



The 101st amendment to the constitution of India in the context of goods and services tax (GST)

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Abstract

The Government of India amended the Constitution to introduce Goods and Services Tax (GST) in the country. After passing successfully by the legislatures and the Bill got assent of the President of India on 08/09/2016 and then the 122nd Constitution Amendment Bill became an Act i.e. The Constitution (101st Amendment) Act, 2016. Accordingly, GST was implemented w.e.f. 1st of July, 2017 in India. GST is a platform where all the Indirect Taxes other than petroleum products and alcohol for human consumption are clubbed into a single Indirect Tax, namely “Goods and Services Tax” popularly known as GST in the country.

It is a fact that by implementing GST, the Government of India has brought revolution in the history of taxation in the country. Before the implementation of GST, the indirect taxes were very complicated in nature throughout the country in both Central and State level. At one stage, the Government started Value Added Tax (VAT) system in the to make easy to levy the indirect taxes in India but the present system of GST which is believed much more convenient and transparent.

Keywords: Goods and services tax (GST), amendment, indirect tax, constitution amendment bill, value added tax (VAT)

Introduction

Tax is a legal and a compulsory payment levied by the State on income or product or any other activity. Usually, the tax which is levied directly on the income of a person or a company is called direct tax and it is collected by the Union, States and Local bodies in India. They should be levied in accordance with the provision of laws passed by the Parliament and State Legislature under purview of the Constitution^[1].

Mainly there are two types of taxes:

1. Direct taxes
2. Indirect taxes.

Direct taxes

In the progressive tax pattern, citizens who have high income, pay more taxes and the citizens who have low income pay less tax or none depends on the tax slab fixed by the Government. These are taxes paid by the citizens directly to the government like Income tax, Wealth tax, Gift tax, Capital Gains tax, Securities Transaction tax, corporate tax. Among all the direct taxes, income tax is the most common tax which is levied on every individual as per their income slab annually prescribed by the government. The Direct taxes are progressive in nature which are collected by the governmental agencies from the annual income of every individual which is fixed in different levels by the government of the country.

Indirect taxes

Indirect taxes are levied indirectly on the citizens of the country. These indirect taxes are mostly charged through goods and services. The seller takes these taxes while selling the commodities to the citizens and the same then collected by the concerned government authorities.

Indirect tax or GST is commonly imposed on goods and services in the country. This tax is collected by the Government from the consumers indirectly on different goods and services. The indirect taxes are regressive in

nature which are collected by the government indirectly from every citizen as custom duty, excise duty, service tax, sales tax, value added tax etc.

Review of Literature:

1. **(Mahler, 1970) “Report of Bhoothalingam Committee on the Simplification and Rationalisation of both Direct and Indirect Taxes in India” (1967):** The Government of India in 1967 formed a committee under the Chairmanship of Shri Bhoothalingam, the Ex-Secretary in the Ministry of Finance to examine the question of rationalization and simplification of the tax structure in income tax and corporate tax in the country. Shri Bhoothalingam submitted its interim report in May, 1967. Many of its recommendations were implemented immediately but the final report was submitted by the Committee on 26/12/1967. The final report was much wider and comprehensive. Many basic proposals for the tax reform were proposed by the committee.

The Excise system sought by Bhoothalingam could be more easily and effectively achieved by means of an Excise Tax levied at the manufacturing stage which may be called similar in nature to the manufacturers Sales Tax levied by Canada. Also, Bhoothalingam realized that there are two ways of eliminating the multiple taxation i.e. (1) To adopt a form of Value Added Tax (VAT) such as that recommended by him and (2) To levy Excise taxation at only one point which is at the point of manufacturer. According to Bhoothalingam, the VAT is too sophisticated and complex for an underdeveloped country^[2].

2. **(Bird, 1974) “Kaldor report on Direct Tax reform in India” (1956):** - Kaldor preferred to emphasize only the political power of the wealthy in his explanation of failure of the underdeveloped countries to the tax of agriculture adequately but he was agreed in

downgrading the importance of the administrative hurdle to the effective agricultural taxation. The British Economist Professor Nicholas Kaldor carried out a review of the Indian tax system particularly with reference to personal and business taxation at the request of the Government of India during mid-1950. He was asked by the Government to examine the Indian tax system in the light of the revenue requirements of the 2nd Five Year Plan (1956-57 to 1960-61) which were launched in the same year. He prepared the first systematic estimates of income tax evasion in India. The report gave more importance in the Indian Direct Tax system. The tax on the personal expenditure was first imposed in India on 1st April, 1958 to the recommendations of the Kaldor committee. However, the yield from expenditure tax, gift tax, and estate duty was never of much significance in Central revenues [3].

3. **(Finance, 1992) “Report of Chelliah Committee on the Simplification and Rationalisation of both Direct and Indirect Taxes in India” (1991):** - The Union Government setup the Raja Chelliah Tax Reforms Committee in 1991 under the Chairmanship of Shri Raja J. Chelliah to examine the existing tax structure and to recommend proper measures for the simplification of the present tax structure in the country.

The Raja Chelliah Committee’s key recommendations were

1. Simplifying the tax structure;
2. Broadening the tax base; and
3. Introducing the Goods and Services Tax (GST).

Since the introduction about the Goods and Services Tax (GST) was recommended by the Raja Chelliah Committee and hence the details of the report are hereby highlighted below: -

1. The first draft of the Raja Chelliah Committee’s report was submitted in 1991.
2. The second draft of the report was submitted in 1992.
3. The third draft of the report was submitted in 1993.

The recommendations made by the Committee are: -

1. The tax system and the laws related to tax should be very simple as much as possible.
2. The tax rate should be low and widening spread to avoid the evasion of tax. The difference between the lowest rate and the highest rate of tax should be very less. Some of the tax incentives should be withdrawn to neutralize the fall in revenue due to lowering of the rates of taxation.
3. The Double Taxation for an individual or an industrial sector should be avoided.
4. To Reduce Corporate Tax differences between domestic and foreign companies and it should not be more than 10% will encourage the foreign investments in the country.

Some other recommendations are:

- Reducing the cost of imported inputs;
- Lowering the Customs Duties;
- Reduction in the number of Customs Tariff rates and its rationalization;

- Simplifying the Excise Duties and its integration with a Value Added Tax (VAT) system;
- To bring the services sector in the tax net within a VAT system;
- To build tax information and computerization system; and
- To improve the quality of Tax Administration System [4].

4. **(Kelkar, 2002) “Report of Kelkar Committee on the Simplification and Rationalisation of both Direct and Indirect Taxes in India” (2002):** - The Union Government setup the Task Forces on Direct and Indirect Taxes in September, 2002 under the Chairmanship of Dr. Vijay L. Kelkar, Adviser to the Minister of Finance and Company Affairs, Government of India to recommend appropriate steps for the simplification and rationalization of Direct and Indirect Taxes in India. Tax Reforms Committee in 1991 under the Chairmanship of Shri Raja J. Chelliah to examine the existing tax structure and to recommend proper measures for the simplification of the present tax structure in the country.

The Kelkar Task Forces (2002) made several recommendations on the tax administration to make it simple, effective and international standard.

The recommendations on Indirect Taxes are:

1. To review the Customs and Central Excise Law and procedures.
2. To simplify the Customs and Central Excise Law and procedures to reduce the cost of compliance and facilitate voluntary compliance.
3. Duty exemption for the small-scale sector should be extended to only small units with a turnover of Rs 50 Lakh.
4. Duty exemption for the large-scale sector should be gradually brought down to Rs 50 Lakh as per following:
 - a. From Rs 100 Lakh to Rs 75 Lakh for the year 2004-05.
 - b. From Rs 75 Lakh to Rs 50 Lakh for the year 2005-06.
5. Zero percent Custom Duty for essential items.
6. 10 percent Custom Duty for raw materials, inputs and intermediate goods.
7. 20 percent Custom Duty for consumer durables by 2006-07.

It may be mentioned that the Task Force recommended removal of all exemptions of Custom Duty except the following:

1. Life Saving goods.
2. Goods of security and strategic interest.
3. Goods for relief and charitable purposes.
4. International obligations including contracts.

The main recommendations on Indirect Taxes related to widening of the tax base, removal of exemptions, expansion in the coverage of service tax etc.

It may not be out of place to mention that the report of Kelkar Committee (2002) was very important in the context of present Goods and Services Tax (GST) system after the

Constitution (One Hundred and First Amendment) Act, 2016^[5].

5. **(Poddar, 2009) “GST Reforms and Intergovernmental Considerations in India”**, written by S. Poddar and E. Ahmad, Department of Economic Affairs, Ministry of Finance, Government of India. The division of powers of taxation is confined under Articles (264-300-A), Part-XII of the Constitution of India for both the Centre and States. Before the implementation of GST both Centre and States were not able to design a comprehensive and Neither is able to design a comprehensive and unbiased tax system on goods and services. The taxation powers are divided by the framers of the Constitution of India between the Centre and the States by different sectors like Agriculture, Manufacturing and Land & Property. Similarly, different types of taxes are also provided like luxury duties, tax on sale or purchase of goods, custom duty, excise duty etc. The two levels of government have no area of concurrent jurisdiction of the indirect taxation with the exception of stamp duties. According to the author, this kind of approach may have served the country well in the past but it is no longer optimal for modern economies^[6].
6. **(Dasgupta, 2009) “First Discussion Paper on Goods and Services Tax (GST)” (2009)**, by Shri Asim Kumar Dasgupta Chairman, Empowered Committee of State Finance Ministers & Minister of Finance & Excise, Government of West Bengal, New Delhi. It was discussed and analysed in the Empowered Committee meeting the structure and loopholes of GST and introduced their first discussion paper on Goods and Services Tax (GST)^[7].
7. **(Jain M. P. & S. N. Jain, 2010) “Principles of Administrative Law”**, the author highlighted that while assessing the quantum of tax payable by a taxpayer, the assessing authority discharges a quasi-judicial function and consequently, the authority is bound to observe natural justice in reaching its conclusions. Accordingly, it has been by the Hon’ble Supreme Court in some cases that natural justice is applicable in the assessment of various taxes, such as, income tax, sales tax, duties of excise property tax or custom duty^[8].
8. **(Singh M. P., 2010) “V. N. Shukla’s Constitution of India”**, the author has elaborately highlighted the Fundamental Rights of Part-III of the Constitution. The Article-14 with the underlying principle, Legislative classification, Test for valid classification, Application of Article-14, Classification without a difference, Basis of classification & Tax laws and equality including various corresponding case laws have been well explained. It may be noted that the researcher has gone through the Article-38 and Article-39 of Part-IV which are well explained by the author in this book. The author also highlighted in details of Part-XI (Relations between the Union and the States), Chapter I - Legislative relations, Distribution of Legislative Powers (From Article-245 to Article-255) which are the very essential part of the analysis of the research. The researcher has found the meanings of the following expressions related to the matter of taxation as per Article 366 of the Constitution of India which are explained in various clauses of the same Article^[9].
 9. **(Peerzade, 2010) “Economics of Taxation”**, the author highlighted the requirements of GST as mentioned: -
 1. The States should have concurrent powers to tax services.
 2. The Information Network (TIN) system built by the NSDL is a right foundation for the implementation of GST.
 3. The consolidating of Central Excise, the Central Service Tax (CST) and VAT on imports into a single tax called the Central GST.
 4. There may involve the question of revenue sharing. The suitable formulation would place the entire GST collection into the hands of the Finance Commission, Government of India for sharing with the States. The calculation and fiscal scenario must be made and discussed with the State Finance Ministers in order to arrive at an agreement.
 5. There may be a possibility of clash of interest of the Centre with the States, therefore, the task will not be easy to solve. Since the sales taxes contribute more than 60% of States’ own revenues so the States would not give up their tax powers without bargaining with the Centre^[10].
 10. **(Agarwal, 2011) “International Law & Human Rights”**, the preamble of the Universal Declaration incorporated a form of natural law language by inserting “whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the World”. The Preamble proclaimed it as a common standard of achievement for all people and for all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect of these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

The Universal Declaration Human Rights (UDHR) contains 30 Articles. It has enumerated the basic postulates and principles of Human Rights in a most comprehensive manner. Out of 30 Articles, while 21 Articles enumerated civil and political rights, 6 Articles cover economic and social rights. Article 7 states that ‘Equality before the law and equal protection of the law without any discrimination’^[11].
 11. **(Vasanthagopal, 2011) “GST in India: A big leap in the Indirect Tax System” (2011)**, the author in this article discussed the impact of GST on various sectors of the Economy. The author has mentioned that GST is a big leap means a big jump and a new impetus to the economic change of India^[12].
 12. **(Sinha, Y. Chairman, Standing Committee on Finance, 2011) “73rd Report of Standing Committee on Finance (2012-2013), The Constitution (One**

- Hundred and Fifteenth Amendment) Bill, 2011.”** The researcher has gone through the bill and noted down the important points relation to the topic^[13].
13. **(Bird R. M., Vol 5 Issue 12 March 2012) “The GST/HST: Creating an Integrated Sales Tax in Federal Country” (2012)**, In the history of taxation in Canada, it has been found that the country first introduced a Federal Sales Tax in 1920 and it was applied to all sales other than those at retail. It was replaced in 1924 after a number of modifications by 6% tax on sales by the manufacturers’ Sales Tax (MST). At the end of the 1980, MST was replaced by VAT. In 1989, the Federal Government decided to introduce its own invoice-credit VAT which is called the Goods and Services Tax (GST). The author has summarized in the article the impact of GST in Canada. The researcher has found that almost all the countries that have implemented GST have taken considerable time to settle down and even in Canada, the VAT on Goods and Services are implemented in both Federal and Provincial level for almost thirty years is still evolving^[14].
 14. **(Viswanathan, 2016) “Goods and Services Tax (GST) in India” (2016)**, the author has stated that the VAT was successfully implemented in 2005 by the States Government in the country. It was an innovative step of the Government of India. For the smooth implementation of the VAT, CENVAT replaced the Central Excise duty as well as State VAT replaced the sales tax system in the States. VAT was a short term and feasible solution of the complex system of taxation in India. The author has mentioned that the coverage of commodities under CENVAT was not comprehensive because some sectors like Oil and Natural Gas Commission (ONGC), Agriculture, Wholesale and retail trade, Real Estate and Construction are kept outside the purview of CENVAT and the service taxes. These are the sectors who cannot claim any Input Tax Credit (ITC) under the CENVAT and service tax. Similarly, Input Tax Credit are not allowed under State VAT for service sector, Real Estate properties, Agriculture etc^[15].
 15. **(Khurana, 2016) “Goods and Services Tax in India- A Positive Reform for Indirect Tax System”**, this paper has highlighted the background, objective of the proposed GST and also the impact of GST in India^[16].
 16. **(Agarwal A., 2017) “Goods and Services Tax (GST) Impact on the Indian Economy” (2017)**, the author has stated that national level Goods and Services Tax (GST) IS India’s most ambitious indirect tax reform. The objective is to levy a single uniform tax throughout India on goods and services. GST would replace a number of Central and State taxes, making India a national integrated market and would bring more producers into the tax network. The current taxes on goods and services are highly complex and characterized by a complicated rate structure. It may be mentioned that there are parallel systems of indirect taxation at the Central and State levels. Each system needs to be reformed to eventually harmonize them^[17].
 17. **(Mukherjee, 2017) “Goods and Services Tax (GST) Impact on the Indian Economy”**, the author has stated that the present system of tax (i.e. prior to the implementation of GST) inter-state movement of goods provides an option to manufacturers to either locate their branch offices and/or set up their own distribution networks across all the states of their operations so that they could send the goods as branch/consignment transfers and avoid paying CST and entry tax. Often the cost of establishing branch offices or own distribution networks constraints businesses to scale up and encourage inefficiency in production as well as distribution of goods or providing services.
- Therefore, the present system (i.e. prior to the implementation of GST) is not conducive for evolving a seamless common market for goods and services. In addition, businesses face different tax rules and regulations in each state. Since legal trade attracts multiple taxes, the system also encourages illegal trade at least of high value goods (e.g. tobacco products, alcohol). So, the removal of CST and entry tax from inter-State movements of goods will help to shift indirect taxation system from origin based to destination based which is a desired outcome of the proposed GST regime^[18].
18. **(Kaur, 2017) “Value Added Tax (VAT) and GST: A Comparison”**, the author has described the need for Goods and Services Tax (GST). It is stated that despite the efforts at expanding tax base for Central Government, without the simultaneous cascading effects of taxation through the introduction of Central VAT and State VAT, the fact remain that CenVAT is essentially a tax on manufacturing which itself is a narrow base. Services have been brought under the ambit of Union taxation and service tax can be claimed for the purpose of input tax credit. However, states still cannot levy tax on services. Tax cascading still remains significant on account of large number of exemptions in both CenVAT and State VAT. Further, tax credit on state taxes paid in one State cannot be availed in another State. The existence of Central sales tax on inter-State sales, imposed by Central government but collected by the origin State is another cause of tax cascading as no credit is allowed for Central sales tax by any level of Government^[19].
- System of Gst After 101st Constitutional Amendment**
The framers of the Indian Constitution made provisions for any incorporate modification or change at any time. This kind of modification or change is called Constitutional Amendment. Article 368 of the Constitution of India has given the power to the Parliament to amend the Constitution and procedure.
The reformation of taxes since the year 1991 during the tenure of Prime Minister Shri P. V. Narosimha Rao have brought the Indian Tax system much closer to the international tax practices. The tax reforms are the part of the package of Liberalisation, Privatisation and Globalisation (LPG) of Indian Economy. The Goods and Services Tax (GST) in the post-independence period of India is the latest tax reform in the history of Indian Socio-Economic Culture after the Constitution (One Hundred and First Amendment) Act, 2016.

The Constitution (115th Amendment) Bill, 2011 was introduced in the Lok Sabha on 22nd March, 2011. The Bill was referred to the Committee on the 29th March, 2011 for examination and report thereon by the Lok Sabha under rule 331E of the Rules of Procedure and Conduct of Business in the Lok Sabha.

The Constitution (122nd Amendment) Bill, 2014 during the tenure of Prime Minister Shri Narendra Modi was passed by the Lok Sabha on the 6th May, 2015 and the same was passed by the Rajya Sabha on the 22nd July, 2015. The Bill was ratified by the required number of states in the country. The Hon'ble President of India gave his assent on the 8th September, 2016 and it was enacted as Constitution (One Hundred and First Amendment) Act, 2016.

Table 1: The following table shows the list of states in India who ratified the 122nd Constitution Amendment Bill

Sl. No.	Name of the State	Passed on
1	Assam	12 th August, 2016
2	Bihar	16 th August, 2016
3	Jharkhand	17 th August, 2016
4	Himachal Pradesh	22 nd August, 2016
5	Chhattisgarh	22 nd August, 2016
6	Gujrat	23 rd August, 2016
7	Madhya Pradesh	24 th August, 2016
8	Delhi	24 th August, 2016
9	Nagaland	26 th August, 2016
10	Maharashtra	29 th August, 2016
11	Haryana	29 th August, 2016
12	Sikkim	30 th August, 2016
13	Telangana	30 th August, 2016
14	Mizoram	30 th August, 2016
15	Goa	31 st August, 2016
16	Odisha	1 st September, 2016
17	Puducherry	2 nd September, 2016
18	Rajasthan	2 nd September, 2016
19	Andhra Pradesh	8 th September, 2016
20	Arunachal Pradesh	8 th September, 2016
21	Meghalaya	9 th September, 2016
22	Punjab	12 th September, 2016
23	Tripura	26 th September, 2016
24	Uttarakhand	2 nd May, 2017
25	Uttar Pradesh	16 th May, 2017
26	Manipur	5 th June, 2017
27	Karnataka	16 th June, 2017
28	Tamil Nadu	19 th June, 2017
29	Kerala	21 st June, 2017
30	Jammu and Kashmir	5 th July, 2017
31	West Bengal	8 th August, 2017

Enactment of Goods and Services Tax (GST)

The Goods and Services Tax (GST) a latest tax reform in India as Indirect Tax was introduced after Constitution (One

Hundred and First Amendment) Act, 2016 in the Constitution of India and the same was implemented w.e.f. 1st July, 2017 throughout the country by giving notification to the Official Gazette of the Government of India.

The Central Government introduced the following Goods and Services Tax Bills in Lok Sabha on the 27th March, 2017 in the Parliament: -

1. Central Goods and Services Tax Bill, 2017
2. Integrated Goods and Services Tax Bill, 2017
3. Union Territory Goods and Services Tax Bill, 2017
4. Goods and Services Tax (Compensation to States) Bill, 2017

The Lok Sabha passed the Bills on the 29th March, 2017 and the Rajya Sabha passed them on the 6th April, 2017. The Hon'ble President of India gave his assent on the 12th April, 2017 and became the following Acts: -

1. CGST Act, 2017 (12 of 2017)
2. IGST Act, 2017 (13 of 2017)
3. UTGST Act, 2017 (14 of 2017)
4. GST (Compensation to States) Act, 2017 (15 of 2017)

The effective dates of notifications are given in the Official Gazette of the Government of India: -

1. CGST Act, 2017 (Notification No 1/2017-Central Tax, dt. 19-6-2017, w.e.f. 22-6-2017)
2. IGST Act, 2017 (Notification No 1/2017-Integrated Tax, dt. 1-7-2017, w.e.f. 1-7-2017)
3. UTGST Act, 2017 (Notification No 1/2017-Union Territory Tax, dt. 19-6-2017, w.e.f. 1-7-2017)
4. GST (Compensation to States) Act, 2017 (Notification No 1/2017-GST Compensation, dt. 28-6-2017, w.e.f. 1-7-2017)

The Goods and Services tax is an indirect tax which has clubbed or subsumed all the indirect taxes levied in India. There are 17 indirect taxes which are clubbed under GST. The two taxes which are not subsumed in GST in India are: -

1. **Basic Customs Duty (BCD):** It is a tax levied on goods imported into India and is kept outside the purview of GST and continues to be levied as a separate tax.
2. **Petroleum Products:** The Petroleum products such as petrol, diesel, crude oil, aviation turbine fuel and natural gas are not under the GST regime. These products are continued to be taxed under the previous tax system, i.e. Excise Duty, VAT and other state taxes.
3. **Alcohol for human consumption:** GST is not levied on alcoholic liquor for human consumption. The Excise Duty is levied by the State Government.

Genesis/Journey of Gst in India

February 1986	Finance minister Vishwanath Pratap Singh proposed a major overhaul of the excise taxation structure in the budget for 1986-1987.
2000	PM Shri Atal Bihari Vajpayee set up a committee headed by the then West Bengal Finance Minister Shri Asim Dasgupta to draft GST model for the country.
2003	The Vajpayee Government form a Task Force under Vijay Kelkar then advisor to the Finance Ministry to recommend tax reforms.
2004	The Kelkar Task Force concludes GST must be implemented to improve current tax structure.
28 th February, 2006	Announcement by the then Union Finance Minister Shri P. Chidambaram during budget of 2006-2007 that GST would be introduced from 1 st April, 2010. He said that the empowered committee of finance ministers of states would prepare a road map for GST.

2008	Empowered Committee of State Finance Ministers constituted.
30 th April, 2008	The empowered committee submits a report titled: 'A Model and Roadmap Goods and Services Tax (GST) in India' to the government.
10 th November, 2009	The Empowered Committee submits a discussion paper in the public domain on GST.
2009	Shri Pranab Mukherjee the then Union Finance Minister announces the basic structure of GST as designed by Asim Dasgupta Committee will retain 2010 deadline.
22 nd March, 2011	UPA-II tables 115 th Constitution Amendment Bill in the Parliament for GST.
2011	Asim Dasgupta the then Finance Minister of West Bengal resigned from empowered committee as his party was defeated in West Bengal and he was replaced by K M Mani the then Finance Minister of Kerala.
November, 2012	P. Chidambaram the then Union Finance Minister holds meeting with State Finance Ministers and decided to resolve all issues by 31 st December, 2012 for GST rollout.
February, 2013	The UPA (United Progressive Alliance) government declared to introduce GST. Shri P. Chidambaram in his budget speech kept provision for Rs 9,000 crore to compensate states for the loss incurred because of GST.
June, 2013	Sushil Kumar Modi, the then Finance Minister of Bihar resigned as Chairman of the Empowered Committee of State Finance Ministers looking into the implementation of the proposed GST.
August, 2013	Parliamentary Standing Committee submits report of suggesting improvements. GST bill was ready for introduction in Parliament.
2014	GST Bill is cleared by Standing Committee but Parliament is dissolved and BJP led NDA Government came to power.
18 th December, 2014	Union Cabinet approves 122 nd Constitution Amendment Bill of GST.
19 th December, 2014	122 nd Constitution Amendment Bill was introduced in the Parliament and was passed.
6 th May, 2015	GST Constitutional Amendment Bill was passed in Lok Sabha.
14 th May, 2015	The GST Bill is forwarded to the joint Committee of Rajya Sabha and Lok Sabha.
August, 2015	The GST Bill is not passed in Rajya Sabha.
August, 2016	The Congress Party and BJP both are agreed to pass the Bill.
3 rd August, 2016	The Amendment Bill was passed in Rajya Sabha with two-third majority and finally the Constitution (101 st Amendment) Act was enacted in August, 2016.
2 nd September, 2016	16 States ratify GST Bill. The Hon'ble President Shri Pranab Mukherjee gave assent to the Bill.
12 th September, 2016	Union Cabinet approved the formation of GST Council.
22 nd and 23 rd September, 2016	First GST Council Meeting was held in New Delhi.
16 th January, 2017	Shri Arun Jaitley the then Finance Minister announces that 1 st of July as GST roll out deadline. Centre and States agree on contentious issue of dual control and taxing rights on goods at high sea.
18 th February, 2017	GST Council finalizes draft compensation bill providing to make good any revenue loss to states in first five years of GST rollout.
4 th March, 2017	GST Council approves CGST and Integrated-GST bills.
20 th March, 2017	Union Cabinet approved CGST, IGST, UTGST and Compensation bills.
27 th March, 2017	Shri Arun Jaitley tables CGST, IGST, UTGST and Compensation bills in the Parliament. Both the Lok Sabha and Rajya Sabha pass all the four GST bills i.e. CGST, IGST, SGST and UTGST.
March, 2017	GST Council recommends CGST, SGST, IGST, UTGST and Compensation Bill. The four Central GST Legislation were passed in Lok Sabha.
April, 2017	The above 4 Central GST Legislation received assent of President and Bills turned into an Act.
18 th May, 2017	GST Council approves over 1200 goods in one of the four tax slabs of 5%, 12%, 18% and 28%. More than 80% of goods of mass consumption either exempted or taxed under 5% slab.
19 th May, 2017	GST Council decides on 5%, 12%, 18% and 28% as service tax slabs.
21 st June, 2017	All states except Jammu and Kashmir pass SGST law.
28 th June, 2017	Trinamool Congress leader Smt Mamata Banerjee announces her party's decision to skip midnight launch of GST.
29 th June, 2017	Indian National Congress party and Left parties decided to skip the midnight launch of GST.
30 th June midnight, 2017	GST was set to rollout.
July, 2017	Finally, GST came into effect w.e.f. 1 st July, 2017.

[Source:

1. Standing Committee on Finance (2012-13) 15th Lok Sabha, Ministry of Finance (Department of Revenue), The Constitution (One Hundred Fifteenth Amendment) Bill, 2011, 73rd Report, published by Lok Sabha Secretariat, Dated-7th August 2013, New Delhi.
2. Government of India, Parliament of India, Rajya Sabha, Report of the Select Committee on the Constitution (122nd Amendment) Bill, 2014. Published by Rajya Sabha Secretariat, Dated-22nd July, 2015, New Delhi.
3. Deccan Chronicle Newspaper published on 1st of July, 2017. <https://www.deccanchronicle.com/nation/politics/010717/pm-modi-opposed-upas-gst-in-2013.html>]

Structure of Goods and Services Tax (Gst)

There are four categories of GST as mentioned below:

1. **Central Goods and Services Tax (CGST):** It subsumes all the central indirect taxes which were levied by the Central Government for the intrastate movement of goods and services. Intrastate means within the same state. The levy and collection of CGST are ruled by the various provisions of the CGST Act,
2. **State Goods and Services Tax (SGST):** The levy and collection of SGST are governed by the State's SGST Act, 2017 as amended from time to time. It subsumes all the State indirect taxes such as entertainment tax, luxury tax, entry tax etc. Though the value-added tax and the taxes on petroleum products are not subsumed

under GST. The same amount of SGST as CGST is levied on intrastate supplies of good and services by a particular state government where the product sold or consumed.

- 3. **Union Territory Goods and Services Tax (UTGST):** The GST is applicable on the goods and services supply which takes place in Andaman and Nicobar Islands, Dadra and Nagar Haveli, Chandigarh, Lakshadweep and Daman and Diu. The levy and collection of UTGST are governed by the State’s SGST Act, 2017 as amended from time to time.
- 4. **Integrated Goods and Services Tax (IGST):** IGST is a tax levied on all interstate supplies of goods and services. The levy and collection of SGST are governed by the State’s IGST Act, 2017 as amended from time to time. The IGST is applicable on any supply of goods and services in both cases of import into India and from India. The IGST directly goes to the Centre and later splits between the Centre and States or the Centre and Union Territories.

The Salient Features of Gst in India

The salient features of GST are hereby mentioned below:

- **Supply is the base**

The Goods and Services Tax is a tax on supply of materials and the liability to pay GST on the commodity shall arise at the time of supply, as determined in accordance with the provisions of Section 13 of the CGST Act.

In the system of Goods and Services Tax, supply is called taxable event and the supply must be goods or services or both. The revenue is deposited to the state where the service is consumed based on the place of supply under the IGST Act.

- **Destination Based Tax**

The GST is levied on the goods and services at the place where they are consumed and so it is a Destination Based Tax. The GST is not levied at the source or origin and therefore, the state where the goods and services are consumed will collect GST.

- **Dual GST**

The GST model of India is similar to the dual GST model of Canada. The dual GST concept is a tax collection process with two different taxation components i.e.

1. Central Goods and Services Tax (C.G.S.T.)
2. State Goods and Services Tax (S.G.S.T.)

These two tax components can be levied on a single transaction in India within a state on account of its federal structure of the country. Both the Central and State Governments have been assigned distinct responsibilities as provided under the 7th Schedule of the Constitution of India [20].

Both the CGST and SGST are applicable to all transactions by the consumers pertaining to goods and services in the country. It has been expected that the design of dual GST structure is smooth, transparent and straight forward tax model with a prescribed set of CGST and SGST rates by the Government so that the entire population of the country will not be affected.

It is expected that since dual GST states i.e. both the Central and State Governments who can impose and collect taxes from the consumers on the same goods and services, therefore, there is a possibility of dispute and could be resolved by the GST Council [21].

- **Inter-State Supply**

The supply of goods and services from one state to another state is called inter-state supply. The Integrated Goods and Services Tax (IGST) will be levied on every transaction of supply of goods and services in inter-state supply. The tax is levied on the same price as per sec 15 of the CGST Act. As per section 7(1) of the IGST Act, the supply of goods in the course of Inter-State trade or commerce i.e. from one state to another means any supply where the location of the supplier and the place of supply are in two different States or two different Union Territories or a State and a Union Territory.

- **Taxes Subsumed under GST:**

The following indirect taxes at both Central and State levels subsumed under GST are:

Sl. No.	Central Level	State Level
1	Central Excise Duty	Subsuming of State VAT/Sales Tax other than VAT on petroleum products and liquor for human consumption.
2	Additional Excise Duty	Entertainment Tax other than the tax levied by local bodies, Central Sales Tax (CST).
3	Service Tax	Octroi and Entry Tax
4	Additional Custom Duty or Countervailing Duty	Purchase Tax
5	Special Additional Duty of Customs	Luxury Tax. Taxes on Lottery, Betting and Gambling.

The taxes on Petroleum products are also the indirect taxes but these taxes are not subsumed under GST. The Direct Taxes such as Income tax, Custom duty on imports, Corporation tax, Property tax are not subsumed under GST. The goods like petroleum products, alcohol etc. which are for human consumption and non-taxable do not require GST for supply under the GST Act, 2017. The supply of goods to the Special Economic Zone comes under GST exemption list.

- **Applicability**

The applicability of GST limit is that in India, businesses with annual turnover of more than Rs 40 lakh for goods and Rs 20 lakh for services are required to register for GST and taxes are to be paid on their taxable goods and services. Similarly, the businesses in some special category of states with an annual turnover of more than Rs 20 lakh are required to register for GST. At the time of GST implementation in July 2017, businesses or individuals with annual aggregate turnover of less than Rs 20 lakh were allowed GST exemption. A lower limit of Rs 10 lakh was in effect for hill states and north-eastern states such as Uttarakhand, Himachal Pradesh, Tripura, Sikkim, Nagaland, Mizoram, Meghalaya, Manipur, Assam, Jammu and Kashmir as well as Arunachal Pradesh.

- **Reasons for Exemption of GST on Goods and Services**

The Government may decide to implement GST exemption on goods and services in the following conditions:

- a. when the exemption is recommended by the GST Council.
- b. when such exemption from GST is deemed to be in public interest.
- c. Government may grant exemption in exceptional circumstances through special order.
- d. The exemption on supply of specific goods is done through official notification.

▪ **Some examples of Goods which are Exempted from GST**

^[22] As per the list of exemption approved by the Ministry of Finance, Department of Revenue, Government of India as on 1st of April, 2023, some of the common examples of goods exempted from GST are hereby mentioned below: –

- a. Live bovine animals, swine, sheep and goats, poultry, ducks, turkeys, guinea fowls, mammals, birds, insects etc. Also, meat of bovine animals, fresh and chilled.
- b. Fresh and dried vegetables including potatoes, onions, sweet potatoes and various leguminous vegetables etc.
- c. Live fish, fresh fish, bird's eggs in shell, fresh milk etc.
- d. Fresh ginger, garlic, grapes, melon, unroasted coffee beans, unprocessed green tea leaves, etc.
- e. Corn, rice, wheat, maize, soyabean, hulled cereal grains, etc not put into branded containers.
- f. Human blood and various components of the same.
- g. Raw silk, silk worm, cocoon, jute fibres (unspun), khadi yarn, khadi fabric, etc.
- h. Slates, slate pencils, chalk sticks, parts used to manufacture hearing aids handloom etc.

▪ **Input Tax Credit**

The Input Tax Credit (ITC) system means that at the time of paying tax on output, an individual can reduce the tax which he has already paid on inputs and now to be paid the balance amount. The input tax credit can be claimed by a person only who has a GST registration and has filed the GSTR 2 returns. The maximum time limit to file "Annual Return" is specified under amended Rule 80 of CGST Act, 2017 which is on the 31st day of December from the end of the financial year and requisite form to file the Annual Return is FORM GSTR-9 ^[23].

▪ **Electronic Filing of Returns**

This provision is provided for the e-commerce operators who are registered under GST to file the form. This is required to collect the tax at the source. The details of supplies made through e-commerce platform and the Tax Collection Source (TCS) on the same are recorded. This is to be filed within 10th day of every month.

▪ **Refund**

GST refund is a process in which the registered taxpayers can claim excess amount if they paid more than the GST liability. The excess amount can be claimed after submitting a refund application with the necessary details in the GST portal under section 54 of the CGST / SGST Act ^[24].

▪ **Anti-Profiteering Clause**

Section 171 of CGST Act, 2017 states that the supplier of goods and services should pass on the benefit of any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit to the recipients by way of commensurate reduction in prices. The wilful action of not passing on the above benefits to the recipients in the manner prescribed is called as profiteering ^[25].

▪ **Exports**

As per section 16(1) of the IGST Act, the 'zero-rated supply' means (a) export of goods or services or both; (b) supply of goods or services or both to a Special Economic Zone (SEZ) developer or a Special Economic Zone unit. In exports, the goods and services produced in the domestic country sold to persons who are residing in a foreign country. It is expected that to make Indian products competitive in the international market, the provision of zero-rated supply introduced in GST for exports. The zero-rated means that the entire export transaction is tax free i.e. tax amount is free either on inward supply or on outward supply.

▪ **Efficiency**

GST has merged multiple indirect taxes which existing in the previous tax regime. The advantage of GST is that every state will follow the same rate for a particular commodity or service. It is expected that GST administration will be easier with the GST policies.

▪ **Reduction in Tax Evasion**

Tax evasion has become a serious issue in India. It is an illegal attempt through which the taxpayers try to reduce their tax liability. To combat this issue, Government face various challenges. In many occasions it has been found that the taxpayers try to reduce their tax liability through the legal or illegal attempt. The tax evasion is an illegal attempt or process through which the taxpayers try to reduce tax liability but in tax avoidance, the taxpayers reduce their tax liability through the legal process. It is a fact that the tax evasion and tax avoidance are the steps by the taxpayers to reduce the tax compliance and also the revenue of the government of the country. It was found that in the past indirect tax regime, the administration of tax compliance of taxpayers was costly and complicated because of the payment of multiple taxes that is why Goods and Services Tax was implemented to transform the Indian economy into "One Nation, One tax and One Market". But it is very unfortunate to mention that many taxpayers create hurdles to get advantage of tax evasion by using the loopholes of the taxation policy.

▪ **Dynamic Common Market**

GST is one Indirect Tax for the whole nation which will make India one unified common market. It is expected that by ensuring uniformity of Indirect Tax rates across the country, it has substantially improved the efficiency and ease of doing business. GST has replaced many Indirect Taxes in India including VAT, Service Tax, Excise Duty and so on besides VAT is still applicable on petroleum goods by the State Governments. This will enable smooth tax collection, reduce double taxation and improve process efficiency in business in the common market.

▪ **GST and Foreign Trade**

As per clause (1) of Article 269A of the Constitution of India, the Integrated Goods and Services Tax (IGST) will be levied on all imports into the territory of India. Exports are zero rated supplies under GST law. Thus, import of goods is treated as Inter-State supplies and hence subject to IGST in addition to the applicable Customs Duties, import of services is treated as Inter-State supplies and hence it is subjected to IGST.

▪ Elimination of Cascading Effect

It is a fact that cascading tax refers to the system which imposed Sales Tax on products at successive stage in supply chain from raw material to consumer purchase i.e. tax on tax. Each buyer in the supply chain pays a price based on its cost, including previous tax or taxes that have already been charged.

The tax cascading was a serious issue of the pre-GST Indirect Tax system. There was a burden on tax on tax in the previous system of Central Excise Duties and State's Sales Taxes. The cost of production was increased and the Indian suppliers had a disadvantage in the international markets.

GST allows for the seamless availability of Input Tax Credit across the value chain. Businesses can claim credit for taxes paid on inputs against the taxes they collect on. It is expected to reduce the tax burden on businesses and eliminates the cascading effect.

▪ Benefits to consumers

It is expected that a consumer will avail the advantages of GST in which the amount of tax will be lesser than VAT or service taxes. The food items like food grains and spices fall in between 0 to 5 percent of GST which is more beneficial for the consumers as they are cheaper to buy due to reduction of tax. It was expected that GST will reduce the burden of taxes on the industrial sector, production costs. Some items, like motor vehicles etc. will be less expensive due to decreasing of the production costs. It was also expected that for the general public, GST system will make the country's economy excellent but the prices for everyday products and services are becoming higher instead of falling down gradually.

Conclusion

It is a fact that the indirect taxes play major role in the country's economy. The major revenue is collected through indirect taxes levied on the citizens of the country like India. But it is also a fact that revenue collected from both direct and indirect taxes from the citizens of the country plays major role for the development of the nation. The collection of revenue from the direct taxes is less than the revenue collected from the indirect tax in India because the collection of direct tax is based on the income of a person. Since the majority of population of India are poor, lower middle class and middle class therefore, collection of indirect taxes produces more revenue to the Government. It is the obligation of the government to make suitable taxation policy within the reality of the country's socio-economic condition for the levy of tax from its citizens but the policy should not affect the livelihood of the poor people of the country.

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