

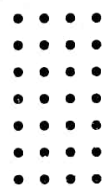
For CA, CS, CMA Final & Professionals

# INDIRECT TAX LAWS

GST & CUSTOMS

## SUMMARY BOOK

8<sup>th</sup>  
Revised Edition



### Special Features of This Book

- ✗ Entire IDT (GST + Customs) Revision
- ✗ Updated with all amendments upto 30<sup>th</sup> April, 2023
- ✗ Covering all topics with latest Notifications & Circulars
- ✗ Covering GST Section & Rule Numbers Referencer

CA. YASHVANT MANGAL

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*Summary Book*

on

# INDIRECT TAX LAWS

*For*

*CA Final – November, 2023*

*CS & CMA Final - December, 2023*

*&*

*Professionals*

**CA. YASHVANT MANGAL**

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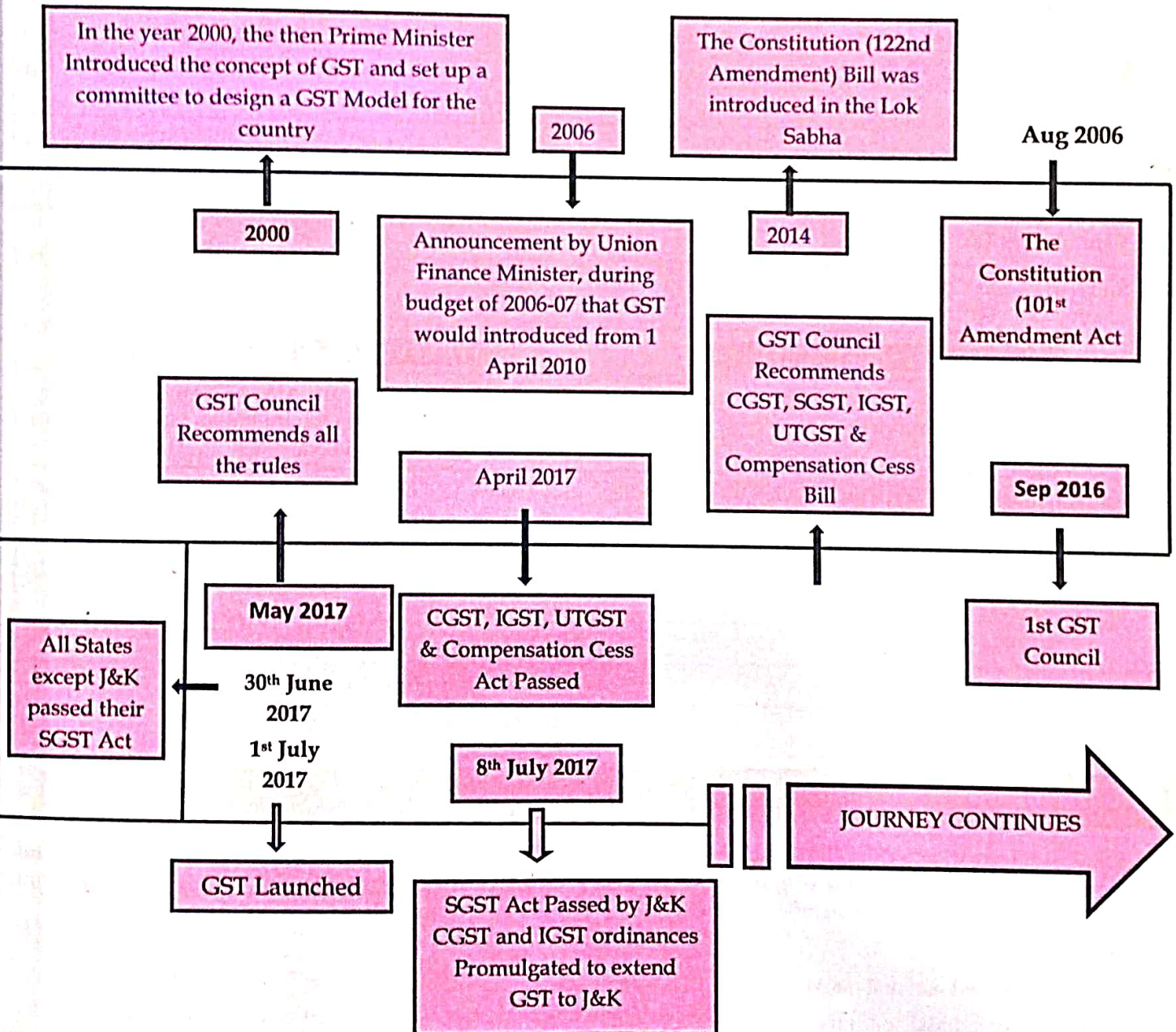


# Chapter

# 1

# GST in India : An Introduction

## Genesis of GST in India



## Concept of GST

Valued Added Tax: GST is a value added tax levied on manufacture, sale and consumption of goods and services.



- **Continuous Chain of Tax Credits:** GST offers comprehensive and continuous chain of tax credits and takes only the value added at each stage of supply chain.
- **Burden Borne by Final Consumer:** Only the final consumer bears the GST charged by the last supplier in the supply chain, as all previous suppliers are provided with set-off benefits at all the previous stages.
- **No Cascading of Taxes:** Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

### Taxes Subsumed in GST

CENTRAL LEVIES SUBSUMED IN GST	CENTRAL LEVIES NOT SUBSUMED IN GST
(1) Central Excise Duty and Additional Excise Duties	(1) Customs Duty
(2) Excise Duty under Medicinal and Toilet Preparation Act	(2) Central Excise Duty on 5 Petroleum Products and Tobacco & Tobacco Products.
(3) Service Tax	
(4) CVD and Special CVD	
(5) Central Sales Tax	
(6) Surcharges and Cesses in so far as they relate to supply of goods and services.	
STATE LEVIES SUBSUMED IN GST	STATE LEVIES NOT SUBSUMED IN GST
(1) State surcharges and cesses in so far as they relate to supply of goods and services	(1) State Excise Duty on Alcohol Liquor for Human Consumption and Opium, Indian Hemp and other Narcotic Drugs and Narcotics
(2) Entertainment Tax (except those levied by local bodies)	(2) Sales Tax on 5 Petroleum Products and Alcohol Liquor for Human Consumption
(3) Tax on lottery, betting and gambling	(3) Profession Tax
(4) Entry Tax (All Forms) and Purchase Tax	(4) Electricity Duty
(5) VAT/Sales Tax	(5) Stamp Duty
(6) Luxury Tax	(6) Toll Tax
(7) Taxes on advertisements.	(7) Road and Passenger Tax.

### 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 discussed hereunder:

#### Benefits to economy

- Creation of unified national market
- Boost to 'Make in India' initiative
- Enhanced investment and employment

#### Simplified tax structure

- Ease of doing business
- Certainty in tax administration



**Easy tax compliance**

- Automated procedures with greater use of IT
- Reduction in compliance costs

**Advantages for trade and industry**

- Benefits to industry
- Mitigation of ill effects of cascading
- Elimination of multiple taxes and double taxation
- Benefits to small traders and entrepreneurs

**Buoyancy to the Government Revenue:** GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the tax-payer compliance.

### Constitutional Provisions

Power to levy and collect taxes whether, direct or indirect emerges from the Constitution of India. In case any tax law, be it an act, rule, notification or order is not in conformity with the Constitution, it is called ultra vires the Constitution and is illegal and void.

The significant provisions of the Constitution relating to taxation are:

**I. Article 265:** Article 265 of the Constitution of India prohibits arbitrary collection of tax. It states that "no tax shall be levied or collected except by authority of law". The term "authority of law" means that tax proposed to be levied must be within the legislative competence of the Legislature imposing the tax.

**II. Article 246:** It gives the respective authority to Union and State Governments for levying tax. Whereas Parliament may make laws for the whole of India or any part of the territory of India, the State Legislature may make laws for whole or part of the State.

**III. Seventh Schedule to Article 246:** It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

List - I	Union List	It contains the matters in respect of which the parliament (Central Government) has the exclusive right to make laws.
List - II	State List	It contains the matters in respect of which the State Government has the exclusive right to make laws.
List - III	Concurrent List	It contains the matters in respect of which both the Central & State Governments have power to make laws.

Power to levy Goods and Services Tax (GST) has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101<sup>st</sup> Amendment) Act, 2016. Article 279A empowered President to constitute GST Council. Article 366(12A) of the Indian Constitution defines the GST.

#### Significant provisions of Constitution (101<sup>st</sup> Amendment) Act, 2016

Significant amendments made by Constitution Amendment Act are discussed below:

#### IV. Article 246A: Power to make laws with respect to Goods and Services Tax

- This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State.
- Centre has the exclusive power to make laws with respect to GST in case of inter-State supply of goods and/or services.
- However, in respect to the following goods, the aforesaid provisions shall apply from the date recommended by the GST Council:



1. Petroleum Crude
2. High Speed Diesel
3. Motor Spirit (commonly known as Petrol)
4. Natural Gas
5. Aviation Turbine Fuel

#### V. Article 269A: Levy and collection of GST on inter-State supply

- Article 269A stipulates that GST 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.
- In addition to above, import of goods or services or both into India will also be deemed to be supply of goods and/or services in the course of Inter-State trade or Commerce.

#### VI. GST Council: Article 279A

- Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- The Union Finance Minister is the Chairman of this Council and Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of Revenue or Finance is also its member.
- Every decision of the GST Council is taken by a majority of not less than three-fourths of the weighted votes of the members present and voting. Vote of the Centre has a weightage of one-third of total votes cast and votes of all the State Governments taken together has a weightage of two-thirds of the total votes cast, in that meeting.

### Charge of Tax

The very basis for the charge of tax in any taxing statute is the taxable event i.e. the point on which the levy of tax gets attracted. Under GST, the taxable event is **Supply**. CGST Act/SGST Act/UTGST Act levies tax on all **intra-state supplies** of goods and/or services while IGST Act levies tax on all **inter-state supplies** of goods and/or services. In GST, both Central and State Governments have simultaneous power to levy GST on Intra-State Supplies only. GST is a destination based tax on consumption of goods and services.

### Taxable Event under GST

- The incidence of tax is the foundation stone of any taxation system. It determines the point at which tax would be levied, i.e., the taxable event. The existing framework of taxable event in various statutes is prone to catena of interpretations resulting in litigation since decades.
- Broadly, the controversies relates to issues like whether a particular process amounts to manufacture or not, whether the sale is pre-determined sale, whether a particular transaction is a sale of goods or rendering of services, etc. The GST laws seek to resolve these issues by laying down one comprehensive taxable event i.e. "Supply".
- GST Law, by levying tax on the 'supply' of goods and/or services, will depart from the historically understood concepts of 'taxable event' under the State VAT Laws, Excise Laws and Service Tax Laws i.e. sale, manufacture and service respectively.

### Important Definitions – Section 2

Clause	Definitions
(6)	" <b>aggregate turnover</b> " means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.