



CS EXECUTIVE

TAX LAWS & PRACTICE

Indirect Tax (GST & CUSTOM)



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Module 2

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BASICS OF GOODS AND SERVICES TAX 'GST'

1. MEANING OF TAX

The word “tax” comes from the Latin word *taxo*, meaning “to estimate.” Tax is a compulsory extortion of money made under any law to support the government for public purposes. It is a financial charge imposed by the government in order to fund public expenditure. It was rightly said that two things in the civilized society are certain i.e. death and tax. Tax is a financial burden on society. It is the cost of civilization.



There is no legal definition of tax in India. However, as per Hon'ble Supreme Court of India:-

“Tax can be defined as a levy or other type of a financial charge or fees imposed by state or central government on legal entities or individuals”

2. NEED FOR LEVY TAXES

In any welfare state, it is the prime responsibility of the government to fulfill the increasing developmental needs of the country and its people by way of public expenditure. The reason for levy of taxes is that they constitute the basic source of revenue to the government. Revenue so collected by government is utilized for the following purposes:

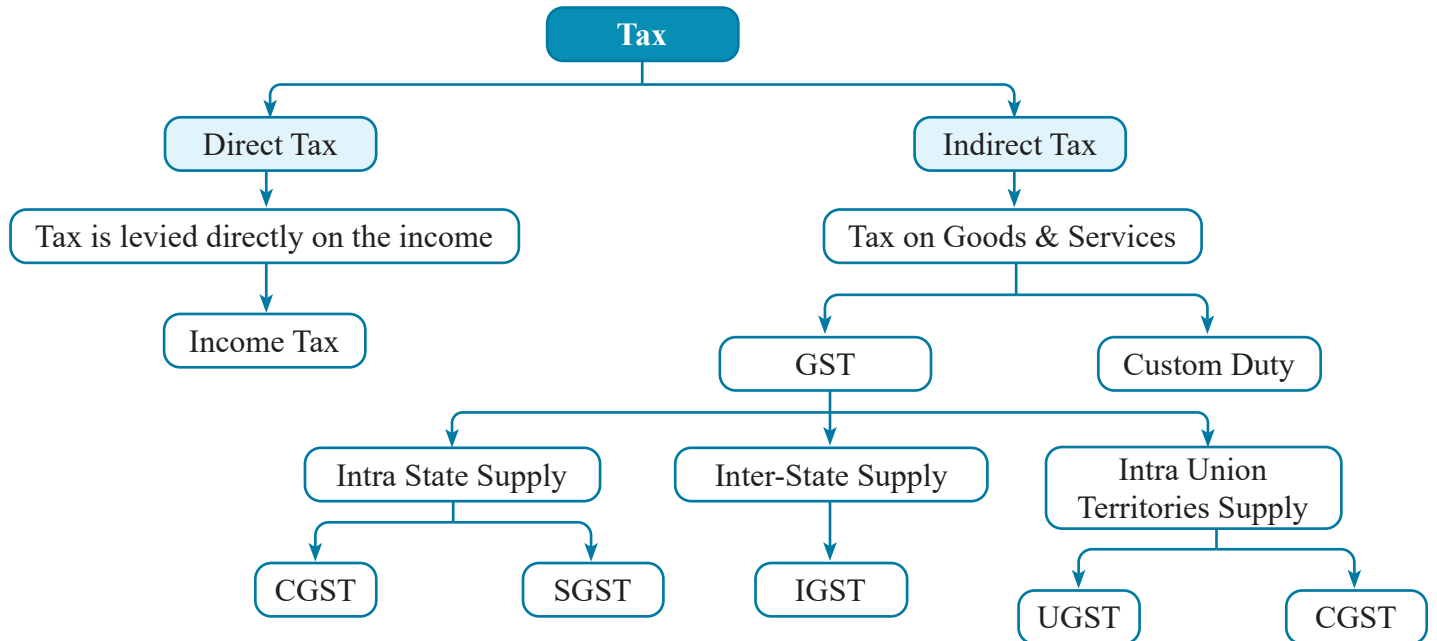
1. Provision of education, health-care, defense, infrastructure facilities like roads, dams etc.
2. Crisis management e.g. floods, earthquakes etc.
3. Economic Management and any other activities for public welfare.

Taxes, after all, are dues that we pay for the privileges of membership in an organized society.

-Franklin D. Roosevelt

3. CLASSIFICATION OF TAX

Taxes are usually classified into two categories. These are direct tax and indirect tax.



3.1 DIRECT TAXES

A direct tax is a kind of charge, which is imposed directly on the taxpayer and paid directly to the government by the persons on whom it is imposed. A direct tax is one that cannot be shifted by the taxpayer to someone else. The significant direct taxes imposed in India is “Income Tax”.

In other words

1. It is a tax charged to individuals and organizations directly by the Government.
2. Individuals and organizations cannot shift the burden of tax to someone else and have to bear the burden themselves.
3. Direct tax is progressive in nature i.e. high rate of taxes for people having higher ability to pay.

3.2 INDIRECT TAXES

An indirect tax is one that can be shifted by the taxpayer to someone else. Indirect taxes are levied on consumption, expenditure, privilege, or right but not on income or property. The significant indirect taxes levied in India are Goods and Services Tax, custom duty etc.

In other words

1. It is a tax charged to supply of goods or services or both.
2. The burden of tax can be shifted to someone else.
3. Indirect tax is regressive in nature i.e. all the consumers irrespective of paying capacity equally bear the burden.

3.3 DIRECT VS. INDIRECT TAX

Differences between Direct Tax and Indirect Tax

Point of Difference	Direct Tax	Indirect Tax
Meaning	Direct tax is a tax wherein the levy of tax is made on a person and the responsibility of paying such tax is fixed on that person.	In this the levy of tax is made on one person and the responsibility of paying the tax to the Government is fixed on some other person.

Levy	Direct tax is levied on person.	Indirect tax is levied on goods and services.
Transfer of Tax Burden	The burden of direct tax cannot be transferred to other person.	The burden of indirect tax can be transferred to the end users.
Effect	The purpose of direct tax is to redistribute the wealth of a nation.	Indirect tax increases the price of goods or services.
Example	Income Tax.	Goods and Services Tax.
Penalty	It is levied on the Assessee.	It is levied on supplier of Goods & Services.

4. MERITS AND DEMERITS

4.1 MERITS OF INDIRECT TAXES

- 1. High revenue production:** Nature of indirect taxes is imposition on commodities and services. Here indirect taxes cover a large number of essential goods and luxurious goods which are consumed by both rich and poor people, these help in collecting large revenue.
- 2. No evasion:** The nature of indirect tax is that it is included in the price of commodities, so tax evasion or tax avoidance is difficult.
- 3. Convenient:** Indirect taxes are collected in small amounts and are embedded in the prices of goods and services. Therefore, taxpayers do not feel the burden as heavily as in the case of lump-sum direct tax
- 4. Economy:** Indirect taxes are economical in collection and the administrative costs of collection are very low. Also the procedure of collection of these taxes is very simple.
- 5. Wide coverage:** Indirect taxes cover almost all commodities like essential commodities, luxuries, and harmful ones.
- 6. Elasticity:** With a wide range of goods and services under its scope, indirect taxation offers flexibility. Tax rates and structures can be adjusted based on the nature and demand of different goods.

4.2 DEMERITS OF INDIRECT TAXES

- 1. Regressive in effect:** Essential commodities are consumed by all sections of society. When these items are taxed, the burden falls equally on both the rich and the poor, without considering their ability to pay. This makes indirect taxes regressive in nature.
- 2. Uncertainty in collection:** Discourage savings and Increase inflation. Indirect taxes are payable when people spend their income or when people buy goods and services, so tax authorities cannot accurately estimate the total yield from different indirect taxes.
- 3. Discourage savings - Increase inflation:** Since indirect taxes are embedded in the price of goods, people are forced to spend more even on essential items. This reduces their ability to save a portion of their income.
- 4. Increase inflation:** Indirect taxes increase the cost of input and output, increase in production cost, push the price of goods. These reflect an increase in the wages of the workers.

5. OBJECTIVE OF TAXATION

Objectives of taxes have been developed when the functions of the Government are developed. The Objectives of taxation in brief are as under:-

- ◆ Source of Revenue to Government
- ◆ Redistribution of Income and Wealth
- ◆ Social welfare
- ◆ Safety of society from bad and injurious customs
- ◆ Economic significance of Taxes
- ◆ Economic growth
- ◆ Enforcing government policy
- ◆ Economic stability

6. ERSTWHILE INDIRECT TAXATION IN INDIA

The indirect tax system in India prior to the implementation of GST was governed by a combination of Central and State legislations. At the Central level, the major components of indirect taxation included Central Excise, Customs Duty, and Service Tax. In contrast, the State governments levied taxes such as Value Added Tax (VAT) and Central Sales Tax (CST), along with other levies like Octroi, Entertainment Tax, and Luxury Tax. Taxation powers were clearly demarcated: the Centre taxed the manufacture of goods (excluding items like alcoholic liquor for human consumption, opium, and narcotics), while the States taxed the sale of goods within their boundaries.

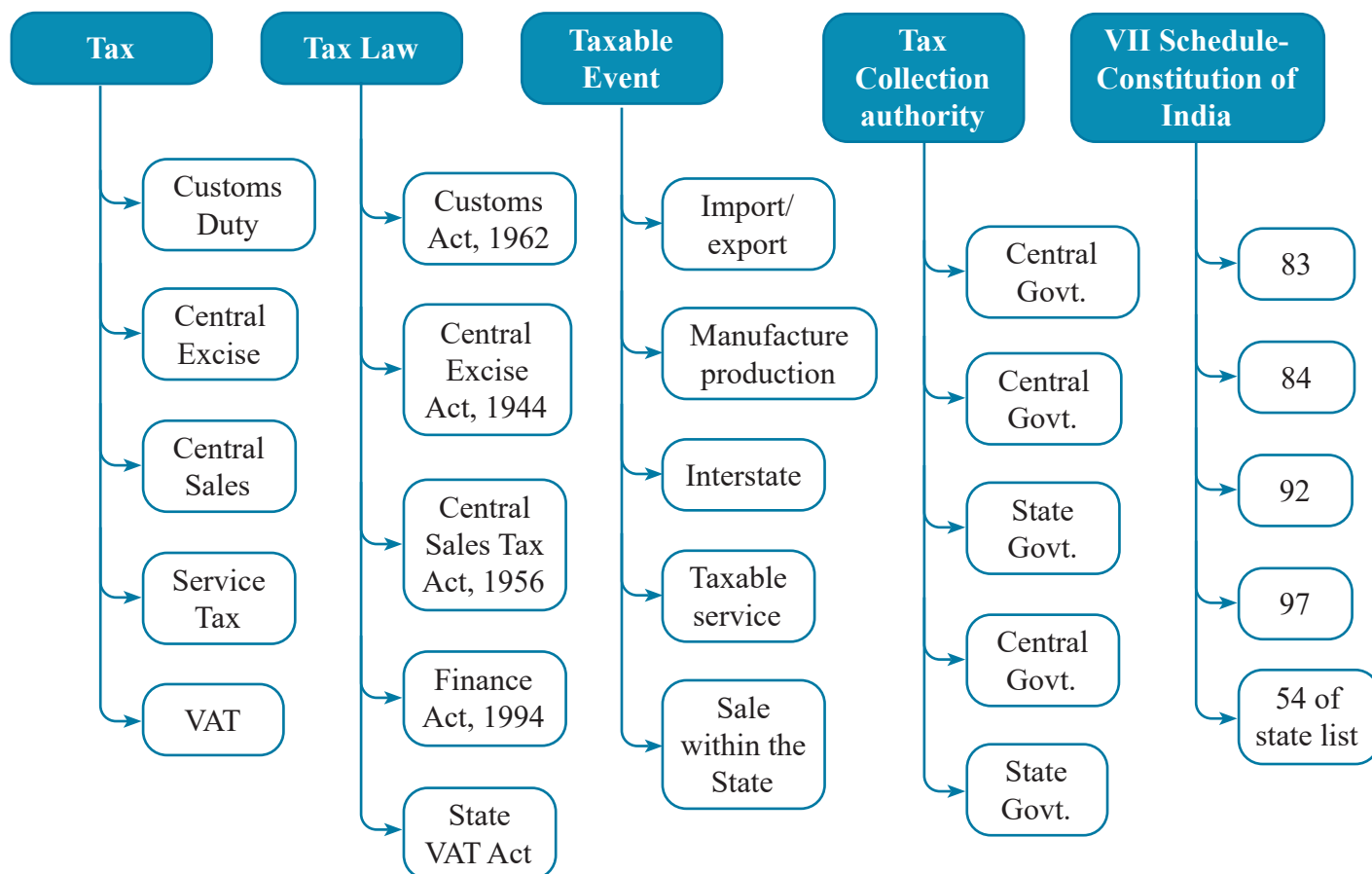
In the case of inter-State sales, the Centre was authorized to levy CST, but the tax revenue was collected and retained entirely by the respective State governments. Meanwhile, the taxation of services fell exclusively under the jurisdiction of the Central Government and was governed by the Finance Act.

The introduction of VAT was a significant milestone in reforming the indirect tax landscape. However, several structural shortcomings limited its effectiveness:

- ◆ Multiple taxes on goods and services such as luxury tax and entertainment tax remained outside the VAT framework, diluting the benefits of a unified tax system.
- ◆ Input tax credit was not available for various other levies imposed by both Central and State governments, particularly those on manufacturing, production, and trade.
- ◆ The absence of a seamless credit mechanism led to cascading taxes, where taxes were levied on already-taxed inputs, inflating the overall cost of goods and services.

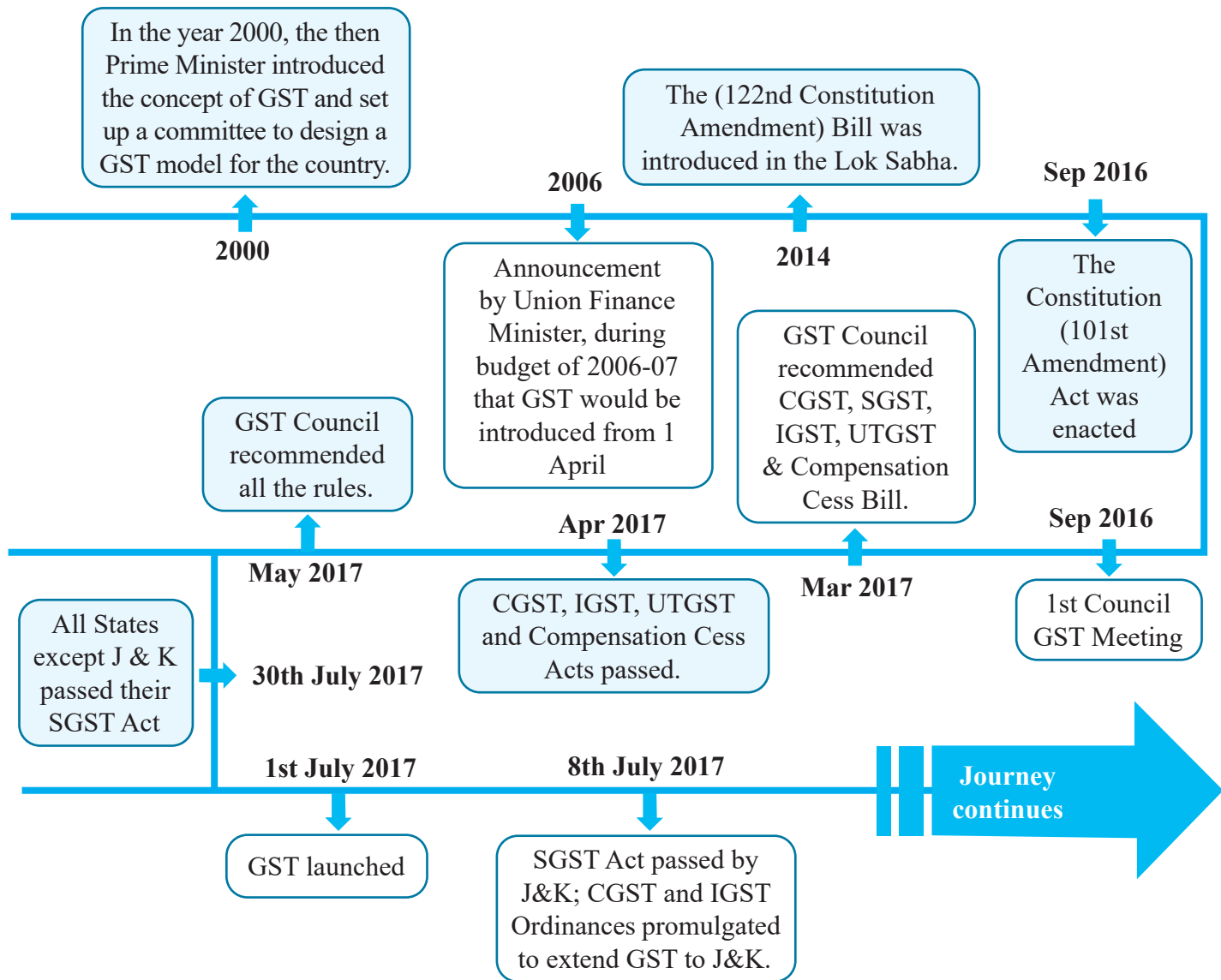
These limitations highlighted the need for a more integrated and efficient system, ultimately leading to the adoption of the Goods and Services Tax (GST).

The following diagram summarizes the erstwhile indirect taxation in India



7. HISTORY OF GST IN INDIA

The following diagram summarizes the history of GST in India.



8. TAXES SUBSUMED WITHIN GST

8.1 CENTRAL TAXES SUBSUMED UNDER GST

1. Central Excise Duty
2. Additional Excise Duties
3. Excise duty under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955
4. Additional Duties of Excise (Goods of Special Importance)
5. Additional Duties of Excise (Textiles and Textile Products)
6. Service Tax Ad
7. Additional Custom Duty (CVD)
8. Special Additional Duty of Customs (SAD)
9. Central Surcharge and Cess

8.2 STATE TAXES SUBSUMED UNDER GST

1. Value-added Tax (VAT)
2. Central Sales tax (Levied by the Centre and collected by States)
3. Entry tax
4. Purchase tax
5. Luxury tax
6. Taxes on lottery, betting and gambling
7. Entertainment tax (other than the levied by the local bodies)
8. Taxes on advertisement

9. TAXES NOT SUBSUMED WITHIN GST

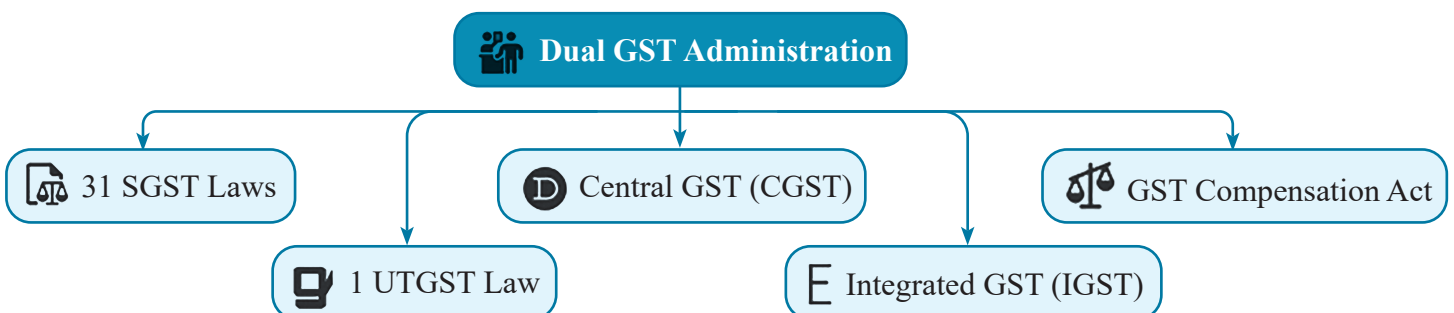
1. Basic Custom Duty
2. Tax on Petroleum Products
 - (a) Petroleum Crude
 - (b) High Speed Diesel.
 - (c) Motor Spirit
 - (d) Natural Gas
 - (e) Aviation Turbine Fuel
3. Electricity and Power
4. Real Estate
5. Alcoholic liquor for Human Consumption

10. LEGAL FRAMEWORK OF GST IN INDIA

Central and the State governments will jointly administer India's dual GST and there will be a set of 35 different tax laws:

1. Total 31 SGST act for each of the 28 states and 3 Union territories i.e., Delhi, Puducherry and Jammu & Kashmir (not having its own legislation)
2. One UTGST act for other UTs i.e. Chandigarh, Lakshadweep, Andaman and Nicobar Islands, Dadra and Nagar Haveli & Daman and Diu, and Ladakh. (Not having their own legislation),
3. A Central GST act (CGST)
4. One integrated GST act applicable on Inter - State supplies of goods and services. (IGST)
5. One additional law to be known as GST (Compensation to the States) Act, 2017 which talks about compensation to the state for five years after implementation of GST.

GST Legal Framework in India



11. FRAMEWORK OF GST IN INDIA

11.1 DUAL GST MODEL

The Dual GST Model is a system where both the Centre and the States simultaneously levy tax on the supply of goods and services, though the administration is handled separately.

India has adopted this dual model of GST, keeping in view its federal structure.

- ◆ In the case of an intra-State supply, GST is split equally between the Centre and the State:
 - ☛ CGST (Central GST)
 - ☛ SGST (State GST)
- ◆ In the case of an inter-State supply, GST is levied by the Centre in the form of:
 - ☛ IGST (Integrated GST)

Sections 7 and 8 of the IGST Act define whether a supply is considered inter-State or intra-State.

This model is inspired by Canada's GST system. Currently, countries like Brazil and Canada also follow the dual GST structure. In India, GST is uniformly applicable across the entire country, including the Union Territories and the erstwhile State of Jammu & Kashmir.

Note: GST was officially launched on July 1, 2017.

A dual GST model for the country was proposed by the EC and was accepted by centre. Under Dual model GST had two components viz., Central GST to be levied and collected by the Centre and the State GST to be levied and collected by the respective States.

11.2 DESTINATION BASED CONSUMPTION TAX (SHIFTING FROM "ORIGIN TO DESTINATION")

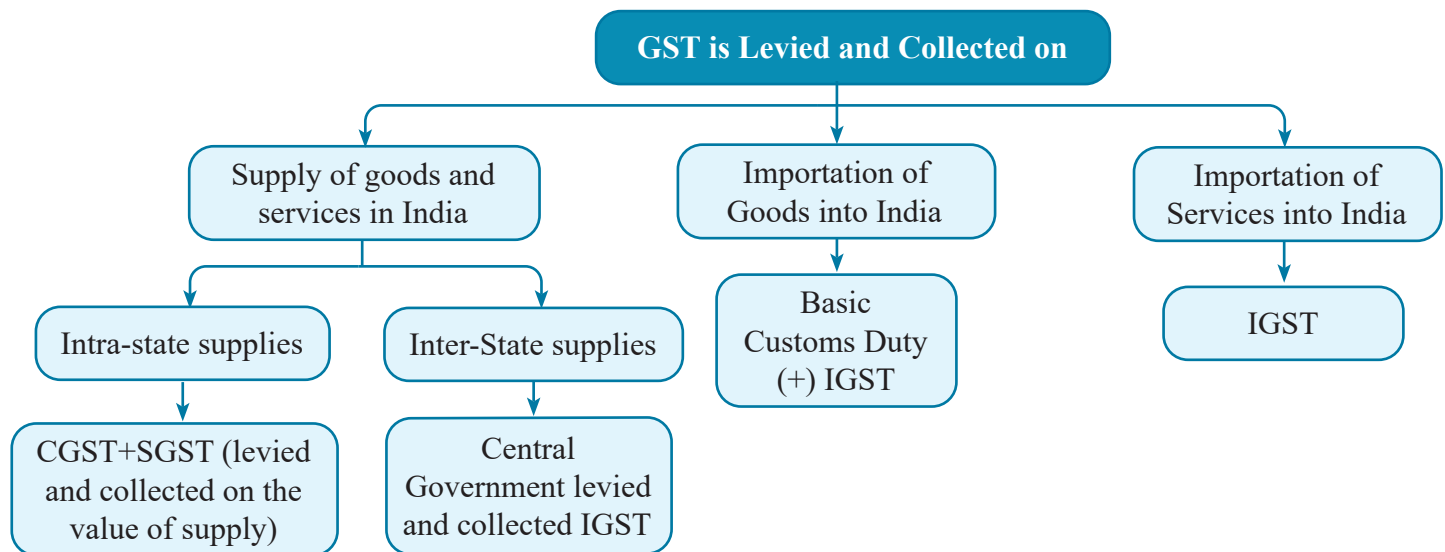
Destination based Taxation is tax on destination or consumption of the goods or services. This principle seeks to tax the goods and services on simple theory that the goods or services should be taxed at the stage where their consumption takes place rather than the point where their origin takes place i.e. production and the entire revenue relating to the goods or services should accrue in the jurisdiction where they are being ultimately consumed.

11.3 TYPES OF GST IN INDIA

GST is a destination based tax applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof.

The following types of GST are imposed in India.

- ◆ Central Goods & Services Tax (CGST): Levied and collected by the Central Government on Intra State Supply of Goods and Services or both.
- ◆ State Goods and Service Tax (SGST): Levied and collected by the State Government on Intra State Supply of Goods and Services or both.
- ◆ Union Territories Goods & Services Tax: Levied and collected by Union Territories without State Legislatures, on intra-State supplies of taxable goods and/or services.
- ◆ Integrated Goods and Service Tax (IGST): Inter-State supplies of taxable goods and/or services are subject to integrated Goods and Service Tax (IGST). IGST is the sum total of CGST and SGST/UTGST and is levied by Centre on all inter-State supplies.



11.4 CLASSIFICATION OF GOODS AND SERVICES UNDER GST

Classification determines the rate of tax applicable on a particular supply of goods/services. HSN (Harmonised System of Nomenclature) is used for classifying the goods under the GST. Chapters referred to in the Rate Schedules for goods are the Chapters of the First Schedule to the Customs Tariff Act, 1975.

A new Scheme of Classification of Services is devised wherein the services of various descriptions have been classified under various sections, headings and groups. Each group consists of various Service Codes (Tariff). SAC (Services Accounting Code) is used for classifying the services under the GST like HSN for goods.

11.5 MANNER OF LEVY OF DUAL GST

India has a unique federal structure. In view of the same, India has adopted a Dual GST Model. Under Dual GST Model, the Centre and States simultaneously levy GST on complete supply chain, i.e. starting from production to distribution stage.

Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services.

Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services. GST extends to whole of India including the Union Territory of Jammu and Kashmir.

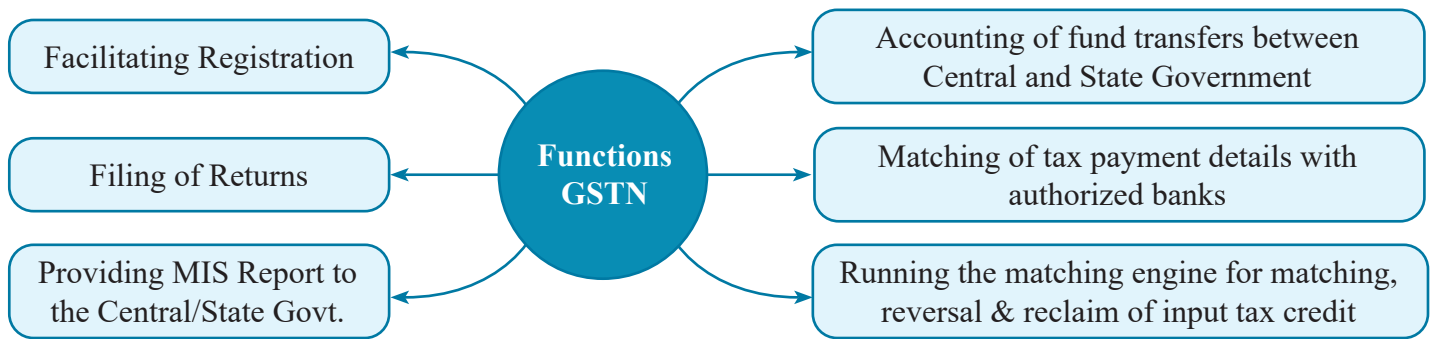
11.6 GOODS AND SERVICE TAX NETWORK (GSTN)

GSTN stands for Goods and Service Tax Network (GSTN). A Special Purpose Vehicle called the GSTN has been set up to cater to the needs of GST processing system. The GSTN shall provide a shared IT infrastructure and services to Central and State Governments, tax payers and other stakeholders for implementation of GST.

The functions of the GSTN would, inter alia, include:

- (i) Facilitating registration;
- (ii) Forwarding the returns to Central and State authorities;
- (iii) Computation and settlement of IGST;
- (iv) Matching of tax payment details with banking network;
- (v) Providing various MIS reports to the Central and the State Governments based on the tax payer return information;
- (vi) Providing analysis of tax payers' profile; and
- (vii) Running the matching engine for matching, reversal and reclaim of Input Tax Credit.

Quick Recap

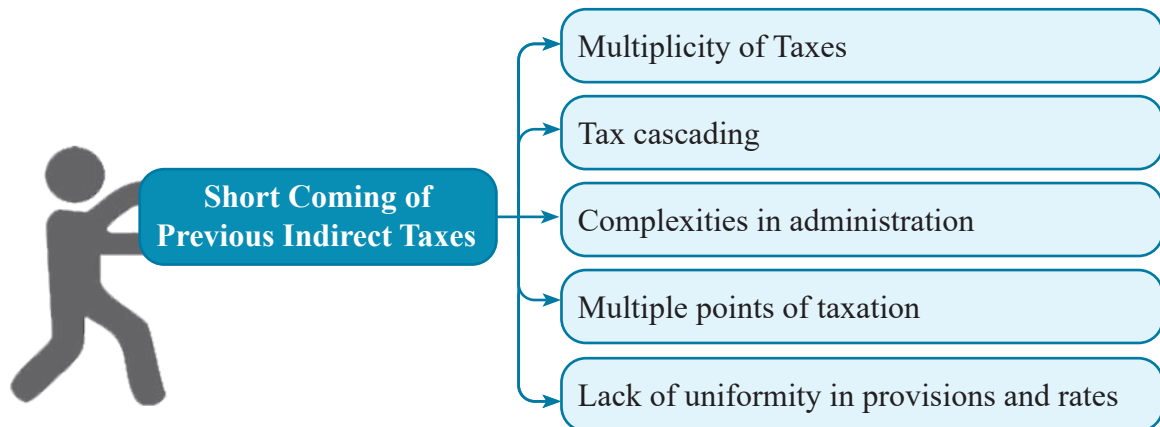


12. NEED FOR GST IN INDIA

The following deficiencies in the previously existed Indirect Tax Laws cause need to bring GST in India as a “cure for ills of existing Indirect Tax regime”

- I. GST is Cure for ills of existing Indirect Tax by way of providing seamless flow of input tax credit across the supply chain and across the country.
- II. Non integration of service tax and VAT (Value Added tax) causes double taxation e.g. in the previous regime restaurant service providers were liable to pay VAT on sale of food and service tax on supply of services, There is no set-off. It means VAT is not allowed as input tax credit against service tax and vice versa.
- III. No credit after manufacturing stage to dealer e.g. in the previous regime, a manufacturer of dutiable goods charged excise duty and value added tax on intra-state sale of goods or CST (Central Sales tax) on inter-state sale of goods. VAT or CST is levied inclusive of excise duty.

Quick Recap



13. BENEFITS OF GST

GST is a win-win situation for the entire country. It brings benefits to all the stakeholders of industry, Government and the consumer. It will lower the cost of goods and services, give a boost to the economy and make the products and services globally competitive.

The significant benefits of GST are as under:

1. **Creation of a unified national market (One Nation One Tax):** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving the way for an integrated economy at the national level.
2. **Elimination of Cascading effect of taxation :** By subsuming most of the Central and State taxes into a single tax and by allowing a set- off of prior-stage taxes for the transactions across the entire supply chain, it would mitigate the ill effects of cascading, improve competitiveness and improve liquidity of the businesses,

3. **Elimination of multiple taxes and double taxation:** GST has subsumed the majority of existing indirect taxes levied both at Central and State level into one tax i.e., GST which is leviable uniformly on goods and services. This will make doing business easier and will also tackle the highly disputed issues relating to double taxation of a transaction as both goods and services.
4. **Boost to 'Make in India' initiative :** GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.
5. **Increase in Government Revenue:** GST is expected to bring addition to the Government Revenue by widening the tax base and improving the taxpayer compliance.
6. **Easier Administration:** Last but not the least, GST, because of its transparent character, would be easier to administer.

14. MATTERS KEPT OUTSIDE THE PURVIEW OF GST

The following subject matters are kept outside the purview of GST

- ◆ Alcohol for human consumption
- ◆ Petroleum Products
- ◆ Petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel
- ◆ Electricity
- ◆ Property taxes, such as stamp duty
- ◆ Motor vehicles tax
- ◆ Entertainment tax collected by local bodies.

Notes:

- ◆ Tobacco and tobacco products would be subject to GST. In addition, the Centre would have the power to levy Central Excise duty on these products.
- ◆ Though, electricity has not been explicitly excluded from GST but it is considered as Nil rated in GST and continues to be charged with pre-GST taxes, i.e., electricity duty by the State Governments.

Within GST or outside GST?



Alcohol for human consumption

Power to tax remains with the State.



Five petroleum products -crude oil, diesel, petrol, natural gas and ATF.

GST Council to decide the date from which GST will be applicable



Entertainment tax levied by local bodies

Power to tax remains with the local bodies



Tobacco

Within the purview of GST. Power to levy excise duties, also retained.

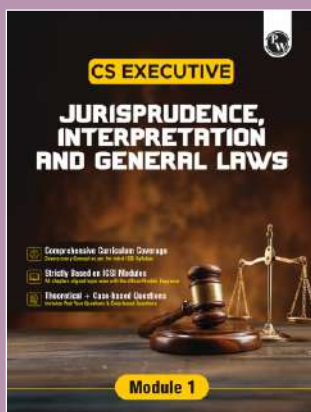
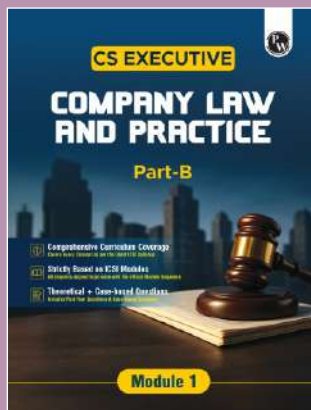
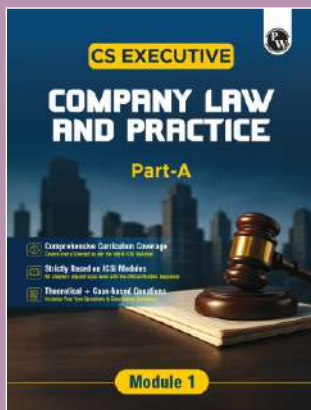
TEST YOUR KNOWLEDGE

1. Which are the commodities which have been kept outside the purview of GST? Examine the status of taxation of such commodities after introduction of GST.
2. List some of the benefits that GST may accrue to the economy.
3. Under Goods and Services Tax (GST), only value addition is taxed and the burden of tax is to be borne by the final consumer. Examine the validity of the statement
4. GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement.
5. Discuss the leviability of GST or otherwise on the following:
 - A. Alcoholic liquor for human consumption
 - B. Petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas
 - C. Tobacco
 - D. Opium, Indian hemp and other narcotic drugs and narcotics

ANSWERS

1. Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out of the purview of GST; GST Council shall decide the date from which they shall be included in GST. The erstwhile taxation system (CST/VAT & central excise) still continues in respect of the said commodities.
2. GST may accrue following benefits to the economy:
 - ❖ **Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.
 - ❖ **Boost to 'Make in India' initiative:** GST may give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market. This would make India a manufacturing hub.
 - ❖ **Boost to investments, exports and employment:** Under the GST regime, the principle of exporting only the cost of goods or services and not taxes is being followed. This may boost Indian exports thereby improving the balance of payments position. Exporters are being facilitated by grant of provisional refund of 90% of their claims within 7 days of issue of acknowledgement of their application, thereby resulting in the easing of position with respect to cash flows. Further, the subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of Central Sales Tax (CST) may reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of Indian goods and services in the international market may increase to give a boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase.
3. The statement is correct. Goods and Services Tax is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and the burden of tax is to be borne by the final consumer.

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