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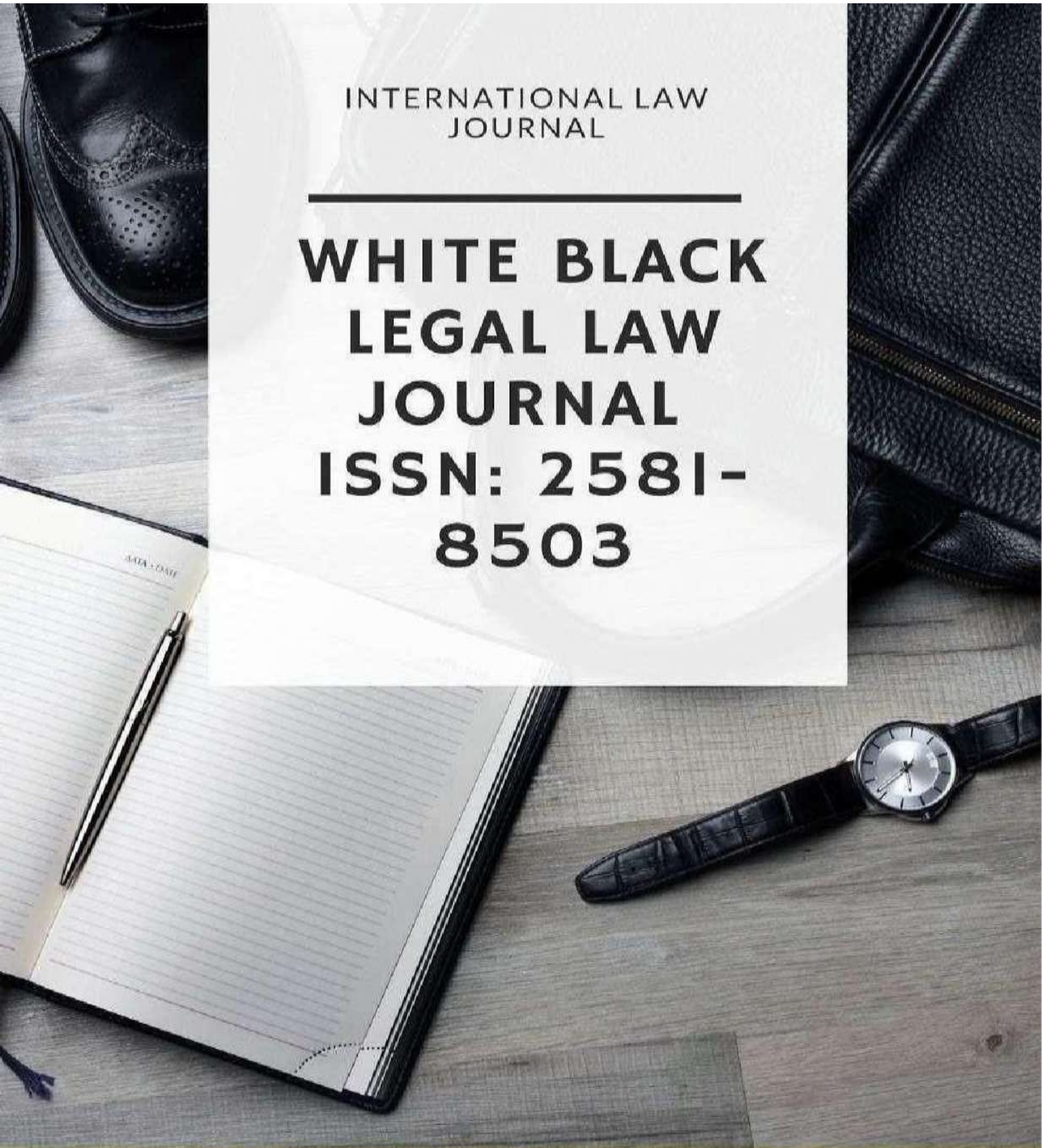

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With this thought, we hereby present to you

HISTORY AND IMPLEMENTATION OF GST

AUTHORED BY: PRACHI BABRA

A3221519060 Batch 2019-2024

AMITY LAW SCHOOL, NOIDA AMITY UNIVERSITY, UTTAR PRADESH

2019-2024

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I, **Prachi Babra**, **A3221519060**, pursuing BBA LL.B (H) from

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Even semester 2023-2024

This is to certify that Ms.Prachi Babra, Enrollment Number : A3221519060 from program/sem: BBA LL.B (H), Semester 10, is enrolled in Legal Writing /Dissertation NTCC, under my supervision. The Topic of research is History and Implementation of GST & the same is in consensus with the undersigned. The student will follow the NTCC Guidelines and proceed with the research.

Faculty Supervisor Mr.Sudhanshu Jata Amity Law School, Noida.

ACKNOWLEDGMENT

I take this opportunity to express our profound gratitude and deep regard to our guide **Mr. Sudhanshu Jatav** Sir for his exemplary guidance, monitoring and constant encouragement throughout the course of this term paper. The invaluable suggestions and inputs given by him from time to time have enabled me to complete this comprehensive report with ease.

I am obliged to staff members of Amity University, for the valuable information provided by them in their perspective fields. I am grateful for this cooperation during the period of my assignment.

Last but not the least, I thank my parents, God and my friends for their constant support and encouragement without which this research work would not be possible.

Signature of the Student: ____

Name of the Student: **Prachi Babra**

Enrolment No: **A3221519060**

Date: ______________________________

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ABSTRACT

The GST is a significant tax reform introduced in many countries around the world, aimed at simplifying the tax structure and fostering economic growth. This abstract provides an overview of the history and implementation of GST, focusing on its evolution, key features, challenges faced during implementation, and its impact on various stakeholders.

The concept of GST traces back to the idea of a comprehensive indirect tax levied on the supply of goods and services, aiming to replace multiple indirect taxes with a single tax regime. The first GST was introduced in France in 1954, and since then, several countries have adopted variations of the GST model, including Canada, Australia, and India.

The implementation of GST involves a complex process of legislative changes, technological infrastructure development, and stakeholder engagement. Countries typically face challenges such as resistance from taxpayers accustomed to the previous tax regime, administrative hurdles in integrating diverse tax systems, and the need for robust IT infrastructure to support tax administration and compliance.

However, despite challenges, the benefits of GST implementation are substantial. GST promotes transparency, reduces tax cascading, enhances compliance, and boosts economic efficiency by streamlining the tax structure. It creates a level playing field for businesses, facilitates ease of doing business, and stimulates investment and growth.

Moreover, GST has a profound impact on various sectors of the economy, including manufacturing, services, trade, and consumption. It affects consumers through changes in prices and inflation dynamics, businesses through altered tax liabilities and compliance requirements, and governments through revenue implications and fiscal policy adjustments.

In conclusion, the history and implementation of GST represent a significant milestone in tax policy reform globally. While challenges persist, the transformative potential of GST in promoting economic growth, simplifying tax administration, and fostering competitiveness underscores its importance in modern fiscal systems.

CHAPTER 1

INTRODUCTION

The introduction of GST in India marks a pivotal moment in the country's tax history, embodying the principle of "One Nation, One Tax." This introduction provides an overview of the genesis of GST in India, its objectives, and the significance of this reform in the Indian economic landscape.

India's tax system prior to GST was characterized by a complex web of indirect taxes levied by both the central and state governments, leading to inefficiencies, tax cascading, and barriers to interstate trade. Recognizing the need for a comprehensive tax overhaul, the idea of GST emerged as a solution to harmonize and rationalize the indirect tax structure across the country. The primary objectives of introducing GST in India were to create a unified national market, streamline tax administration, reduce compliance burdens for taxpayers, and eliminate economic distortions caused by multiple taxes. By replacing a plethora of central and state taxes with a single, nationwide tax, GST aimed to simplify the tax regime and enhance ease of doing business.[1]

The journey towards implementing GST in India involved extensive deliberations, consultations, and negotiations between the central and state governments, political parties, industry stakeholders, and tax experts. The GST Council, constituted as a collaborative forum of the center and states, played a pivotal role in formulating GST laws, setting tax rates, and resolving implementation challenges. The implementation of GST in India, effective from July 1, 2017, represented a monumental task involving legislative amendments, technological upgrades, taxpayer education initiatives, and administrative preparedness. While the transition to the new tax regime posed initial challenges such as IT infrastructure readiness and compliance uncertainties, it also offered immense opportunities for streamlining taxation and fostering economic integration. [2]

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[1] Poonam, Goods And Services Tax In India, Science and Management (2017)

[2] Nishita Gupta, GST: Its implementation on Indian economy, CASIRJ Volume 5 Issue 3 [Year - 2014] Pg. No.126-133

The introduction of GST in India heralded a new era of tax reform, embodying the principles of simplicity, transparency, and efficiency in the Indian tax system. This reform not only transformed the indirect tax landscape but also had far-reaching implications for businesses, consumers, and government revenues. As India continues its journey towards economic growth and development, the introduction of GST stands as a testament to the nation's commitment to fostering a conducive environment for trade, investment, and entrepreneurship.

Indeed, the implementation of the GST in India was highly anticipated by individuals, businesses, and policymakers alike, with the expectation of fostering sustainable economic growth across the nation. The primary objective of GST was to address the existing loopholes in the tax system and to propel the Indian economy forward by unifying the indirect tax structure across all states.

By replacing a multitude of indirect taxes levied by the central and state governments with a single, comprehensive tax, GST aimed to eliminate tax cascading, reduce compliance burdens, and create a level playing field for businesses operating across state borders. This simplification and harmonization of the tax regime were expected to enhance efficiency, transparency, and ease of doing business in India.[3]

The unification of indirect taxes under GST was anticipated to streamline supply chains, reduce transaction costs, and promote investment and entrepreneurship. By creating a common national market, GST sought to facilitate seamless movement of goods and services across state boundaries, thereby promoting trade and economic integration.

Furthermore, the implementation of GST was expected to broaden the tax base, improve tax compliance, and enhance revenue collections for both the central and state governments. The increased tax revenues were envisaged to support public infrastructure development, social welfare programs, and overall economic development initiatives..[4]

GST replaces multiple indirect taxes levied by the central and state governments with a single tax, streamlining the tax structure and reducing complexity for taxpayers. GST

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[3] Ravishu Raj, Goods and Services Tax in India , IJIR 8 (2017).

[4]AnandNayyar and Inderpal Singh, A Comprehensive Analysis of GST in India, Indian Journal of Finance, February 2018

allows for the seamless flow of input tax credit across the supply chain, eliminating the cascading effect of taxes. This ensures that taxes are levied only on the value addition at each stage of the supply chain, leading to a reduction in the overall tax burden on goods and services.

GST creates a common national market by removing barriers to interstate trade and promoting the free movement of goods and services across state boundaries. This facilitates business expansion, enhances market access, and promotes economic integration. By promoting ease of doing business, reducing compliance costs, and improving tax transparency, GST fosters a conducive environment for investment, entrepreneurship, and economic growth. It also encourages formalization of the economy by bringing more businesses into the tax net.

GST simplifies tax compliance for businesses by providing a common online platform for registration, filing returns, and payment of taxes. This reduces administrative burden, enhances compliance, and minimizes tax evasion.

GST allows for the rationalization of tax rates across different goods and services, leading to a more uniform tax structure. This helps in reducing price distortions, promoting consumer welfare, and enhancing market efficiency. GST broadens the tax base by bringing more sectors under the tax net and improving compliance, leading to higher tax revenues for both the central and state governments. This provides fiscal space for investment in infrastructure, social welfare programs, and other development initiatives. GST simplifies export procedures and reduces transaction costs for exporters by providing seamless input tax credit on inputs used for export production. This enhances the competitiveness of Indian goods and services in the international market.[5]

PROBLEM STATEMENT

The multi-tiered tax structure with multiple tax rates has led to confusion and classification issues for businesses, complicating compliance and increasing administrative burden. The GSTN portal, crucial for tax filing and compliance, has faced

[5] Rahul Renavikar, GST: Reaping best benefits requires laws and compliance structures be made simpler, The Financial Express, July 18, 2019

technical glitches and downtime, hindering taxpayers' ability to file returns and claim input tax credits.

The compliance requirements under GST, including filing multiple returns, maintaining detailed records, and reconciling invoices, have increased administrative costs, particularly for SMEs. Industries and sectors faced disruptions during the transition to GST, leading to inventory management challenges, cash flow issues, and price volatility for certain goods and services.

Despite efforts to curb tax evasion, GST implementation has witnessed instances of evasion and fraud, undermining tax revenue collections and fairness in the tax system. Inadequate IT infrastructure and cybersecurity concerns have impacted the efficiency and reliability of GSTN portal operations, affecting taxpayer compliance and data security.

Interstate transactions under GST, particularly involving the IGST, have raised challenges related to tax credits, jurisdictional disputes, and compliance documentation for businesses operating across multiple states. The complexity of GST exemption and composition schemes has made it difficult for businesses to assess eligibility and navigate compliance requirements, particularly for SMEs.

OBJECTIVES OF THE STUDY

- Trace the historical development of indirect taxation in India leading up to the introduction of GST.
- Identify the key milestones, committees, and reports that shaped the GST reform process in India.
- Analyze the policy objectives behind the implementation of GST, including the rationale for a unified tax system and the intended economic benefits.
- Examine the legal and constitutional framework for GST implementation, including amendments to the Indian Constitution and the GST Acts.
- Identify the major challenges encountered during the implementation of GST in India, such as compliance issues, technological hurdles, and administrative complexities.

- Provide insights into the future trajectory of GST in India, including potential reforms, emerging trends, and challenges on the horizon.

RESEARCH METHODOLOGY

The researcher has opted for a descriptive methodology to analyze the different provisions concerning tax avoidance and tax evasion in India. They intend to examine Acts, Articles, Journals, and conduct web searches to understand these provisions thoroughly. In this study, primary sources such as the Income Tax Act will be the main references. Additionally, secondary sources like books from libraries, articles in journals, and online resources will also be consulted.

CHAPTER 2

GST – HISTORY AND CONCEPTS

The history of GST indeed spans several decades and has been adopted by numerous countries worldwide. The concept of GST traces back to the early 20th century when European countries first introduced VAT to streamline their tax systems. In 1954, France became the first country to implement a form of GST known as the "Taxe sur la Valeur Ajoutée" (TVA).

Over the years, GST or similar value-added tax systems have been adopted by more than 160 countries around the world. Each country tailored the GST model to suit its specific economic and administrative needs. Malaysia adopted a GST system in 2015, transitioning from its previous sales and service tax regime. This move aimed to broaden the tax base, enhance tax compliance, and reduce dependency on oil-related revenues.

India introduced GST on July 1, 2017, marking a historic tax reform that subsumed a plethora of indirect taxes levied by the central and state governments. The Indian GST system follows a dual tax structure, wherein both the central and state governments levy GST on the supply of goods and services.

The central component of GST is known as CGST, while the state component is termed SGST. Additionally, an IGST is levied on inter-state transactions and imports, ensuring seamless credit flow across state borders.

The introduction of GST in India represented a significant shift towards a unified tax system, aimed at simplifying compliance, eliminating tax cascading, and fostering economic growth. Despite initial challenges during implementation, GST has gradually stabilized and contributed to the formalization of the economy, increased tax revenues, and improved ease of doing business in India.[6]

The notion of implementing a nationwide GST in India originated from the Kelkar Task Force on Indirect Taxes in 2000. Its aim was to streamline the existing intricate and decentralized tax system into a unified framework, easing compliance, mitigating tax

[6]Mehra, Puja (27 June 2017). "GST, an old new tax".The Hindu - Opinion. July 2017.

overlaps, and fostering economic cohesion. The Empowered Committee of State Finance Ministers formulated a blueprint and strategy, issuing the First Discussion Paper in 2009. However, the Constitutional Amendment Bill encountered obstacles, particularly concerning state compensation and other matters, after its introduction in 2011. [7]

After extensive discussions and negotiations between the Central and State Governments, the Constitution (122nd Amendment) Bill of 2014 was presented in Parliament. Its purpose was to amend the Constitution to facilitate the implementation of GST. The Lok Sabha passed the Amendment Bill in May 2015. Following amendments, it was eventually approved by the Rajya Sabha and later by the Lok Sabha in August 2016. Subsequently, the Bill was ratified by the requisite number of States and received presidential assent on September 8, 2016, becoming the 101st Constitution Amendment Act, 2016. The GST Council was established and notified on September 15, 2016, along with the creation of the GST Council Secretariat to aid its functioning.

Timeline and evolution of GST in india

The timeline highlighting the key events and milestones in the evolution of the GST in India are[8]:

2000: The concept of GST is first introduced in India in the Budget Speech for the financial year 2000-2001 by the then Finance Minister, Shri. Yashwant Sinha.

2004: The Kelkar Task Force on indirect taxes recommends the introduction of GST to replace existing indirect taxes in India.

2006: The then Finance Minister, Shri. P. Chidambaram, announces the intention to introduce GST by April 1, 2010.

2009: The Empowered Committee of State Finance Ministers releases a First Discussion Paper on GST, outlining the basic features of the proposed tax system.

2011: The Constitution (115th Amendment) Bill, 2011, seeking to empower the center and states to levy GST, is introduced in the Lok Sabha.

[7] Brief History of GST https://gstcouncil.gov.in/brief-history-gst

[8] History of GST Explained with Timelines https://cleartax.in/s/history-of-gst

2014: The Constitution (122nd Amendment) Bill, 2014, is introduced in the Lok Sabha by the new government led by Prime Minister Narendra Modi.

2016:

The Constitution (122nd Amendment) Bill, 2014, is passed by both houses of Parliament and ratified by more than half of the state legislatures.

The President of India gives assent to the bill, paving the way for its enactment. 2017:

The Goods and Services Tax Act, 2017, is passed by the Parliament, incorporating the principles of GST.

The GST Council, comprising the Union Finance Minister and state finance ministers, is constituted to make recommendations on GST implementation.

GST is officially implemented in India on July 1, 2017, replacing a myriad of central and state taxes with a unified tax system.

2018:

The GST Council undertakes several rounds of rate revisions and simplification of procedures to address concerns raised by stakeholders.

Various amendments are made to the GST laws to address procedural issues and enhance compliance.

2020:

The COVID-19 pandemic leads to disruptions in economic activity, prompting the GST Council to announce relief measures such as deadline extensions and rate reductions for certain goods and services.

The GST compensation issue arises, leading to discussions between the center and states regarding compensation payments.

2021:

The 44th GST Council meeting discusses measures to address revenue shortfalls and streamline GST compliance further.

Discussions continue on issues such as bringing petroleum products and real estate under the ambit of GST.

This timeline showcases the journey of GST in India from its conceptualization to its implementation and subsequent modifications. Despite challenges, GST has emerged as a transformative tax reform aimed at creating a unified national market, simplifying tax compliance, and promoting economic growth.[9]

Taxes before GST introduction

Before the introduction of the GST in India, the country had a complex and fragmented indirect tax system consisting of various central and state taxes. Here are some of the key taxes that existed before the implementation of GST:

Central Excise Duty: Central Excise Duty was levied on the manufacture of goods in India. It was a tax on the production or manufacture of goods, and the burden was typically passed on to the consumers.[10]

Service Tax: Service Tax was a tax levied by the central government on the provision of services. It applied to a wide range of services, including telecommunications, banking, insurance, transportation, and professional services.

Value Added Tax (VAT): Value Added Tax was a state-level tax imposed on the sale of goods within a state. Each state had its own VAT laws and rates, leading to variations in tax rates and compliance procedures across states.

Central Sales Tax (CST): Central Sales Tax was levied on inter-state sales of goods in India. It was collected by the central government but administered by the state governments. CST rates were generally higher than VAT rates, leading to tax distortions in inter-state trade.

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[9] Nair, Avinash (2017), GST coupled with digitisation will make Indian economy cleaner, bigger: ArunJaitley, Indian Express, January 11, 2017

[10] The History of GST https://margcompusoft.com/m/history-of-gst.

Octroi and Entry Tax: Octroi and Entry Tax were levied by local bodies and state governments, respectively, on the entry of goods into a local area or state. These taxes were often criticized for causing delays and inefficiencies in the movement of goods.

Customs Duty: Customs Duty was imposed on the import of goods into India and the export of goods from India. It was a central government tax aimed at regulating imports and protecting domestic industries.

Central Excise Duty on Imports (CVD): CVD was levied on imports to provide a level playing field for domestically produced goods. It was equivalent to the excise duty payable on similar goods produced domestically.

Additional Duties: Various additional duties, such as SAD and Additional Customs Duty, were imposed on specific goods or imports for revenue or protective purposes.

These taxes constituted a complex and cascading tax structure characterized by multiple layers of taxation, compliance challenges, and tax inefficiencies. The introduction of GST aimed to streamline this tax regime by replacing these disparate taxes with a single, comprehensive tax system.[11]

Article 1(1) of the Constitution of India establishes India as a Union of States, indicating a federal structure of governance similar to countries like the USA, Australia, and the UAE. This structure entails distinct authorities at both the Union and State levels. Article 246(1) of the Constitution grants exclusive legislative powers to the Parliament to enact laws concerning matters listed in the State List (List II).

In the Concurrent List (List III), both the Parliament and State Governments possess the authority to legislate. The Union List (up to June 30, 2017) included significant taxes such as Central Excise, Customs Duty, Income Tax, Corporation Tax, and Central Sales Tax (levied on inter-state sales).

[11] Nikhil Saket, Goods and Services Tax (GST): A Way for Fiscal Prudence , Socio Economic Voices, April

- May, 2011

Similarly, the State List (up to June 30, 2017) comprised taxes like VAT (levied on intra-state sales), taxes on land and buildings, excise duty on alcoholic beverages, entertainment tax, and Entry tax.

Before June 30, 2017, the indirect tax structure in India was as follows:

Central Excise duty, imposed and collected by the Central Government, applied to the manufacture of goods.

State VAT, levied and collected by individual State Governments, was applicable to the sale of goods within each respective state.

CST was levied by the Central Government on inter-state sales but collected and retained by the State Government where goods were dispatched from.

Service tax, imposed by the Central Government, was applicable to various services.

Entry tax, collected by State Governments, was imposed on the entry of goods within each state.

Major defects in the previous structure of indirect taxes

The previous structure of indirect taxes in India had several major defects, which contributed to inefficiencies, tax cascading, compliance challenges, and barriers to trade. Some of the key defects in the previous structure of indirect taxes were[12]:

Complexity and Multiplicity: The previous tax system consisted of a complex and fragmented array of central and state taxes, including Central Excise Duty, Service Tax, VAT, Sales Tax, CST, Entry Tax, and others. The multiplicity of taxes led to confusion, increased compliance costs, and administrative burdens for businesses.

Tax Cascading: The previous tax structure suffered from tax cascading, where taxes were levied at multiple stages of production and distribution without allowing for the credit of taxes paid on inputs. This resulted in the taxation of taxes, leading to higher prices for goods and services and reduced competitiveness.

[12] Mahajani (2018),Challenges for Success of Goods and Service Tax (GST) In India, https://www.gstindia.com/challenges-for-success-of-goods-and-service-tax-gst-in-india/

Inter-State Barriers: The existence of CST and Entry Tax created barriers to interstate trade and fragmented the national market. Interstate movement of goods was subject to multiple taxes and compliance requirements, hindering the free flow of goods and impeding economic integration.

Compliance Burdens: Compliance with the previous tax regime was complex and cumbersome, requiring businesses to navigate through various tax laws, rules, and procedures at both the central and state levels. This increased the compliance burden, especially for small and medium enterprises (SMEs), and led to a high level of tax evasion.

Tax Evasion and Black Economy: The complexity of the previous tax system, coupled with high tax rates and compliance challenges, incentivized tax evasion and the proliferation of the black economy. Tax evasion eroded tax revenues, undermined the integrity of the tax system, and distorted competition in the marketplace.

Administrative Challenges: The administration of multiple taxes by different authorities at the central and state levels resulted in administrative challenges, including coordination issues, disputes over jurisdiction, and inefficiencies in tax administration.

Distortions and Inequities: The previous tax structure created distortions in the economy and inequities in the tax burden. Certain sectors benefited from exemptions, concessions, or preferential tax treatment, leading to distortions in resource allocation and unfair competition among industries.[13]

Overall, the defects in the previous structure of indirect taxes in India necessitated the need for comprehensive tax reform to address these issues and create a more efficient, transparent, and business-friendly tax regime. The introduction of the GST aimed to overcome these challenges by replacing multiple taxes with a single, unified tax system, thereby promoting ease of doing business, reducing tax cascading, and fostering economic growth.

Salient features of GST implemented in India

[13] Daman Jeet, GST: An Overhaul in Taxation Policy of IndiaWhy and How, ICRISEM, 7th July, 2017

The GST implemented in India introduced several salient features aimed at simplifying the indirect tax system, promoting ease of doing business, and fostering economic growth. Some of the key features of GST in India:

GST replaced a myriad of central and state taxes with a single, comprehensive tax, thereby creating a unified national market.

GST in India follows a dual tax structure, wherein both the central and state governments levy GST concurrently on the supply of goods and services. This structure includes Central Goods and Services Tax (CGST) levied by the central government and State Goods and Services Tax (SGST) levied by the state governments. Both CGST and SGST are levied on the same taxable value or transaction, but the revenues from these taxes are collected by the respective governments (central or state) where the supply of goods or services takes place. The dual tax structure ensures that both the central and state governments have a share in the revenue generated from the GST, thereby maintaining fiscal autonomy for the states while also enabling a unified tax system across the country. It also facilitates cooperative federalism by involving both levels of government in the decision-making process through the GST Council. Additionally, the Integrated Goods and Services Tax (IGST) is levied on inter-state supplies of goods and services. IGST is collected by the central government but is distributed to the destination state, ensuring that the consuming state receives its share of revenue. This helps in avoiding tax cascading and ensures a seamless flow of credit across state borders.

IGST: IGST is levied on inter-state transactions of goods and services and is collected by the central government. It ensures seamless credit flow across state borders and avoids tax cascading.

Destination-Based Consumption Tax: GST is a destination-based consumption tax, meaning it is levied at the point of consumption rather than the point of origin. This encourages consumption in states where goods and services are consumed, leading to equitable distribution of tax revenues among states. In a destination-based consumption tax system like GST, the tax revenue is distributed among the states based on where the goods or services are consumed. This ensures that the state where the consumption occurs receives its fair share of tax revenue. Destination-based taxation aims to ensure an equitable distribution of tax revenue among states, regardless of where the goods are produced or supplied from. This helps prevent tax evasion and ensures that all states benefit from the tax revenue generated by economic activity within their borders. By taxing consumption rather than production or supply, destination-based taxation encourages local consumption and boosts economic activity within each state. This helps promote economic development and growth at the local level. Incentive for States to Attract Investment: Destination-based taxation provides an incentive for states to attract investment and promote economic activity within their borders, as they stand to benefit from the tax revenue generated by increased consumption.

Input Tax Credit (ITC): GST allows businesses to claim credit for taxes paid on inputs used in the production of goods or services. This reduces the tax burden on businesses and eliminates tax cascading. The ITC mechanism operates through a chain of suppliers and recipients in the supply chain. When a registered taxpayer purchases goods or services, they pay GST on those purchases and receive a tax invoice. They can then claim credit for the GST paid on these purchases when filing their GST returns. The credit is reflected in the Electronic Credit Ledger maintained on the GST portal. To ensure that the benefits of Input Tax Credit are passed on to consumers, GST incorporates anti-profiteering provisions. Businesses are required to reduce the prices of their goods or services to reflect the reduced tax burden resulting from Input Tax Credit. ITC allows businesses to offset the taxes they have paid on inputs (raw materials, goods, and services) against the taxes they are liable to pay on their output supplies. In simpler terms, businesses can claim credit for the GST paid on their purchases against the GST they collect on sales. .[14]

Threshold Exemption: GST provides a threshold exemption for small businesses, allowing those with annual turnovers below a certain limit to be exempt from GST registration and compliance requirements.

Composition Scheme: GST offers a composition scheme for small taxpayers with turnover up to a specified limit. Under this scheme, taxpayers can pay GST at a fixed rate on their turnover and file simplified returns.

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[14] IshanBakshi&IndivjalDhasmana, GDP to face GST hiccups: Economists, Business Standard, July 1, 2018

Online Tax Filing and Compliance: GST introduced an online portal for registration, filing returns, and payment of taxes, making the process more convenient and transparent for taxpayers.

GST Council: The GST Council, comprising representatives from the central and state governments, plays a crucial role in formulating GST policies, setting tax rates, and resolving implementation issues.

The GST Council is chaired by the Union Finance Minister of India and comprises the finance ministers of all the states and union territories with legislatures, as well as other officials from the central and state governments.

Functions of GST Council:

Formulating Policies: The GST Council formulates policies related to GST, including tax rates, exemptions, thresholds, and other related matters.

Rate Fixation: One of the primary functions of the GST Council is to fix the rates of GST for goods and services. It decides on the applicable tax rates, including the standard rate, special rates for specific goods or services, and the composition scheme rates. [15]

Legislative Recommendations: The Council recommends legislative changes, amendments to GST laws, and procedural reforms to the central and state governments.

Dispute Resolution: The GST Council addresses any disputes that may arise between the central and state governments regarding GST implementation or revenue sharing.

Decision Making: The GST Council makes decisions on various issues through consensus among its members. Each decision requires the approval of at least three-fourths of the weighted votes of the members present and voting, with the central government having one-third of the total votes and the state governments collectively holding two-thirds.

Implementation Oversight: The Council oversees the implementation of GST across the country and takes necessary measures to address any challenges or issues that may arise.

[15] Viren Shah, Booster for Indian Economy through Tax Law Amendments 2019, Avalara blog, Oct 7, 2019

Anti-Profiteering Measures: GST incorporates anti-profiteering provisions to ensure that businesses pass on the benefits of GST input tax credits to consumers through reduced prices.

These features of GST in India represent a significant shift towards a simplified, transparent, and technology-driven tax system aimed at promoting economic growth, reducing tax evasion, and enhancing tax compliance.[16]

Taking into account the way that the CGST and SGST are proposed to be collected on utilization, everything being equal, and services, these two taxes should subsume all taxes as of now imposed on different goods and services by the Center and the states, separately.

Need for a GST Council

The creation of a GST Council is crucial for several reasons:

Policy Consistency: The GST Council ensures consistency and uniformity in GST policies across states and regions. It helps in avoiding multiple tax rates and regulations, streamlining the taxation system.

Decision-Making: As GST affects both the central and state governments, having a council allows for collective decision-making. This ensures that the interests of all stakeholders are considered and compromises are reached when necessary.

Dispute Resolution: Disputes can arise between states and between the center and states regarding tax revenue sharing or jurisdictional issues. The GST Council provides a platform for resolving such disputes amicably.

Rate Rationalization: The GST Council periodically reviews tax rates and revises them as needed to ensure they are in line with economic conditions. This flexibility is crucial for maintaining the balance between revenue generation and economic growth.

[16]Mehra, Puja (27 June 2017). "GST, an old new tax".The Hindu - Opinion. July 2017.

Policy Amendments: Economic conditions and priorities may change over time, necessitating adjustments to GST laws and regulations. The GST Council serves as a forum for proposing and implementing such policy amendments.

Feedback Mechanism: The Council provides a platform for stakeholders to voice their concerns and provide feedback on the implementation of GST. This feedback loop helps in identifying areas for improvement and addressing issues promptly.

Duties of GST Council

The GST Council, in addition to overseeing the implementation of GST nationwide, carries out two primary responsibilities: making recommendations and convening GST Council meetings.

Under Article 279A (4), the GST Council is tasked with making recommendations to both the Union Government and State Governments regarding GST-related matters. This includes determining which goods and services should be subject to GST and which should be exempted. The council is also responsible for establishing regulations on the place of supply, threshold limits, special GST rates for specific states, applicable GST rates for various goods and services, and special rates during natural calamities or disasters to raise additional resources for recovery efforts.[17]

Another key duty of the GST Council is to conduct meetings to discuss and decide upon GST rules and laws that benefit taxpayers. These meetings have been held regularly since the establishment of the GST Council. Recent decisions made in these meetings include the implementation of GST on e-way bills for goods exceeding INR 50,000, extending the deadline for filing GSTR-1, and establishing anti-profiteering screening committees to reinforce the National Anti-Profiteering Authority under GST laws.

The GST Council also determines various thresholds for GST exemption, composition schemes, and eligibility criteria for availing composition levy. Decisions taken in recent meetings include revising GST rates for affordable and non-affordable houses, allowing

[17] Lourdunathan and Xavier P (2017), A study on implementation of goods and services tax (GST) in India: Prospectus and challenges, IJAR (2017)

real estate developers to choose between older and revised GST rates, and specifying conditions for claiming input tax credit.

Additionally, the GST Council formulates rules pertaining to GST registration, valuation, payment, input tax credit, return filing, composition, transitional provisions, invoicing, and refund claims.

ADVANTAGES OF GST

The GST system in India, implemented in July 2017, has brought several advantages to the economy:

Simplification and Rationalization: GST replaced multiple indirect taxes levied by the central and state governments with a single, unified tax. This has simplified the tax structure and reduced compliance burden for businesses.

Streamlined Supply Chain: With a unified tax system, logistics and supply chains have become more efficient. Businesses can now plan their logistics and distribution networks more effectively, leading to cost savings and faster delivery times.

Elimination of Cascading Taxes: GST eliminates the cascading effect of taxes by allowing businesses to claim input tax credit (ITC) on taxes paid on purchases. This ensures that taxes are levied only on the value addition at each stage of the supply chain, resulting in a more equitable tax system.

Promotion of Formal Economy: GST encourages businesses to operate within the formal economy by making tax compliance easier and reducing tax evasion. This leads to increased tax revenues for the government and helps in curbing the shadow economy.

Boost to GDP Growth: A more efficient tax system promotes investment, consumption, and economic growth. GST is expected to contribute to India's GDP growth by reducing tax barriers to trade, encouraging entrepreneurship, and fostering a competitive business environment.

Uniform Tax Rates: GST aims to bring uniformity in tax rates across states and sectors, promoting ease of doing business and reducing tax arbitrage opportunities. This fosters fair competition among businesses and reduces market distortions.

Digital Transformation: GST has necessitated the adoption of digital technology for compliance and reporting. This digital transformation has improved transparency, accountability, and governance in tax administration.

Simplified Tax Filing: GST introduced a single online platform (GSTN) for tax filing and compliance, making the process more transparent and user-friendly for taxpayers. This has reduced the administrative burden on businesses and improved tax compliance rates.

Positive Impact on Consumers: While the immediate impact of GST implementation might have been mixed for consumers due to price fluctuations, in the long run, GST is expected to benefit consumers through reduced tax burden, lower prices due to elimination of cascading taxes, and improved availability of goods and services.

Overall, GST in India has led to significant structural reforms in the tax system, contributing to the country's economic growth and development.[18]

DISADVANTAGES

While GST brings several advantages, it also presents some challenges and disadvantages:

Initial Implementation Challenges: The transition to the GST regime initially posed challenges for businesses, particularly small and medium enterprises (SMEs), due to the complexities of compliance, technology adaptation, and understanding the new tax system.

Compliance Burden: Despite efforts to simplify the tax system, GST compliance can still be burdensome for businesses, especially those operating in multiple states or sectors. The need to file multiple returns, maintain detailed records, and reconcile invoices can increase administrative costs.

Impact on Small Businesses: Small businesses may face difficulties in complying with GST requirements due to limited resources and technical capabilities. Compliance costs, including the cost of accounting software and professional services, can be disproportionately high for SMEs.

[18] Ravishu Raj, Goods and Services Tax in India , IJIR 8 (2017).

Complex Tax Structure: Despite the goal of simplification, GST has a complex tax structure with multiple tax rates and exemptions. This complexity can lead to confusion, classification issues, and disputes over tax liabilities, especially for goods and services straddling different tax brackets.[19]

Transitionary Issues: Certain industries or sectors may face challenges during the transition to GST, leading to temporary disruptions in supply chains, inventory management, and pricing. Industries with high inventory turnover, such as manufacturing and retail, may experience cash flow issues due to input tax credit delays.[20]

Price Volatility: The shift to GST initially caused price volatility for some goods and services as businesses adjusted to the new tax rates and input credit mechanisms. Consumers may experience fluctuations in prices, impacting purchasing decisions and inflation rates in the short term.

Tax Revenue Uncertainty: GST implementation has led to uncertainty in tax revenues for both the central and state governments. While GST aims to broaden the tax base and increase compliance, revenue collections may fluctuate due to economic factors, tax evasion, or administrative issues.

IT Infrastructure Challenges: The successful implementation of GST relies heavily on robust IT infrastructure, including the GSTN portal. Technical glitches, server downtimes, and data security concerns have been reported, affecting taxpayers' ability to file returns and claim input tax credits.

Exemption and Composition Scheme Complexity: The GST exemption and composition schemes intended to benefit small businesses can be complex to navigate. Businesses must carefully assess their eligibility, understand the compliance requirements, and evaluate the trade-offs between benefits and limitations of these schemes.

Interstate Transaction Challenges: Interstate transactions under GST involve Integrated Goods and Services Tax (IGST), which is collected by the central government. While IGST simplifies interstate trade, issues related to tax credits, jurisdictional disputes, and

[19] Alam, MImpacts, Challenges and Pitfalls of GST After Implementation in India. IJSRST (2018)

[20] https://cleartax.in/s/gst-law-goods-and-services-tax

compliance documentation may arise, particularly for businesses operating across multiple states.

POSITIVE IMPACT OF GST ON INDIAN ECONOMY

GST has had several positive impacts on the Indian economy:

Streamlined Tax Structure: GST replaced multiple indirect taxes with a single, unified tax system, simplifying the tax structure. This has reduced the compliance burden for businesses and eliminated the complexities of dealing with multiple tax authorities.

Boost to GDP Growth: GST has contributed to the growth of India's GDP by formalizing the economy and improving tax compliance. With a more efficient tax system, businesses can focus on productivity and expansion, leading to overall economic growth.

Reduction in Tax Cascading: One of the key benefits of GST is the elimination of tax cascading or the "tax on tax" effect. By allowing businesses to claim input tax credit for taxes paid on inputs, GST ensures that taxes are levied only on the value addition at each stage of the supply chain, leading to lower prices for consumers.

Promotion of Make in India: GST has made it easier for businesses to operate across state borders by creating a unified national market. This has led to increased investment in manufacturing and has supported the government's Make in India initiative by improving the ease of doing business.

Improved Logistics and Supply Chains: With the removal of interstate barriers and the introduction of a common tax regime, GST has streamlined logistics and supply chains. This has reduced transportation costs and improved the efficiency of movement of goods across the country, benefiting businesses and consumers alike.

Enhanced Tax Compliance: GST has improved tax compliance through digitization and automation. The GSTN platform facilitates online registration, filing of returns, and payment of taxes, making it easier for businesses to comply with tax regulations and reducing the scope for tax evasion.

Widened Tax Base: GST has widened the tax base by bringing previously unregistered businesses into the formal economy. This has increased tax revenues for the government, providing resources for infrastructure development, social welfare programs, and other public investments.

Boost to Small Businesses: While initially there were concerns about the impact of GST on small businesses, over time, it has led to a level playing field for small and medium-sized enterprises (SMEs). With simplified tax procedures and reduced compliance costs, GST has enabled SMEs to compete more effectively in the market.

NEGATIVE IMPACT OF GST ON INDIAN ECONOMY

While the GST has brought about several positive changes to the Indian economy, there have also been some challenges and negative impacts:

Initial Transition Challenges: The transition to the GST regime initially posed challenges for businesses, especially small and medium enterprises (SMEs), due to the complexity of compliance procedures, software implementation costs, and the need for adaptation to new tax norms.

Impact on Small Businesses: Small businesses faced difficulties in adapting to the new tax regime due to compliance requirements and increased documentation. Some small traders and businesses struggled to understand and comply with GST regulations, leading to disruptions in their operations.[21]

Complex Tax Structure: While GST aimed to simplify India's tax structure, the multiplicity of tax rates and classifications has led to complexity. The presence of multiple tax slabs (e.g., 5%, 12%, 18%, and 28%) has made compliance challenging for businesses and consumers alike, and has led to confusion regarding the applicable rates for various goods and services.

Short-term Disruptions: The introduction of GST led to short-term disruptions in certain sectors, such as manufacturing, trading, and logistics, as businesses adjusted to the new tax regime. Some sectors experienced temporary slowdowns in production and sales as inventory adjustments were made to comply with GST requirements.

[21] https://www.deskera.in/gst-benefits-and-impact-on-indian-economy/

Inflationary Pressure: Initially, there were concerns that GST implementation might lead to inflationary pressure as businesses adjusted to higher tax rates and input credit availability. While GST aims to eliminate the cascading effect of taxes, the transition period saw adjustments in pricing strategies by businesses, which could have contributed to temporary inflationary pressures.

Impact on Informal Sector: The formalization of the economy through GST has had implications for the informal sector. Businesses operating outside the formal economy, such as unregistered small traders and businesses, faced challenges in transitioning to the GST regime, leading to a possible slowdown in their activities.

Compliance Burden: GST compliance involves maintaining detailed records, filing multiple returns, and adhering to stringent deadlines. This compliance burden can be particularly challenging for small businesses and startups with limited resources, leading to increased administrative costs and operational complexities.

Administrative and Implementation Issues: There have been instances of administrative and implementation challenges in the GST regime, including technical glitches in the GSTN portal, delays in processing refunds, and inconsistencies in tax administration across states, which have added to the compliance burden for businesses.

CHAPTER 3

SUPPLY UNDER GST AND CHARGES OF GST

SUPPLY UNDER GST

Under the GST regime in India, the concept of "supply" plays a central role in determining the levy of tax. The term "supply" is defined comprehensively to encompass various transactions involving goods or services. Here's an overview:
Definition of Supply:

Section 7 of the CGST Act, 2017 defines supply as including all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease, or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
Types of Supply:

Taxable Supply: Any supply of goods or services or both which is leviable to tax under GST is considered taxable supply.
Exempt Supply: Certain supplies of goods or services or both which attract nil rate of tax or are wholly exempt from tax are termed exempt supplies.
Zero-Rated Supply: Supplies of goods or services or both which are subject to a rate of 0% are termed zero-rated supplies. Export of goods or services or both or supply of goods or services or both to a Special Economic Zone (SEZ) developer or SEZ unit qualify as zero-rated supplies. [22]
Composite Supply and Mixed Supply:

Composite Supply: Composite supply means a supply comprising two or more goods or services, which are naturally bundled and supplied in conjunction with each other. One of these goods or services is the principal supply, and the others are ancillary.

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[22]Lourdunathan F and Xavier P (2017), A study on implementation of GST in India: Prospectus and

challenges, International Journal of Applied Research 2017; 3(1): 626-629

Mixed Supply: Mixed supply refers to a supply of two or more individual goods or services, made together in a single transaction, but which do not constitute a composite supply. Each of these goods or services is distinct and independent of the others.

Determination of Place of Supply:

The place of supply determines the jurisdiction under which the GST is payable. It varies based on the nature of supply and the location of the supplier and the recipient. The rules for determining the place of supply are provided under Section 10 of the IGST Act, 2017.

Section 7 (1) – Supply

Section 7(1) broadly defines "supply" under GST. It states that the term "supply" includes all forms of supply of goods or services or both, made or agreed to be made for a consideration by a person in the course or furtherance of business.

Key Points:

Comprehensive Scope: The definition of supply under Section 7(1) is intentionally broad and covers a wide range of transactions involving goods or services. It encompasses various activities such as sale, transfer, barter, exchange, license, rental, lease, or disposal.

Consideration: The supply must involve consideration, which can be monetary or non-monetary. Consideration refers to the value received or expected to be received for the supply of goods or services. It can include money, goods, services, or anything else of value.

Business Context: The supply must be made in the course or furtherance of business activities. This means that transactions conducted for personal purposes or outside the scope of business are not considered supplies under GST.

Inclusions: Section 7(1) explicitly mentions that supply includes both goods and services, or a combination of both. This reflects the dual nature of GST, which covers both goods and services under a unified tax regime.

Significance:

Section 7(1) of the CGST Act, 2017 forms the foundation for determining the applicability of GST to various transactions. It establishes the broad framework for identifying what constitutes a supply under GST law.

Understanding the scope of supply is crucial for businesses to comply with GST regulations, including registration requirements, invoicing, and determination of tax liability. It helps businesses classify their transactions correctly and assess the GST implications accordingly.

Overall, Section 7(1) plays a pivotal role in shaping the GST landscape in India by providing a comprehensive definition of supply that encompasses a wide range of economic activities conducted in the course of business.

B. Section 7 (1)(a)

Section 7(1)(a) specifies that supply includes all forms of supply of goods or services or both where the consideration is made or agreed to be made in the course or furtherance of business.

In the Course or Furtherance of Business: This component emphasizes that the supply must occur within the context of business activities. It covers transactions conducted as part of regular business operations or to further the objectives of the business.

Consideration: Section 7(1)(a) highlights that the supply must involve consideration, which can be monetary or non-monetary. Consideration is the value received or expected to be received by the supplier for the supply of goods or services.[23]

Comprehensive Coverage: By including both goods and services, Section 7(1)(a) reflects the broad scope of GST. It encompasses various transactions such as sales, transfers, leases, licenses, or any other exchange of goods or services for consideration in the course of business.

Section 7(1)(a) is fundamental in determining the applicability of GST to transactions. It establishes that for a transaction to qualify as a supply under GST, it must meet certain

[23] Alam, MImpacts, Challenges and Pitfalls of GST After Implementation in India. IJSRST (2018)

criteria, including being conducted in the course or furtherance of business and involving consideration.

Understanding the provisions of Section 7(1)(a) is essential for businesses to correctly identify and classify their transactions for GST purposes. It helps ensure compliance with GST laws, including registration requirements, invoicing, and tax liability determination.[24]

C. Section 7(1)(b) – Supply made for thought at the same time, not in of the course of Business.

Section 7(1)(b) states that supply includes all forms of supply of goods or services or both for a consideration made or agreed to be made without a consideration.

Supply Without Consideration: This provision emphasizes that a transaction can qualify as a supply under GST even if it is made without consideration. In other words, transactions where no payment is involved but are made as part of business activities can still be considered supplies under GST.

Scope of Coverage: Section 7(1)(b) extends the definition of supply to encompass a broader range of transactions. It includes activities such as gifts, samples, or promotional items provided by businesses without any direct payment from the recipient.

Business Context: Similar to Section 7(1)(a), this provision requires that the supply be made in the course or furtherance of business activities. It ensures that transactions conducted outside the scope of business are not included as supplies under GST.

Section 7(1)(b) broadens the scope of supply under GST by including transactions made without consideration. This provision acknowledges that business activities may involve transactions where goods or services are provided without a direct payment.

[24] Lourdunathan and Xavier P (2017), A study on implementation of goods and services tax (GST) in India: Prospectus and challenges, IJAR (2017)

Understanding Section 7(1)(b) is essential for businesses to correctly identify and classify transactions for GST purposes. It ensures compliance with GST regulations, including registration requirements, invoicing, and tax liability determination, even for transactions made without consideration.

D. Segment 7 (1)(c) – Supply made in the Course of business butwithout thought – Schedule I

Exchange without thought – The Legislature engages the officials to advise exercises in plan I which will have been made or consented to be made without a thought. Such exercises will be treated as Supply and GST be charged on such Supply. Timetable I is given as under:

1. Perpetual exchange or removal of business resources where info tax credit has been profited on such resources.

2. Supply of goods or services or both between related people or between particular people as indicated in segment 25, when made in the course or encouragement of business:

Given that blessings not surpassing 50,000 rupees in esteem in a monetary year by a business to a worker will not be treated as Supply of goods or services or both.

2.2 Activities Or Transactions To Be Treated As Supply Of Goods Or Supply Of Services

Under the GST regime in India, certain activities or transactions are deemed to be supply of goods or supply of services. These determinations are essential for understanding the tax treatment and compliance requirements under GST law. Here's an overview:

Supply of Goods:

Transfer of Title: Any transfer of the title in goods is considered a supply of goods. This includes sale, transfer, exchange, barter, lease, or disposal of goods.

Goods Sent on Approval: If goods are sent on approval or sale or return basis but the title passes to the recipient, it is treated as a supply of goods at the time of sending.

Transfer of Business Assets: When assets of a business are transferred or disposed of, it is considered a supply of goods. This includes machinery, equipment, furniture, etc.

Goods Forming Part of Business Assets: If goods forming part of the assets of a business are used for private or non-business purposes, it is treated as a supply of goods.

Construction Contracts: In cases where goods are incorporated into construction projects, it is considered a supply of goods. This includes materials used in construction.

Supply of Services:

Transfer of Right to Use: Any transfer of the right to use goods for consideration is treated as a supply of services. This includes leasing, licensing, or renting of goods.

Development, Design, and Supply of Goods: When goods are developed, designed, or customized as per the specifications of the recipient, it is treated as a supply of services.

Works Contracts: Contracts involving construction, erection, installation, or commissioning of buildings, structures, or infrastructure are considered supply of services.

Transfer of Business Assets for Use: If business assets are transferred for use, it is treated as a supply of services. This includes renting or leasing of movable or immovable property.

Performance of Services: Any performance of a service for consideration is treated as a supply of services. This includes professional services, consultancy, repairs, maintenance, etc.

Mixed Supply and Composite Supply:

Mixed Supply: When two or more individual supplies of goods or services or both are made together in a single transaction, but they are not naturally bundled and do not constitute a composite supply, it is termed as a mixed supply.

Composite Supply: When two or more supplies of goods or services or both are naturally bundled and supplied in conjunction with each other, where one of which is a principal supply, it is termed as a composite supply.

Understanding these categorizations is crucial for businesses to comply with GST regulations and correctly determine their tax liabilities.

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Integrated Supply Under GST

Section 2(74) characterizes "blended Supply" signifies at least two individual supplies of goods or services, or any mix thereof, made related to one another by a taxable individual at a solitary cost where such Supply doesn't comprise a composite Supply:

Outline : A Supply of a bundle comprising of canned food varieties, desserts, chocolates, cakes, dry natural products, circulated air through beverages and natural product juices when provided at a solitary cost is a blended Supply. Every one of these things can be

[25] Nair, Avinash (2017), GST coupled with digitisation will make Indian economy cleaner, Indian

Express, January 11, 2017

provided independently and isn't subject to some other. It will not be a blended Supply if these things are provided independently[26];

I. Tax risk on composite and blended supplies – Section 8

(a) – Rate of Tax in composite supply will be the pace of tax which is relevant to the Principal Supply and

(b) – Rate of Tax in blended supply will be the pace of tax which draws in higher pace of tax in blended supply.

Model for composite Supply – An individual offers Furniture to the client. To convey the furniture he causes sum by virtue of pressing material and transport charges. The charges for pressing material and charges for transport are independently appeared in Tax Invoice. Such exchange is a blend of three supplies for example supply of furniture, supply of pressing material and transport charges. Chief Supply is furniture, consequently, tax at the rate relevant to the furniture will be charged for this composite/all provisions.

Model for blended Supply – There is a bushel of goods containing goods say A,B,C and

D. Pace of tax for An is 5, for B is 12, for C is 18 and for D is NIL rate. For this situation the most extreme rate is 18, accordingly, tax be charged @ 18 for this blended Supply.

The individual may sell such goods independently rather than blended Supply. In the event that he sells goods independently, pace of tax be charged independently as per pace of tax apply on each Supply.

J. Nature of Supply

The tax is paid by the idea of supply. On the off chance that supply relates to intrastate the Central GST and State GST are paid and if supply relates to highway the IGST is paid.

CHARGES OF GST

In India, the GST is levied on the supply of goods and services at various rates determined by the GST Council. The charges of GST include the following:

GST Rates:

[26]Ravishu Raj (2017):GST in India , Imperial Journal of Interdisciplinary Research (IJIR) Vol-3, Issue-4

SGST (State Goods and Services Tax): Collected by the State Government on intra-state (within the state) transactions.

CGST (Central Goods and Services Tax): Collected by the Central Government on intra-state transactions.

IGST (Integrated Goods and Services Tax): Collected by the Central Government on inter-state (between different states) transactions.

GST Slabs:

0% GST Rate: Certain essential goods and services fall under this category, ensuring affordability and accessibility.

5% GST Rate: Includes essential items such as household necessities.

12% and 18% GST Rate: Includes goods and services such as processed food items, financial services, and other consumer goods.

28% GST Rate: Imposed on luxury goods and services, as well as sin goods like tobacco products.

Special Rates: Some items are subject to specific rates such as 1% or 3% under special categories.

Composition Scheme:

Composition Scheme: Available for small taxpayers with turnover up to a certain threshold (up to ₹1.5 crore for goods, ₹50 lakhs for specified states), offering a simpler compliance process and lower tax rates.

Input Tax Credit (ITC):

Input Tax Credit: Businesses can claim credit for the GST paid on inputs (raw materials, goods purchased) against the GST liability on the output (final goods or services provided).

Anti-Profiteering Measures:

Anti-Profiteering Measures: Implemented to ensure that businesses pass on the benefits of reduced tax rates or input tax credit to consumers by lowering prices.

Other Charges:

CESS: Additional cess may be levied on certain goods such as luxury cars, tobacco products, and aerated drinks to fund specific purposes like the compensation cess for states.

Compliance and Penalties:

Late Fees: Levied on delayed filing of GST returns. Interest: Charged on late payment of GST dues. Penalties: Imposed for non-compliance or evasion of GST regulations.

Understanding the charges of GST is essential for businesses and individuals to ensure compliance with tax laws and optimize tax planning strategies. [27]

[27]Impact of GST on Shipping Charges, https://cleartax.in/s/gst-impact-on-shipping-charges#:~:text=The%20tax%20should%20be%20charged,transport%20cost%20also%20at%2018%25.

CHAPTER 4 CONSTITUTIONAL PROVISIONS

CONSTITUTIONAL AMENDMENTS FOR GOODS AND SERVICES TAX

Special provisions under Article 246A

Article 246A of the Indian Constitution pertains to the GST. It was introduced through the 101st Amendment Act, 2016, which gave concurrent powers to the Union as well as the States to legislate on GST.

Article 246A states:

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

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

This article essentially provides for the concurrent powers of the Union and the States to make laws regarding the GST. It delineates the legislative jurisdiction between the Union and the States concerning the imposition of goods and services tax within India.[28]

Levy and collection of GST under Article 269A

Article 269A of the Indian Constitution deals with the levy and collection of GST on supplies in the course of inter-state trade or commerce. It was introduced to address the issue of taxation of inter-state transactions under the GST regime.

Article 269A states:

(1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

[28] Alam, MImpacts, Challenges and Pitfalls of GST After Implementation in India. IJSRST (2018)

(2) The amount apportioned to the Union under clause (1) shall form part of the Consolidated Fund of India, and the amount apportioned to the States shall form part of the Consolidated Funds of the States.

(3) Where an inter-State supply of goods or services or both is made to the Central Government or Union territory administration and the place of supply of such goods or services or both is in the same State in which the supplier is located, it shall be deemed to be intra-State supply and GST shall be levied accordingly.

This article essentially empowers the Government of India to levy and collect GST on inter-state supplies of goods and services. It also provides for the apportionment of such tax revenue between the Union and the States in a manner prescribed by Parliament, based on the recommendations of the Goods and Services Tax Council.

Distribution of taxes between the Union and states under Article 270

Article 270 of the Indian Constitution deals with the distribution of taxes between the Union and the States. It outlines the various taxes and duties that are to be assigned to the Union and the States, as well as the mechanism for their distribution.

Article 270 states:

(1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in Articles 268 and 269, respectively, surcharge on taxes and duties referred to in Article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the net proceeds of any such tax or duty in any financial year shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax or duty is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3).

(3) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as may be

considered necessary by the President, by order, constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

(4) Parliament may by law determine the procedure for the allocation of the percentage of such tax or duty to the States and the manner of payment of the same to the States.

(5) The Finance Commission constituted under clause (3) shall recommend the distribution of the net proceeds of taxes and duties referred to in clause (1) and any grants-in-aid of the revenues of the States out of the Consolidated Fund of India which may be made by the Government of India, and the allocation of the same between the Union and the States and the terms and conditions on which the grants-in-aid shall be given, and in particular, the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India and the sums to be paid to the States which are in need of assistance by way of grants-in-aid of their revenues under this article.

Powers of GST Council under Article 279A

The authority of the GST Council is outlined in Article 279A of the Indian Constitution. This council is a collaborative body consisting of representatives from both the central and state governments, established by the President of India. Its primary function is to oversee the formulation, implementation, adjustments, and enactment of laws pertaining to GST.

Amendment of Article 286

Article 286 previously prohibited states from enacting laws to impose taxes on the sale or purchase of goods. However, this provision was amended to replace the terms "sale or purchase" with "supply" and "goods" with "goods or services or both". Consequently, states no longer have the jurisdiction to impose GST on inter-state supplies of goods and services. This responsibility now lies with the Union Government under Article 269A as per the Amendment Act.

Amendment of the existing Article 366

An amendment to the Constitution of India introduced the definitions of GST, 'Services', and 'State' into Article 366. Additionally, the Goods and Services (Compensation to States) Act, 2017 included a provision aimed at providing relief to states in case of revenue loss resulting from the implementation of GST. However, this provision was limited to a duration of five years from its enactment.

Amendments to the Sixth Schedule

The Sixth Schedule of the Indian Constitution pertains to the administration of tribal areas in the states of Assam, Meghalaya, Tripura, and Mizoram. Amendments to the Sixth Schedule with regard to GST would likely involve modifications in the application of GST within these tribal areas, taking into account their unique administrative structures and local governance systems.

Seventh Schedule Amendments

The Seventh Schedule of the Indian Constitution delineates the division of powers and responsibilities between the Union (central government) and the States. Amendments to the Seventh Schedule with respect to GST would typically involve changes in the allocation of taxation powers between the Union and the States to accommodate the implementation of the GST.

One significant amendment related to GST was the insertion of Article 246A into the Seventh Schedule through the 101st Constitutional Amendment Act, 2016. This amendment granted concurrent powers to both the Union and the States to legislate on matters concerning GST.

Additionally, subsequent amendments may have been made to the Seventh Schedule to refine the distribution of taxing powers, especially in light of the evolving GST framework and the need to address any implementation challenges.

47th GST Council Meeting

The meeting convened on June 28th and 29th, 2022, in Chandigarh, chaired by the Union Finance and Corporate Affairs Minister, aimed to deliberate on recommendations put forth by the Group of Members (GOM) regarding the taxation of casinos, racecourses, online gaming, and related matters under the GST regime. The discussion centered around various considerations for the potential implementation of GST on these activities.

Trade facilitations

- Exemption from mandatory registration will be granted to individuals supplying goods, including those who supply goods through Electronic Commerce Operators (ECOs), subject to specified conditions.

- Clarity will be provided regarding the status of the designated officer for supplies to Special Economic Zone (SEZ) Units. The term "specified officer" will be defined to align with the definition of an authorized officer as per the provisions of the SEZ Rules, 2006.

- Composition taxpayers will be allowed to make intra-state supplies through e-commerce platforms, subject to conditions recommended by the GST Council and legislators.

- Amendments will be made to the Central Goods and Services Tax (CGST) Rules concerning the refund of unutilized Input Tax Credit (ITC) for exported electricity. Exporters will not be required to reverse input tax credit for exempted supplies of Duty Credit Scrips.

- Departing international travelers who purchase domestic items from Duty-Free Shops (DFS) in the international terminal will receive a GST reimbursement, with DFS treating their purchases as exports.

- The time limit under Section 73 of the GST Act for issuing directives related to other demands associated with the annual return due date will be extended until September 30, 2023.

GST rates of goods and services and clarifications upon them

- Electric vehicles, whether with or without battery packs, will be subject to a concessional GST rate of 5%.

- Entry 9B of the notification pertains to exemptions granted for services related to the transit of cargo to and from Nepal and Bhutan.

- Advertisements published in the form of books or souvenirs will receive a concessional GST rate of 5%.

- Guest anchors providing services on TV channels and receiving honorariums will be affected by the implementation of GST.

- Activities such as Assisted Reproductive Technology (ART) and In Vitro Fertilisation (IVF), which fall under the healthcare sector of India, will be exempted from GST.

GST Rates effective from 18th July 2022

Inverted Duty Structure on products and service

S. No.	**Subject details**	**Previous rates**	**New/Amended rates**
1.	Lights (LED lamps) and fixtures for such products.	12%	18%
2.	System of Solar water heater and its parts.	5%	12%
3.	Working road contracts, bridges, railways, metros, etc.	12%	18%

Tax rate changes in goods and service

S. No.	**Subject details**	**Previous rates**	**New/Amended rates**
1.	Ostomy appliances	12%	5%
2.	Contracts for roads, bridges, metros, etc.	12%	18%

3.	Splints, fracture appliances, artificial body parts, and others come under the category of orthopaedic appliances.	12%	5%
4.	Cuts and polished pieces of diamonds.	0.25%	1.5%
5.	Ropeways as a mode of transportation	18%	5%
6.	Trucks or carriage loaders for the purpose of renting (including fuel).	18%	12%

Rationalized exemptions on goods and service

S. No.	**Subject details**	**Previous rates**	**New/Amended rates**
1.	Technical and scientific types of equipment received by public-funded institutes of research.	5%	Applicable rates
2.	Electronic waste.	5%	18%
3.	Room accommodation at a hotel up to Rs. 1000 per day.	–	12%

CHAPTER 5

DIFFERENTIATION BETWEEN GST IN INDIA AND OTHER COUNTRIES

Goods and service tax is taking India by the storm. GST will bring in "One nation one tax" to unite indirect taxes under one umbrella and facilitate Indian businesses to be globally competitive. The Indian GST case is organized for productive tax assortment, decrease in debasement, simple between state development of goods and so forth France was the primary nation to carry out GST to decrease tax-avoidance. From that point forward, in excess of 140 nations have carried out GST for certain nations having Dual-GST (for example Brazil, Canada and so on model. India has picked the Canadian model of double GST.

In the Asia Pacific topography, the taxation plot is a mainstream and comprehensively acknowledged subject of taxation. However, the most significant and sketchy thoroughly considered this conversation infers that there are over 40 models of GST applications which are at present going through the arrangement of different economies on the planet which incorporates an assorted arrangement of rules and guidelines .[29]

NEW ZEALAND

GST is a roundabout tax charged on acquisition of goods and services in New Zealand. It appeared in 1989 and from that point forward, GST has been material on every one of the buys.

The exceptional element in the New Zealand's tax framework which stands out for us is the consistency in the tax rate. The GST rate has been single and reliable since the beginning of the framework. The rate before October 2010 was 10% which was subsequently raised to 15%.

The exemptions from GST are:-

[29] Ishan Bakshi&Indivjal Dhasmana, GDP to face GST hiccups: Economists, Business Standard, July 1, 2018

- Bank services, including revenue

- Residential lease

- Wages, which are liable to other taxes.

- Various exercises in New Zealand are liable to zero-percent GST. These exercises incorporate fare, certain provisions of fine metals, supplies of land where both the seller and buyer are enlisted for GST.

GST in New Zealand is relevant on totally enlisted substances. To be enlisted in GST, the current or extended turnover in New Zealand is NZD at least 60,000. For non-occupant providers of low-esteem goods (beneath NZD 1,000) or far off services of more than NZD 60,000 in a year time span to customers are likewise needed to enlist for GST.

The recurrence of profits documented under New Zealand's GST system changes, contingent upon the turnover. On the off chance that Inland Revenue Department's endorsement has been obtained and the worth of absolute taxable supplies is not exactly NZD 5,00,000 in a year time frame need to record the return ever a half year. In the event that the taxable supplies add up to NZD 24 million or less, the return must be recorded once like clockwork. On the off chance that yearly turnover (counting bunch turnover) is above NZD 24 million, the return must be documented month to month. Non-inhabitant providers of low-esteem goods are needed to record bring quarterly back.

In spite of the fact that this framework may look rewarding, notwithstanding, this can't be utilized in the Indian set-up on the grounds that Indian economy is exceptionally broadened. Because of the plenty of goods and services offered in the Indian market, alongside the different classes of individuals which live respectively in the country, differential tax rates on various things are a need[30]

SINGAPORE

The GST framework came into power in Singapore in the year 1994. The Singaporean GST framework is acquired from the UK and the New Zealand's framework. The Inland

[30]Ians (2016), GST is a win-win for government, industry, consumers: Stakeholders, Business

Standard, August 4, 2016

Revenue Department of Singapore goes about as the managerial, chief and getting to expert for GST Singapore. The GST is pertinent on the enlisted business elements in Singapore, very much like the framework which is winning in New Zealand and India.

The GST rate pertinent in Singapore is equivalent to the New Zealand's model. In Singapore, GST is pertinent with a uniform pace of 7%. Like all aberrant tax systems, in Singapore, GST is charged from the eventually customer and is gathered by the enlisted element for the tax authority.

All things considered, it is partitioned into intentional and obligatory enrollment. Since GST is a self-got to tax, business undertakings are needed to persistently get to their should be enrolled.

Enlistment is mandatory in Singapore in two circumstances:-

Review Basis-When the turnover of the business is more than S$ 1 million in the previous a year

Planned Basis-Expected turnover of the business in the impending a year will surpass S$

1 million. This will incorporate agreements and arrangements marked and expected income for next a year surpasses S$ 1 million.

Just organizations which bargain in zero-appraised supplies can apply for exclusion, notwithstanding surpassing enlistment limits. This is done to keep away from managerial problems. The exception is endorsed by the IRAS if over 90% of business' complete tax supplies are zero-evaluated and its information tax is more prominent than yield tax.

The Singaporean GST set-up requires the enrolled substances to document returns in electronic structure. For the most part, the profits are recorded on quarterly premise. The GST F5 is needed to present the profits to tax specialists dependent on the bookkeeping cycle. The GST is needed to be paid inside multi month after the finish of the business' endorsed bookkeeping time frame. Late accommodation draws in punishment and discounts are generally made inside 30 days from the date of receipt of return.

The Singapore's GST framework excessively reverberates the New Zealand's framework and for comparable reasons, the equivalent will not be appropriately relevant in the Indian set-up.

People with lower level of pay are bound to pay higher measure of GST tax when contrasted with those paid by people with significant degree of pay. From this we come to realize that GST tax is backward in nature (in financial matters terms) for example the normal pace of tax diminishes with expansion in the pay level of a person. Where goods are moderately more cost inelastic, in such a case the backward impact looked by a definitive purchasers is a genuine outcome. In this way, it is difficult for the shoppers to leave the market, which is because of tax ugly. Instances of cost inelastic goods are food, garments, medication and cigarettes.

The public authority has told that acquaintance of GST isn't with raise extra financial assets however to balance the decrease aberrant taxation. The retailers have been profited by the presentation of GST by misusing the customers by expected baseless addition in the costs of goods and services (benefit occurrence). Because of this the purchasers would address greater expenses as well as bring about extra scanning cost for looking through venders who are not keen on acquiring higher benefit. The presentation of GST likewise unfavorably affected people with fixed pay. This is on the grounds that GST being inflationary in nature has either covered the measure of reserve funds by them or has compelled to lessen the amount of goods and services bought by them.

Up until this point, the conversation focuses on the negative part of the GST. It is legitimate at this stage to look at the positive effect of the GST on the Singapore economy. Obviously, a positive part of the GST is its capacity in raising Singapore‟s level of intensity given that the presentation of the GST and addition in the GST rates compare to the bringing down of direct taxes. The normal inflow of unfamiliar direct speculations is probably going to set out business open doors to individuals in this way adding to bring down joblessness rate (remembering that tax rate doesn't address the sole factor in thought). With the government‟s expectation in drawing in high worth added enterprises in working in Singapore, all the more generously compensated positions will be offered to the occupants of Singapore, adding to better expectations of living.

Obviously, with the inflow of the FDI, the equilibrium of installments record will likewise improve further expanding the all around high unfamiliar stores in Singapore[31].

These stores go about as protections in Singapore against vulnerabilities in the financial climate. The public authority can utilize these stores to help the occupants now and again of financial decline. These stores can likewise be put resources into monetary instruments (say by the Government Investment Corporations) to additional development the drawn out resources of Singapore.

3.3 CANADA

The idea of Federal GST was presented in Canada on January 1, 1991 supplanting the Manufacturer's Sales Tax. The rationale of bringing into power the new taxation framework was to improve and smooth out the tax framework, exceptionally remembering the fare organizations. Since not all regions consolidated their current commonplace taxation framework with the GST and in this manner, numerous business ventures had to document both, GST and Provincial Sales Tax (PST) returns.

Aside from the areas of British Columbia, Alberta, Saskatchewan and Manitoba, any remaining territories have embraced HST. In the regions of Alberta and Northwest regions, Nunavit and Yukon, no common taxes are relevant and in this manner, just GST is charged.

The enlistment prerequisites in Canada depend on the HST and PST. Those an entrepreneur just gives HST/PST excluded great or administration, which incorporates kid care services, music exercises and utilized rental lodging. Additionally, business ventures qualifying as little providers as per the Canada Revenue Agency are not needed to get themselves enlisted, with the exception of entrepreneurs working in taxi and limousine rentals and non-inhabitant entertainers, who offer admissions to courses and different occasions. The business ventures whose turnover limit crosses the one specified

[31] Samuel Ravi Kumar, VaibhavRevankar, DarshanJaju, GST: A Comparative study of India vis a vis Singapore, Samuel Ravi Kumar et. al., Journal of Management Research and Analysis, Impact

for little providers are needed to get themselves enrolled inside 29 days of passing of as far as possible.

Intentional enlistment for little providers is accessible. The benefit of willful enlistment is the Input Tax Credit that is accessible to them on the sum paid out on business buys.

The Input Tax Credit alludes to the decrease of the taxes paid on contribution from taxes from the taxes paid on the yield. In Canada, organizations can guarantee input tax credit on working costs, in particular business lease, utilities, office supplies, dinners and diversion costs. The costs which don't fit the bill for input tax credit incorporate taxable goods purchased or services profited or imported to give absolved goods and services, some capital property and enrollment expenses or duty paid to any club whose principle object is to give entertainment, eating, or sports offices.

After enlistment, the Canada Revenue Agency assigns the GST/HST revealing period, which shifts from month to month, quarterly and every year, in view of the absolute yearly deals of GST/HST taxable goods and services. Regardless of whether the endeavor hasn't gathered any GST/HST or hasn't directed any business movement, the business is needed to answer as indicated by the period allocated to it.

The significant downside of this framework is that it didn't satisfy its hopes. The intention behind the presentation of GST in Canada was improvement of the tax framework in any case, it neglected to do as such. Maybe, it made more prominent difficulties for the entrepreneurs who presently need to chip away at different models of GST, HST or PST dependent on the territory in which they work.

AUSTRAILIA

Despite the fact that the GST idea was first seeked in the year 1975, it was executed in Austrailia following 25 years on July 2000 at a tax rate beginning at 10%. Austrailia additionally supplanted a scope of existing taxes like the discount deals tax (WST), charge tax, monetary establishments obligation, and stamp obligation on shares, rents, home loans and checks. Notwithstanding, the10% tax rate prompted low GST income efficiency from a tax assortment angle[32].

MALAYSIA

GST in this nation has been forced in the year 2015, following a 26 years of discussion over its possible benefits and deficiencies. It was presented at a standard pace of 6% - which is generally low contrasted with VAT rates in other ASEAN nations.

After execution of GST, the expense of working together in Malaysia decreased as the tax trouble was moved from makers to shoppers. However, the nation has seen low income profitability as far as tax assortment.

INDONESIA

In Indonesia, imports are dependent upon VAT and GST, however a large portion of the fares are absolved from its rundown. The tax rate is 10% if the services are provided out of Indonesia by unfamiliar taxpayers, and certain things are taxed at 20% with the cap of 35%. The extravagance tax which is pertinent on import is 10% to half. A large portion of the things like gold, mining items, expressions and amusement, training, protection, stopping, public vehicle, clinical wellbeing, work, inn, monetary, food and refreshment served in inns are not liable to pay any VAT.

CHINA

After the European and Asia Pacific market, the China has kept up the GST applications over goods and the adapted arrangement of fixes, handling and substitution helped services, which likewise implies that it is restrictedly gathered on goods which are burned-through in the assembling cycle as the fixed resource goods and administration tax in unfamiliar nation like China isn't under recoverable terms. There are three tax rates; which incorporates 0%, 5%, and 19%.

CRITIAL ANALYSIS

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[32]PoojaJaiswar, PoojaJaiswar,

https://www.zeebiz.com/india/news-gst-in-india-versus-gst-in-the-other-countries-what-differentiatesindia- 16838

The Indian model of aberrant tax framework which is at present in power for the vast majority of the items, for example GST has been an optimistic task. The Indian government has chipped away at its outlining for over 10 years be that as it may, we need to examine whether the law is great or if the law has had the option to accomplish the objective it was brought into power for.

Tax Slabs

In the Indian GST arrangement, there are different tax rates and various things are assigned specific sections in which they fall. Circuitous tax is charged on them based on the piece in which a thing fall. This framework has been brought into impact, in spite of the training in different nations, in view of the class partition in the Indian culture and the plenty of goods and services advertised. Aside from India, just five nations utilize four non-zero pieces. Additionally, out of 115 nations who have received GST, 28 nations utilize double piece.

While different goods and services fall under fundamental wares, there are extravagance goods too. It would have been biased to charge similar pace of tax on things of need and extravagance goods. Hence, 4 chunks have been made in which different things are put. Gold and semi-valuable stones are a special case for this standard. 3% GST is charged on gold while 0.25% tax is required on semi-valuable stones. In the absolved rate for example 0%, around 1300 goods and 500 services have been incorporated. Further, roughly 81% of goods and services covered under GST fall beneath or in 18% classification. Notwithstanding, a matter of worry here is the customary shift of goods starting with one rate then onto the next. The GST gathering continues refreshing the rundown of goods falling under specific tax pieces and this makes issues for tax payer and tax advocates.

Going to the exclusions gave in the current framework, different items are kept in the zero-percent piece. These goods and services incorporate wood charcoal, handlooms, agrarian executes, condom and contraceptives. Prior, clean cushions were under the 12% piece notwithstanding, after fights and considerations, it was absolved from tax. Additionally, another interest with respect to tax exception is identifying with protection services. The working class in India contributes intensely to the advancement of the country via immediate and aberrant tax. In any case, the federal retirement aide plans in India are restricted and aren't accessible to everybody to the detriment of the public authority. Resultantly, countless individuals go to privately owned businesses to purchase clinical and life coverage services. GST is charged on broad protections at the pace of 18%, which expands the superior add up to be paid by policyholders. Prior it was covered under the 15% piece.

The policyholders pick these arrangements since they have no other choice to guarantee their security and their family's monetary prosperity in circumstance of emergency. High paces of tax on these arrangements troubles the pockets of the working class families. It might additionally hamper individuals from purchasing such approaches which will antagonistically influence the way of life of Indian residents.

The continuous changes in the tax rates are a major hinderance in the development of this framework as a viable other option. Likewise, the creator accepts that the GST gathering should contemplate the requests of the various areas of society for unequivocally and choose as needs be with irrevocability.

How Indian GST model compares with GST in other countries

Particulars	India	Canada	UK
Name of GST in the country	Goods and Service tax	Federal Goods and Service Tax & Harmonized Sales Tax	Value Added Tax
Standard Rate	0% (for food staples), 5%, 12%, 18% and 28%(+cess for luxury items)	GST 5% and HST varies from 0% to 15%	20 % Reduced rates- 5 %, exempt, zero rated
Threshold exemption Limit	20 lakhs (10 lakhs for NE states)	Canadian $ 30,000 (Approx Rs. 15.6 lakhs in INR)	£ 73,000 (Approx Rs. 61.32 lakhs)
Liability arises on	Accrual basis: Issue of invoice OR Receipt of payment -earlier	Accrual basis: The date of issue of invoice OR the date of receipt of payment- earlier.	Accrual Basis: Invoice OR Payment OR Supply -earliest Cash basis (T/O upto 1.35mn): Payment
Returns and payments	Monthly and 1 annual return	Monthly, quarterly or annually based on turnover	Usually quarterly. Small business option- annual
Reverse charge Mechanism	Apply on goods (new) as well as services (currently under Service tax)	Reverse charge applies to importation of services and intangible properties.	Applicable
Exempt services	Manufacture of exempted goods or Provision of exempted services (to be notified)	Real estate, Financial Services, Rent (Residence), Charities, Health, Education	Medical, Education, Finance, Insurance, Postal services
Standard Rate	0% (for food staples), 5%, 12%, 18% and 28%(+cess for luxury items)	7% Reduced rates- Zero rated, exempt	6%

Particulars	India	Canada	UK
Threshold exemption Limit	20 lakhs (10 lakhs for NE states)	Singapore $ 1 million (Approx Rs. 4.8 crore)	MYR 500,000 (Approx Rs. 75 lakhs)
Liability arises on	Accrual basis: Issue of invoice OR Receipt of payment -earlier	Accrual Basis: Issue of invoice OR Receipt of payment OR Supply - earliest Cash basis:(T/O upto SGD$1mn): Payment	Accrual Basis: Delivery of goods OR Issue of invoice OR Receipt of payment
Returns and payments	Monthly and 1 annual return	Usually quarterly Business option- Monthly returns.	Large organsations- Monthly
Reverse charge Mechanism	Apply on goods (new) as well as services (currently under Service tax)	Reverse charge applies to supply of services	Reverse charge applies to imported services
Exempt services	Manufacture of exempted goods or Provision of exempted services (to be notified)	Real estate, Financial services, Residential rental	Basic food,Health Transportation, Residential property, Agricultural land

CHAPTER 6

PROBLEMS AND CHALLENGES RELATING TO GST

This Section shall attempt to Critically Analyse the provision related to GST and find various challenges faced by the stakeholders along with the legal loopholes that make the challenges all that more apparent for exploitation.

1) Facility to file Revised Return

Under the current GST Law, there is no provision for filing a revised return. If a taxpayer makes an error while filing their GST return, they do not have the option to revise it. This can be problematic, especially if mistakes are made in reporting sales or Input Tax Credit (ITC) details. Circular No. 26/2017 dated December 29, 2017, addresses such cases by instructing taxpayers to rectify errors in subsequent GST returns. However, this process can be cumbersome, especially if the subsequent return does not contain the necessary details. The circular advises making corrections in the next-to-next return, which can make it challenging to reconcile return data with financial books. While amendments are allowed in subsequent periods, they do not provide taxpayers with the control to promptly correct reporting errors. Therefore, both taxpayers and professionals have long been advocating for the introduction of a revision facility, which would simplify the process of correcting errors in GST returns.

To know the government's concerns about the impact of allowing revised returns, especially concerning the recipient's Input Tax Credit (ITC). However, if revised returns for Form GSTR 3B were permitted, it wouldn't significantly affect the recipient's tax credit since the recipient derives their tax credit from GSTR 1. Therefore, there shouldn't be any substantial issues with allowing revised returns for GSTR 3B.[33]

It's worth noting that the Income Tax Act allows for the revision of Income Tax Returns (ITRs), and in previous tax regimes like service tax and VAT, taxpayers were allowed to file revised returns. This flexibility is crucial for taxpayers to ensure accuracy in their tax

[33] Nair, Avinash (2017), GST coupled with digitisation will make Indian economy cleaner, Indian

Express, January 11, 2017

liabilities for each respective month. Despite this, the GST system currently lacks a provision for revised returns, which poses a significant challenge for taxpayers.

Given that errors are inevitable, it's important to provide taxpayers with the means to correct mistakes through a revised return facility. We urge the government to consider implementing such a facility to address this pressing issue faced by taxpayers under the GST regime.

Tax Credit Mismatch Issue

It's widely acknowledged that when GST was introduced, the necessary IT infrastructure was lacking. The monthly GST forms originally planned (GSTR 1, GSTR 2, and GSTR 3) were not implemented beyond July 2017. The GST law includes provisions for rating or grading taxpayers to distinguish between compliant and non-compliant ones. However, even after six years of GST implementation, this feature, mandated by law, has yet to be implemented.

From the outset, GST legislation has emphasized that buyers can claim input tax credit only if the tax has been paid by the supplier. However, the government has not provided taxpayers with the proper infrastructure to ensure compliance with this requirement. Taxpayers are already tasked with running their businesses and remitting taxes to the government. Adding the significant and 100% responsibility of ensuring their suppliers' tax payments further complicates the business environment and does not foster ease of doing business.

Over the past six years, the process of claiming Input Tax Credit (ITC) has undergone several modifications. Initially, taxpayers could claim eligible ITC based on purchase invoices, with GSTR-2A serving as a facilitation tool rather than impacting their ability to avail ITC through self-assessment. Subsequently, ITC was restricted to a certain percentage of matched credits with GSTR-2A, with variations over time.

Later, changes in functionality and legislation dictated that ITC would only be available if invoice details were communicated in Form GSTR-2B via the government portal. Additionally, the Union Budget 2022 introduced another condition, stipulating that ITC would be accessible only if it wasn't restricted in the auto-generated form by the common portal.

These restrictions aim to address supplier defaults such as non-compliance with registration provisions, reporting and tax payment defaults, and excess ITC availing. However, imposing such restrictions on recipients due to supplier non-compliance poses hardships, as recipients have no control over suppliers' actions.

Seamless ITC, a key objective of GST, is now being compromised. Recent changes in reporting returns through Form GSTR-3B require recipients to claim ITC based on GSTR-2B data and reverse ITC for undelivered or in-transit supplies. GSTR-2B serves as the primary report for claiming ITC, necessitating taxpayers to reconcile their purchase registers with ITC claimed in GSTR-3B.

These recent changes aim to streamline tax administration but inadvertently increase the compliance burden on taxpayers, making it more challenging and cumbersome.

Apart from the aforementioned challenges, the ambiguity in annual returns and reconciliation statements, along with delays in implementing forms like ITC-02, have made GST compliance incredibly burdensome for taxpayers. The introduction of the GSTR 2A facility in 2019 was a step forward, but the government has yet to provide a reliable reconciliation software for GST ITC reconciliation, which is crucial for identifying mismatched credits. This can be seen as a failure on the part of the government machinery.

While a communication facility with suppliers has been recently introduced on the portal, it lacks legal backing. Nevertheless, taxpayers across India are now receiving notices from authorities to reverse Input Tax Credit dating back to 2017 if not paid by the supplier, resulting in significant demands being raised. This seems unreasonable, especially given the absence of the aforementioned explanation.

In many instances, suppliers have paid tax under the B2C category, but recipients are not allowed to claim such ITC as it does not reflect in their accounts. Similarly, in some cases, suppliers have paid tax but under a different GSTIN than that of their customer by mistake, and the time limit for amendment has elapsed.

One significant challenge faced by taxpayers is ensuring that suppliers have paid taxes to the government treasury, especially in the absence of a formal tracking mechanism. To address this issue, the government introduced rule 37A in the CGST Rules, allowing tracking based on the filing status of FORM GSTR 3B by suppliers. If a supplier fails to file FORM GSTR 3B for the relevant supply period by September 30 following the end of the financial year, taxpayers are required to reverse ITC availed in their GSTR 3B by November 30 and can re-avail it once the supplier files FORM GSTR 3B.

However, denying input tax credit solely based on a supplier's failure to file their GST return seems unjust, especially if the taxpayer has valid invoices and has paid the GST component to vendors. The Madras High Court, in cases such as M/s D.Y. Beathel Enterprises v. the State Tax Officer and Assistant Commissioner (CT) v. Infiniti Wholesale Ltd., has allowed taxpayers to claim ITC under such circumstances. The courts have emphasized that it is unreasonable to expect buyers to verify suppliers' accounts or inquire with tax authorities about tax payments on inputs.

a) Several measures need urgent consideration from the GST Council and the government:

a) A mechanism should be established for correcting B2C transactions with wrong GSTINs dating back to 2017, similar to the ledger confirmation concept in Maharashtra VAT Law.

b) Given the lack of proper infrastructure and the novelty of GST, the entire responsibility for ensuring supplier tax payments should not fall on buyers. It is primarily the responsibility of GST officers to identify non-compliant taxpayers. Holding buyer businessmen accountable for recovering ITC from 2017 without adequate infrastructure could lead to the closure of many small businesses.

c) Authorities should refrain from taking coercive or harsh actions regarding ITC mismatches. Urgent action is required from the government to provide relief in such cases. Judiciary intervention may be necessary to ensure that genuine purchasers are not unfairly denied ITC.

d) Tax laws should not impose impossible obligations on taxpayers, such as ensuring supplier tax payments. If a taxpayer has a valid invoice and has paid the GST component to vendors, ITC should not be denied solely because the vendor failed to file their GST return.

GST Network

GSTN in India has encountered various challenges since its inception in 2017. Some of the notable problems include:

Technical Glitches: GSTN has faced technical glitches since its launch, including issues with the GST portal such as downtime, slow processing, and errors in filing returns. These glitches have caused inconvenience to taxpayers and businesses.

Complexity in Compliance: The GST regime introduced significant changes in taxation structure, leading to complexities in compliance, especially for small and medium-sized enterprises (SMEs). The frequent changes in rules and regulations have also added to the compliance burden.

Input Tax Credit (ITC) Mismatches: Matching of invoices for claiming Input Tax Credit has been a significant challenge. Mismatches between sales and purchase invoices have resulted in disputes and delays in availing ITC, affecting businesses' cash flows.

Invoice Matching Issues: The process of reconciling invoices uploaded by sellers with those uploaded by buyers has been cumbersome, leading to delays in availing input tax credits and generating GST returns.

System Capacity: The GSTN portal has faced challenges in handling the large volume of transactions, especially during peak filing periods such as month-end or quarterly returns. This has resulted in slowdowns and system crashes.

Complaints from Taxpayers: Taxpayers have raised concerns about the complexity of the GSTN portal, lack of user-friendly interfaces, and difficulties in navigating through various sections for filing returns and claiming credits.

Data Security Concerns: Given the vast amount of sensitive financial data processed through the GSTN portal, there have been concerns about data security and privacy breaches, although measures have been taken to address these issues.

GSTN Governance: There have been discussions about the governance structure of GSTN, with suggestions for greater transparency and accountability in its functioning.

Efforts have been made by the government and GSTN authorities to address these issues through system upgrades, simplification of processes, and increased taxpayer awareness. However, challenges persist, and ongoing improvements are necessary to streamline the GSTN system and enhance its efficiency.

The primary concern voiced by industry experts, tax consultants, and small business owners revolves around the overload experienced by the GSTN portal. Many find themselves compelled to file returns during off-peak hours to evade the portal's sluggish processing. Bihar's Deputy Chief Minister Sushil Kumar Modi, heading the Group of Ministers tasked with addressing GSTN glitches, attributes system crashes to dealers rushing to file returns at the eleventh hour.

Instances have been reported where error reports display details of unrelated clients, causing confusion. Delays in generating error reports, sometimes up to 24 hours, exacerbate frustrations among GSTN users, particularly as this delay affects refund issuance.

Additionally, users encounter issues with decimal entries, particularly when claiming utilization credit. For example, the system rejects utilization of Rs 0.85 from a credit of Rs 100.85, hindering taxpayers' ability to leverage credits for other taxes like SGST.

The deferral of GST deadlines has further compounded problems, with exporters noting delays in their refunds due to the extension of the GSTR-1 deadline. This has resulted in significant refund claims being stalled, such as a client with a refund claim of Rs 100 crore, exacerbating the challenges faced by businesses under the GST regime.[34]

4.3 GST RETURN

[34] Snigdha Kalra (June 2017), The impact of GST: What Indian exporters can expect, http://qrius.com/impact-gst-indian-exporters-can-expect/

Educating clients about changes in tax laws, particularly regarding the new GST return system, presents a significant challenge for chartered accountants during the transition period. They must explain concepts such as real-time invoice uploading, claiming Input Tax Credit (ITC) via ANX-2, and reporting missing invoices.

In the new GST return system, taxpayers can upload invoices continuously in GST ANX-1, requiring a new mechanism to capture and upload all invoices and related documents accurately. This poses a challenge as real-time invoice upload isn't part of the current return system, necessitating additional effort from taxpayers.

Frequent matching of invoices between supplier uploads and recipient accounts is essential for claiming ITC. As suppliers upload invoices in real-time, recipients must match invoices continuously. However, this requires allocating time from daily business activities or assigning dedicated personnel, potentially leading to inaccuracies in ITC claims if not managed properly.

Tracking missing invoices is another challenge, as recipients must monitor and report them to suppliers, which could strain supplier-recipient relationships.

Effective vendor communication becomes crucial for reconciling differences and ensuring smooth GST return submissions. This includes focusing on accounts receivables and payables to determine sales, debtors, purchases, creditors, and output tax liability.[35]

In summary, educating clients about the new GST return system involves explaining various processes such as real-time invoice uploading, frequent matching, invoice tracking, and vendor communication, ensuring hassle-free submission of GST returns.

Taxpayers accustomed to the current return system will require sufficient time to adjust to the new GST return system. While the government has provided a prototype of the new system, not all features are enabled yet. This transition presents challenges, as taxpayers must familiarize themselves with new functionalities like uploading invoices in GST ANX-1, managing ITC claims in GST ANX-2, regular reconciliation, and claiming provisional credit for missing invoices.

[35] Poonam, Goods And Services Tax In India, Science and Management (2017)

To mitigate these challenges, taxpayers can leverage the latest technologies available in the market. Features such as bulk invoice upload and tracking, automated reconciliation of books of accounts with GST returns, continuous vendor follow-up, and streamlined communication with bulk vendors can simplify the adaptation process to the new GST return system. By embracing technological solutions, taxpayers can navigate the transition more smoothly and efficiently.[36]

ADVANCE RULING MECHANISM

In India, the Advance Ruling Mechanism under the GST system provides a legal framework for taxpayers to seek clarity and certainty regarding their tax liabilities in advance. The mechanism aims to provide guidance and avoid disputes related to the interpretation of GST laws.

Here's how the Advance Ruling Mechanism works in GST:

Objective: The main objective of the Advance Ruling Mechanism is to provide clarity and certainty to taxpayers regarding the GST treatment of transactions or activities they intend to undertake.

Authority: The authority responsible for issuing advance rulings varies across states and Union territories in India. Each state or Union territory has its own Authority for Advance Ruling (AAR) constituted under the GST law.

Eligibility: Any registered taxpayer or applicant can seek an advance ruling from the AAR on matters related to the GST law. This includes issues such as classification of goods or services, applicability of taxes, eligibility for input tax credit, etc.

Application Process: To seek an advance ruling, the applicant needs to submit an application to the AAR along with relevant documents and information about the transaction or activity in question. The application should clearly state the question(s) on which the ruling is sought.

[36] Issues in the New GST Return System https://cleartax.in/s/issues-new-gst-returns-system

Procedure: The AAR examines the application, conducts hearings if necessary, and then provides a ruling based on the interpretation of the GST law and relevant facts presented by the applicant.

Binding Nature: The advance ruling issued by the AAR is binding on the applicant who sought it and the jurisdictional tax authority. It remains valid unless there is a change in law or facts on which the ruling was based.

Appeal Mechanism: If the applicant or the tax authority disagrees with the ruling issued by the AAR, they can appeal against it to the Appellate Authority for Advance Ruling (AAAR) within a specified time frame.

Dissemination: Advance rulings issued by the AAR and AAAR are made available to the public, ensuring transparency and consistency in tax administration.

Overall, the Advance Ruling Mechanism in GST aims to provide certainty, reduce litigation, and promote voluntary compliance by offering clear interpretations of GST laws in advance.

The public authority can take a gander at the accompanying choices to make the development administering system more viable, effective, and taxpayer well disposed:

- Make the AAR and AAAR autonomous public level systems outside the domain of tax organization. This would help these systems acquire more prominent taxpayer certainty. The AAR ought to have an adequate number of seats at numerous areas to guarantee that it gives taxpayers simple admittance to decisions. This could settle the issue identified with the convenient conveyance of advance decisions, which was absent in the pre-GST system.

- If the previously mentioned choice isn't achievable, the AAR can be practically free. Its organization could be redesigned by guaranteeing satisfactory staffing and assets, and drafting more senior-level and experienced officials as individuals. Further the redrafting component ought to be autonomous of the department.The change on these lines will go far in furnishing taxpayers with conviction in taxation and increment financial backers' trust in India at a worldwide level.

CRITICAL ANALYSIS OF CASE LAWS

Mohit Minerals Pvt Ltd vs UOI[37]

The Gujarat High Court emphasized the need for a strict interpretation of the relevant charging section. It ruled that importers of goods cannot be automatically considered as "recipients" as defined in Section 5(3) of the IGST Act. Consequently, Entry 10 of Notification No. 10/2017, which imposes tax liability on importers, was deemed ultra vires as it goes beyond the scope of the law. According to Article 265, delegated legislation cannot impose taxes without explicit legislative provision, making such imposition unconstitutional.

The court highlighted that services are actually received by foreign exporters, not Indian importers, so treating importers as recipients of services is incorrect. Since Indian importers are not obligated to pay consideration to foreign shipping lines, they cannot be held liable to pay tax on these services. Additionally, a beneficiary of services cannot be considered a recipient of services.

The argument that payment of IGST is revenue-neutral due to Input Tax Credit (ITC) eligibility with the importer was dismissed because importers do not qualify as recipients of services and therefore cannot avail ITC on the IGST paid.

Furthermore, the court clarified that the mere termination of transportation of goods in India does not automatically classify the supply of transportation services as occurring in India. Place of supply rules serve as proxies to determine the nature of the supply as interstate or intrastate, potentially making a supply taxable even if it's not within the taxable territory.

The respondents argued that the transaction should be considered a "composite supply" under the IGST Act, implying that tax is levied on both the goods and the freight. They contended that imposing additional tax on the freight charges would lead to double taxation. However, the Union Government maintained that freight constitutes a distinct service that can be subject to separate taxation. The court rejected this argument, stating

[37] AIR 2018 SC 730

that taxing the service component would violate the provisions of Section 8 of the CGST Act.

The appellant invoked the "aspect theory" to argue that different aspects of a transaction can be taxed separately. However, the court referred to the decision in BSNL v. Union of India[38], which ruled against including the value of goods in services and vice versa under the aspect theory. The court clarified that the BSNL case dealt with double taxation under the pre-GST regime and was not applicable to the present case. Furthermore, the court emphasized that the legislative intent was to bundle similar goods and services together rather than treating them as separate transactions.

This ruling is expected to have a significant impact on the future of the GST regime in India. It could mark a crucial moment in its development, potentially leading either to its strengthening or its detriment. The outcome will depend on the decisions made by the states and the central government. States should avoid creating unnecessary obstacles and strive to align with the recommendations of the GST council, while the center should accommodate the opinions and needs of the states. Only through cooperation can the GST regime truly embody the principles of federalism.

Bai Mamubai Trust vs Suchitra [39]

The CGST Act mandates that a "supply" is necessary for taxation to apply, as it constitutes the taxable event. Without a supply, there is no obligation to pay tax. When payment is made as royalty for damages or compensation due to a violation of the plaintiff's legal rights within the premises of a lawsuit, it does not qualify as "consideration" for a supply. This payment lacks the reciprocity required to define it as a supply. In the absence of a reciprocal relationship, it cannot be classified as a supply. The concept of supply does not encompass wrongful unilateral acts or actions resulting in payment of damages. The method used to calculate mesne profits based on usual rent is immaterial. What matters is the nature of the payment itself, whether it is considered as "consideration" or "damages".

[38] BSNL v Union of India, (2006) 3 SCC 1.

[39] AIR 2019 BOM 2044

This case provides significant guidance on the factors to consider when determining tax liability under GST law and the interpretation of the term "supply." It offers valuable insight into the taxability of liquidated damages. The judgment underscores the importance of the element of "reciprocity" in establishing whether a transaction qualifies as a "supply" under GST law.

Torrent Power Ltd. vs UOI [40]

The case involves a significant legal dispute related to the GST regime in India. In this case, Torrent Power Ltd. challenged certain aspects of the GST law and its implementation by the Union of India. The specific issues and implications of this case may vary depending on the details of the dispute and the arguments presented by both parties. The case likely involves the interpretation of various provisions of the GST Act, rules, and notifications. This could include issues related to the levy and collection of GST, ITC, tax rates, classification of goods and services, and compliance requirements. The outcome of the case could impact Torrent Power Ltd.'s tax liability and compliance obligations under the GST regime. Depending on the specific issues raised in the case, the company may seek relief from certain tax liabilities, penalties, or procedural requirements.

Industry Impact: The case may have broader implications for the power sector or other industries affected by similar issues related to GST laws and regulations. The outcome could influence how companies in these sectors conduct their business operations, plan their tax strategies, and navigate regulatory requirements.

Legal Precedent: The judgment in this case could establish legal precedent or clarify certain aspects of GST law that may apply to other taxpayers facing similar challenges or disputes with tax authorities. This could provide guidance to businesses, tax professionals, and authorities in interpreting and applying GST laws in future cases.

Overall, the case of Torrent Power Ltd. vs Union of India represents an important legal challenge within the context of the GST regime, with potential implications for tax liabilities, compliance, industry practices, and legal interpretation of GST laws.

[40] Civil Application No. 2603 of 2022

The meaning of “transmission and distribution of electricity” does not change either for the negative list regime or the GST regime . Charges such an application fee, meter rent, testing fee, etc collected by the Petitioners are part of composite supply of which principal supply is the actual supply of electricity and therefore the entire composite supply is exempt from tax under Entry 25 The Paragraph 4(1) of the impugned Circular No.34/8/2018-GST dated 1.3.2018 is hereby struck down as being ultra vires the provisions of section 8 of the CGST Act, 2017 as well as Notification No.12/2017-CT(R) serial No.25.

This decision will be of great relief for the electricity distribution companies as well as to the consumers, who were facing the adverse comments from the revenue biased advance ruling authorities.

Synergy FertichemPvt.Ltd vs State Of Gujarat[41] involves the interpretation and application of tax laws, particularly pertaining to the eligibility of ITC under the GST regime. In this case challenged the denial of ITC by the State of Gujarat. The company argued that it was entitled to claim ITC on the goods and services used for construction activities, which were subsequently utilized for the production of taxable goods.
The case required the court to interpret relevant provisions of the GST laws, particularly regarding the eligibility criteria for claiming ITC. This involves analyzing statutory provisions, notifications, and regulations to determine the taxpayer's rights and obligations. The case highlights the importance of taxpayers' rights to claim ITC on inputs used for business activities, including construction projects. The outcome of the case would determine whether the taxpayer can offset their tax liability by claiming credit for the GST paid on inputs.
The denial of ITC can significantly impact a taxpayer's business operations, as it affects their cash flow and overall tax liability. Depending on the court's decision, the taxpayer may need to reassess their financial planning and tax compliance strategies. The judgment in this case may establish legal precedent regarding the interpretation of GST

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laws and the eligibility criteria for claiming ITC. It could influence future cases involving similar issues and provide guidance to taxpayers and tax authorities.
The case addresses important issues related to tax compliance and the interpretation of GST laws. The court's decision will have implications for both taxpayers and tax authorities in terms of their rights, obligations, and procedural aspects under the GST regime.

A.F.Babuvs Union Of India[42]

The case of A.F. Babu vs Union of India involves a crucial interpretation of Section 17(5)(d) of CGST Act, particularly concerning the utilization of ITC in the context of construction projects and subsequent rental income. In this case, A.F. Babu argued that ITC accumulated from inputs used in constructing a shopping mall should be allowed against the GST paid on the rental income derived from the mall's tenants. The crux of the argument was that since the construction of the mall and its subsequent rental operations constitute a single supply chain, denying ITC would result in double taxation, which is against the principles of the GST regime.
The court had to interpret the provisions of Section 17(5)(d) of the CGST Act to determine whether ITC could be allowed for inputs used in construction activities against the GST liability on rental income. The decision would clarify the scope and applicability of this provision in similar scenarios.
The court's decision aimed to prevent double taxation by ensuring that businesses engaged in construction projects followed by taxable supplies could avail themselves of ITC to offset their tax liability. This is in line with the broader objective of the GST regime to eliminate the cascading effect of taxes.
The judgment had significant implications for businesses involved in civil construction and subsequent provision of taxable supplies. It clarified the principles governing ITC utilization in such situations, providing certainty to businesses regarding their tax obligations and entitlements.

[42] WP(C).No.27940 OF

By upholding the availability of ITC in this case, the court reinforced the importance of maintaining a seamless credit mechanism in the GST regime. This decision underscores the need to ensure that the flow of credit remains uninterrupted throughout the supply chain to promote efficiency and fairness in the taxation system.

Overall, the case represents a critical legal interpretation within the realm of GST law, providing clarity on the utilization of ITC in construction projects and reinforcing the principles of preventing double taxation and maintaining a seamless credit mechanism.

Safari Retreats Pvt Ltd vs Chief Commissioner of CGST [43]

The core intent behind the CGST Act is to establish consistent regulations for tax imposition and collection while preventing the issue of multiple taxation. In a recent case, it was argued that the accumulation of input tax credit (ITC) from goods used in constructing a shopping mall, later rented out, should be allowed. This argument emphasized that such a scenario constitutes a single supply chain, and thus, the benefit of ITC should be extended to the taxpayer.

Section 17(5)(d) of the CGST Act was interpreted to enable the utilization of ITC on goods and services consumed in constructing the mall against the GST paid on rental income from its tenants. This interpretation aimed to uphold the purpose of ITC, which is to provide benefits to the taxpayer and prevent the cascading effect of taxes.

The rationale behind the introduction of GST, as outlined in the Statement of Object and Reasons of the Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014, was to eliminate the cascading effect of taxes by facilitating ITC. All entities in the tax chain, except the final consumer, are entitled to ITC to prevent tax cascading.

In light of this, the argument was made that disallowing ITC in the current case would result in double taxation, as GST would be levied twice on the same supply chain. The appeal against the initial judgment has been accepted by the Supreme Court, and the final decision is anticipated to have significant implications for businesses engaged in civil

[43] 2019 SCC Ori 443

construction and subsequent provision of taxable supplies without disruption in the tax credit chain.

Overall, this case underscores the importance of maintaining a seamless credit mechanism in the GST regime to ensure fairness and efficiency in the taxation system.

Union of India & Ors Vs Cosmo Films Limited[44]

It sounds like the Supreme Court of India has upheld the requirement of a "pre-import condition" as part of the Foreign Trade Policy of 2015-2020 (FTP) and Handbook of Procedures 2015-2020 (HBP). This condition is related to claiming exemptions on Integrated Goods and Services Tax (IGST) and GST compensation cess on inputs imported into India for the manufacture of export goods, based on advance authorization (AA). The court noted that this requirement may have caused hardship to exporters, as they could no longer follow their previous practice of importing inputs after applying for Advance Authorization to fulfill their export contractual obligations. Additionally, it seems there's an ongoing inquiry for five years due to non-appearance for summons under section 70 of the CGST Act. The Supreme Court has granted an opportunity to appear before the concerned authorities in this matter. This development suggests a balancing act between regulatory compliance and facilitating international trade.

The State Of Gujarat Etc Vs Choodamani Parmeshwaraniyer[45]

The Division Bench, comprising Justice J.B. Pardiwala and Justice Prashant Kumar Mishra of the Supreme Court, has granted one final opportunity to the respondent-assessee to appear before the concerned authorities for interrogation. Despite the inquiry being pending for five years due to non-appearance for the summons issued under Section 70 of the CGST, 2017, the Supreme Court has shown leniency by granting this relief. Previously, the High Court had instructed the petitioners to appear before the concerned Police Station by a certain date. However, the Supreme Court disposed of the case in favor of the respondent, provided they comply with the condition of appearing before the authorities. Failure to do so may result in the authorities proceeding with the

[44] 2023 (SC) 177

[45] 2023 (SC) 198

issue in accordance with the law. This ruling demonstrates the importance of fulfilling legal obligations and cooperating with investigations.

WAY FORWARD

To address the challenges and further improve the effectiveness of GST laws in India, several measures can be considered:

Simplify Tax Structure: Continuously review and rationalize the tax structure to minimize the number of tax slabs and classifications. A simpler tax structure will make compliance easier for businesses and improve transparency.

Harmonize Rates: Work towards harmonizing tax rates across goods and services to reduce complexities and ensure uniformity. This can help in streamlining compliance and reducing disputes related to classification.

Ease Compliance Burden for Small Businesses: Provide simplified compliance procedures and reduced tax filing requirements for small businesses to alleviate the compliance burden. This could include introducing a composition scheme with fewer compliance requirements for small taxpayers.

Enhance GSTN Infrastructure: Invest in upgrading the GSTN portal to improve its efficiency, reliability, and user-friendliness. This includes addressing technical glitches, ensuring faster processing of returns and refunds, and enhancing data security measures.

Capacity Building and Training: Provide training and capacity building programs for taxpayers, tax officials, and GST practitioners to improve their understanding of GST laws, compliance procedures, and the effective use of GSTN portal.

Strengthen Anti-evasion Measures: Implement robust measures to curb tax evasion, including leveraging technology for data analytics, conducting regular audits and inspections, and strengthening enforcement mechanisms to deter non-compliance.

Resolve Interstate Disputes: Address interstate disputes and inconsistencies in tax administration through better coordination and harmonization among states. Establish dispute resolution mechanisms to resolve conflicts promptly and ensure uniformity in tax administration across the country.

Promote Digital Adoption: Encourage digital adoption among businesses by providing incentives and subsidies for adopting digital accounting and invoicing systems. This will facilitate easier compliance and reduce the compliance burden associated with manual record-keeping.

Engage Stakeholders: Foster greater consultation and engagement with stakeholders, including businesses, industry associations, tax experts, and consumer groups, in the formulation and implementation of GST laws. This will ensure that the concerns and suggestions of all stakeholders are taken into account.

Periodic Review and Feedback Mechanism: Conduct periodic reviews of GST laws and regulations to assess their effectiveness and identify areas for improvement. Establish a feedback mechanism to gather input from taxpayers and stakeholders on the challenges they face and their suggestions for reforming the GST laws.

By implementing these measures, India can further enhance the efficiency, transparency, and compliance of its GST laws, ultimately contributing to the growth and development of the economy.

CHAPTER 7 CONCLUSION AND SUGGESTIONS

5.1 CONCLUSION

GST in India is a significant tax reform introduced to streamline the country's complex indirect tax system. Discussions about implementing GST in India began in the early 2000s. The concept aimed to replace multiple indirect taxes levied by the central and state governments with a single tax system. The Empowered Committee of State Finance Ministers was set up in 2000 to design a GST model suitable for India's federal structure.

The Constitution (122nd Amendment) Bill, 2014 was introduced in Parliament to amend the Constitution to enable the introduction of GST. It was passed in 2016. The GST Council, comprising representatives from the central and state governments, was formed to make key decisions regarding GST rates, rules, and implementation.
GST was officially launched on July 1, 2017, replacing a plethora of indirect taxes such as VAT, excise duty, service tax, etc.

GST aimed to create a unified market by eliminating barriers to interstate trade and fostering economic growth.

GST introduced a dual system with both central and state components, ensuring a fair distribution of tax revenue between the center and the states.

Implementation of GST required robust IT infrastructure for registration, return filing, and tax payment. The GSTN (Goods and Services Tax Network) was established to handle these technological requirements. Tax Rates and Classification: GST introduced multiple tax slabs for different goods and services, with rates ranging from 0% to 28%. Classification and determination of rates have been subject to frequent revisions based on input from various stakeholders.

Conclusion:

The implementation of GST in India marks a significant milestone in the country's tax reforms. It aimed to simplify the tax structure, reduce tax evasion, promote ease of doing business, and create a common national market. While the transition to GST faced initial challenges such as technological readiness, compliance issues, and adaptation by businesses, it has gradually stabilized. GST has led to increased transparency in the tax system, reduced tax cascading effects, and improved efficiency in tax administration. However, it is not without its criticisms, including complexities in compliance, frequent changes in rates, and administrative challenges.

GST is a work in progress, and its success depends on continuous refinement, addressing implementation challenges, and incorporating feedback from stakeholders to realize its full potential as a transformative tax reform in India.

5.2 SUGGESTIONS

- Streamline the tax structure by reducing the number of tax slabs to make it more straightforward and easier to understand for businesses and consumers.
- Minimize the number of goods and services falling under the highest tax slab to avoid burdening consumers with excessive taxation. Provide clear guidelines and interpretations of GST laws to avoid confusion and disputes among taxpayers and tax authorities. Ensure uniformity in the application of tax laws across states to promote consistency and compliance.
- Continuously upgrade and improve the GSTN to enhance its efficiency, reliability, and capacity to handle increasing transaction volumes. Implement user-friendly interfaces for GST portal and mobile applications to facilitate easier tax compliance for businesses of all sizes.
- Simplify the GST return filing process by reducing the number of forms and frequency of filing to ease the compliance burden on taxpayers.
- Provide comprehensive online resources, tutorials, and training programs to educate taxpayers about GST compliance requirements and procedures.
- Strengthen the ITC mechanism to ensure seamless flow of credits across the supply chain, thereby reducing the cascading effect of taxes and lowering the overall tax burden on businesses. Implement measures to prevent fraudulent claims of ITC and improve the verification process to maintain the integrity of the tax system.
- Establish specialized dispute resolution mechanisms, such as GST tribunals or appellate authorities, to adjudicate disputes between taxpayers and tax authorities promptly and fairly. Ensure transparency and accountability in the dispute resolution process to instill confidence among taxpayers and promote voluntary compliance with GST laws.
- Simplify and streamline the tax compliance process for capital-related transactions, such as filing of tax returns, reporting of capital gains, and claiming of deductions or exemptions. Introduce electronic filing and processing of capital-related tax forms to facilitate easier and faster compliance for taxpayers.
- Establish dedicated dispute resolution forums or mechanisms specifically for capital

taxation issues to expedite the resolution of disputes and provide timely relief to taxpayers. Ensure that dispute resolution authorities have the necessary expertise and resources to handle complex capital tax disputes effectively.

- Encourage voluntary compliance with capital taxation laws by offering incentives, such as tax credits or deductions, for timely and accurate reporting of capital transactions. Implement risk-based audit programs to target high-risk areas of capital taxation and deter non-compliance through increased scrutiny and enforcement actions.
- Enhance transparency in capital taxation by providing taxpayers with access to relevant tax laws, rulings, and guidelines through online portals or publications. Establish mechanisms for taxpayers to seek clarifications or guidance from tax authorities on capital taxation matters, and ensure prompt and consistent responses.
- Establish specialized dispute resolution forums or alternative dispute resolution mechanisms specifically for GST disputes, such as GST Tribunals or Mediation and Conciliation Boards. Encourage the use of mediation, arbitration, or other alternative dispute resolution methods to resolve GST disputes amicably and expeditiously, thereby reducing the burden on formal adjudicatory bodies.
- Encourage regular dialogue and consultation with stakeholders, including businesses, industry associations, tax experts, and consumer groups, to solicit feedback on GST implementation and address any concerns or challenges. Actively consider and incorporate constructive suggestions and recommendations from stakeholders to refine and improve the GST framework over time. By implementing these suggestions, India can further enhance the effectiveness and efficiency of GST, promote compliance, and achieve the broader objectives of fostering economic growth, simplifying taxation, and creating a unified national market.

Legislative changes

- Simplification of Tax Structure: Consider rationalizing the multiple tax slabs under GST to reduce complexity and streamline compliance for taxpayers. Explore the possibility of moving towards a single or fewer tax rates to make the tax system more transparent and easier to administer.
- Threshold Revision: Review and revise the turnover thresholds for GST registration and compliance requirements to provide relief to small businesses and startups. Introduce differential compliance requirements based on turnover to reduce the compliance burden on small taxpayers.

- ITC Provisions: Strengthen the mechanism for claiming and availing ITC by introducing measures to prevent fraudulent claims and streamline the ITC reconciliation process. Consider allowing the full utilization of ITC across different heads of tax to improve cash flow and reduce working capital requirements for businesses.
- Anti-Profiteering Measures: Enhance the effectiveness of anti-profiteering provisions under GST by providing clearer guidelines and a structured framework for determining compliance. Ensure that anti-profiteering measures are implemented judiciously and do not lead to unintended consequences such as market distortions or compliance burdens for businesses.
- E-Invoicing and Digital Payments: Mandate e-invoicing for all businesses to improve invoice matching and reduce tax evasion opportunities. Promote digital payments and electronic invoicing through incentives and awareness campaigns to facilitate the transition to a digital economy.
- GST Compliance Simplification: Simplify GST return filing procedures by reducing the number of forms and introducing a single, consolidated return form for all taxpayers. Explore the feasibility of introducing quarterly filing for small taxpayers to ease compliance and administrative burden.
- Place of Supply Rules: Review and refine the place of supply rules under GST to address ambiguities and inconsistencies, especially in cases involving cross-border transactions and services. Ensure that the place of supply rules align with international best practices and facilitate seamless interstate trade and commerce.
- Dispute Resolution Mechanism: Strengthen the dispute resolution mechanism under GST by establishing specialized GST Tribunals or Appellate Authorities to handle appeals and grievances expeditiously. Provide for alternative dispute resolution methods such as mediation and arbitration to resolve GST disputes efficiently and cost-effectively.
- Compliance Monitoring and Enforcement: Enhance the use of technology-driven tools such as data analytics and risk-based assessments to monitor GST compliance and detect tax evasion. Strengthen enforcement measures against tax evaders and non-compliant taxpayers through stricter penalties and prosecution provisions.
- Feedback Mechanism and Stakeholder Consultation: Establish a formal mechanism for soliciting feedback from taxpayers, industry associations, and other stakeholders on GST laws, regulations, and procedures. Regularly engage with stakeholders through consultations, workshops, and industry forums to identify areas for legislative reforms and address emerging challenges in GST

implementation.

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