



Chapter 1

Introduction of GST

Basics of Indirect taxes

Constitutional Provision

Constitutional provision for GST

GST in Dual Model

Difference Between Direct & Indirect Tax

Sr. No.	Direct Taxes	Indirect Taxes
1.	It is levied on income earned activities conducted.	It is levied on product or services
2.	It is paid, directly by person concerned	It is paid by one person but he recover the same from another person i.e. person who actually bear the tax ultimate consumer.
3.	It is paid after the income reaches in the hands of tax payer	It is paid before goods/service reaches the tax payer
4.	Tax collection is difficult.	Tax collection is relatively easier
5.	e.g. Income tax, wealth tax etc.	e.g. GST, excise duty, custom duty, sale tax, service tax etc.

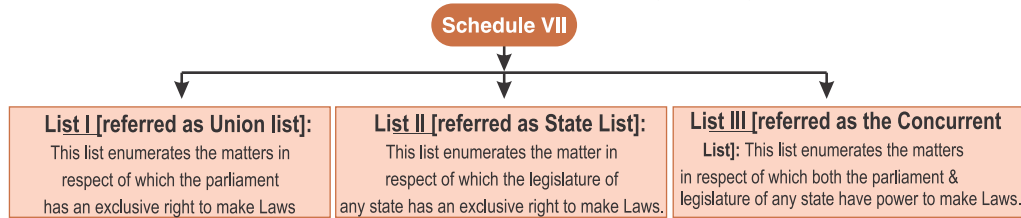
Constitutional Provision & Basics of Law

Article 265 → “No tax shall be levied or collected except under authority of Law”

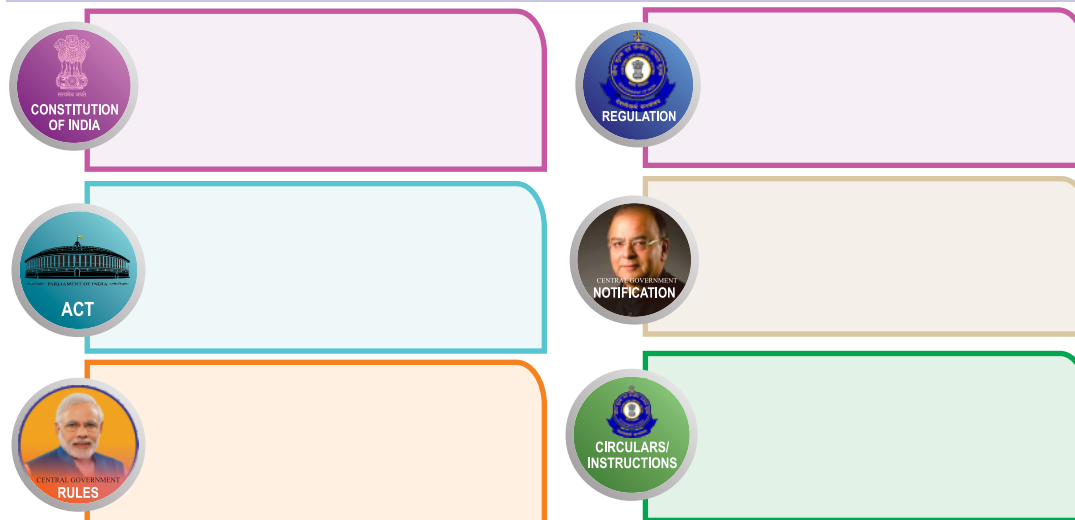
Article 245 → It empowers the parliament to make Law for whole or any part of the territory of India, and the legislature of a state may make the Laws for the whole or any part of the state.

Article 246 → Subject-matter of laws made by Parliament and by the Legislatures of States

Schedule VII divides the legislative powers into following three categories.



TAX HIERARCHY

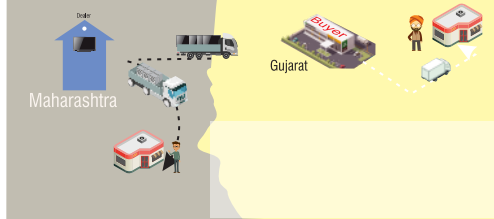


INDIRECT TAX STRUCTURE IN INDIA BEFORE 1st of JULY 2017

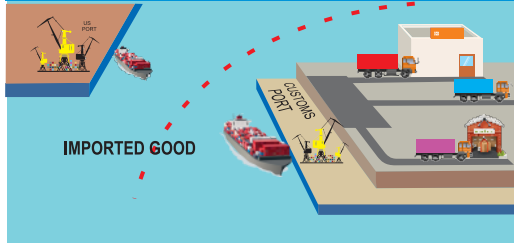
MANUFACTURING AND SALE OF GOODS



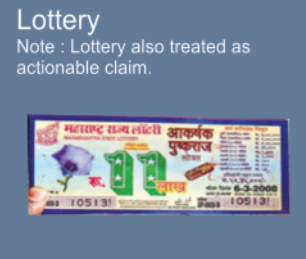
SALE OF GOODS TO ANOTHER STATE



CUSTOM DUTY - IMPORTATION OR EXPORTATION OF GOODS



TAX ON BETTING, GAMBLING OR LOTTERY



LUXURY TAX



SALE OF GOODS WITHIN STATE



SERVICE TAX



OCTROI/LBT OR ENTRY TAX



STAMP DUTY



Taxes to be subsumed in GST

CONCEPT & PRINCIPAL OF GST

- ➔ GST is a **Broad-based Value added tax**
- ➔ GST is a **Destination based tax**
- ➔ GST is technically **paid by suppliers** but it is actually **borne by consumers**.
- ➔ GST is **collected at multiple stage** of production and distribution of goods and services in which taxes paid on inputs are allowed as set off against taxes payable on output.
- ➔ GST is a **tax on the consumption of products from business sources**, and not on personal or hobby activities.
- ➔ Under GST, **input tax credit** is provided throughout the value chain for creditable acquisition.

Dual GST Model Introduced in India

IGST.. UNIQUE FEATURES IN INDIAN GST MODULE

No other country has the concept of IGST which facilitates seamless flow of input tax credit for all supplies flowing in and around the territory of India.

Inter-State supplies of taxable goods and/or services will be subject to Integrated Goods and Services Tax (IGST).

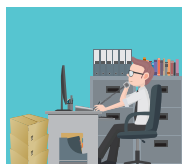
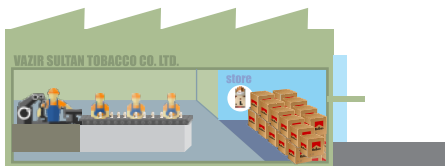
IGST will approximately be a sum total of CGST and SGST/UTGST and will be levied by Centre on all inter-State supplies.

ARTICLE 246A : SPECIAL PROVISION WITH RESPECT TO GOODS & SERVICES TAX

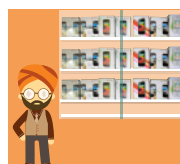
- (1) Notwithstanding anything contained in articles 246 and 254, **Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.**
- (2) Parliament has **exclusive power** to make laws with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

TAX ON TOBACCO AND TOBACCO PRODUCTS

In the case of tobacco and tobacco products, the Centre alone would have the power to levy excise duty in addition to the GST



WHOLESALER



RETAILER

Taxes on Opium, Indian Hemp and other Narcotic Drugs and Narcotics:

These are within the purview of GST. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are **subject to GST as well as State excise duties.**

ARTICLE 269A : LEVY AND COLLECTION OF GOODS AND SERVICES TAX IN COURSE OF INTER-STATE TRADE OR COMMERCE.

(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.

Explanation.—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

ARTICLE 366 : DEFINITIONS OF GST, SERVICE & STATE

- (1) **GST** : As per new article 366(12A), “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.
- (2) **Services** : As per new article 366(26A) “Services” means anything other than goods.
- (3) **State** : As per new article 366(26B) “State” with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with legislature.

Thus State & UT having their Legislature = 28 States + Delhi + Puducherry + Jammu & Kashmir

ARTICLE 279A : GOODS AND SERVICES TAX COUNCIL

- (1) **Due date** : The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.
- (2) **Members** : The Goods and Services Tax Council shall consist of the following members, namely:—
 - (a) the Union Finance Minister..... Chairperson;
 - (b) the Union Minister of State in charge of Revenue or Finance..... Member;
 - (c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government..... Members.
- (3) **Vice-Chairperson** : The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

RECOMMENDATION OF GST COUNCIL

- (4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—
 - (a) Taxes to be subsumed in GST
 - (b) Exemption in GST
 - (c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;
 - (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
 - (e) the rates including floor rates with bands of goods and services tax;
 - (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
 - (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
 - (h) any other matter relating to the goods and services tax, as the Council may decide.

Author Note:- Now after the amendment Jammu & Kashmir is UT with State legislature, but still it is cover under special category state as per constitutional provision

TAXES NOT SUBSUMING GST

1. Property Tax & Stamp Duty

2. Electricity Duty

3. Excise Duty on Alcohol

4. Basic Custom Duty

5. Excise Duty on Petrol Diesel

Example 1 : Mr. Mahesh of Patna (Bihar) supplied goods/services for ₹ 24,000 to Mr. Amitabh of Darbhanga (Bihar). Mr. Mahesh purchased goods/services for ₹ 23,600 (inclusive of CGST 9% and SGST 9%) from Mr. Mutthuswami of Patana's. Find the following:

- (a) Total price charged by Mr. Mahesh for supply of goods/services and
- (b) who is liable to pay GST
- (c) Net liability of GST

Example 2 : The below case pertains to the local supply of goods/services. Rate applicable for CGST and SGST @ 9% respectively.

Supply of goods/services by Mr. A to Mr. B the value of which is ₹ 10,000.

- I) Calculate the total price charged by Mr. A from Mr. B. Also state the amount of credit availed by Mr. B.
- II) Assuming there is a value addition @ 20% on the supply of goods/services by Mr. B to Mr. C. Calculate the price charged by Mr. B.
- III) On the basis of the working for the above two questions compute the CGST and SGST payable by Mr. B to the Government.

MANNER OF UTILIZATION OF IGST

IGST is unique feature in Indian GST Model. It is levied for seamless flow of credit between states. Accounts would be settled periodically between the Centre and State to ensure that SGST portion of IGST is transferred to the destination State where the goods or services are eventually consumed. It is open tax for credit utilization against the payment CGST or SGST. Also credit of CGST or SGST can be utilized for payment of IGST

Manner of Utilization of ITC

INWARD SUPPLY	OUTWARD SUPPLY		
1. IGST	First IGST	Any CGST	Any SGST
2. CGST	Any CGST	Any IGST	Note:- Detailed discussion in Chapter Payment of tax
3. SGST	Any CGST	Any IGST	

2) It should be noted that CGST cannot be used against SGST/UGST or vice-versa

Example 3 : Mr. Santa of Jalandhar supplied goods/services for ₹ 20,000 to Mr. Gajani of Hyderabad, SGST and CGST rate on supply of goods and services is 9% each. IGST rate is 18%. Find the following:

- Total price charged by Mr. Santa
- who is liable to pay GST?

Example 4 : Mr. Chandulal of Gujarat supplied goods/services for ₹ 35,000 to Mr. Kamlesh of Ahmedabad. Mr. Chandulal purchased goods/services for ₹ 23,600 (inclusive of IGST 18%) from Mr. Shah of Maharashtra. SGST and CGST rate on supply of goods and services is 9% each. Find the following :

- Total price charged by Mr. Chandulal for supply of goods/services and
- Who is liable to pay GST?
- Net liability of GST.

Important Point to be Remember :-

Particulars	Treatment
Alcohol	Alcoholic liquor for human consumption is outside GST. State Excise Duty & VAT/CST is payable
Electricity	Outside GST
Petroleum product	Crude, Petrol, diesel, natural gas and aviation turbine fuel on GST shall not be levied till date to be notified on the recommendation of the GST Council. Central Excise Duty & VAT/CST is payable
Tobacco and Tobacco products	Liable to GST as well as Central Excise Duty
Opium, Indian Hemp and other Narcotic Drugs and Narcotics:	Liable to GST as well as State excise duties.
Entertainment Tax by local Body	Outside GST, (It is taxable in addition to GST)
Entertainment Tax by State Body	Subsumed in GST
Property Tax & Stamp Duty	Outside GST. These taxes are separately payable
SGST Act, 2017	On 28 States + 3 UT having own state legislature(Delhi + Pudduchery + Jammu & Kashmir)
UTGST Act, 2017	5 UT (Andaman and Nicobar Islands, Lakshadweep,Daman and Diu and Dadra and Nagar haveli, Ladakh, Chandigarh)
Constitutional Amendment	101 st Amendment is made for introduction of GST
Article 246A	Concurrent power to both parliament and State Legislatures is given to make laws with respect to GST
Article 269A	Levy and collection of goods and services tax in course of inter-state trade or commerce by government of India & apportionment the tax to the union and state
Article 279A	Members :- a) the Union Finance Minister..... Chairperson; b) the Union Minister of State of Revenue or Finance Member; c) the Minister of Finance or Taxation or any other Minister nominated by each State Government.....Members.
Special Category State	Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand
Cross Utilization	CGST cannot be used against SGST/UGST or vice-versa

Manner of Utilization

INWARD SUPPLY	OUTWARD SUPPLY		
1. IGST	First IGST	Any CGST	Any SGST
2. CGST	Any CGST	Any IGST	
3. SGST	Any SGST	Any IGST	



CHAPTER - 2

CHARGE OF TAX & APPLICATION OF CGST

Central Goods and Services Tax Act, 2017

Sec 1 : Title, Extent & Commencement

It extends to the whole of India including J & K.

Sec 2 : Other Relevant Definitions are discussed in each chapter

Sec 3 : Hierarchy of officers - The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:

(a)	Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax
(b)	Chief Commissioners of Central Tax or Directors General of Central Tax,
(c)	Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,
(d)	Commissioners of Central Tax or Additional Directors General of Central Tax,
(e)	Additional Commissioners of Central Tax or Additional Directors of Central Tax,
(f)	Joint Commissioners of Central Tax or Joint Directors of Central Tax,
(g)	Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,
(h)	Assistant Commissioners of Central Tax or Deputy Directors of Central Tax,
(i)	any other class of officers as it may deem fit
Proviso	Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the of this Act.

Sec 4 : Power of CBIC to notify other officers for execution

Sec 5 : Power of CBIC to decide scope & duties of officers

Sec 6 : Authorisation to the officers of SGST/UTGST

Sec 7 : Supply

Sec 8 : Composite and Mixed Supply

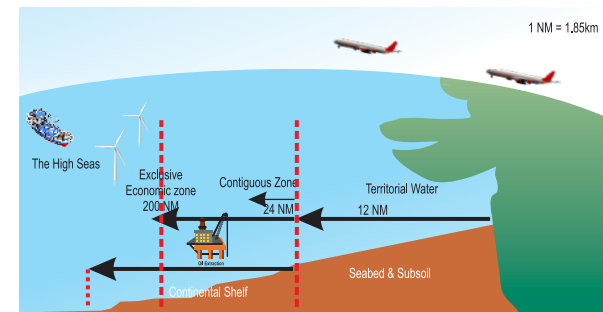
Discussed in Chapter
Miscellaneous
Provision in Module 3

Discussed in
next chapter

SEC 2 (56) "INDIA"

Means

- Territory of India as referred to in article 1 of Constitution (The territory of the Union of India viz., state and the union territories.)
- Its
 - ↻ Territorial Water,
 - ↻ seabed and
 - ↻ sub-soil underlying such waters,
 - ↻ continental shelf,
 - ↻ exclusive economic zone or
 - ↻ any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976
- The air space above its territory and territorial waters



SEC 2(103) "STATE"

Means - A Union territory with Legislature.

Definition of “UNION TERRITORY” :-

Before Amendment :-

SEC 2(114) “UNION TERRITORY”

Means

the territory of -

- (a) the Andaman and Nicobar Islands
- (b) Lakshadweep
- (c) Dadra and Nagar haveli
- (d) Daman and Diu
- (e) Chandigarh and
- (f) Other territory

Explanation - For the purposes of this Act, each of the territories specified in clauses (a) to (f) shall be considered to be a separate Union territory

Before



Now



After Amendment :-

SEC 2(114) “UNION TERRITORY”

Means

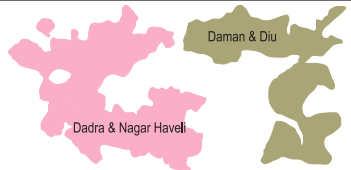
the territory of-

- (a) the Andaman and Nicobar Islands
- (b) Lakshadweep
- (c) **Daman and Diu and Dadra and Nagar haveli**
- (d) **Ladakh**
- (e) Chandigarh
- (f) and Other territory

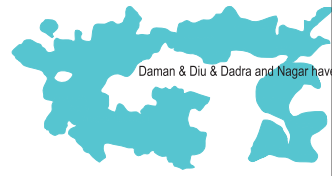
Amended
by F.A. 2020

Explanation - For the purposes of this Act, each of the territories specified in clauses (a) to (f) shall be considered to be a separate Union territory

Before



Now



Question 1 - Mr. X is registered supplier of various goods in Union Territory of Dadra and Nagar Haveli and has branch in Union Territory of Daman and Diu. All the purchases are made at the main branch of Dadra and Nagar Haveli and then the stock is transferred from Dadra and Nagar Haveli to branch in Daman and Diu. The stock is transferred without consideration, however on these supplies Mr. X paid GST to govt. as per provision of schedule I. State whether the action of Mr. X is correct as per the Amended provision of law.

Answer-

As per para 2 of schedule I of CGST Act, 2017- supply of goods or services or both without consideration between related or distinct person as specified in section 25 when made in course or furtherance of business are supply and liable for tax. Therefore, Inter-state branch transfer is taxable and intra-state branch transfer is taxable subject to opting for separate registration of establishment in same state. If they fall under single registration then not subject to GST.

As per the amendment made by finance Act, 2020 the UT Daman and Diu and Dadra and Nagar Haveli are merged into one UT and therefore supply between Daman and Diu and Dadra and Nagar Haveli are not subject to GST.

Therefore considering the above provision Mr. X is not correct in charging GST.

Question 2 - M/s XYZ and co. a legal consultancy firm provides the services all across India. It has registered place of business in state of J&K and has a branch in Ladakh also. On some matters Firm of J&K provides consultancy services to its branch Ladakh and visa a versa. As J&K and Ladakh before amendment made by finance Act 2020, are in same state M/s XYZ & Co. has taken only one registration and not charging any GST as in same state. M/s XYZ and Co. is of view that as it's already registered in GST Act, therefore after amendment made by FA, 2020 in definition of UT, it's not required to take separate registration for both the branches under GST Act. State whether the contention of M/s XYZ and Co. is correct or not.

Answer- After the amendment made by Finance Act, 2020, the state of J&K is demerged into 2 UT- i.e. UT of J&K with legislature of state and UT Ladakh. supply of goods or services or both without consideration between related or distinct person as specified in section 25 when made in course or furtherance of business are supply and liable for tax. Therefore, Inter-state supply between deemed distinct person is taxable. Also both units to take separate registration.

Therefore considering the provisions of Act, M/s XYZ and co. is compulsorily required to take separate registration for both the branches after amendment made by finance Act, 2020 in definition of UT. (Assuming turnover exceeds the threshold limit)

CGST Act, 2017

Sec 9 : Levy and Collection of CGST

(1) Levy of CGST

Subject to the provisions of sub-section (2), there shall be

levied a tax called the **central goods and services tax**

- on all **intra-State supplies** of goods or services or both, except on the supply of alcoholic liquor for human consumption,
- on the **value** determined under section 15 and
- at such **rates, not exceeding twenty per cent.**, as may be notified by the Government on the recommendations of the Council and

CGST Rate	0%	0.125%	1.5%	2.5%	6%	9%	14%
SGST Rate	0%	0.125%	1.5%	2.5%	6%	9%	14%
Total	0%	0.25%	3%	5%	12%	18%	28%

collected in such manner as may be prescribed and **shall be paid** by the taxable person.

(2) Goods out of the scope of CGST

The **central tax** on the supply of

- petroleum crude, ➤ high speed diesel,
- motor spirit (commonly known as petrol), ➤ natural gas and
- aviation turbine fuel

shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

Analysis

		(Supply) GST	(Production) ED	(Sale)	
				VAT	CST
1.	Alcoholic Liquor for Human Consumption				
2.	Petroleum crude, High speed Diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel				
3.	Tobacco & Tobacco products				
4.	Opium, Indian hemp and other narcotic drugs and narcotics:				
5.	All other goods				