GOODS AND SERVICES TAX (GST)

CHAPTER 01

GST IN INDIA

AN INTRODUCTION

1.1 Introduction

In earlier indirect tax regime, the credit mechanism for indirect taxes levied by the Union Government was governed by the CENVAT Credit Rules, 2004; and the credit mechanism for state-level VAT on sale of goods was governed by the States under their respective VAT Acts and Rules. The VAT legislations allowed ITC of VAT on inputs and capital goods in transactions within the state, but not on inputs and capital goods coming in the State from outside the state, on which central sales tax was paid. CENVAT Credit Rules, 2004 allowed availing and utilization of credit of duty/tax paid on both goods (capital goods and inputs) and services by the manufacturers and the service providers across the country.

The credit across goods and services was integrated vide the CENVAT Credit Rules, 2004 in the year 2004 to mitigate the cascading effects of central levies namely, central excise and service tax. However, the credit chain remained fragmented on account of State-Level VAT as the credit of central taxes could not be set off against a State levy and vice versa. The chain further got distorted as ITC was not available on inter-State purchases. This resulted in cascading of taxes leading to increase in costs of goods and services.

The GST regime promises seamless credit on goods and services across the entire supply chain with some exceptions like supplies charged to tax under composition scheme and supply of exempted goods and/or services. ITC is considered to be the backbone of the GST regime. In fact, it is the provisions of ITC which essentially make GST a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.

1.2 Features of Indirect taxes

(i) **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.

(ii) **Tax on commodities and services:** It is levied on commodities at the time of supply or manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on supply of services.

(iii) **Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.

(iv) **No perception of direct pinch:** Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer/consumer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.

(v) **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.

(vi) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.

(vii) **Promotes social welfare:** Higher taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.

(viii) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

1.3 Genesis of GST in India

- It is now been more than a decade since the idea of national Goods and Services Tax (GST) was mooted by Kelkar Task Force in 2004. The Task Force strongly recommended fully integrated 'GST' on national basis.

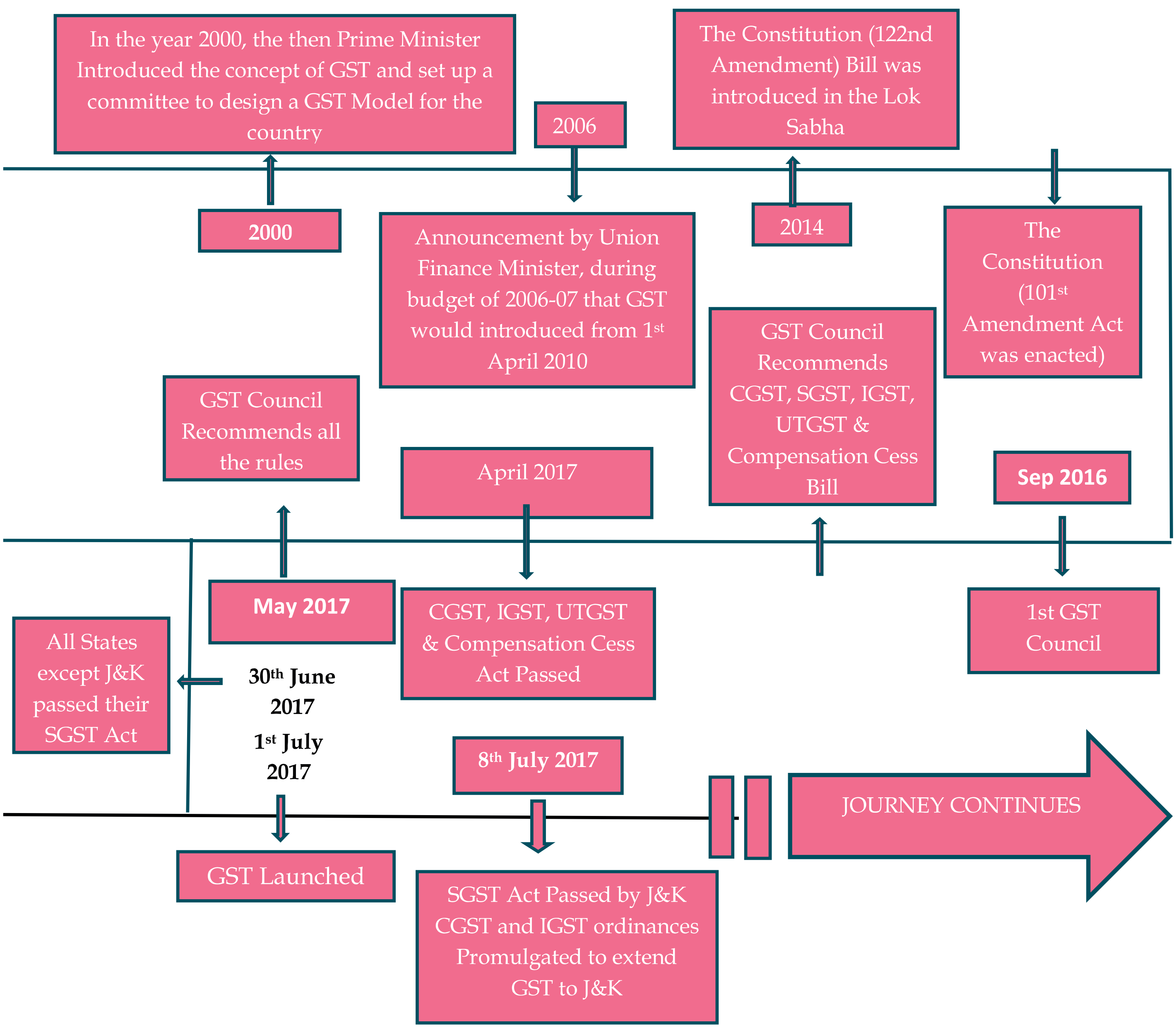
- Subsequently, the then Union Finance Minister, Shri. P. Chidambaram, while presenting the Central Budget (2007-2008), announced that GST would be introduced from April 1, 2010. Since then, GST missed several deadlines and continued to be shrouded by the clouds of uncertainty.

- The talks of ushering in GST, however, gained momentum in the year 2014 when the NDA Government tabled the Constitution (122nd Amendment) Bill, 2014 on GST in the Parliament on 19th December, 2014. The Lok Sabha passed the Bill on 6th May, 2015 and Rajya Sabha on 3rd August, 2016. Subsequent to ratification of the Bill by more than 50% of the States, Constitution (122nd Amendment) Bill, 2014 received the assent of the President on 8th September, 2016 and became Constitution (101st Amendment) Act, 2016, which paved the way for introduction of GST in India.

- In the following year, on 27th March, 2017, the Central GST legislations – Central Goods and Services Tax Bill, 2017, Integrated Goods and Services Tax Bill, Union Territory Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in Lok Sabha. Lok Sabha passed these bills on 29th March, 2017 and with the receipt of the

President's assent on 12th April, 2017, the Bills were enacted. The enactment of the Central Acts is being followed by the enactment of the State GST laws by various State Legislatures. Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar are among the first ones to pass their respective State GST laws.

- Government has introduced GST in India w.e.f. 1st July, 2017 by achieving consensus on all the issues relating thereto.
- GST is a path breaking indirect tax reform which will create a common national market by dismantling interstate trade barriers. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc.
- France was the first country to implement GST in the year 1954. Within 62 years of its advent, about 160 countries across the world have adopted GST because this tax has the capacity to raise revenue in the most transparent and neutral manner.



1.4 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.

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- **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.

1.5 Need for GST in India

I. DEFICIENCIES IN THE EXISTING VALUE ADDED TAXATION

(1) In the present regime, a manufacturer of excisable goods charges excise duty and value added tax (VAT) on intra-state sale of goods. However, the VAT dealer on his subsequent intra-state sale of goods charges VAT (as per prevalent VAT rate as applicable in the respective state) on value comprising of (basic value + excise duty charged by manufacturer + profit by dealer).

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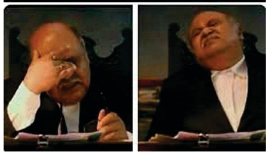

(2) Further, in respect of tax on services, service tax is payable on taxable services provided w.e.f. 1 July, 2012, service tax is levied on all 'services' other than the Negative list of services as provided under Section 66D of the Finance Act, 1994 or else otherwise exempted vide the Mega Exemption Notification No. 25/2012 - ST dated 20 June, 2012 ("the Mega Exemption Notification").

(3) Presently, from 1st June, 2016, service tax is levied @ 15% [Service tax @ 14%, Swachh Bharat Cess (SBC) @ 0.5% (w.e.f. November 15, 2015) and Krishi Kalyan Cess (KKC) @ 0.5% (w.e.f. June 1, 2016)] on specified services provided by service providers in India.

(4) The existing indirect tax framework in India suffer from various shortcomings. Under the existing indirect tax structure, the **various indirect taxes being levied are not necessarily mutually exclusive**. To illustrate, when the goods are manufactured and sold both central excise duty (CENVAT) and State-Level VAT are levied. Though CENVAT and State-Level VAT are essentially value added taxes, set off of one against the credit of another is not possible as CENVAT is a central levy and State-Level VAT is a State levy. Moreover, CENVAT is applicable only at manufacturing level and not at distribution levels. The existing sales tax regime in India is a combination of origin based (Central

Sales Tax) and destination based multipoint system of taxation (State Level VAT). Service tax is also a value added tax and credit across the service tax and the central excise duty is integrated at the central level.

(5) Despite the introduction of the principle of taxation of value added in India - at the Central level in the form of CENVAT and at the State level in the form of State VAT - its application has remained piecemeal and fragmented on account of the following reasons :

(a)No-inclusion of several local levies in State VAT such as luxury tax, entertainment tax, etc.

(b)Cascading of taxes on account of (i) levy of Non-VATable CST and (ii) inclusion of CENVAT in the value for imposing VAT.

(c)No CENVAT after manufacturing stage.

(d)Non-integration of VAT and service tax.

(e)Double taxation of a transaction as both goods and services.

II. GST - A CURE FOR ILLS OF EXISTING INDIRECT TAX REGIME

(1) A comprehensive tax structure covering both goods and services viz. Goods and Service Tax (GST) would address these problems. Simultaneous introduction of GST at both Centre and State levels would integrate taxes on goods and services for the purpose of set-off relief and will ensure that both the cascading effects of CENVAT and service tax are removed and a continuous chain of set-off from the original producer's point/ service provider's point upto the retailer's level/consumer's level is established.

(2) In the GST Regime, the major indirect taxes have been subsumed in the ambit of GST. The present concepts of manufacture or sale of goods or rendering of services are not longer applicable since the tax is now levied on "Supply of Goods and/or services".

1.6 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.

1.7 Dual GST Model to be 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**.

- GST is a destination based tax applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof. GST in India will comprise of **Central Goods Service Tax (CGST)** – levied and collected by Central Government, **State Goods and Service Tax (SGST)** – levied at collected by State Governments/Union Territories with State Legislatures and **Union Territory Goods and Services Tax (UTGST)** – levied and collected by Union Territories without State Legislatures, on **intra-state supplies** of taxable goods and/or services. **Inter-State supplies** of taxable goods and/or services will be subject to **Integrated Goods and Service Tax (IGST)**. IGST will approximately be a sum total a CGST and SGST/UTGST and will be levied by Centre on all inter-state supplies.

- There is single legislation – CGST Act, 2017 – for levying CGST. Similarly, Union Territories without State Legislatures [Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli & Daman and Diu, Ladakh and Chandigarh] will be governed by UTGST Act, 2017 for levying UTGST. **States and** Union Territories with their own legislatures **[Delhi, Puducherry and Jammu & Kashmir] have to enact their own GST legislation for levying SGST**. Though there would be multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like would be uniform in all the SGST legislations, as far as feasible. This would be necessary to preserve the essence of dual GST.

- In GST regime, tax (i.e. CGST and SGST/UTGST for intra-state supplies and IGST for inter-state supplies) shall be paid by every taxable person and in this regard provisions have been prescribed in the law. However, for providing relief to small businesses, a simpler method of paying taxes and accounting thereof is also prescribed, known as Composition Scheme. Along with providing relief to small-scale business, the law also contains provisions for granting exemption from payment of tax on specified goods and/or services.

- Input Tax Credit (ITC) of CGST and SGST/UTGST will be available throughout the supply chain, but cross utilisation of credit of CGST and SGST/UTGST will not be possible, i.e. CGST credit cannot be utilised for payment of SGST/UTGST and SGST/UTGST credit cannot be utilised for payment of CGST. However, cross utilisation will be allowed between CGST/SGST/UTGST, i.e. credit of IGST can be utilised for the payment of CGST/SGST/UTGST and vice versa.
- 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. Thus, unlike the existing scenario where the credit chain breaks in case of inter-state sales on account of non-VATable CST, under GST regime there is a seamless credit flow in case of inter-State supplies too. 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.

Illustration 1 : (Intra-state Supply) : In case of local supply of goods/services, the supplier would charge dual GST i.e., CGST and SGST at specified rates on the supply.

I. Supply of goods/services by A to B

Particulars	**Amount (Rs.)**
Value charged for supply of goods/services	10,00,000
Add : CGST @ 9%	90,000
Add : SGST @ 9%	90,000
Total price charged by A from B for local supply of goods/services	11,80,000

The CGST and SGST charged on B for supply of goods/services will be remitted by A to the appropriate account of the Central and State Government respectively.

A is the first stage supplier of goods/services and hence, does not have credit of CGST, SGST or IGST.

II. Supply of goods/services by B to C - Value addition @ 20%

B will avail credit of CGST and SGST paid by him on the purchase of goods/services and will utilise such credit for being set off against the CGST and SGST payable on the supply of goods/services made by him to C.

Particulars	**Amount (Rs.)**
Value charged for supply of goods/services (Rs. 10,00,000 × 120%)	12,00,000

Add : CGST @ 9%	1,08,000
Add : SGST @ 9%	1,08,000
Total price charged by B from C for local supply of goods/services	14,16,000

Computation of CGST, SGST Payable by B to Government

Particulars	**Amount (Rs.)**
CGST Payable	1,08,000
Less : Credit of CGST	90,000
CGST payable to Central Government	18,000
SGST Payable	1,08,000
Less : Credit to SGST	90,000
SGST payable to State Government	18,000

Note : Rates of CGST and SGST have been assumed to be 9% each.

Statement of Revenue Earned by Central and State Government

Transaction	Revenue to the Central Government (Rs.)	Revenue to the State Government (Rs.)
Supply of goods/services by A to B	90,000	90,000
Supply of goods/services by B to C	18,000	18,000
Total	**1,08,000**	**1,08,000**

Illustration 2 : (Inter-state Supply) : In case of inter-state supply of goods/services, the supplier would charge IGST at specified rates on the supply.

I. Supply of goods/services by X of State 1 to A of State 1

Particulars	**Amount (Rs.)**
Value charged for supply of goods/services	10,00,000
Add : CGST @ 9%	90,000
Add : SGST @ 9%	90,000
Total price charged by X from A for Intra- State supply of goods/services	11,80,000

X is the first stage supplier of goods/services and hence, does not have any credit of CGST, SGST and IGST.

II. Supply of goods/services by A of State 1 to B of State 2 - Value addition @ 20%

Particulars	**Amount (Rs.)**
Value charged for supply of goods/services (Rs. 10,00,000 × 120%)	12,00,000
Add : IGST @ 18%	2,16,000
Total price charged by A from B for inter-state supply of goods/services	14,16,000

Computation of IGST Payable to Government

Particulars	**Amount (Rs.)**
IGST Payable	2,16,000
Less : Credit of CGST	90,000
Less : Credit of SGST	90,000
IGST payable	36,000

The IGST charged on B of State 2 for supply of goods/services will be remitted by A of State 1 to the appropriate account of the Central Government. State 1 (Exporting State) will transfer SGST credit of Rs. 90,000 utilised in the payment of IGST to the Central Government.

III. Supply of goods/services by B of State 2 to C of State 2 - Value Addition @ 20%

B will avail credit to IGST paid by him on the purchase of goods/services and will utilise such credit for being set off against the CGST and SGST payable on the local supply of goods/services made by him to C.

Particulars	**Amount (Rs.)**
Value charged for supply of goods/services (Rs. 12,00,000 × 120%)	14,40,000
Add : CGST @ 9%	1,29,600
Add : SGST @ 9%	1,29,600
Total price charged by B from C for local supply of goods/services	16,99,200

Computation of CGST, SGST Payable by B to Government

Particulars	**Amount (Rs.)**
CGST Payable	1,29,600

Less : Credit of IGST	1,29,600
CGST payable to Central Government	Nil
SGST Payable	1,29,600
Less : Credit to IGST (Rs. 2,16,000 – Rs. 1,29,600)	86,400
SGST payable to State Government	43,200

Central Government will transfer IGST credit of Rs. 86,400 utilised in the payment of SGST to State 2 (Importing State).

Note : Rates of CGST, SGST and IGST have been assumed to be 9%, 9% and 18% respectively.

Statement of Revenue Earned by Central and State Government

Transaction	Revenue to the Central Government (Rs.)	Revenue to the State 1 Government (Rs.)	Revenue to the State 2 Government (Rs.)
Supply of goods/services by X to A	90,000	90,000	
Supply of goods/services by A to B	36,000		
Transfer by State 1 to Center	90,000	(90,000)	
Supply of goods/services by B to C			43,200
Transfer by Centre to State 2	(86,400)		86,400
	1,29,600	**Nil**	**1,29,600**

1.8 GST Common Portal

Before GST, since, the Centre and State indirect tax administrations worked under different laws, regulations, procedures and formats, their IT infrastructure and systems were also independent of each other. Integrating them for GST implementation was complex since it required integrating the entire indirect tax ecosystem so as to bring all the tax administrations (Centre, State and Union Territories) to the same level of IT maturity with uniform formats and interfaces for taxpayers and other external stakeholders.

Besides, GST being a destination-based tax, the inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre. A Common Portal was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT Infrastructure.

Resultantly, Common GST Electronic Portal - www.gst.gov.in - a website managed by Goods and Services Network (GSTN) [a company incorporated under the provisions of section 8 of the Companies Act, 2013] is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.

The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates etc.) and Intranet by Tax Officials etc. The portal is one single common portal for all GST related services.

A common GST system provides linkage to all State/ UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders. The eco-system consists of all stakeholders starting from taxpayer to tax professional to tax officials to GST portal to Banks to accounting authorities.

The functions of the GSTN include 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.

However, it is important to note that the Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in [managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India]. E-way bill is an electronic document generated on the GST portal evidencing movement of goods.

1.9 GSPs/ASPs

GSTN has selected certain Information Technology, Information Technology enabled Services and financial technology companies, to be called GST Suvidha Providers (GSPs). GSPs develop applications to be used by taxpayers for interacting with the GSTN.

They facilitate the tax-payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services.

They customize products that address the needs of different segment of users. GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.

1.10 Compensation Cess

A GST Compensation Cess at specified rate has been imposed under the Goods and Services Tax (Compensation to States) Cess Act, 2017 on the specified luxury items or demerit goods, like pan masala, tobacco, aerated waters, motor cars etc., computed on value of taxable supply. Compensation cess is leviable on intra-state supplies and inter-state supplies with a view to provide for compensation to the States for the loss of revenue arising on account of implementation of the GST. Compensation is to be provided to a State for a period of 5 years from the date on which the State brings its SGST Act into force.

1.11 GST – A tax on Goods and Services

GST is levied on all goods and services, except alcoholic liquor for human consumption and petroleum crude, diesel, petrol, ATF and natural gas.

- Alcoholic liquor for human consumption: is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.
- Petroleum crude, diesel, petrol, ATF and natural gas: As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.
- Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.
- Tobacco: Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.
- Opium, Indian hemp and other narcotic drugs and narcotics: Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. 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.
- Further, real estate sector has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property.

1.12 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 :** 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.

- **Boost to 'Make in India' initiative :** GST gives 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 will create India as a — Manufacturing hub.

- **Enhanced investment and employment :** The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input tax on goods and services and phasing out of Central Sales Tax (CST) reduces the cost of locally manufactured goods and services and increases the competitiveness of Indian goods and services in the international market and thus, gives boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment is generated and GDP is increased.

Simplified tax structure

- **Ease of doing business :** Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity in tax structure. The uniformity in laws, procedures and tax rates across the country makes doing business easier.

- **Certainty in tax administration :** Common system of classification of goods and services across the country ensures certainty in tax administration across India.

Easy tax compliance

- **Automated procedures with greater use of IT:** There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All interaction is through the common GSTN portal, therefore, less public interface between the taxpayer and the tax administration.

- **Reduction in compliance costs:** The compliance cost is lesser under GST as multiple record-keeping for a variety of taxes is not needed, therefore, there is lesser investment of resources and manpower in maintaining records. The uniformity in laws, procedures and tax rates across the country goes a long way in reducing the compliance cost.

Advantages for trade and industry

- **Benefits to industry:** GST has given more relief to trade and industry through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in trade and industry.

- **Mitigation of ill effects of cascading:** 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 value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of the businesses.

- **Benefits to small traders and entrepreneurs:** GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

1.13 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 (101st 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.
- This will give power to Central Government to levy IGST on the import transactions which were earlier subject to Countervailing duty under the Customs Tariff Act, 1975.
- Where an amount collected as IGST has been used for payment of SGST or vice versa, such amount shall not form part of the Consolidated Fund of India. This is to facilitate transfer of funds between the Centre and the States.
- Parliament is empowered to formulate the principles regarding place of supply and when supply of goods, or of services, or both occurs in 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.

1.14 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. As discussed earlier, 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.

INTRA-STATE SUPPLY

Where the **location of the supplier** and the **place of supply** of goods or services are **in the same State/Union Territory**, it is treated as intra-state supply of goods or services respectively.

INTER-STATE SUPPLY

Where the **location of the supplier** and the **place of supply** of goods or services are in **(i) two different States or (ii) two different Union Territories or (iii) a State and a Union Territory**, it is treated as **inter-state supply** of goods or services respectively.

Illustration 3 : Define 'intra State supply' and 'inter-State supply' under GST law. Is it correct to say that inter-state supply attracts both CGST and SGST? **[Nov. 2017, Q.1 (b) (ii), 3 Marks]**

Solution : Where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as **intra-State supply** of goods or services respectively.

Where the location of the supplier and the place of supply of goods or services are in (i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory, it is treated as **inter-State supply** of goods or services respectively.

No, it is not correct to say that inter-State supply attracts both CGST and SGST as inter-State supply attracts IGST.

However, IGST is the sum total of CGST and SGST/UTGST.

1.15 Taxable Event - Supply

- 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.
- In the GST regime, the entire value of supply of goods and/or services will be taxed in an integrated manner, unlike the existing indirect taxes, which are charged independently either on the manufacture or sale of goods, or on the provisions of services.

"Abhi to IDT Shuru Hui hai..."