturing states, and the unwillingness of the states to give up their fiscal independence before the Constitution (One Hundred and First Amendment) Act was eventually adopted in 2016. The amendment essentially changed the classical layer cake approach in taxation where central excises, state value-added taxes, octroi, luxury taxes and entry taxes were incorporated into a single and harmonized structure. The amendment attempted to put into effect the political theory of cooperative federalism by giving concurrent powers to the Parliament and the State Legislatures to make laws on taxation of goods and services, linking the economic future of the Union and the States to each other.⁷

1.4. STATEMENT OF PROBLEM

Goods and Services Tax was introduced by the Constitution (One Hundred and First Amendment) Act, 2016 and its purpose was to have a single national indirect tax system and to abolish the inefficiencies of the previous system of fragmented taxation. Although the reform has been broadly welcomed as a way of enhancing economic integration and creation of a common national market, it has also led to a major overhaul of the constitutional allocation of fiscal authority between the Union and the States. Before the amendment, the Seventh Schedule of the Constitution reflected a clear separation of power in taxation so that the States could enjoy some level of fiscal

⁷ M Govinda Rao and Tapas K Sen, *Federalism and Fiscal Reform in India* (NIPFP Working Paper No

84, National Institute of Public Finance and Policy 2011)
https://www.nipfp.org.in/media/medialibrary/2013/04/wp_2011_84.pdf ;accessed 20 March 2026.



autonomy. But the addition of Articles 246A, 269A, and 279A⁸ established a system of simultaneous taxing powers and institutionalized the Goods and Services Tax Council as a decision-making center, which changed the traditional balance of Indian federalism of Indian federalism.

Such a structural change has expressed a number of constitutional issues of loss of state fiscal independence, the mandatory force of GST Council recommendations, the lack of a clear mechanism to determine a conflict between Central and State GST laws and the growing financial reliance by States on the Union. The compensation crisis of the COVID-19 pandemic has further demonstrated how vulnerable States are within the new fiscal framework and the potential of the federal bargain, which the GST regime is based on. Further, the effects of new tax structure on local self-governments have made it clear how fiscal centralization may have an effect beyond the Union-State relationship.

Here, the case of the Supreme Court, which was a landmark case - *Union of India v. Mohit Minerals Pvt. Ltd*⁹ has been able to draw fresh focus on the constitutional position of GST Council and the boundaries of cooperative federalism. The developments rendered it necessary to approach critically the question of whether the GST framework, as it currently is, is consistent with the federal form of the Constitution, which is part of its basic structure. The issue discussed in this dissertation is, thus, whether the constitutional structure and judicial exegesis of GST has maintained the fiscal federalism or whether it has given rise to excessive centralization of financial authority by the Union.

1.5 RESEARCH OBJECTIVES

The primary objective of this dissertation is to examine the constitutional validity and judicial interpretation of the Goods and Services Tax framework introduced by the Constitution (One Hundred and First Amendment) Act, 2016, with special reference to its impact on Centre–State fiscal relations in India. The study seeks to analyse whether the new system of simultaneous taxation powers and the institutional role of the GST Council are consistent with the federal structure of the Constitution.

The other aim of the study is to examine the extent and impact of Articles 246A, 269A, and 279A, as well as to determine the influence of these clauses on the historic balance

⁸ Constitution of India, arts 246A, 269A and 279A.

⁹ *Union of India v Mohit Minerals Pvt Ltd* 2022 SCC OnLine SC 65

between legislative and financial authority by the Union and the States. The paper will also look at the question of repugnancy and legislative clash where there is no clearly defined mechanism of the constitution upon the GST framework and whether the current framework produces a scenario of over-centralization.

The study also seeks to critically assess how the GST Council operates, its voting structure, how it has reached its decision as well as to which degree it is influencing the fiscal autonomy of the States. The GST Compensation mechanism and crisis, which occurred during the COVID-19 pandemic, are particularly focused on to comprehend the practical difficulties of keeping cooperative federalism.

The other crucial goal of the research is to examine how the judiciary interprets the constitutional structure of GST especially the ruling of the Supreme Court *Kesavananda Bharati v. State of Kerala*¹⁰, *Union of India v. VKC Footsteps India Pvt. Ltd*¹¹, and *Union of India v. Mohit Minerals Pvt. Ltd*¹², and to establish the effects that judicial interpretation has had on the scales between economic integration and federal autonomy.

Lastly, the study attempts to suggest appropriate constitutional and institutional changes so that the goals of uniform taxation and national economic integration is accomplished without jeopardizing the federal form of the basic structure of the Constitution of India.

1.6 RESEARCH METHODOLOGY

The current dissertation takes the doctrinal and analytical research approach to discuss the constitutional and judicial grounds of the Goods and Services Tax framework proposed by the Constitution (One Hundred and First Amendment) Act, 2016, particularly its effects on Centre-State fiscal relations. The research is largely grounded on the secondary sources of information such as the provisions made in the constitution, the parliamentary discussions, reports of the Finance Commission, the GST council documents, the judicial judgments of the Supreme Court of India and the commentaries of the Indian constitutional law and fiscal federalism. The sources of knowledge (authoritative texts) that have been used to comprehend the structural change of fiscal powers following the insertion of Articles 246A, 269A, and 279A include

¹⁰ *Kesavananda Bharati v State of Kerala* (1973) 4 SCC 225

¹¹ *Union of India v VKC Footsteps India Pvt Ltd* (2022) 2 SCC 603.

¹² *Union of India v Mohit Minerals Pvt Ltd* 2022 SCC OnLine SC 657.

commentaries on the Constitution of India, academic journal articles, and government publications.

It is doctrinal research where the study is based on interpreting statutes and constitutional provisions by judicial precedents, especially by decisions like *Kesavanada Bharati v. v. Union of India, State of Kerala. VKC Footsteps India Pvt. Ltd. and v. Union of India. Mohit Minerals Pvt. Ltd.*, with the view to examine the changing judicial position toward cooperative federalism and law-making authority. A comparative approach has also been taken by considering the GST / VAT models of Canada and Australia to consider how much centralization is taking place in the Indian system. In addition, analytical, critical approach has been taken in the review of whether the GST structure maintained the federal balance that is envisaged by the doctrine of basic structure, and the structural reforms to achieve equitable fiscal federalism in India.

1.7 RESEARCH QUESTIONS

- a) How Does the concurrent taxing jurisdiction enacted by the new Article 246A¹³ change in substance or authority the old doctrine of repugnancy as expressed in Article 254¹⁴ of the Constitution when Central and State laws clash?
- b) How far does the mathematically weighted voting structure of the GST Council under Article 279A weaken the fiscal autonomy of the States, and does such an institutional structure design amount to a weakening of the basic structure doctrine?
- c) What was the effect of the harsh economic contraction and its ensuing crisis of 2020 of GST Compensation cess on the fiduciary relationship and trust deficit between the Union and the States?
- d) How does the Supreme Court's landmark decision in *Union of India v. Mohit Minerals Pvt. Ltd.* redefine the legal sovereignty of laws, and what is the consequence of its appreciation of uncooperative federalism?

¹³ Constitution of India, art 246A

¹⁴ Constitution of India, art 254.

1.8 CHAPTERIZATION

Chapter I: Introduction

Chapter I provides the conceptual, historical, and constitutional background that one requires to understand how fiscal federalism has developed in India. It addresses the theory of federal government, the difference between coming together and holding together federation, and the quasi federalism of Indian constitution. The chapter also follows the history of the taxing powers under the Seventh Schedule and identifies the structural constraints of the pre-GST indirect tax regime such as the cascading taxation and fragmentation of domestic market. It also considers the international shift in the direction of value-added taxation and comparative models used in other countries like Canada and Australia and thus gives the background out of which the Constitution (One Hundred and First Amendment) Act, 2016 needs to be interpreted. The chapter ends with the hypothesis, research questions, and research scope.

Chapter II: Constitutional Architecture of GST; Statutory Framework

Chapter II takes a step-by-step analysis of the constitutional and statutory framework brought forward by the 101st Constitutional Amendment. It examines the coverage and impact of Articles 246A, 269A and 279A that together established the framework of the concomitant taxation authority of the Union and the States. The chapter explains the institutional role of the GST Council, its composition, voting structure, and recommendatory functions, along with the legal implications of pooled sovereignty. It also evaluates the Integrated Goods and Services Tax mechanism, the destination-based taxation principle, and the legislative changes brought through the Central GST Act, State GST Acts, and the Compensation to States Act, 2017. The chapter aims to determine whether the new framework preserves the federal balance envisaged under the Constitution.

Chapter III: The Federalism Conflict: State Autonomy vs. Centralization

Chapter III is a critical look at the constitutional strains of the introduction of GST especially the perceived loss of fiscal autonomy of the States. It examines how the monopolistic areas of legislation were replaced by overlapping authority to tax and the subsequent vertical fiscal imbalance between the Union and the States. The chapter also elaborates on the repugnancy concern that arose between Article 246A and Article 254, and a lack of a specific constitutional mechanism to adjudicate on the conflict of Central

GST and State GST laws. Specific emphasis is placed on the GST Compensation Cess crisis of the COVID-19 pandemic, which revealed the vulnerability of cooperative federalism, as well as the question of whether fiscal guarantees suggested by the Union were binding or not. The chapter also assesses the effects of GST upon Urban Local Bodies and Panchayati Raj Institutions, which also involves the decline of independent sources of revenues in the wake of the subsumption of local taxes like the octroi and entry tax.

Chapter IV: The Judicial Interpretation: From Deference to Recalibration

Chapter IV examines the judicial reaction to the GST regime and the constitutional issues that the 101 st Amendment generated. It follows the strategy of the Supreme Court of first judicial restraint on fiscal issues to one of aggressiveness in protecting of federal principles. Some of the important decisions discussed in the chapter are Union of India v. Union of India v. VKC footsteps India Pvt. Ltd. where the Court exercised discretion in regard to the policy enacted by the legislature. Mohit Minerals Pvt. Ltd., at which the Court put straight the constitutional position of the GST Council and that the recommendations made by the GST Council are not binding. The chapter also looks at the reflection of the basic structure doctrine as was established by the Kesavananda Bharati v. State of Kerala and considers the possibility of the overcentralization of the GST structure infringing the federality of the Constitution. The chapter has shown through these rulings that judicial interpretation has been instrumental in ensuring that there is a balance between economic integration and constitutional federalism.

Chapter V: Conclusion and Proposals

Chapter V is the culmination of the analysis of the paper, which analyses whether the GST framework as currently understood preserves the constitutional balance between the Union and the States. It speculates on the structural issues as shown in a doctrinal analysis, political practice and judicial interpretation, specifically, the problem surrounding the voting power in the GST Council, absence of an independent dispute resolution mechanism, uncertainty of the compensation structure, and deterioration of local fiscal autonomy. The chapter suggests certain reforms, such as re-evaluation of the voting structure in Article 279A, formation of an independent adjudicatory body on the GST disputes, formation of a more stable model of revenue sharing, and

enforcement of the mandatory distribution of funds to the local self-governments. The chapter ends by saying that economic uniformity needs to be within the constraints of the fundamental framework of the Constitution, and it is the long-term success of GST that needs to be based on a realistic trade-off between national integration and state autonomy.



1.9 LITERATURE REVIEW

Sr. No.	Nature of Literature	Name of Literature	Covered/Review	Research Gap in Literature	Intended Research
1	Book	V.N. Shukla's Constitution of India (Revised by Prof. Mahendra Pal Singh)	Provides a foundational doctrinal baseline for understanding the pre-reform separation of powers under the Seventh Schedule and explains the exclusive domains of taxation before the 101st Amendment.	Being a general constitutional commentary, it provides limited focus on the evolving, post-2017 practical operational anomalies and specific political contestations within the GST Council.	To build upon this doctrinal foundation by analysing how the newly inserted Article 246A practically disrupts the traditional aspects of repugnancy under Article 254.
2	Book	Commentary on the Constitution of India by D.D. Basu.	Offers an exhaustive analysis of Indian constitutional law, emphasizing the basic structure doctrine and the traditional boundaries of Centre-State fiscal relations.	Does not deeply engage with the recent Mohit Minerals (2022) judgment or the "uncooperative federalism" framework that emerged long after the foundational principles were established.	To utilize Basu's foundational principles of federalism to evaluate whether the mathematically weighted voting structure of the GST Council violates the basic structure doctrine.
3	Journal Article	For a Mess of Potage: The GST's Promise of	Argues that the 101st Amendment fundamentally	The article was written before the Mohit Minerals	To bridge this temporal gap by analyzing how the

		Increased Revenue to States Comes at the Cost of the Federal Structure of the Constitution by Alok Prasanna Kumar	damages the basic structure of the Constitution by subjecting state fiscal policies to the effective veto of the Union in the GST Council, highlighting the lack of an independent dispute settlement mechanism.	judgment, so it assumes the Council's recommendations are strictly binding, lacking the contemporary judicial recalibration context.	Supreme Court's ruling in Mohit Minerals acts as a constitutional safeguard against the basic structure violations warned by Kumar.
4. Journal Article		Evolving Landscape of Indian Fiscal Federalism by M. Govinda Rao	Characterizes the GST Council as a unique institutional innovation for tax harmonization and intergovernmental bargaining, but notes that recent experiences, such as the compensation crisis, created a severe "trust deficit" among states.	Focuses predominantly on the macroeconomic and political aspects (trust deficit) without providing a deep doctrinal legal analysis of how this trust deficit translates into legislative repugnancy or constitutional remedies.	To merge this economic reality with constitutional law, proposing actionable legal reforms such as a mandatory, independent Dispute Resolution Tribunal under Article 279A(11).
5. Journal Article		Comparative Analysis of GST in India and Canada by Manisha Patwari and Dr. Sanjay Prakash Srivastava	Highlights that India modelled its dual tax structure on Canada's system due to shared common law and federal traits, but centralizes rate-setting through	While it compares the structures, it stops short of analysing how India can legally synthesize its centralized GST Council with the need for greater state-level	To use this comparative baseline to propose a redefined weighted voting structure or a dual-majority



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			the GST Council unlike Canada's high provincial autonomy.	legislative flexibility post-Mohit Minerals.	voting system within the GST Council to better reflect true fiscal federalism.
6. Journal Article	The Political Economy of India's Transition to Goods and Services Tax by Chanchal Kumar Sharma (2021)	Explores the political compromises and veto players that shaped the 101st Amendment, showing how India transitioned to a dual GST by allowing deviations from purist ideals to suit its federal structure.	Focuses primarily on political economy, party congruence pre-enactment, and historical transitions, rather than post-enactment constitutional conflicts and judicial rulings.	To extend the political economy analysis into the legal domain by examining how the GST Council functions as an active site of political contestation post-Mohit Minerals.	
7. Working Paper	The Goods and Services Tax Council: Dialectics and Design by Haseeb Drabu (2023)	Discusses the GST Council's creation as a "grand bargain" between the Union and States, fundamentally altering the relationship between politics and business at the regional level	Primarily provides an insider's policy perspective from a former state finance minister but lacks rigorous doctrinal analysis of statutory repugnancy under Article 246A.	To integrate this high-level policy perspective with constitutional law to propose necessary structural reforms for the Council's weighted voting mechanisms.	
8. Journal Article	Revenue Shortfall and GST Compensation	Quantifies the revenue impact on states and examines the compensation	Highly empirical and economic in nature, missing the broader constitutional and	To use the economic data as a factual foundation to	

		by Sacchidananda Mukherjee (2023)	mechanism, demonstrating how states' revenue buoyancy was severely affected post-GST.	contractual dimensions of the compensation guarantee as a "sovereign commitment".	argue that the 2020 compensation crisis represents a breach of constitutional trust and the "anti-coercion principle".
9.	Journal Article	Five years of GST: Implications for India's fiscal federalism by Ambar Kumar Ghosh (2022)	Analyzes the cracks emerging in federal cooperation over the first five years of GST, highlighting the compensation cess crisis, the Union's dominance, and the Supreme Court's intervention.	The analysis is predominantly socio-political and economic; it does not delve deeply into the strict jurisprudential implications of the Supreme Court's methodology.	To utilize this five-year empirical assessment to substantiate the legal argument regarding the structural shift from cooperative to coercive federalism.
10.	Journal Article	Fiscal Federalism and the Centralising Drift – The Supreme Court's GST Judgment by Suhrith Parthasarathy (2022)	Critiques the centralizing tendencies within the GST regime and applauds the Supreme Court's recalibration in the Mohit Minerals case for protecting state legislative powers.	While thoroughly reviewing the judgment, it offers limited actionable legislative frameworks for resolving future conflicts if states actively choose to deviate.	To bridge this gap by proposing the establishment of an independent Dispute Resolution Tribunal under Article 279A(11) to manage reaffirmed state autonomy peacefully.
11.	Research Report	Urban Local Governments	Highlights the severe financial	Identifies the financial starvation of	To systematically analyze the

		Need a Share in the GST by Meera Mehta, Dinesh Mehta, et al. (2019)	impact on urban local bodies (ULBs) due to the abolition of local taxes like octroi without a corresponding assured share in GST revenues.	ULBs but does not explore the constitutional failure of Articles 243W and 243X in the post- 101st Amendment landscape.	collateral constitutional damage to the third tier of governance and propose a mandatory devolution formula within the GST framework.
12.	Book	The Political Economy of India's Fiscal Federal System and its Reform by Nirvikar Singh and M. Govinda Rao	Provides a comprehensive theoretical framework for understanding asymmetric federalism in India and the historical challenges of tax harmonization.	Authored prior to the full implementation of GST, thus it anticipates challenges but cannot evaluate the empirical reality of the GST Council's post-2017 operation.	To use their foundational theories of asymmetric federalism to assess the actual operational imbalances and centralizing drift of the current GST voting mechanics.
13.	Journal Article	India's Landmark GST Reform: Implications for the States, ULBs and the PRIs by Mukul G. Asher (2017)	Analyses the design and structure of GST and its cascading administrative and financial implications for Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs).	Written at the dawn of the reform, it offers predictions rather than an empirical evaluation of how state governments have historically bypassed local body funding post-GST.	To evaluate these early predictions against the actual fiscal disenfranchisement experienced by local bodies, proposing structural constitutional remedies for

					grassroots funding.
14.	Working Paper	The GST: India's New Fiscal Federalism by Arvind Subramanian (2017)	Conceptualizes the 101st Amendment as a "voluntary pooling of sovereignty" intended to harmonize the marketplace while maintaining cooperative federalism.	Relies heavily on the utopian ideal of cooperative federalism, underestimating the "uncooperative" friction and majoritarian coercion that later necessitated judicial intervention	To contrast this optimistic, early framework with the harsh reality of the compensation crisis and the Supreme Court's later recognition of "uncooperative federalism".
15.	Journal Article	GST And Constitutional Federalism in India: A Critical Analysis of Article 246a's Impact on Centre-State Fiscal Relations (2025)	Explores the dual GST model, focusing on the legal ambiguities and the repugnancy conundrum between central and state laws introduced by the non-obstante clause in Article 246A.	Points out the repugnancy issue under Article 254 but lacks a comprehensive synthesis of how the judiciary might interpret these conflicts using aspect theory.	To doctrinally resolve the repugnancy conundrum by analysing historical legal doctrines and harmonious construction in the context of simultaneous taxing powers.

CHAPTER II

2. THE CONSTITUTIONAL ARCHITECTURE OF GST: STATUTORY FRAMEWORK

2.1 The Paradigm of Simultaneous Power: Article 246A

The introduction of Article 246A¹⁵ that methodically abolished the historical mutual exclusivity of the Union and State Lists in respect of indirect domestic taxation is the absolute basis of the 101st Constitutional Amendment. This reform should be interpreted as a constitutional effort to take account of the structural inefficiencies in the pre-GST regime where the inflexible division of taxing authorities resulted in cascading taxation, lack of jurisdiction in the practice, and disintegration of the national market. The previous framework though constitutionally sound was economically limiting in the sense that it failed to allow a free flow of credit and there were manmade obstacles to interstate trade. Art 246A (1) functions under a strong non obstante clause, which reads:

"Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State"¹⁶.

The significance of this non-obstante clause is of constitutional concern as it clearly supersedes the conventional separation of legislative authorities provided by Article 246 as well as the doctrine of repugnancy contained in Article 254. It thus establishes an independent and closed body of legislations on goods and services tax wherein the both the Union and the States receive their powers not through their respective lists in the Seventh Schedule but through the hierarchy of the Constitution.

This is a momentous and irreversible constitutional break with the past jurisprudence. In the past, interpretative doctrines (including pith and substance and aspect theory) were employed by the Supreme Court in settling incidental encroachments of legislation between the exclusive territory of List I (Union List) and List II (State List). These doctrines were used as means of preserving the balance of federalism, so that

some overlap could be given, without disturbing the fundamental exclusivity of the

¹⁵ Constitution of India, art 246A

¹⁶ Constitution of India, art 246A (1).



fields of the legislature. Nevertheless, with the advent of Article 246A, such balancing mechanisms of the judicial system are rendered to a large part unnecessary in the context of indirect taxation since overlap has ceased to be incidental, but rather constitutionally premeditated and explicitly granted.

Article 246A completely eliminates the idea of exclusive domains of domestic indirect taxation. This obliteration is an indication of a change between a model of dual federalism, with watertight compartments, to one in which the two levels of government act in common fiscal space, through cooperative and interactive federalism. The conceptual transformation of the taxable event similarly occurs namely, discrete events like manufacture or sale are replaced by the concept of supply in general, which both the Union and the States commonly used to determine taxation. These two levels of government now have equal, simultaneous, and shared powers over the very same taxable event the supply of goods and services. This equality is critical because it means that neither tier of government is subject to the other in terms of another in this sector. The legislative powers of Parliament and State Legislatures are directly and independently derived through Article 246A, and thus, they do not interfere with formal equality of the federal structure even in a common field.

This concurrent jurisdiction guarantees that all intra-state transactions are subject to two taxes, a Central tax and a state tax. Practically, this parallel levy system, i.e. the Central Goods and Services Tax (CGST) and State Goods and Services Tax (SGST), enables both tiers of government to be able to levy on the same tax base, thus improving revenue efficiency and removing the cascading nature of taxes that characterized the previous regime¹⁷. Meanwhile, this structure requires a high level of coordination of rate-setting, exemption, and compliance of procedures, and this institutional task is achieved through the Goods and Services Tax Council.

Nevertheless, the identical power to tax concurrently also poses some serious constitutional and functional concerns. The lack of a visible hierarchy between the Central and State laws in this common area introduces the possibility of legislative conflicts. In as much as Article 246A prevails over Article 254, the common law, that

¹⁷ Alok Prasanna Kumar, 'For a Mess of Potage: The GST's Promise of Increased Revenue to States Comes at the Cost of the Federal Structure of the Constitution' (2016) 28(2) National Law School of India Review 97.

Central law applies in case of repugnancy, does not automatically prevail.¹⁸ This creates a certain level of constitutional ambiguity and institutional coordination and judicial interpretation has become an essential factor in ensuring uniformity and legal predictability in the GST framework.

Nevertheless, to exercise the dominance of inter-jurisdictional commerce, Article 246A (2) retains the exclusive authority of the Union to impose and collect taxes on supplies occurring in the course of inter-state trade or commerce. This carve-out is necessary to make sure that the integrity of the national market is not undermined by divergent state policies in the cross-border transactions. The Constitution aims to ensure uniformity, prevent tax competition between states and make it easier to move goods and services across state borders by placing exclusive power in Parliament in all inter-state supplies.

The operationalization of this exclusive field of the Union is facilitated by the mechanism of the Integrated Goods and Services Tax (IGST), which allows collecting the tax revenues and then allocating them to the Union and the state of destination. The difference between intra and inter-state supplies is therefore an act of measured equilibrium between the joint sovereignty and centralized powers such that the states will be involved in the taxation of domestic transactions but the Union will be in charge of the larger national economic system.

Article 246A is in short, a constitutional innovation that reinvents the parameters of fiscal federalism in India. It creates a new paradigm of joint legislative competence by substituting exclusivity with simultaneity, separation with coordination. Simultaneously, it raises complicated constitutional issues of autonomy, conflict management, and institutional balance, which remain influential in the development of the changing rhetoric of the legitimacy and operation of the GST regime.

2.2 THE INSTITUTIONAL EDIFICE: ARTICLE 279A AND THE GST

COUNCIL

To control this simultaneous jurisdiction never seen before and to avoid the mess that may result due to the variable rates of taxation, the constitutional amendment added Article 279A¹⁹ wherein it was mandatory to constitute the Goods and Services Tax

¹⁸ DD Basu, Commentary on the Constitution of India ;(8th edn, LexisNexis 2018)

¹⁹ Constitution of India, art 279A



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Council mandating the creation of the Goods and Services Tax Council. Such an institutional innovation was essential since without some sort of coordinating mechanism, the granting of concurrent taxing powers under Article 246A could have impacted on the serious differences in tax rates, exemptions, and compliance arrangements across States. Article 279A, in its turn, serves as the institutional pillar of the GST regime which makes sure that the implementation of the shared legislative competence should be informed by the consistency of policy-oriented considerations and harmonized fiscal decision-making.²⁰

The Council acts as the highest constitutional organ where recommendations are provided to the Union and the States on important parameters of policy, such as the tax rates, exemption lists, limits on threshold when a registration is to be made, and description of the model tax law. Besides these, there are other functions of the Council such as recommending special rates to be raised to get extra resources in case of natural calamity, providing factors to govern the place of supply as well as providing a guideline to resolve a dispute between the Centre and the States. This broad-based remit is indicative of the fact that the GST Council is not actually just an advisory organ in its traditional meaning but it is in fact a central deliberative institution that frames the parameters of fiscal policy throughout the federation.

This establishment of a body of such kind is a big break to the previous constitutional structure that fiscal coordination between the Union and the States was greatly done through the processes like the Finance Commission and inter-governmental negotiations. In contrast to those institutions, which were mainly concerned with the distribution of revenue, the GST Council has direct impact on the creation of tax policy, which makes it the center of legislative and tax governance in India. This change is an indication of a transition of fiscal federalism which relies on separation to that of an ongoing negotiation and institutional cooperation.

The GST Council institutional design portrays a deliberate effort toward entrenching the principle of cooperative federalism in the constitution. The Council consists of the Union Finance Minister as the Chairman, Union Minister of State of Finance, and Finance Ministers of all the States. By making both the Union and the States represented

²⁰ M Govinda Rao, *Studies in Indian Public Finance* (Oxford University Press 2022) chapter 5
<https://doi.org/10.1093/oso/9780192849601.003.0005> ;accessed 20 March 2026

on the highest executive level, this composition makes it easier to maintain a platform of dialogue, bargaining, and consensus-building. Meanwhile, the fact that the Union Finance Minister holds the leadership role and the Union Government offers administrative assistance means that the Centre still enjoys a structural advantage in driving the discussions and having an impact.

The voting rules and composition of the Council are carefully made to both coerce consensus and are mathematically engineered in such a way that they inherently favor the Union Government. Such decisions of the Council, according to Article 279A (9),²¹ must have most three-fourths of the weighted votes of the members present and voting (75%). The voting pattern provides the Union Government with a third of the total voting weight and the States with two-thirds combined; a system that requires the two levels of government to act together in order to make the decision valid.

On the one hand, such an arrangement seems to represent a well-balanced federal system since no single party can dictate to the other, be it the Union or the States. Nonetheless, in a more detailed look, the Union is vetoed in a way of de facto power no decision can be made without its consent. On the other hand, it is true that, as much as the States are collectively endowed with a greater portion of voting power, the effectiveness of their exercise is subject to obtaining a substantial internal consensus, which is not always easy to obtain, taking into consideration the variety of economic interests the various States possess.

TIER	VOTING WEIGHT	RELEVANT IMPACT- DECISION MAKING
Union Government	One-third of total votes cast (33.33 percent)	The Union has a de facto veto. No decision will reach the 75 percent mark unless the Centre gives its positive consent.
State Government (Colly)	Two-thirds of total votes cast (66.67 percent).	There is a collective veto of states. No resolution can be passed by the Centre unless it is

²¹ Constitution of India, art 279A (9)

		supported by at least 20 out of 28 States.
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The extreme form of mathematical organization has been said by its advocates and government officials to be the paradigm of the ultimate realization of what has been called by certain commentators, the ultimate embodiment of what they call as pooled sovereignty, where both the Union and the sovereign States voluntarily give up a level of their blank legislative discretion to a common forum in the quest to create a harmonized, frictionless national market²². In this light, GST Council is a constitutional compromise, and any decisions related to fiscal matters are no longer unilateral, but rather the result of negotiated consensus with the aim of ensuring economic efficiency on a national level.

The justification of this model is the fact that in the latest integrated economy, autonomous tax policies adopted by individual States would cause detrimental tax competition, distortion of resource distribution, and obstacles to trade. The GST structure aims to promote stability, predictability, and consistency in taxation by centralization of key issues of tax policy by a common decision-making framework. This direction is in line with the world trends regarding fiscal governance where the coordination mechanisms are now employed more often to control inter-jurisdictional economic interdependence.

Constitutional critics and other dissenting states, however, claim that since the Union is just one entity but has a voting power of a third of the entire, the structure has a centripetal bias that is severe. This institution automatically lowers the personal bargaining power of sovereign states, in effect, making them dependent on the fiscal considerations of the Union in the Council discussions. This is the issue that is especially pressing to smaller or weaker in economic power States, whose voice in the overall two-thirds voting bloc can be seriously diluted.

Also, the reliance of States on the decisions by the GST Council on the most important matters like the revision of rates and exemptions limits their autonomy to operate on

²² Varun Kannan and Prashant Shukla, 'Analysing the Working of the GST Council from the Perspective of Fiscal Autonomy of the States' India Law Journal <https://www.indialawjournal.org/analysing-the-working-of-gst-council.php>; accessed 20 March 2026

the needs of local economies and as a result it affects their fiscal freedom. In contrast to the pre-GST regime, in which the States could raise or lower the sales tax rates to meet the needs of the region, the new framework entails the following of the collectively-agreed policies, and thus the possibilities of the unilateral fiscal intervention are restricted.

Another issue exists due to the lack of a fully functioning and independent dispute resolution institution under Article 279A (11)²³ Though the Constitution has such a mechanism, the practical application of this mechanism is not much, thus, casting doubts on the objectivity and responsibility of the decision-making process of the Council. Without an independent adjudicatory organ, there is always the possibility of the Union and the States resolving their disagreements in the very Council itself, which may not necessarily be a neutral process.

The Supreme Court in *Union of India v. Mohit Minerals* has made a significant clarification of the constitutional position of the GST Council. where the Court decided that the Union or the States is not bound by the recommendations of the Council. This reading is critical in maintaining the federal system because it re-verifies that the legislative powers in Article 246A are independent of the central coordinating body such that the provisions in Article 246A have become a reality. Meanwhile, the Court has also highlighted that the Council is more of a collaborative decision-making body and any action deviating off its recommendations must be done with care in order to maintain the consistency of the tax regime

In this way, Article 279A forms a complicated and finely tuned institutional design that attempts to address the incompatibility between the goals of economic integration and federal autonomy. Though it facilitates conformity of tax policies via concerted decision making, it also inculcates structural characteristics that would swing the scales towards the Union. The operation of the GST Council, in any case, is an important location at which to assess the changing character of the Indian fiscal federalism, especially in connection with whether the GST regime exemplifies true cooperative governance or a gradual transition to fiscal centralization.

²³ Constitution of India, art 279A (11)

2.3 ARTICLE 269A AND THE APPORTIONMENT OF INTEGRATED TAX

To make taxation of trade and trade across state borders work a new rule, Article 269A was added to the Constitution. This rule helps manage the Integrated Goods and Services Tax on supplies that happen between states, which includes import transactions. This is an addition to Article 246A as it clearly states that the Union has the exclusive power to tax transactions that happen across state borders. This ensures that the taxing powers given to both the Union and the States do not lead to confusion about who has the authority to tax in the area of trade that happens across state borders. In terms while Article 246A creates a shared area for taxation Article 269A makes a special exception to ensure that there is uniformity across the country in transactions that happen across state borders.

The need for this rule became clear when we look at how things were before the Goods and Services Tax (GST) was introduced. Before GST taxes on trade between states were mainly governed by the Central Sales Tax (CST). This tax worked on a principle that the tax revenue went to the state where the sale started not where the goods were consumed. This created a problem where states that made things, like Maharashtra, Gujarat and Tamil Nadu got tax revenue. On the hand states that consumed more goods had less revenue. Over time this led to economic problems. States tried to attract industries by offering them benefits, which often led to waste of resources.

The CST system also had a problem with taxes being added on top of each other. This happened because there was no way for businesses to get credit for taxes they paid in one state when they had to pay taxes in another. This made the cost of making things and the supply chain more expensive and inefficient. Manufacturers and traders who worked across states had to pay these extra taxes, which reduced their profits and made Indian industries less competitive. The lack of a system for getting credit for taxes also created challenges for businesses and made them less efficient. Businesses often set up their operations to minimize tax payments than to work efficiently. For example, companies would set up warehouses in different states to avoid transactions between states and the associated CST. While this reduced their tax payments it increased their costs and made their operations more complicated.

The lack of a credit mechanism also led to many compliance challenges and

administrative burdens. Businesses had to follow state-specific tax laws and procedures



which increased the cost of compliance and created barriers for small and medium enterprises. The many taxes and lack of harmonization made it hard to do business in India.

Article 269A makes the change to a system. It says that the Goods and Services Tax on supplies that happen in the course of trade or commerce across state borders shall be levied and collected by the Government of India. After that, the Parliament will decide how to divide the tax between the Union and the States; based on the GST Council's recommendations. Efficiency and equity for all states are intended to be balanced in this arrangement.

Although the Union alone enjoys exclusive constitutional authority to impose and collect this composite tax, it does not flow exclusively into the Consolidated Fund of India. The tax will be divided between the Union and the destination State in accordance with the recommendations made by the GST Council. In other words, while the collection procedure remains centralized, the benefit of taxation itself becomes decentralized, ensuring the interest of the States.²⁴

The implementation of Article 269A by means of IGST system has been considered as one of the most innovative features of the GST regime. IGST serves as a clearance system for the purpose of allowing cross-state transfers of input tax credits. When supply originates in one State but receives its destination in another State, IGST gets levied by the Central Government. Input tax credit will be available to the receiver located in the destination State.

The transition signifies India's move towards adopting a destination-based taxation structure for consumption purposes. In essence, the tax generated under this system would belong to the state where the consumer resides, addressing the age-old problem that had been faced by India since the inception of CST. The origin-based CST favoured the industrially advanced states and was costing the consumption states huge amounts.²⁵

The switch to destination-based taxation is not only an alteration in the calculation aspect, but rather indicates an important conceptual shift. In the destination-based tax

²⁴ Richard M Bird and Pierre-Pascal Gendron, *The VAT in Developing and Transitional Countries* (Cambridge University Press 2007) <https://www.cambridge.org/core/books/vat-in-developing-and-transitional-countries/C340AA495935C290D7C512F25246A313> accessed 20 March 2026.

²⁵ Vasavi, 'Indirect Tax Reform in India: from VAT to GST' (2024) 14(3) *Scope* 149 <https://scope-journal.com/assets/uploads/doc/a5d0a-149-159.202410370.pdf> ; accessed 20 March 2026

system, the final purchaser becomes the recipient of the taxes collected and the flow of revenues will depend on the place of spending and not on place of production. The objective is to promote tax neutrality and efficient allocation of economic activity through avoidance of production-based distortions

The significance of Article 269A lies in making the import of goods or services similar to inter-state supply for taxation purpose. This implies that IGST will be collected on imported goods or services, and makes domestic products on par with those imported from abroad. It is much more than just a technical decision because it is intended to ensure the harmonization of India's system of indirect taxation with international VAT standards, such as the destination principle. According to the destination principle, the goods are taxed at the location where they are ultimately consumed, rather than where they were produced. This is important from the standpoint of trade neutrality because it ensures that imported goods do not have an advantage over domestic goods when it comes to taxation. If the destination principle was not followed, then the imports would be able to avoid paying certain stages of the VAT tax, thus gaining a competitive advantage.

The integration of IGST within the customs system enhances the efficiency of the system. Input tax credits would then be claimed, thus, ensuring that the tax falls to the end consumer, as per the destination-based principle of tax imposition. Whenever foreign goods are imported into India, IGST would be imposed alongside the regular customs duty²⁶.

An essential aspect of the IGST system is apportionment. Apportionment is the process used to allocate the revenues obtained from IGST between the Union and States according to the rules set by the Parliament based on the GST Council's recommendations. The process is done using a complicated settlement process by the GST Network that tracks the input tax credit to guarantee accurate revenue distribution.²⁷ In terms of international trade law, IGST system aligns well with recognized systems of taxation and trade practices. Imposition of taxes on imported goods in the same way as domestic goods ensures that non-discrimination principle is

²⁶ VS Datey, *GST Ready Reckoner* (7th edn; Taxmann 2023).

²⁷ Satya Poddar and Ehtisham Ahmad, 'GST Reforms and Intergovernmental Considerations in India' (Working Paper, eSocialSciences 2015); <https://ideas.repec.org/p/ess/wpaper/id6824.html> accessed 20 March 2026.

met. This will go a long way in enhancing the image of India's trade laws at an international level. A stable and reliable settlement mechanism is therefore very critical for fiscal sustainability of state governments dependent on revenues from GST. ----- These may have an impact on state finances, reinforcing the importance of robust technology and transparency.

Legally speaking, Article 269A represents a delicate balance between efficiency through centralization and regional independence. The former ensures consistency and efficiency in tax administration, while the latter guarantees states receive their share. This is reflective of cooperative federalism, where both parties work hand-in-hand in achieving mutual economic targets.²⁸

However, this article also raises some apprehensions regarding centralization. Because of the centralization of IGST collection and distribution by the Union, states may become dependent on the timely transfer of funds by the Centre, thus limiting their fiscal independence. This issue becomes relevant particularly when the GST compensation and revenue distribution become delayed, as it has been a cause of friction between the Union and the States in the past. The determination of the “place of supply” is another critical issue under Article 269A. The classification of a transaction as inter-state or intra-state depends on place of supply rules, which can be complex and subject to interpretation, especially in cases involving services, digital transactions, and cross-border supplies. Errors or ambiguities in determining the place of supply can lead to disputes between states and affect the distribution of tax revenues.

Additionally, the IGST mechanism must address the challenges posed by the digital economy, where traditional concepts of territorial nexus may not apply. The taxation of online services, e-commerce transactions, and digital platforms requires continuous refinement of place of supply rules to ensure that revenue is appropriately allocated in a rapidly evolving economic environment.

- -----One more aspect of the effects of the article includes its impact on inter-state commerce through the provisions made by Article 301 of the Constitution. Through the provision of GST, India would be able to simplify the process of collecting taxes and

²⁸ M.P. Jain, *Indian Constitutional Law* (8th edn; LexisNexis 2018).

eliminate layers of levies while imposing unified taxes, thus facilitating the movement of goods and services between states.

However, for this mechanism to function effectively, the GST Council should operate efficiently as well since it plays a crucial role in the apportionment process, being the major institution discussing the issues related to apportionment, dispute resolution, and interpretation of certain aspects of the law. Indeed, as far as the process of calculating Integrated GST is concerned, it requires many calculations based on several factors such as the place of supply and distribution of input tax credits. Therefore, the GST Council should develop appropriate guidelines for this. Nonetheless, the dependence on the GST Council for the resolution of certain disputes presents some problems. According to Article 279A (11), the Council should make provisions for settling disputes arising out of the recommendations or their implementation. However, despite such a constitutional mandate, there is no effective and independent dispute settlement mechanism in place, which is quite worrying when considering the issues of neutrality. At present, disputes between the Union and the States or amongst States are settled by the Council itself, not acting as an adjudicative institution, but rather as a policymaker.

There is a clear potential for conflict of interests arising out of such a mechanism. The very fact of the body being responsible both for making the recommendation and ensuring its implementation violates the principles of natural justice in fiscal federalism, according to which nobody is supposed to decide on his or her own case. When it comes to resolving disputes over revenue distribution, the issue becomes particularly sensitive. This problem arises particularly in the case of distribution of IGST funds. Even minor errors in determining the place of supply or calculating input tax credits would have a detrimental effect on the State's budget. Without an impartial forum, it is possible that States would perceive the entire process of resolution as biased due to the dominance of the Union Government in the GST Council with its one-third voting strength and administrative control.

In addition, in the absence of an established procedure for dispute resolution, such disputes might take time and consequently delay the revenue settlement process, thus creating financial challenges for States whose budgets depend largely on the revenues

generated under GST. It will also impact adversely on vertical distribution between the Union and the States.

There is also a larger question from the point of view of the Constitution about the delegation of all powers of policy making, implementation, and resolution of disputes to the Central Government. In such a scenario, it is not only the language of Article 269A that is important but also the political dynamics within the GST Council. As academic literature notes, there is indeed a major flaw in the entire process. There is an absence of an independent adjudicatory agency to resolve disputes. It becomes quite clear when compared with other federal systems across the world where disputes concerning finances are generally decided upon by third parties, namely tribunals and courts. Academics have strongly recommended setting up such a quasi-judicial mechanism comprising of judges and financial experts who will help promote transparency and accountability within the framework.

On another note, judicial intervention can also be seen as a way to maintain the balance within the federal system. While the GST Council represents the cooperative spirit as envisaged under the constitution, it is the judiciary that is responsible for interpreting any constitutional provisions. This means that any dispute concerning the IGST sharing will inevitably have to be addressed through constitutional courts.

Hence, Article 269A provides a comprehensive mechanism for the division of inter-state tax proceeds, yet the effectiveness of its functioning would rely upon the efficiency of the GST Council and dispute resolution process. The void arising from the lack of a separate adjudicatory machinery provided by Article 279A(11) poses as a serious problem that needs to be addressed to guarantee proper fairness, transparency, and cooperation in GST.

Despite the difficulties mentioned above, Article 269A has been crucial for the main purpose of GST – the creation of a unified national market through the implementation of a new tax regime. With the abolition of the inefficient CST regime and introduction of a seamless IGST system, GST has made it easier to comply with regulations and facilitated supply chains in the Indian economy. Notably, the removal of the various fiscal restrictions to inter-state trade, such as entry taxes, check posts, and multiple

taxation, has become one of the most successful measures in terms of enhancing the competitiveness of India's economy under Article 301²⁹.

Supply chains have been greatly expedited by the IGST method; which allows for a smooth input tax credit across jurisdictions. The Companies are no longer forced to organize their operations around tax concerns, such as keeping several warehouses to prevent interactions between states. Alternatively, they can also optimize logistics according to market demand, cost, and efficiency. Therefore; As a result, distribution networks have been more efficient, inventory holding costs have decreased, and turnaround times have improved, all of which have increased the economic output.

Tax administration has also been made simpler due to the standardization of tax procedures and the integration of compliance systems via - centralized digital platform. Furthermore, navigating several state tax regimes has become less complicated with the introduction of uniform return filing, invoice matching, and electronic credit methods. Businesses who operate in several states have profited most from this since it has reduced compliance costs and made doing business easier. Macroeconomically speaking, Article 269A has improved the tax system's efficiency and openness. It has decreased potential for tax evasion and increased revenue collection by combining interstate transactions into a single framework. The GST Network's improved transaction traceability has improved the overall buoyancy of indirect tax revenues and reinforced enforcement procedures.

However, the ongoing institutional improvement will be necessary for this framework's long-term effectiveness; especially with regard to revenue settlement, conflict resolution, and adaptation to changing economic conditions. High levels of accuracy and speed are required for the IGST settlement process; which divides revenues between the Union and the States based on intricate transactional data. Delays or inconsistencies in this procedural part could cause financial problems for the state and erode trust in the system. Therefore; maintaining the GST framework's credibility requires bolstering the administrative and technological infrastructure that supports revenue settlement. The necessity of creating a strong and impartial conflict resolution process is equally crucial.

²⁹ Constitution of India, art 301.

The Conflicts over revenue sharing, credit allocation; and place of supply are likely to arise more frequently as the volume and complexity of the interstate transactions rise. The stability of center-state; fiscal relations may be impacted by protracted disputes and uncertainty brought on by the lack of an impartial adjudicatory venue. Therefore; one of the most important steps in closing this institutional vacuum would be to establish the independent tribunal or quasi-judicial body that Article 279A (11) envisions. Additionally, the GST structure needs to constantly adjust to new economic realities, especially in light of the digital economy and changing company models. The application of place of supply regulations and the distribution of tax revenues face new difficulties due to the growing prominence of e-commerce, cross-border digital services, and the intangible transactions.

In addition to legal changes, the GST Council must develop proactive policies to address these issues. Maintaining the fine balance between consistency and the adaptability is another crucial factor. Economic integration requires a single tax system, but it must also take into account the various fiscal requirements and developmental goals of several governments. Maintaining the federal character of the Constitution depends on ensuring that; states maintain a significant level of fiscal autonomy within the GST system. Article 269A will continue to be a pillar of India's fiscal federal structure as the GST regime develops. It will also influence the dynamics of Centre-State interactions and guarantee that the values of efficiency, cooperation, and equity are maintained in the administration of indirect taxes.

The ability of these institutions to address new issues, build confidence between the Union and the States; and preserve the fundamental principles of cooperative federalism that form the basis of the GST system will determine its sustained efficacy.

CHAPTER III

3. THE FEDERALISM CONFLICT: STATE AUTONOMY VS. CENTRALIZATION

3.1 THE EROSION OF STATE FISCAL AUTONOMY.

The unrestricted authority of subnational governments to unilaterally choose their tax bases, set their tax rates, and manage collections—subject only to broad constitutional limitations—is the hallmark of true fiscal federalism³⁰. Since it guarantees that constituent units have the financial independence to carry out their constitutional duties, this idea is therefore essential to the operation of any federal polity. According to traditional federal thought; fiscal autonomy is a structural requirement rather than just an administrative convenience that allows states to adjust their economic policies to local needs and preferences while still being answerable to their voters. This autonomy is significantly and permanently restricted by the Indianized tax paradigm.

Also, States gave up about 51.8% of their total independent tax income base to the concurrent regime by consenting to absorb state-level Value Added Tax, central sales tax, entry tax, octroi, and; luxury tax into the unified framework. In sharp contrast, the Centre retained complete control over profitable areas like direct corporate and income taxes, giving up only 28.8% of its revenue base. The fundamental imbalance in the GST regime is reflected in this asymmetry, wherein states make substantially larger fiscal sacrifices than the Union. This change must be viewed in the larger constitutional framework of India's "quasi-federal" system, in which the Union has traditionally held a dominant position.

However; states maintained significant autonomy in the area of indirect taxes previous to the implementation of GST, especially with regard to the authority to impose Value Added Tax on intra-state commerce. Moreover, states were able to produce independent revenue, exercise significant fiscal discretion, and modify tax rates in response to local

economic situations thanks to this autonomy. By shifting important facets of tax policy,

³⁰ KJ Joseph, *India's GST Paradigm and the Trajectory of Fiscal Federalism* (National Institute of Public Finance and Policy 2022) <https://nipfp.org.in/media/medialibrary/2022/12/KJJ.pdf>; accessed 20 March 2026.



such rate determination and exemptions, to the GST Council's collective decision-making structure, the shift to GST has significantly changed this setup. The current vertical fiscal imbalance in India has been significantly worsened by this excessive ceding of fiscal sovereignty. States currently manage vital sectors including public health, primary education, agriculture, and law and order, and they are constitutionally tasked with carrying out around 60% of all government expenditures. However, they only autonomously collect about 40% of all national revenue. States are structurally dependent on transfers from the Union to fulfill their spending responsibilities as a result of this mismatch.³¹

By limiting states' capacity to freely mobilize resources, the GST framework exacerbates this dependency. States could exercise some counter-cyclical fiscal policy under the pre-GST regime by raising VAT rates or imposing other charges during times of financial strain. Such unilateral action is no longer feasible under GST, though, since the GST Council must reach a majority before tax rates can be changed.

This severely restricts states' ability to respond to sector-specific crises, natural disasters, or limited economic downturns. State governments are now precariously dependent on central transfers, Finance Commission awards, and the political consensus of the GST Council to meet their sovereign budgetary requirements because they lack the unilateral constitutional authority to modify sales tax rates during localized economic downturns or natural disasters. Because it exposes state economic policy to the dynamics of intergovernmental negotiation inside the Council, this dependence is not only financial but also political.³²

During the 2020 GST Compensation crisis, when states experienced severe revenue shortages as a result of the COVID-19 pandemic's economic effects, the consequences of this dependence became more clearer. The concerns connected with the depletion of independent revenue streams were highlighted by the Union's initial unwillingness to properly compensate states for these losses, exposing the flaws in the GST framework.

³¹M Swaroop, 'Fiscal Federalism in the GST Era' (2025) *Veredas do Direito* <https://revista.domhelder.edu.br/index.php/veredas/article/view/3703> ;accessed 20 March 2026.

³² Sumalatha B S, Anitha Kumay L and V P Nirmal Roy, *Issues and Challenges of Fiscal Federalism in India: An Analysis on the Centrally Sponsored Schemes*, (GIFT Discussion Paper Series 14/2025, Gulati Institute of Finance & Taxation 2025) <https://www.gift.res.in/wp-content/uploads/2025/11/Issues-and-Challenges.pdf> ; accessed 20 March 2026.

The episode emphasized that states with few independent revenue streams are more vulnerable to economic shocks and that fiscal autonomy and fiscal resilience are strongly related.

Furthermore, democratic accountability is affected by the GST's centralization of tax policy. In a federal system, the states' accountability to their voters is strongly linked to their capacity to; create and carry out their own tax laws. The relationship between taxation and representation at the state level is weakened when fiscal choices are taken at a centralized forum like the GST Council as the state governments are constrained in their ability to respond to- the preferences and needs of their constituents.

The effect on the state competition and fiscal innovation is another; crucial aspect of this problem. Although excessive tax competition can be inefficient, some level of competition is desirable as it can stimulate innovation and efficiency in tax administration. The standardisation imposed by the GST, though good for integration, may have a negative impact by constraining fiscal innovation through experimentation with tax policy. Additionally, states' budgetary sensitivity to changes in the country's economic performance has increased due to their reliance on GST revenues.

As a consumption tax, the buoyancy of GST depends on economic growth. In times of economic downturn, states may face substantial revenue shortfalls, without the capacity to fully compensate. This reaffirms the need for a sound and effective compensation mechanism, and the importance of developing additional sources of revenue to maintain fiscal stability. Loss of fiscal autonomy also affects inter-governmental relations. The greater dependence of states on Union for financial support may shift the balance of power in the federation in favour of a more centralised governance. This is a critical consideration in India - where federalism has been found to be part of the basic structure of the Constitution in *Kesavananda Bharati v. State of Kerala*³³. So, any significant loss of state autonomy raises constitutional concerns about the protection of this basic feature

Academic studies have also pointed out that the GST regime is a move from "cooperative federalism" to "coercive federalism", where the states are forced to adopt policies influenced by the centre because of their financial stresses. This description

³³ *Kesavananda Bharati v State of Kerala* (1973) 4 SCC 225

highlights the; conflict between the GST regime's unequal power allocation and the principles of the shared governance.

At the same time, it must be acknowledged that the erosion of fiscal autonomy is not an unintended consequence but rather an inherent feature of the GST framework. The objective of creating a unified national market necessitated a degree of centralization and harmonization, which inevitably involved trade-offs in terms of state autonomy. The challenge, therefore, lies in ensuring that these trade-offs do not undermine the foundational principles of federalism.

In this context, the role of institutional mechanisms such as the Finance Commission becomes increasingly important. By recommending the distribution of tax revenues between the Union and the States, the Finance Commission plays a crucial role in addressing vertical fiscal imbalance and ensuring that states have adequate resources to fulfil their responsibilities. However, the effectiveness of these mechanisms depends on their ability to adapt to the changing dynamics of fiscal federalism under GST.

In summary, the loss of state autonomy under the GST system is one of the biggest challenges to India's federal system. Although it has been successful in promoting economic integration and tax harmonisation, this has come at the expense of state fiscal autonomy. The future viability of this approach will be determined by the capacity of policymakers to re-establish a balance between centralisation and autonomy, enabling the states to have adequate fiscal autonomy to play a role in the federal polity..

3.2 THE REPUGNANCY CONUNDRUM: ARTICLE 246A VS. ARTICLE 254

A crucial, but legally uncertain, constitutional issue concerns the resolution of conflicts between Central and State laws passed under the new constitutional scheme. The old constitutional framework deals with the doctrine of repugnancy for matters falling under the Concurrent List (List III) under Article 254. It clearly provides that a law of Parliament will prevail over a law of a state, and the state law will be void to the extent of the repugnancy, unless the state law has been reserved for the President and assented to by him. This theory has historically functioned as a constitutional safety net,



preserving consistency in the domains of concurrent legislative authority but permitting a restricted amount of state law divergence with the President's approval.³⁴

Article 254 jurisprudence has been settled through a line of judicial pronouncements where the courts have consistently held that repugnancy exists where there is a direct repulsion, an intention to occupy the field completely or where it is impossible to obey one law without disobeying the other. This offered a clear and consistent means of resolving legislative disputes, ensuring certainty and consistency in the federal framework.

However, this established framework is significantly disrupted by the implementation of the GST regime under the Constitution (One Hundred and First Amendment) Act, 2016. Article 246A, which grants concurrent taxing powers to the Union and the States, starts with a strong non-obstante clause: "Notwithstanding anything contained in articles 246 and 254". This particular expression is of critical constitutional import, as it seems to not only disregard the allocation of legislative powers under Article 246, but also the doctrine of repugnancy under Article 254.

This poses an interesting problem of statutory interpretation: if Article 254 is expressly excluded, how will repugnancy between Central and State GST laws be determined? This is not easy to answer. Given that the Union Parliament and State Legislatures have equal, simultaneous legislative power to make laws with respect to the same subject matter (that is, the taxation of the supply of goods and services), a pure inconsistency between a provision of the Central Act and a State Act gives rise to a serious constitutional morass. While there is an absolute hierarchy of laws in case of inconsistency in respect of existing concurrent subjects, the GST model does not contain an explicit constitutional provision for resolving such inconsistency. This creates a novel uncertainty in the Indian constitution. The 101st Amendment does not contain any constitutional tie-breaker provision, and theoretically leaves it to the GST Council to "advise" on repugnancy. But this begs the question of the binding nature of such advice.³⁵ Established under Article 279A; the GST Council is an advisory body with no legislative capacity to make decisions. This was unequivocally confirmed by

³⁴Ajitesh Kir, 'India's Goods and Services Tax; A Unique Experiment in Cooperative Federalism and a Constitutional Crisis in Waiting' (2021) 69(2) *Canadian Tax Journal* 391.

³⁵ Ajay A & Chithirai Selvan M, 'GST and Constitutional Federalism in India; A Critical Analysis of Article 246A's Impact on Centre-State Fiscal Relations' (2025) 23(3) *South India Journal of Social Sciences* 33.

the Supreme Court in, *Union of India v. Mohit Minerals Pvt. Ltd*³⁶; where the Court held that the recommendations of the GST Council are not binding on either the Union or the States.

It is problematic to rely on the GST Council to settle legislative problems in light of this judicial clarification. A clear constitutional rule cannot be replaced by the Council's suggestions, even if they are convincing. This results in a potential for conflicting GST laws to coexist - creating uncertainty in its administration and implementation. This problem is especially pronounced in matters such as rate setting, exemptions, and procedural requirements, where even slight variations in Central and State laws could result in compliance difficulties for multi-state taxpayers. Without a clear priority rule, businesses may be subjected to conflicting legal requirements, thus risking legal disputes and administrative confusion.

Theoretically, one approach is to interpret Article 246A as giving rise to a unique type of concurrent jurisdiction, separate from the old Concurrent List in Article 246. In this view, the ordinary principles of repugnancy do not apply and conflicts are resolved through harmonious construction or cooperative federalism. But this interpretation places a significant burden on the judiciary and lacks the certainty and certainty of a rule.

Alternatively, one could rely on the doctrine of pith and substance to ascertain the real character of laws and reconcile incidental conflicts. But this doctrine is usually invoked to determine the competence of the legislation, rather than in cases of conflict, and its role in GST remains unclear.

The lack of a clear rule for resolving conflicts also has implications for the uniformity of the GST system. Among the key goals of the GST was to establish a uniform system of taxation across India, with goods and services subjected to a uniform rate of tax. But if the states are allowed to adopt different rules than central laws and there is no specific constitutional restriction, this may result in a lack of uniformity and defeat the very objective of the reform.

On the other hand, it must be understood that the decision to exclude Article 254 from the GST may have been a conscious choice by the constitution-makers to respect state

³⁶Union of India v Mohit Minerals Pvt Ltd; (2022) 4 SCC 481.

autonomy. By dodging the supremacy of Parliament, the drafters of the amendment have tried to establish a system where the Union and the States are equal partners in the GST system. But this uniformity is at the expense of certainty, as it eliminates a reliable source of resolution of conflicts.

The problem with repugnancy is the conflict between diversity and uniformity. On one hand, it is crucial to preserve the federal structure of the Constitution by enabling the states to exercise legislative autonomy. On the other hand, widespread variations in tax regimes can impede the functioning of the national market.

The question thus becomes one of balancing these interests. The absence of a clear rule in relation to repugnancy not only introduces uncertainty for lawmakers and administrators, but also places a greater burden on the courts, which may need to decide such conflicts on an ad hoc basis.

In practice, the outcome of conflicts under the GST regime is likely to be determined by a combination of political decision-making (within the GST Council) and judicial interpretation (by constitutional courts). Although this pragmatic approach may enable responses tailored to specific circumstances, it also creates a level of uncertainty that can impact on investment and economic certainty.

Moreover, the question of repugnancy is not just relevant to the GST. It has implications for the very idea of federalism in India and the capacity of the Constitution to accommodate multiple legislative competencies without prioritisation. The GST scheme is a major departure from conventional federalism and its sustainability will rely on the capacity of institutions to cope with the complexities.

In summary, the interplay of Articles 246A and 254 gives rise to a constitutional conundrum, in the form of a situation where there is no clear mechanism for devising a solution to a conflict in a field of concurrent legislative power. This scheme may be an innovative model of cooperative federalism, but it brings with it considerable problems of certainty, efficiency, and federal balance. Resolving this dilemma will require a mix of legislative clarity, institutional adjustment and judicial interpretation to ensure that the GST regime does not stray from constitutional principles of federalism and the rule of law.

3.3 THE GST COMPENSATION CESS CRISIS OF 2020

In order to convince heavily industrialised and manufacturing states to relinquish their sovereignty over taxation and accept the shift to a destination-based consumption tax, the Union gave a sovereign guarantee of compensation for revenue loss over a transition period of five years (July 2017 to June 2022). This guarantee was not just a political quid pro quo but a central element of the federal bargain on the GST regime, without which some states may not have been willing to surmount their constitutionally protected fiscal sovereignty. The compensation was designed to alleviate the concerns of manufacturing states about the considerable revenue loss they feared as a result of transitioning from an origin-based to a destination-based tax system. This statutory assurance, enshrined in the Goods and Services Tax (Compensation to States) Act, 2017, entailed a very aggressive 14% year-on-year nominal growth over the base year of 2015-16 tax revenue. This was much higher than the historical growth rate of tax revenues of states, and was based on the political need to make a strong promise to the states in the GST negotiation process. As a result, the Act created a legal right to compensation, turning a policy promise into a duty.

This huge fiscal liability was to be met with a specific Compensation Cess on "sin" and luxury items, including tobacco, aerated water, coal and certain types of motor vehicles.³⁷ The underlying rationale for this structure was two-fold: on the one hand, to create a specific tax stream that would not draw on the general tax pool, and, on the other hand, to harmonise the compensation mechanism with public policy goals by levying tax on items that were linked with negative externalities. The cess was designed to be temporary, with a life of five years (co-terminus with the compensation period), thus emphasising the transitory nature of the deal.

However; the compensation mechanism's design was vulnerable to macroeconomic shocks. It relied on the premise of economic growth and healthy tax receipts, without being robust to systemic shocks. This was clearly exposed in 2020 when the COVID-19 pandemic led to an economic downturn and adversely affected tax collections, including the GST, across the nation.

³⁷ PRS Legislative Research, 'Cost of GST Compensation' <https://prsindia.org/theprsblog/cost-of-gst-compensation?page=117&per-page=1> ; accessed 20 March 2026.

The "sovereign commitment" broke down dramatically in 2020 due to the COVID-19 pandemic. The deep economic downturn led to a steep decline in the national tax collections, and an estimated revenue loss of ₹2.35 lakh crore in the earmarked Compensation Fund. The shortfall highlighted the vulnerability of the compensation system, as cess receipts were not enough to honour the compensation amounts. It was also exacerbated by the parallel rise in government spending for states, especially in health and social security, thus compounding the sub-national debt burden.

In a somewhat controversial and divisive decision from a federal perspective, the Union Government initially refused to fully compensate the shortfall from the Union's coffers. The Union Government contended that of the total deficit, only ₹97,000 crore was attributable to structural issues in the roll-out of the new regime, whereas the remaining ₹1.38 lakh crore was an "Act of God" (the pandemic) for which the Union is not constitutionally or statutorily liable to provide compensation. This categorisation of "GST-related shortfall" and "Act of God shortfall" was roundly condemned by states and academics as artificial and without any statutory basis, since the statutory guarantee under the 2017 Act did not explicitly carve out such a distinction.

The Union's stance also brought into question the nature of the guarantee. While the Union interpreted the guarantee as conditional, applying only to losses incurred in the implementation of GST, the states contended that the guarantee was unconditional and absolute, and constituted a crucial component of the constitutional bargain that facilitated the GST transition. This semantic difference highlighted the lack of clarity in the statutory provisions and raised the likelihood of disputes in the absence of clear constitutional protections.

The Union offered the states two options to borrow money to finance the shortfall, effectively seeking to transfer the sovereign debt to the states' balance sheets. The first option involved the states borrowing a certain amount equal to the "GST implementation shortfall" from a special window provided by the Reserve Bank of India. Alternatively, states could borrow the full shortfall, including the "Act of God" shortfall with some financial assistance from the Centre.

This option was met with vehemence from a few states, notably led by Kerala. They claimed that the compensation promised under the 101st Amendment was a contractual promise at the constitutional level - it was an institutionalisation of the jurisprudential

"anti-coercion principle". This theory of federalism suggests that sub-national governments should not be forced to give up their constitutional powers unless they are guaranteed adequate and enforceable compensation. This theory of federalism suggests that sub-national governments should not be forced to give up their constitutional powers unless they are guaranteed adequate and enforceable compensation.

The dispute also highlighted the principle of fiscal federal morality, which relates to trust and respect in the Centre-State relationship. The Union's failure to fully meet its compensation obligation was viewed by many states as a breach of this norm, and in turn, as a breach of trust, essential for the success of cooperative federalism. The incident highlighted that the efficacy of the GST regime rests not just on its legal structure but also on the political commitment and integrity of its actors. The Union-State dispute triggered extensive discussions within the GST Council, which became the focal point for negotiations. Yet, the failure of the Council to quickly settle the dispute underlined its likely inefficiency as a dispute settlement body, especially when the Centre and the States are in deep disagreement. It also underscored the need for an independent adjudicatory mechanism as provided for under Article 279A (11)³⁸.

Eventually, after months of political wrangling and intense pressure from the states, the Union conceded and agreed to borrow money through a special borrowing window and lend the same to the states as back-to-back loans. While this approach offered a short-term fix, it was not a complete solution, as the loan funds would eventually have to be repaid from future cess collections, thus, prolonging the compensation period beyond its intended duration. The situation also had ramifications for the future of India's fiscal federalism. It revealed the power imbalance between the Union and the States in the GST system, as well as the vulnerabilities of depending on centrally managed compensation transfers.³⁹

The crisis also had broader implications for the future of fiscal federalism in India. The crisis showed that statutory assurances, without constitutional and independent enforcement, might not be sufficient to safeguard the interests of the states during an economic downturn. The dependence on a single cess fund was insufficient to address large-scale economic shocks and therefore alternative arrangements like permanent

³⁸ Constitution of India, art 279A (11)

³⁹ Yash Sinha, 'GST Compensation to States; An Ineluctable Obligation on the Union' (2021) 14 NUJS Law Review 1

revenue equalization funds or greater devolution through the Finance Commission may be required

Although the GST system is touted as an example of inter-governmental cooperation, the 2020 crisis shows that such cooperation is dependent on the congruence of economic and political interests. When these conditions do not prevail, the system could revert to a more confrontational model of federalism, involving negotiation and dispute resolution.

To conclude, the GST Compensation Cess Crisis of 2020 is a pivotal moment in the development of fiscal federalism in India. It raises questions about the balance between the principles of cooperation and the realities of centralisation, and the need for robust institutional mechanisms and constitutional clarity. Although the crisis was temporarily averted through political deal-making, its legacy still resonates in the debate over Centre–State relations in the GST era, as a reminder of the difficulties of achieving economic integration while preserving the autonomy of the states.

3.4 THE COLLATERAL DAMAGE: IMPACT ON LOCAL SELF- GOVERNMENTS

The While the academic and political discourse on fiscal federalism is mostly centred on the relations between the Centre and the States, the new regime has had a significant and adverse impact on the third tier of governance in the country: Urban Local Bodies (ULBs) and Panchayati Raj Institutions (PRIs). This aspect is not fully addressed in the debate on GST, but the impacts at the local level are profound. Designed by the historic 73rd and 74th Constitutional Amendments, the Articles 243W and 243X envisaged financially strong and active local governments with the potential for self-governance and local infrastructure building.⁴⁰ These amendments aimed to institutionalize decentralization through constitutional recognition of local bodies and envisaging them to be self-governing units with their own financial power. The constitutional intent of the amendments was based on the idea that governance should be as close to the people as possible. As a result, local bodies were given important responsibilities such as urban planning, water supply and sanitation, public health and local infrastructure. Yet the

⁴⁰ Indian Institute of Public Administration, *Municipal Finance; A Case for a Statutory Share in State March*



fulfilment of this vision hinged on the availability of financial resources, which were to be ensured through a mix of assigned taxes, grants-in-aid and the recommendations of the State Finance Commissions.

Prior to the 2016 reform; octroi (entrance tax) and local body taxes were major sources of independent revenue for urban local authorities in states like Maharashtra. These taxes formed a substantial part of municipal revenues and gave local governments a level of autonomy in managing their finances, which was crucial for the delivery of services. For example, the Municipal Corporation of Greater Mumbai received almost 35% of its annual revenue solely from the taxation of octroi.⁴¹ This allowed local governments to undertake significant infrastructure works, provide municipal services and meet the demands of local populations without over-reliance on state or central government transfers.

The 101st Amendment to the Constitution comprehensively brought these critical local revenue streams within the ambit of the state tax system, but more importantly, it did not include any constitutional provision to secure a direct share of revenue to local bodies. While states were adequately compensated for their revenue losses under the GST regime through the GST Compensation formula, local bodies were left at the mercy of state governments for the devolution of revenue.

Although the Centre heavily compensated the states for their overall revenue losses, state governments have often failed to have an automated, formula-based devolution of these funds to their municipalities and panchayats. This has led to a situation where local bodies are dependent on state governments for funds, and do not have the autonomy and the resources required to carry out their constitutional obligations.⁴² The lack of a mandatory and formula-based revenue transfer has enabled states to exercise discretion over the distribution of funds, often resulting in delays, inconsistencies and inadequate funding.

This presents a paradox, where local governments are given considerable responsibilities but not the financial power to fulfil them. This fiscal disempowerment

⁴¹ Sayli UdasMankikar, 'The Impact of GST on Municipal Finances in India; A Case Study of Mumbai' (Observer Research Foundation 2018) <https://www.orfonline.org/research/the-impact-of-gst-on-municipal-finances-in-india-a-case-study-of-mumbai> ;accessed 20 March 2026

⁴² Indian Institute of Public Administration, *Municipal Finance: A Case for a Statutory Share in State GST* <https://www.iipa.org.in/publication/public/uploads/article/40771712048538.pdf> ;accessed 20 March

is especially conspicuous in cities, where the need for public services and infrastructure is soaring because of urbanisation. Cities need to be investing in key areas like transport, sanitation, housing and health care, but their revenue sources have been substantially eroded. The disbandment of lucrative and locally controlled taxes such as octroi has limited their capacity to raise revenue streams.

Likewise, rural Panchayati Raj Institutions are financially crippled, which hampers their ability to deliver development schemes and services. Their dependence on the currently limited transfers and grants, which are often late and inadequate, impairs their efficiency and responsiveness. This has a significant impact on rural development and inclusive growth, as local governments are vital in delivering government programs on the ground.

Local governments' ability to raise their own revenue holds them accountable to their citizens for revenue collection and spending decisions. But when they are dependent on grants from higher tiers of government, it is less likely to be so, creating a certain level of opacity and accountability.

The GST system also weakens the role of State Finance Commissions, which are constitutionally responsible to recommend the allocation of funds between the state and local governments. Without specific revenue sources for local bodies, the work of these commissions is complicated. This also complicates the institutional arrangements aimed at achieving fiscal decentralisation.

Constitutionally, the exclusion of local bodies raises questions about the effectiveness of Part IX and Part IX-A of the Constitution. Although these sections acknowledge the need for decentralization, their impact is adversely affected by the failure to empower local governments financially.

This discrepancy between budgetary reality and constitutional goals is a weakness in the GST system. Scholarly research has emphasized that both the empowerment of local governments and the distribution of powers between the Union and the States are essential to the success of fiscal federalism.⁴³ By overlooking local bodies in the GST revenue sharing,

⁴³ Indian Institute of Public Administration, *Municipal Finance: A Case for a Statutory Share in State GST* <https://www.iipa.org.in/publication/public/uploads/article/40771712048538.pdf> accessed 20 March

the opportunity to empower the third level of the government system and foster inclusive growth has been overlooked. Against this backdrop, reform is called for. This can be achieved through the mandatory and formulaic allocation of GST revenues to local bodies, providing them with a guaranteed and sufficient share of tax revenue. Further, bolstering the powers of State Finance Commissions and promoting greater transparency in resource allocation can help overcome the shortcomings. In short, while the GST regime has been successful in promoting national economic integration, it has undermined the financial position of local self-governments.

In summary, the GST has achieved the goal of economic integration at the cost of local self-governments' revenue.

A budgetary imbalance that is harmful to the concepts of decentralization and local democracy has resulted from the absorption of local taxes without a compensatory revenue replacement mechanism. This problem should not only be addressed for the sake of local governance, but for the wider goals of fiscal federalism to be achieved in a comprehensive and inclusive manner



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CHAPTER IV

4. THE JUDICIAL INTERPRETATION: FROM DEFERENCE TO RECALIBRATION

4.1 INTRODUCTION: JUDICIAL ROLE IN FISCAL FEDERALISM

In a constitutional democracy based on the rule of law, the superior judiciary plays a crucial role as the final interpreter of the Constitution and as the neutral umpire in disputes between the Union and the States. The judiciary plays a critical role in preserving the federal balance and equilibrium created by the Constitution through its constant evaluation of the economic goals of the government and the constitutional safeguards of regional autonomy. Historically, in the domain of taxation and economic regulation, constitutional courts have practised judicial restraint. The justification for this approach was eloquently set out in the landmark case of *R.K. Garg v. Union of India* (1981. *R.K. Garg v. Union of India*⁴⁴, 1981); where the Supreme Court stated that laws regulating economic activities are to be judged with a greater degree of tolerance than laws governing civil and political rights. The Court observed that "utilities, tax and economic regulation cases, there are good reasons for judicial self-restraint if not judicial deference to legislative judgment" since the legislature can more effectively grapple with complex issues through an iterative process.

But this licence for experimentation is not a blank cheque. The Court switches from restraint to active constitutional examination when an economic statute exhibits arbitrariness, violates clear constitutional restrictions, or is likely to permanently alter the essential federal character of the nation.

As held in the landmark, *Kesavananda Bharati v. State of Kerala*, 1973⁴⁵ the federal nature of the Constitution is a part of its "basic structure", which cannot be wiped out, even by a constitutional amendment. The courts' journey with the 101st Amendment and the GST regime serve as a great example of this: from a high level of judicial

restraint in the face of a complex economic overhaul to active judicial scrutiny to protect the sovereignty of state legislative power.

⁴⁴ RK Garg v Union of India (1981) 4 SCC 675.

⁴⁵ Kesavananda Bharati v State of Kerala (1973) 4 SCC 225



4.2 PHASE I: JUDICIAL DEFERENCE IN EARLY GST REGIME

The introduction of the Goods and Services Tax (GST) in 2017 was the most complex economic and administrative reform in independent India. The integration of diverse markets of more than one billion consumers into a technology-enabled tax regime involved not just the reform of the indirect tax regime but also the establishment of a new compliance framework around technology platforms like the GST Network. The shift from a myriad of central and state taxes to a unified dual GST system naturally resulted in substantial trade transition issues, technical glitches, and interpretational uncertainties, especially in the first few years of its roll-out.

Recognizing that the GST system was a complicated policy experiment with intricate administrative and economic factors, the Supreme Court adopted a cautious and deliberate approach at this point. The Court recognised that if it intervened too soon, it might disrupt the system and hinder the goal of economic integration. As such, it gave Parliament and the government as much flexibility as possible in designing, experimenting with and fine-tuning the new system.⁴⁶

This approach is consistent with the constitutional law doctrine that courts should be wary of intervening in economic laws, as these often involve matters of prediction, policy trade-offs and technical considerations beyond the expertise of the courts. Historically, the Supreme Court has held that greater deference should be afforded to laws dealing with taxation and economic regulation because they are informed by economic realities and policy considerations.⁴⁷

The early GST jurisprudence therefore needs to be read through the prism of the philosophy of judicial restraint where the focus of the courts was not to refine the system but to ensure that it remained within the broad constitutional framework. The courts did not view slight inequities, inconsistencies, or inefficiencies in the tax system as sufficient justifications for judicial intervention, especially in the absence of any constitutional concerns.

This doctrine of restraint was evident in *Union of India v. VKC Footsteps India Pvt. Ltd*⁴⁸. This case revolved around the "inverted duty structure" in the GST system, where

⁴⁶ MP Jain, *Indian Constitutional Law* (8th edn; LexisNexis 2018).

⁴⁷ RK Garg v Union of India (n 47).

⁴⁸ Union of India v VKC Footsteps India Pvt Ltd (2022) 2 SCC 603.

the rate of tax on input goods or services is higher than the rate of tax on the outward supply, resulting in an accumulation of unutilized Input Tax Credit (ITC). The structural anomaly is peculiar to some industries where the tax rate on inputs exceeds the tax rate on outputs, causing the accumulation of credit which cannot be completely offset against the tax payable on the outputs.

The taxpayers contested Rule 89(5)⁴⁹ of the Central Goods and Services Tax Rules (2017) that contained a formula for the refund of unutilized ITC. The provision allowed refunds of ITC on input goods but did not provide for refunds of ITC on input services. The taxpayers argued that this bifurcation was arbitrary and went against the grain of GST as a value-added tax (VAT) system, in which smooth flow of credit is fundamental. They claimed that the distinction between input goods and input services was artificial and defeated the purpose of removing cascading effect of taxes, leading to economic distortions.

The dispute was also raised in constitutional terms, with taxpayers claiming that the distinction between goods and services was not based on a rational classification, and thus, violated Article 14⁵⁰. It was argued that goods and services are integral parts of the supply chain and the differentiation between goods and services for the purpose of claiming refund undermines the integrated nature of GST. The Supreme Court, although noting that the formula prescribed under Rule 89(5) is not ideal and would result in some inequities, refused to invalidate the provision. The Court noted that the GST law is the outcome of a legislative process in which various interests are involved, and that it is not for the judiciary to redesign the fiscal policy or cure perceived flaws in the legislative schemes. The Court was adamant that it is "not the function of the judiciary in the fiscal field to demand that Parliament should so frame its legislation as to secure a uniform structure or to extend the scope of a refund beyond the limits expressly laid down by the legislature". Citing the established rule of "greater latitude" in the realm of economic legislation, the Court reiterated that the legislature has a right to classify and distinguish on the basis of policy grounds, even if it leads to some anomalies and inequities. A key element of the Court's reasoning was that the right to refund is a statutory right, and not a constitutional one. The Court observed that the statutory provisions on GST refunds prevail and taxpayers are not entitled to a refund as a

⁴⁹ Central Goods and Services Tax Rules 2017, r 89(5).

⁵⁰ Constitution of India, art 14.

fundamental right. As a result, the extent and conditions of refunds are entirely within legislative prerogatives and any expansion of such right must be done by way of legislative reform, and not judicial fiat. The Court also highlighted the difference between policy and constitutionality, noting that what may be a bad policy or even one inefficient in economic terms does not necessarily render it unconstitutional. This is a key aspect of the doctrine of judicial restraint, which requires courts to avoid usurping the role of the legislature in the policy-making process. Crucially, the Court did not invalidate the rule, despite acknowledging its flaws, and recommended that the issue be reconsidered by the legislature or the GST Council. This kind of approach exemplifies a "dialogic" model of judicial review, in which the judiciary points out possible problems but leaves the matter to the relevant institutional actors.

The VKC Footsteps decision therefore reflects the judiciary's approach during the initial phase of GST implementation - a phase marked by a sense of humility, respect for legislative autonomy, and awareness of the intricacies of economic reform. Rather than being an active player, the Court took on the role of a stabilising force, allowing the system to develop in its organic form

This time frame also demonstrates the Court's understanding of the GST Council's function within the GST system. While the Court did not explicitly discuss the binding nature of the Council's recommendations in this case, its hesitance to interfere with policy-making implicitly recognised the Council's role in defining the GST regime.

By deferring constitutional scrutiny of the system until it had had time to settle in, the judiciary ensured that any subsequent judicial interventions would be based on practical experience and a greater understanding of how the system worked. But this strategy had its drawbacks. The unwillingness to intervene in cases of structural injustice led to concerns over the extent of judicial protection afforded to taxpayers, especially when statutory provisions imposed substantial financial burdens on taxpayers. Some argued that this approach might entrench inefficient policy, thus contravening the goals of equity and efficiency.

However; the judiciary valued institutional stability over doctrinal purity during the early stages of GST jurisprudence, which must be seen as a transitional period. This period set the stage for the subsequent evolution towards a more interventionist

approach, as seen in subsequent cases that more closely examined the constitutional challenges posed by the GST system.

4.3 LIMITS OF DEFERENCE: WHEN COURTS INTERVENE

A The courts are highly deferential of economic policy-making but draw the line against executive or legislative action that goes too far and is clearly arbitrary or ultra vires (beyond the powers) of the Constitution. The courts' latitude in the economic sphere is constrained by constitutional rights. This approach is consistent with a longstanding constitutional principle: while tax laws enjoy a presumption of constitutionality, it is not an unfettered presumption and cannot be invoked to justify unconstitutional government action.

The Supreme Court has consistently argued that economic laws need to be scrutinised with a certain degree of flexibility due to their policy nature and technicalities involved. But this flexibility is subject to the legislation remaining within the bounds of constitutional considerations such as legislative competence, equality before law, and non-arbitrariness.

T.N. Kalyana Mandapam Assn. v. Union of India⁵¹ is a significant precedent defining the limits of legislative authority in indirect taxation. In this instance, the petitioners contested the constitutionality of imposing a service tax on mandap-keepers (banquet halls), claiming that it was in "pith and substance" a tax on land and a tax on the sale of goods—both exclusive subjects of the State List (List II)—because it involved land/buildings and the provision of food.

The Supreme Court upheld the tax, dissecting the transaction so as the Union could exercise its residuary power to tax the "service" aspect without reference to the state's power to tax the goods or land. The Court adopted the pith and substance and aspects theories to conclude that a transaction may have multiple taxable aspects, which can be separately taxed by different tiers of the government. This decision is of immense importance in the GST regime. In the GST regime, where the categorisation of goods and services has been largely collapsed into the concept of "supply", the Kalyana Mandapam principles continue to be applied to determine legislative power. The case demonstrates that the judiciary is willing to implement innovative tax policies, but only

⁵¹ Tamil Nadu Kalyana Mandapam Assn v Union of India (2004) 5 SCC 632

if they are doctrinally sound and supported by the constitution. However, the courts have also shown a clear reluctance to sustain fiscal and economic initiatives which have arbitrary consequences. The doctrine of manifest arbitrariness, which has gained a prominent place in the law of invalidity of laws under Article 14, is an important safeguard against legislative and executive overreach. This doctrine acknowledges that laws that are arbitrary, irrational or disproportionate cannot be upheld simply because they are part of economic policy.

The case of *Hindustan Construction Co. Ltd. v. Union of India*.⁵² solidified this theory. Here, the Supreme Court invalidated Section 87 of the Arbitration and Conciliation Act which reimposed a mandatory stay on the enforcement of arbitral awards if they were challenged. This provision effectively gave arbitral awards a "stay" for a long time, thereby resulting in financial prejudice to award-holders. The Court concluded that the retrospective effect of this provision was clearly arbitrary, because it undermined the very purpose of arbitration and placed an unfair burden on award-holders. The decision highlighted that legislative measures resulting in unjust, oppressive and unintelligible outcomes cannot be justified in the name of policy. While not a tax case, the principles put forth in *Hindustan Construction* have important ramifications for tax law, such as GST.

In the context of GST, where much of the law is given effect by way of delegated legislation (rules, notifications, circulars, etc.), the risk of arbitrariness is acute. The executive has a great deal of freedom in setting up the legislative framework and must do so within the confines of constitutional and statutory power.

Moreover, courts have laid stress on the fact that the principle of equality under Article 14 of the Constitution applies to taxation laws. Reasonable classification is allowed, but it must be based on intelligible differentia and must be rationally connected to the object to be attained. Invidious distinctions without a rational basis are open to challenge. In this regard, the case law referred to above is a warning bell for the GST. They highlight that although the courts may initially be prepared to defer to the Union to allow the GST to bed down, they are not bound by this and can withdraw deference if the circumstances arise.

⁵² *Hindustan Construction Co Ltd v Union of India* 2019 AIR Online SC 1567.

The tension between judicial deference and judicial intervention, therefore, represents a dynamic balance, with courts responding to the nature of the constitutional question involved. Minor infractions in the design of policy may be forgiven, but more fundamental violations of constitutional principles will not.

4.4. THE CONSTITUTIONAL TURNING POINT: UNION OF INDIA V. MOHIT MINERALS PVT. LTD.

The Supreme Court's ruling in *Union of India v. Mohit Minerals Pvt. Ltd.* (2022) put an end to an era of generalised judicial deference, and unambiguously reset the constitutional boundaries of India's fiscal federalism. This is the most important decision interpreting the 101st Amendment.

4.4.1 FACTS OF THE CASE

The case involved the import of non-coking coal into India on a Cost, Insurance, and Freight (CIF) basis by corporate entities. Under a CIF arrangement, the foreign supplier bears the obligation of providing transport and insurance for the goods to the port of importation in India, and as such, pays the foreign shipping line for the ocean freight. The Indian importer, on its part, discharges a lump sum amount to the foreign exporter, covering the cost of goods, insurance and freight. At the time of import, the importer pays customs duties, which includes Integrated Goods and Services Tax (IGST), on the value of the transaction, which is inclusive of the freight cost. The Union Government, however, in compliance with the recommendations of the GST Council, has issued a slew of notifications including Notification No. 8/2017-Integrated Tax (Rate)⁵³ and Notification No. 10/2017-Integrated Tax (Rate)⁵⁴—seeking to levy an additional IGST specifically on the ocean freight component of such transactions. These notifications effectively considered the supply of transportation services (by a foreign shipping line) to a foreign exporter as a taxable supply, distinct from the overall import transaction.

Importantly, the foreign shipping line and the foreign exporter were not made liable to pay this additional tax, but instead, the tax was made payable by the Indian importer under the Reverse Charge Mechanism (RCM). Thus, the importer, who was not a contractual recipient of the transportation service, was considered the recipient of the

⁵³ Notification No 8/2017–Integrated Tax (Rate); 28 June 2017, Gazette of India.

⁵⁴ Notification No 10/2017–Integrated Tax (Rate); 28 June 2017, Gazette of India.



service for tax purposes and was liable to pay Integrated Goods and Services Tax (IGST) on the ocean freight component again.

This regulatory framework led to a situation where the same freight component was taxed twice - first as a component of the composite value of imported goods at the time of customs clearance, and again as a separate service subject to RCM. The importers questioned this tax on several grounds - that it constituted double taxation, breached the laws governing composite supply under the GST, and went beyond the legislative powers vested in the Integrated Goods and Services Tax (IGST) Act, 2017. The case therefore brought into question the scope of delegated powers, meaning of "supply" under GST, and the constitutional legality of levying tax on a party which was not involved in the supply of services.

4.4.2 ISSUES BEFORE COURT

The respondent corporations challenged the notifications before the Gujarat High Court, which struck them down as unconstitutional. The Union of India appealed to the Supreme Court. The core issues before the apex court were:

1. Whether the levy of separate IGST on ocean freight in a cost, insurance and freight (CIF) contract, where IGST had been paid on the value of the total import was an instance of unconstitutional dual taxation.
2. Whether the executive notifications - declaring the Indian importer as the "recipient" of shipping services (when the service was contracted between two foreign entities) - were ultra vires the IGST Act.
3. Most importantly, whether the recommendations of the GST Council under Article 279A were binding on the Union and the States, and thereby, the delegated legislation was valid.

4.4.3 COURT'S FINDINGS

The Supreme Court, in *Union of India v. Mohit Minerals Pvt. Ltd.*, undertook a rigorous and layered analysis of the impugned levy, ultimately dismantling the Union's arguments on both statutory interpretation and constitutional principles. The judgment is particularly significant not only for the relief granted in the specific dispute but also for the broader doctrinal clarity it provides on the limits of delegated legislation and the interpretation of key concepts under the GST.



I. OCEAN FREIGHT TAX INVALID: VIOLATION OF COMPOSITE SUPPLY AND DOUBLE TAXATION

The categorization of a CIF transaction as a "composite supply" under the definition in Section 2(30)⁵⁵ read with Section 8⁵⁶ was crucial to the Court's reasoning of the Central Goods and Services Tax Act, 2017. The Court noted that in a CIF contract, the supply of goods, insurance and freight are inherently tied to, and supplied together in the course of business, and constitute an undivided transaction.

The Court highlighted that the GST statute is premised on the notion that a composite supply must be taxed as a whole, and the taxing rate should reflect the nature of the principal supply, in this case, the supply of goods. Once the importer pays IGST on the total value of the imported goods at the time of customs clearance (including the freight and insurance charges), the entire transaction is taxed in accordance with the statutory scheme. In this backdrop, the attempt by the Union to club the ocean freight component alone and levy it separately under the Reverse Charge Mechanism (RCM) was found to be against the design of the statute.

The Court firmly stated that such a split of a composite transaction is not allowed under the GST law, as it breaks the smooth credit flow and defeats the very purpose of removing cascading effect of taxation. The Court also pointed out that the contested levy led to an outcome of double taxation of the same component, as the ocean freight component was already factored into the value of the imported goods for the purpose of levying IGST at the time of customs clearance. The levy of a further tax on the same component (albeit under a different name) equated to double taxation without express legislative authority. Although double taxation is not expressly prohibited under the Constitution, the Court pointed out that the consequence of double taxation must be backed by express and unmistakable statutory authority, which was lacking in the instant case. In its absence, the levy was found to be arbitrary and contrary to the spirit of GST as a value-added tax.

The judgment thus reinforces the doctrinal position that the concept of composite supply is not merely a definitional provision but a substantive safeguard against

⁵⁵ Central Goods and Services Tax Act 2017, s 2(30).

⁵⁶ Central Goods and Services Tax Act 2017, s 8.

artificial fragmentation of transactions for the purpose of taxation. By invalidating the levy, the Court upheld the integrity of the GST framework and reaffirmed its foundational objective of avoiding tax cascading.

II. DELEGATED LEGISLATION ULTRA VIRES: LIMITS OF EXECUTIVE POWER UNDER GST

Other than the statutory vices, the Court also carefully scrutinised the impugned notifications under the doctrine of ultra vires delegated legislation. Sections 5(3) and 5(4)⁵⁷ of the Integrated Goods and Services Tax Act, 2017 the Union Government purports to identify categories of supply on which tax is to be paid under the Reverse Charge Mechanism (RCM). But the Court explained that while the legislature can delegate the power to specify certain categories of transactions for RCM, it cannot delegate the power to change the nature of the transaction or parties to the transaction.

By delegated legislation, the government cannot impose a tax when no tax is levied under the parent act or expand the scope of the charging provision statute.⁵⁸

In this case, the notifications attempted to identify the importer in India as the "recipient" of the transportation service rendered by a foreign shipping line to a foreign exporter. The Court considered this to be legally incorrect, as the importer was not a party to the contract of carriage and was not the direct recipient of the service under the contract. The service was provided by the shipping line to the exporter, and the importer was merely a recipient of the goods in a single transaction.

The Court ruled that it was not possible to create such a fiction, as it exceeded the limits of delegated legislation and intruded into the realm of the legislature.

The Court's ruling upholds the long-standing rule that subordinate legislation cannot contain substantial elements that alter the legislative system and must instead stay within the parameters of the parent Act. If it attempts to do so, the delegated legislation would risk being declared ultra vires.⁵⁹ Moreover, the Court stressed that tax laws should be construed narrowly, and in case of any doubt, in favour of the taxpayer.

⁵⁷ Integrated Goods and Services Tax Act 2017, ss 5(3) and 5(4).

⁵⁸ Vikram Karuna, 'Beyond One Nation, One Tax; Constitutional Limits in Mohit Minerals' (2026) 9(7) *IRE Journals*; <https://doi.org/10.64388/IREV9I7-1713324> accessed 20 March 2026

⁵⁹ General Officer Commanding-in-Chief v Subhash Chandra Yadav (1988) 2 SCC 351

Taxing a person who is not expressly liable to tax as a "recipient" under the tax law runs afoul of the rule of certainty in taxation, which is a sine qua non of the rule of law.

4.4.4 GST COUNCIL'S STATUS: THE CORE CONSTITUTIONAL RULING

Although the tax benefit awarded to the importers was important, the most important part of the decision was the Court's definitive ruling on the constitutional status of the GST Council.

The Union Government strongly contended that in order to ensure the integrity of a national market, the recommendations of the GST Council should be considered as binding on the Union and State legislatures as well as the Union and State executives. In a strong repudiation of this centralising argument, the Supreme Court (in the lead judgment delivered by Justice D.Y. Chandrachud) stated that the GST Council does not hold a superior status over the Union and State legislatures.

Through an elaborate exercise in textual analysis, the Court noted that Article 246A (which gives concurrent power to both the Parliament and the State Legislatures to make GST laws) is a standalone power. Specifically, Article 246A lacks a "subject to" clause that would subject it to Article 279A (which sets up the GST Council). It also does not contain a non-obstante clause that would make its recommendations prevail over the sovereign legislative powers of the state legislatures. As a result, the Court concluded that the decisions of the GST Council merely have "persuasive value" and are not binding on the Union or the States. The Court held that, if the recommendations of the GST Council are given the status of binding dictates, the state legislatures will be reduced to "rubber-stamp bodies" and their legislative sovereignty will be negated, thereby destroying the delicate balance of federalism in the Constitution .⁶⁰

4.4.5 CONCEPT OF "UNCOOPERATIVE FEDERALISM"

In this ruling, the Court brought to the forefront of Indian constitutional law a very novel and realistic concept: "uncooperative federalism". The Union's argument was that non-binding recommendations would upset the utopia of "pooled sovereignty" and cooperative federalism. The Court responded by pointing out that Indian federalism is not just cooperative; it is also competitive and uncooperative. It observed that federal

⁶⁰ Kumar (n 17)



conflict, dissent, and state recalcitrance are not rare aberrations, but rather the norm, and pillars of a robust democracy. The GST Council was conceived no longer as the ultimate legislative "head and tail", but a "site of political contestation", where the Union and States are constantly engaged in negotiations and persuasion. Since the recommendations are not binding, if a State disagrees with a policy imposed by the weighted majority of the Centre, it has a constitutionally guaranteed absolute right to recede and disobey.

4.4.6 IMPACT ON FEDERAL STRUCTURE

The Mohit Minerals decision was a great saviour of state legislative autonomy. The Court safeguarded the plenary legislative powers of the states from being swallowed up by an executive council in which the Union holds a de facto veto (owing to its 33.33% voting percentage), thereby ensuring that indirect taxation was not fully centralised. The decision can be traced back to the "basic structure" doctrine in *Kesavananda Bharati v. State of Kerala*. If the Court construed that the 101st Amendment led to the complete obliteration of the independent legislative sovereignty of the states in favour of mandatory Council decisions, then the amendment could have been declared unconstitutional for destroying the basic structure of the constitution.

4.5 POST-MOHIT MINERALS IMPLICATIONS

The fact that the GST Council's recommendations are only persuasive in nature has created far-reaching legislative, administrative and political consequences for the future of India's tax system.

I. Legislative Implications:

In theory and as per the Constitution, the State Legislatures are now free to diverge from the GST Council's advice. They can decide to implement different tax rates or create State-specific exemptions in their State GST (SGST) laws. But there are dire practical implications. Since the Integrated GST (IGST) is solely the preserve of the Union, and input tax credits absolutely depend on national uniformity, any unilateral action by a state will result in local industries being penalised and massive compliance problems, forcing capital and investment to move to more compliant states.

II. Administrative Implications:



The possibility of several states "using their newfound independence to enact different local rules on tax classification, assessment or administration" could undermine the original goal of the GST, which is to ease the compliance burden. The integrated digital framework of the GST Network (GSTN) depends on uniform legal codes; different laws would put the digital system to the test.

III Political Implications:

The political implications of the judgment are that it changes the nature of the GST Council. The Council no longer functions as a command-and-control forum where the Union unilaterally pushes through its agenda using its veto power and the backing of a few friendly states. The Council is now purely a negotiating body. The Union Government now has to negotiate, as the recalcitrant states - citing Mohit Minerals - can threaten legislative mutiny if it fails to consider or disregard their regional economic concerns.

4.6. JUDICIAL SAFEGUARDING OF FEDERALISM

The journey from VKC Footsteps to Mohit Minerals shows the importance of the superior judiciary as the Tribunal of last resort in protecting the federal balance. When the political system of GST veered towards coercive centralism, the Supreme Court invoked well-accepted constitutional precedents to restore the balance.

The Court's application of the basic structure doctrine, which is based on Kesavananda Bharati, guarantees that the States' constitutional identity as sovereigns will never be superseded by economic efficiency. What the judiciary has done in this case also follows a harmonious construction approach seen in cases such as *S. Satyapal Reddy v. Govt. of A. P.*, 1994.⁶¹ Likewise, in the GST matter, the Court did not allow central legislative power (Article 279A - the Council) to de-emphasise state legislative power (Article 246A), requiring the Union and States to co-exist harmoniously without one destroying the other's competence.

⁶¹ *S Satyapal Reddy v Government of Andhra Pradesh* (1994) 4 SCC 391.



CHAPTER V

5. CONCLUSION

5.1 INTRODUCTION

The enactment of the unified indirect tax regime through the 101st Constitutional Amendment was a bold and unprecedented effort to economically integrate the Indian republic. But as the earlier chapters have shown through doctrinal and empirical inquiry, the shift has placed tremendous, perhaps untenable, pressure on the constitutional balance of power. In exchange for the promise of a single market and guaranteed transition revenue; Article 246A's shift in jurisdiction from exclusive to simultaneous taxation required sovereign nations to relinquish their most potent economic tools.

The experience of the regime has shown a clear and steady centralising trend. The Council's constitution inherently favours the Union in its relationship with the states, while the 2020 compensation crisis ruthlessly unveiled the dependence of states on sovereign commitments in times of economic crises. While the Supreme Court's intervention in Mohit Minerals provided a much-needed theoretical challenge to the regime by insisting on state legislative autonomy and extolling the virtues of uncooperative federalism, the day-to-day reality of the regime is highly lopsided against states' fiscal autonomy. To make the regime sustainable in the long term, without altering the basic structure of the Indian federation, significant reform is needed. This report recommends a multi-fold reform agenda with respect to institutional governance, compensation structure and grassroots decentralisation.⁶²

⁶² Karan Mathias, 'Union of India v Mohit Minerals: An Analysis of the Constitutionality of GST, Pooled Sovereignty & Fiscal Federalism in India' (2023) *IJLRA* <https://www.ijlra.com/details/union-of-india-v-mohit-minerals-an-analysis-of-the-constitutionality-of-gst-pooled-sovereignty-fiscal-federalism-in-india-by-karan-mathias> ;accessed 20 March 2026

5.2 PROPOSED REFORMS FOR BALANCED ENFORCEMENT

5.2.1 ACTIVATING AND INSTITUTIONALIZING DISPUTE RESOLUTION

The Constitution clearly states under Article 279A (11) that the Council "shall establish a mechanism to adjudicate any dispute" between the Government of India and the States or between two or more States arising out of the recommendations of the Council. As several legal experts and the disgruntled states have pointed out, the present system where the Council is both the policy-maker and the de facto judge of disputes against it contravenes the principles of natural justice and *nemo iudex in causa sua* (no one should be a judge in their own cause).

Establishing a neutral, adjudicatory body will give the states an independent, non-politicised forum to challenge decisions of the Council which they perceive to be coercive and/or economically disadvantageous to them; in other words, to realise the "site of political contestation" in Mohit Minerals without legislative defiance.

5.2.2 Re-evaluating the Weighted Voting Structure

The voting weightage prescribed under Article 279A (9), which allocates the Union government one-third of total voting weightage, enables the Union government to veto any decision, even if the decision is overwhelmingly endorsed by the remaining 28 states and 3 union territories. In order to promote cooperative federalism rather than coercive consensus, a reform of the voting weightage is essential.

One suggestion is to bring down the Union's weightage to 25% (one-fourth) and to increase the weightage of the States to 75% (three-fourths), while keeping the 75% majority rule for resolution. This simple recalculus would remove the unfettered power of the Union to veto resolutions, and compel it to work in consultation with the states. Alternatively, a double majority voting rule could be adopted, requiring a simple majority of Union/State votes (with a demography majority - representing states that account for more than 50% of the population or GDP), to ensure that smaller states do not get ignored and the Centre does not have a monopoly over the conversation.

5.2.3 REDEFINING COMPENSATION AND PERMANENT REVENUE

SHARING

The end of the five-year compensation period in June 2022 has made the states especially vulnerable to revenue shortfalls, especially in a globalised world. Manufacturing states continue to be structurally; disadvantaged in terms of revenue collection because the new tax is effectively a destination-based consumption tax.

The compensation scheme needs to be refashioned not only as a temporary adjustment measure, but also as a permanent element of horizontal fiscal equalization, similar to the effective ones used by the independent Grants Commission in Australia and harmonization policies in Canada.⁶³ A permanent formula-based Revenue Guarantee Fund should be set up, with an ongoing source of revenue from a small percentage of the Integrated Tax. And, the aggregate devolution of revenues should be periodically examined by the Finance Commission to address the vertical fiscal imbalance, so that the states have sufficient and unfettered revenues for their 60% share in the public expenditure.

5.2.4 MANDATORY DEVOLUTION TO LOCAL SELF- GOVERNMENTS

The crippling financial disenfranchisement of Urban Local Bodies and Panchayati Raj Institutions after the removal of the profitable local taxes such as octroi has to be constitutionally rectified to sustain the third tier of democracy in India

The Constitution should be amended to provide for direct, automatic and formula-based transfer of a fixed percentage (5-10%) of the State's collections directly to the consolidated funds of the towns and panchayats.⁶⁴ This devolution is imperative to achieve the constitutional objective of Articles 243W and 243X and strengthen local democracy so that the grassroots, the most accessible and popular form of governance, is not denied of critical capital in a post-reformed era.

⁶³ 'Comparative Analysis of GST in India and Canada' (2021) 9(7) International Journal of Creative Research Thoughts.

⁶⁴ D Dhanuraj and Banisha Begum Shaikh, 'Towards a Resilient India; Fiscal Decentralisation and

Empowering Local Self-Governments' (Centre for Public Policy Research, 19 September 2025)
<https://www.cppr.in/articles/fiscal-decentralisation-and-empowering-local-self-governments>; accessed 20
March 2026



5.3. CONCLUDING OBSERVATIONS

The shift to a unified indirect tax regime is certainly India's most ambitious economic integration initiative since independence. The 101st Amendment transformed the Indian economy by replacing a complex, cascading indirect tax system with a unified and technology-enabled indirect tax system, thereby, removing interstate barriers to trade. But the ambitious push for "One Nation, One Tax" should not result in a "One Nation, One Government" scenario that undermines federalism. The detailed analysis of this dissertation suggests that while the "pooled sovereignty" concept provides an elegant theoretical foundation for the Council's governance, the actual functioning of the Council has displayed subtle but worrying centralising tendencies. The 2020 compensation crisis starkly demonstrated the weakness of statutory commitments in times of macroeconomic crises, and the dire consequences for states that have permanently ceded their traditional revenue-raising powers.



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