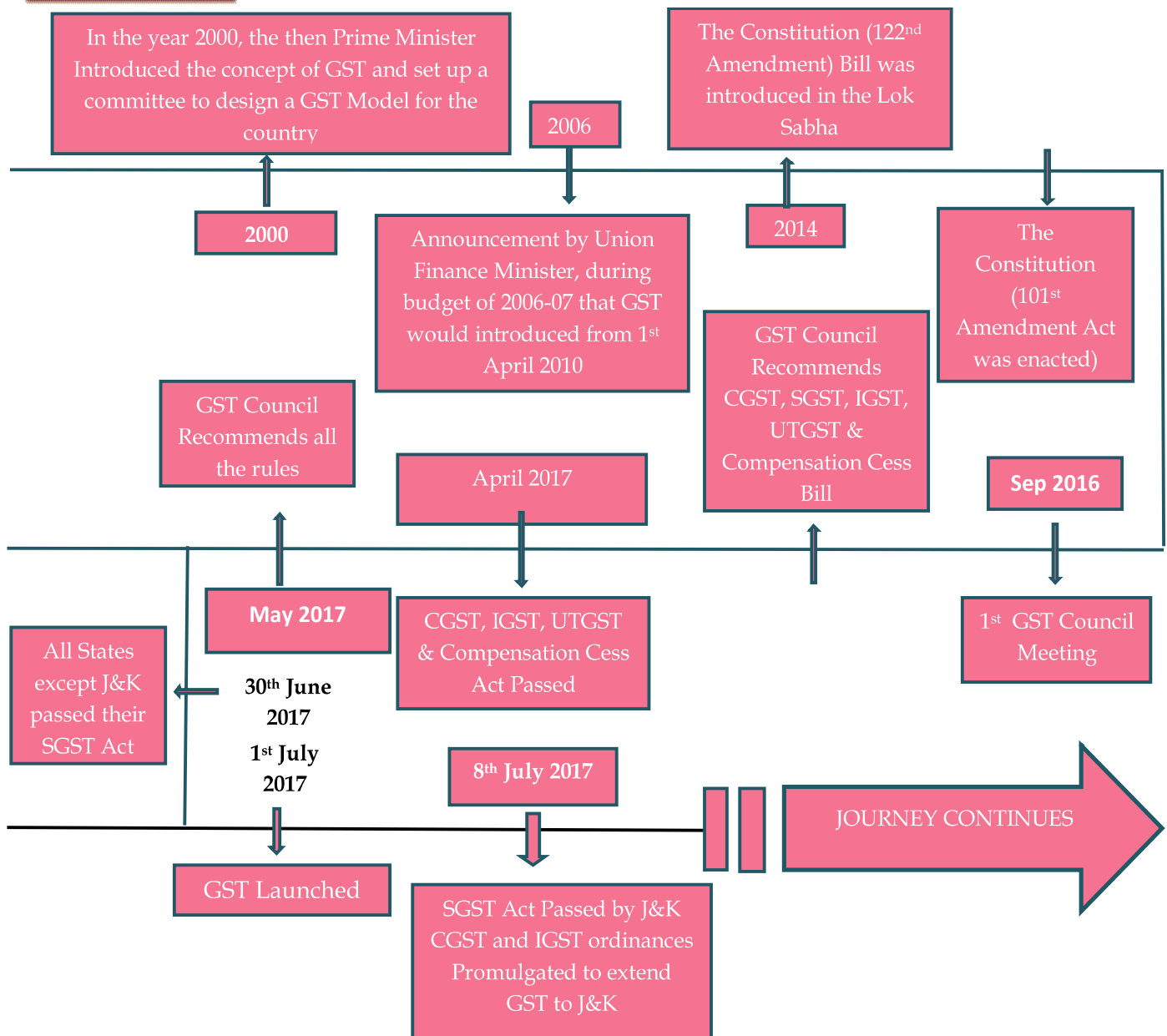


# GOODS AND SERVICES TAX (GST)

## CHAPTER 01

# GST IN INDIA

## AN INTRODUCTION



## 1.1 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 from the producer’s point/service provider’s point upto the retailer’s level/consumer’s level thereby taxing only the value added at each stage of supply chain.
- **Burden Borne by Final Consumer** : The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, 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.

### KYA HAI GST...?



## 1.2 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.

### 1.3 Central / State Levies to be Levied after introduction of GST

Goods	(Supply)	(Manufacture)	(Sale)	
	GST	ED	VAT	GST
Alcoholic Liquor for human consumption	×	✓	✓	✓
Petroleum crude, High speed diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel	×	✓	✓	✓
Tobacco & Tobacco products	✓	✓	×	×
Opium, Indian Hemp and other Narcotic Drugs	✓	✓	×	×
All other Goods & Service	✓	×	×	×

### 1.4 Dual GST Model Introduced in India

- India has adopted a dual model GST which is imposed concurrently by the Central and States, i.e. Centre and States simultaneously tax goods and services. Centre have the power to tax intra-state sales and states are empowered to tax services. **GST extends to whole of India.**
- Since GST is a **destination based consumption tax**, revenue of SGST will ordinarily accrue to the consuming states. The inter-state supplier in the exporting state will be allowed to set off the available credit of IGST, CGST and SGST/UTGST (in that order) against the IGST payable on inter-state supply made by him. The buyer in the importing state will be allowed to avail the credit of IGST paid on inter-state purchase made by him. The revenue of inter-state sale will not accrue to the exporting state and the exporting state will be required to transfer to the centre the credit of SGST/UTGST used in payment of IGST. The centre will transfer to the importing state the credit of IGST used in payment of SGST/UTGST.



### 1.5 Functions of GST Network

The functions of the GSTN includes

- ➔ Facilitating registration;

- ➔ Forwarding the returns to Central and State authorities;
- ➔ Computation and settlement of IGST;
- ➔ Matching of tax payment details with banking network;
- ➔ Providing various MIS reports to the Central and the State Governments based on the taxpayer return information;
- ➔ Providing analysis of taxpayers' profile.

## 1.6 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. 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.



## 1.7 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 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.

**Significant amendments made by Constitution (101st Amendment) Act, 2016 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.
- The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- GST Council shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.

**CA means**

**Challenge it, Achieve it, Loop it.**

**I Will be a Chartered Accountant.**