



2nd COURSE ON GST

Basic Concepts of GST, Enabling Constitutional Amendments, GST Council and its Role, RNR, Relevant definitions etc.

By

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Purpose of Course



- Understand the GST Structure and Mechanism
- Insight into the metamorphosis in indirect taxation
- Legal Framework – Constitutional Amendment Act
- Legal Framework – Model GST Law
- Procedural Compliance – Registration, input credit, etc
- Bottom line implications – post announcement of rates etc

NB: The first three points seem to be clear. But next 3 points may undergo a change

No substitute for self-learning and reading



What is GST

GST is one indirect tax for the whole nation – make India one unified common market
(FAQ on GST, Press Information Bureau dated 03.08.2016)

- Single tax on supply of goods and services, right from the manufacturer to the consumer.
- Essentially a tax only on value addition at each stage with set – off benefits– seamless credit – consumer not burdened with cascading of taxes.

Areas Covered

[in this Session]

- Basic Concepts - Dual Model of GST, taxes subsumed and not subsumed, Revenue Neutral Rate (RNR)
- Enabling constitutional amendments
- GST council and its role
- Taxable event- *Existing Regime v. GST Regime.*
- Relevant Important definitions

Relied Upon Documents (RUD) !

- Constitution (One Hundred and First Amendment) Act, 2016 [CAA]
- FAQs [dated 3.8.2016] **most important**
- First Discussion Paper [dated 10.11.2009]
- Select Committee Report presented to Rajya Sabha [on 22.7.2015]
- Report of Committee on Revenue Neutral Rate
- First Shome Committee Report on Tax Admn. Reforms [30.5.14]



BASIC CONCEPTS OF GOODS & SERVICES TAX ['GST']

[N.B.: While explaining Basic Concepts only significant taxes subsumed is taken but list of taxes subsumed and not subsumed is enumerated at a later slide]

EXISTING SIGNIFICANT TAXES

➤ Central Taxes

- ✓ Excise Duty
- ✓ Service Tax

➤ State Taxes

- ✓ VAT
- ✓ CST¹
- ✓ Luxury tax
- ✓ Entry Tax




¹ Revenue assigned by Union to States

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Downsides in Existing Tax Structure

- Multiple Taxes / Levies
- Lack of uniformity in rates and structure
- Cascading Effect – VAT on Excise Duty/ CVD– Tax on Tax
- Lack of seamless credit –
 - Trader does not get credit of service tax/ Excise duty/ CVD
 - CST – No credit for manufacturer/ trader/ service provider
- Stock Transfers  Cumbersome & Costs
- *Entry Tax* – *barriers* to free movement of goods

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GST

Government's answers to these problems

- *One Nation One Tax*
- Tax only on Value Addition
- Benefits of GST





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Benefits of GST

- **For Business & Industry**
 - Easy Compliance – A robust and Comprehensive IT system available to the tax payers online.
 - Uniformity of tax rates and structures – No need for State shopping 
 - Removal of cascading – system of seamless tax-credits throughout the value chain and across States ensuring minimal cascading of taxes; reduce hidden cost of doing business 

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Benefits of GST

- Improved Competitiveness – Reduction in transaction cost of doing business
- Gain to manufacturers and exporters - Reduction in cost of manufacture – subsuming of major Centre and State taxes in GST - comprehensive set off of input goods and services.

TAX ADMINISTRATION 

Benefits of GST

▪ For the Consumers

- Single & transparent Tax proportionate to the value of goods & services
- Reduction in prices of goods & services due to relief in overall tax burden 

▪ For Centre & State Governments

- Simple & easy to administer
- Better control on revenue leakages – IT infrastructure and seamless credit will incentivize tax compliance
- Higher Revenue efficiency – Decrease in cost of collection

Ultimate Agenda



- Check evasion and
- boosts Revenue of Centre as well as States by expanding respective fiscal space

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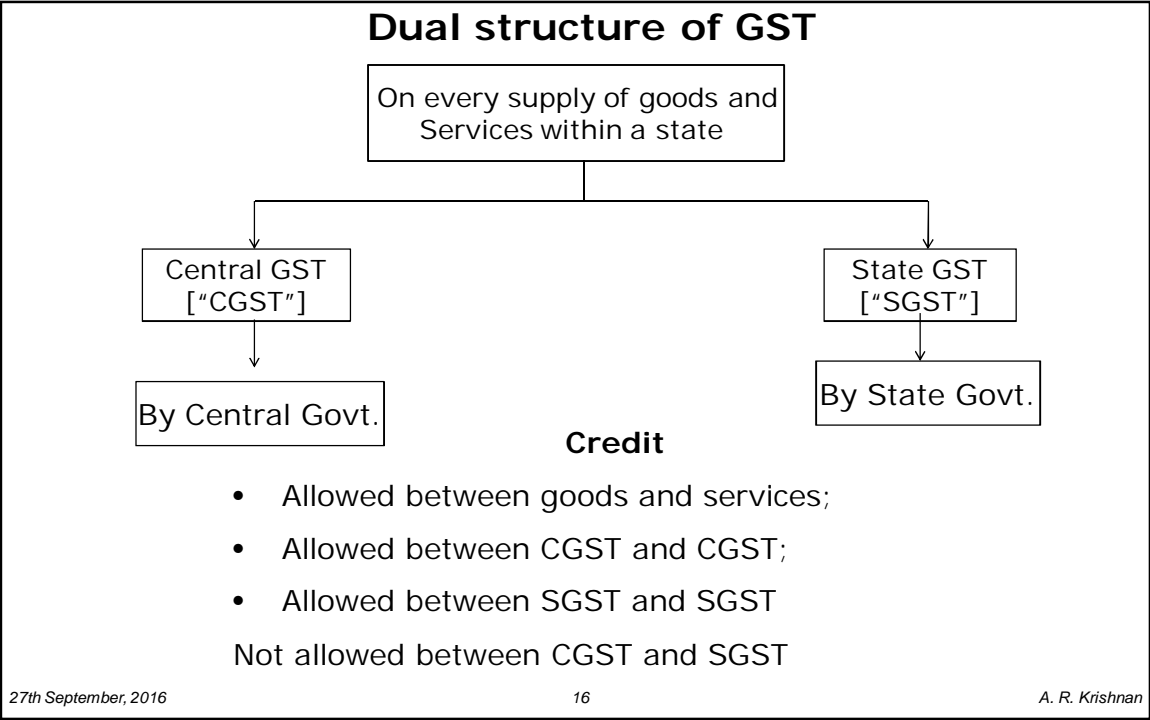
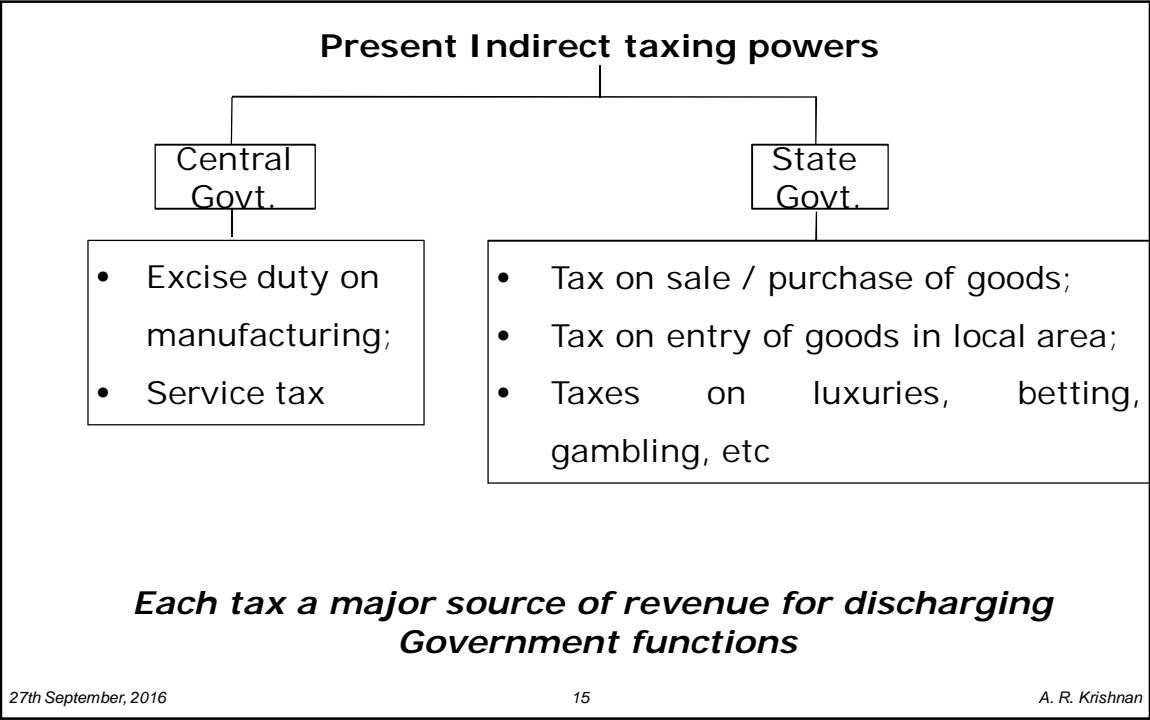
GST IN INDIA

- Philosophy – One GST rate on goods and services collected by one agency across India
- India – Always gives a different flavour to everything – Chinese dishes, Italian dishes - Indian spices – Indian curry- world famous
- Federal structure – Union and States
- **Dual Structure - Dual Levy - Dual Control**

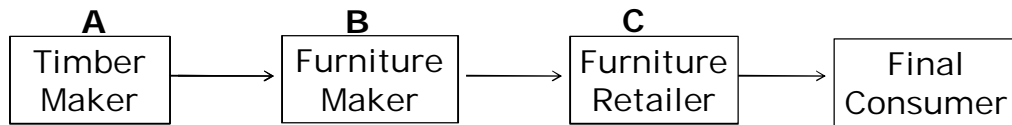
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DUAL GST WITHIN STATE Working Example



	Tax Invoice A	Tax Invoice B	Tax Invoice C
Cost of Goods	100	200	300
SGST @10%	10	20	30
CGST @10%	10	20	30
TOTAL	120	240	360

B will get the credit of CGST and SGST paid by him to **A**.

C will get the credit of CGST and SGST paid by him to the **B**

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Inter – State Transactions of goods and services

- Centre to collect IGST [Integrated Goods & Services Tax]
- IGST = CGST + SGST [SGST to be uniform across all states !]
- GST mechanism to provide for seamless credit mechanism

	Utilization matrix		
Credit in	IGST	CGST	SGST
IGST	1 st	2 nd	3 rd
CGST	2 nd	1 st	Not allowed
SGST	2 nd	Not allowed	1 st

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Apportionment Mechanism of IGST

	State A	State B	
	Manufacturer	Wholesaler	Retailer
Value	200	250	300
CGST @10%	-	25	30
IGST@20%	40	-	-
SGST @10%	-	25	30
Total	240	300	360

Centre will transfer Rs.15/- from IGST to State B

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Apportionment Mechanism of IGST

	State A	State B	State C
	Manufacturer	Wholesaler	Manufacturer
Value	200	250	300
CGST @10%	-	-	30
IGST@20%	40	50	-
SGST @10%	-	-	30
Total	240	300	360

Centre will transfer Rs.20 IGST to State C


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Integrated GST ["IGST"]

- Novel Concept
- Facilitates the continuity of cenvat credit without break
- Avoids distortion in taxation
- Facilitates the philosophy of consumption based tax
- Scrapping of all forms

Pay and get credit
instead of
 upfront pay less
 Finance cost may go up 

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TAXES SUBSUMED/NOT SUBSUMED

Central Taxes	Subsumed	Not subsumed
Central Excise Duty (<i>except on specified petroleum items¹ & tobacco and its products</i>)	✓	
Additional Excise Duties	✓	
Addl. Custom Duty (CVD)	✓	
Spl. Addl. Duty of Custom (SAD)	✓	


¹ May be subsumed at a later date on GSTC's recommendation

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TAXES SUBSUMED/NOT SUBSUMED

Central Taxes	Subsumed	Not subsumed
<i>Basic Custom duties</i>		✓
Central Sales Tax (CST)	✓	
Service Tax	✓	
Cesses 	✓	

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TAXES SUBSUMED/NOT SUBSUMED

State Taxes	Subsumed	Not subsumed
VAT / Sales tax [<i>except on sale of specified petroleum items¹ & alcoholic liquor</i>]	✓	
Purchase Tax	✓	
Tax on Entertainment / Amusement (other than levied by local body)	✓	
Luxury tax	✓	
Taxes on lottery, betting and gambling	✓	
Entry tax /Octroi	✓	

¹ *May be subsumed at a later date on GSTC's recommendation*

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TAXES SUBSUMED/NOT SUBSUMED

State Taxes	Subsumed	Not subsumed
Excise on liquor		✓
Tax on advertisement other than in Press/ TV/ Radio	✓	
Property tax		✓
Tax on sale / consumption of electricity		✓
Stamp duties		✓

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DUAL CONTROL - FEATURE OF GST

- Dual GST – to be implemented through multiple statute – CGST law by Central Government and SGST by each State Government- Basic features like chargeability; taxable event; valuation; classification to be uniform ***as far as practicable***
- Taxes to be collected separately
- Concurrent jurisdiction-
 - CGST to be administered by Centre
 - SGST to be administered by State



'Dual Monitoring– if one fails other may not fail'



But is it necessary?

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ENABLING CONSTITUTIONAL AMENDMENTS

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CONSTITUTIONAL AMENDMENT

The Constitution (One Hundred and First Amendment) Act, 2016 [CAA]

- Sec 12 (GSTC) – w.e.f. 12.09.2016
- All other sections – w.e.f. 16.09.2016

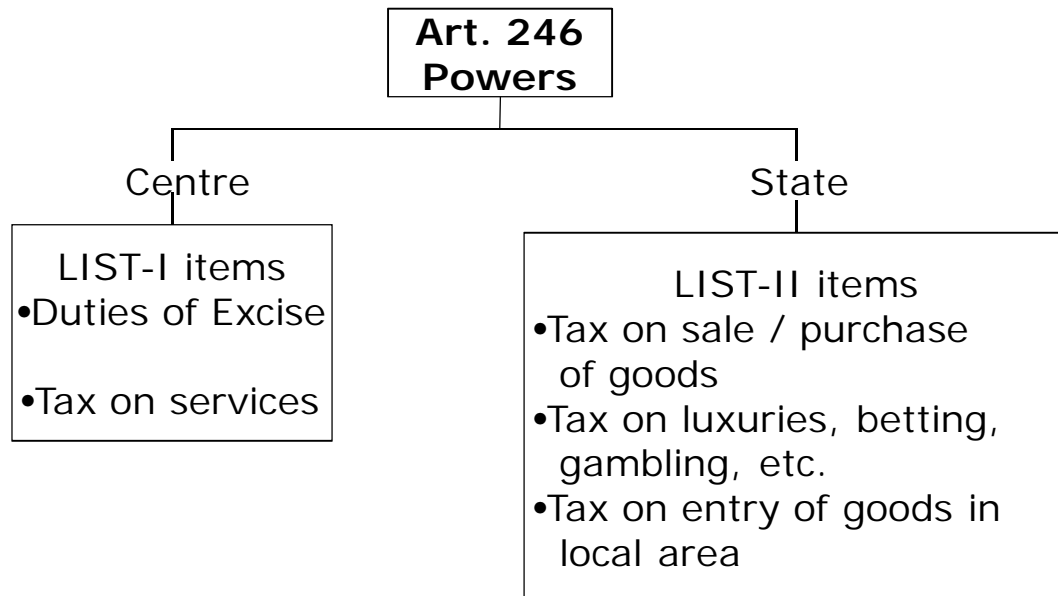


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Present Constitutional Framework



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GST Requirement

- Power to State to Tax services
- Power to Centre to tax goods beyond manufacturing stage i.e. on sale
- Provide for tax on imports and inter – state sale.

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Constitutional Amendments

Article 246A

- Confers simultaneous power to both Parliament & State legislature to make laws with regard to GST
- Power to levy GST on supply of goods / services in course of interstate trade / commerce – exclusively in Parliament's domain
- Supply of petroleum crude, HSD, petrol, NG & ATF to be subjected to GST w.e.f a date to be recommended by Goods & Services Tax council (GSTC)


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Constitutional Amendments

Article 269A [IGST]

- Government of India to levy and collect GST on supplies made in course of interstate trade / commerce
- Supply of goods / services in course of import into territory of India deemed to be supply made in course of interstate trade / commerce
- Parliament to formulate principles for determining place of supply & when a supply takes place in course of inter state trade or commerce [Article 286 – Parliament's power supreme ]
- Amount collected to be apportioned between Union & State as provided by Parliament's law made on recommendation of GSTC.

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Constitutional Amendments

Article 269A [IGST]

- Amount apportioned to State out of IGST – Not to form part of Consolidated Fund of India [“CFI”]
- Credit of IGST used for payment of SGST not to form part of CFI
- SGST credit used for payment of IGST not to form part of Consolidated Fund of State

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Constitutional Amendments

Article 270

- The following to form part of CFI and is to be distributed between Centre and State based on Finance Commission’s recommendations:
 - CGST
 - IGST apportioned to Union
 - IGST used for payment of CGST

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Constitutional Amendments

Other Significant Amendments

- 'GST' defined to mean tax on goods / services / both except taxes on supply of alcoholic liquor for human consumption
- 'Services' defined to mean '**anything**' other than goods
- '*State*' for purpose of GST – State to include Union Territory with legislature [*i.e. Presently Puducherry and Delhi*]

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SOME OBSERVATIONS ON THE CONSTITUTIONAL AMENDMENTS

- Recourse to Section 246A instead of including it in concurrent list - Fiscal autonomy to State without limiting their legislative powers.
- Recourse to Art. 254 in case of inconsistency between Centre & State enactment not available
- Risk of State legislating an enactment in deviation from centre's Model GST law – Distortion in tax system – Input tax credit chain
- No Surcharge on GST under Article 271

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**Amendment in Entries contained in 7th Schedule-
Power of Centre- List I Entry 84**

AS EXISTING	AS AMENDED
Duties of excise on tobacco & other goods manufactured or produced in India except (a) alcoholic liquor for human consumption (b) opium Indian hemp & other narcotic drugs <p align="center"><i>[Wide coverage]</i></p>	Duties of excise on the following goods manufactured or produced in India namely (a) petroleum crude (b) High speed diesel (c) Motor spirit (commonly known as petrol) (d) natural gas (e) Aviation turbine fuel, and (f) Tobacco & tobacco products <p align="center"><i>[Specific / restricted coverage]</i></p>

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**Amendment in Entries contained in 7th Schedule-
Power of Centre- List I**

Entry 92 – Taxes on the sale / purchase of newspaper & on advt published therein	Deleted – Whether Sale of space in print media would be covered under GST?
Entry 92C – Taxes on services (Not yet notified)	Deleted
Entry 92A & 92B – Taxes on sale / purchase of goods or consignment of goods in course of interstate trade / commerce	Entries retained Retained presumably to levy sales tax on sale of specified goods in the course of interstate / international trade or commerce which would be outside the ambit of Entry 54 of List II (State List)

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Amendment in Entries contained in 7th Schedule-

Power of State- List II

AS EXISTING	AS AMENDED
1. Entry 52 – Taxes on entry of goods in local area for consumption, use / sale therein	1. Deleted Since Subsumed in GST
2. Entry 54 – Taxes on sale or purchase of goods other than newspaper subject to provisions of Entry 92A of List I	2. Taxes on sale of – i. Petroleum crude ii. High speed Diesel iii. Natural gas iv. Aviation Turbine fuel v. Alcoholic liquor for human consumption Except – interstate / international trade / commerce
[WIDE COVERAGE]	[RESTRICTED COVERAGE]
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Amendment in Entries contained in 7th Schedule-

Power of State- List II

3. Entry 55 – Taxes on advertisement other than advertisement published in newspaper & advertisement broadcast by radio / television	3. Deleted since would be presumably subsumed in GST
4. Entry 62 – Tax on luxuries, including taxes on entertainment, amusements, betting and gambling.	4. Amended only to retain taxes on entertainment and amusements levied by local bodies.
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IMPACT OF AMENDING ENTRY 84 & 54

- Centre to have power to levy Excise duty on specified products only
- State to have power to levy VAT on specified products only
- Other than specified products [Entry 84 & 54] – GST to be levied by both Centre & State – 246A
- Other DUTIES/ CESSSES imposed under Finance Act and various other Acts – Repeal Clause expected



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Section 19 of CAA

States given a maximum time of 1 year to bring in SGST law & repeal the existing laws in respect of which their taxes subsumed


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**Constitutional Amendment Act has changed
balance of powers to tax between Union and
States**

Basic structure of constitution amended

(Subject to challenge) 

[Kesavananda Bharati v. State Of Kerala

(1973) 4 SCC 225 (SC)]

**GOODS AND
SERVICES TAX
NETWORK
["GSTN"]**

Goods and Services Tax Network ["GSTN"]

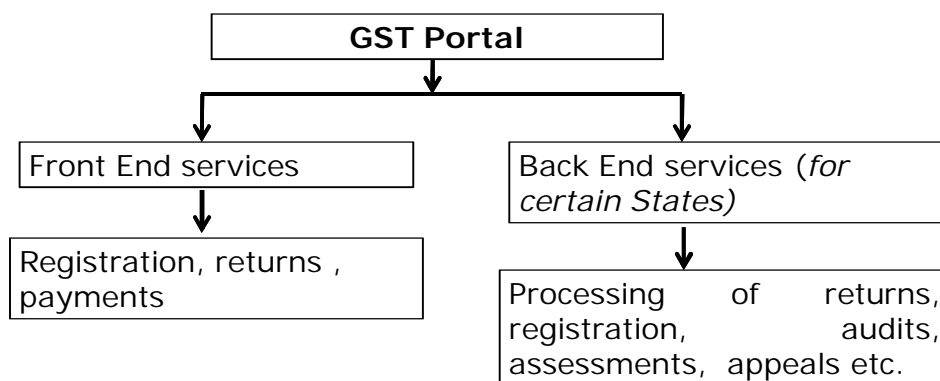
- Unified tax credit clearing mechanism
- Common IT platform for receiving and processing e-returns, e-payments and e-registrations – *Essentials for seamless value chain and tax credit mechanism*
- Establishment of GSTN a non- profit , non – government company incorporated in March 2013 to provide IT infrastructure services [GST Portal] to Centre and State Government, taxpayers and for stake holders

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GSTN



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RNR & COMPENSATION FOR STATES

**Based on Committee Report on Revenue Neutrality
headed by Chief Economic Advisor (“RNR Report”)**

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Revenue Neutral Rate [“RNR”]

- RNR is a single rate for GST which preserves the revenue of both Centre and States at desired (current) levels – Hence name ‘*Revenue Neutral Rate*’
- But distinct from standard rate which is applied to all goods and services
- But once RNR determined - based on that whole Rate structure determined viz., lower rate and standard rate for products/ services depending on policy choices about exemptions, exports, etc.

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Revenue Neutral Rate ["RNR"]

➤ Formula for computing RNR : $t = \frac{R}{B}$

Where $t = \text{RNR}$

$R =$ Existing Centre and State Revenue

[3.28 Lakh crores of Centre + 3.69 Lakh crores of States = 6.97 Lakh crores (excluding revenue from petroleum and tobacco) based on F.Y. 2013-14 data]

$B =$ Total Tax base for generating GST Revenue

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Approaches for estimating RNR

Approach	GST Base (in lakh crore)	RNR (per cent)
Macro (GDP)	59.9	11.6
ITT	39.4	17.7
DTT	58.2	12.0
<i>ITT=Indirect Tax Turnover & DTT=Direct Tax Turnover</i>		

Recommended based on Report by CEA

RNR = Between 15% to 15.5% - **Based on ITT approach**

Lower rates	12%
Standard rates	17% to 18%
Sin/Demerit rates (luxury car, tobacco products, aerated drinks, paan masala etc)	40%

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Suggested RNR Split

RNR and Standard Rate Structure for Centre and States (Percent)				
	RNR	Lower Rate	Standard Rate	Higher Rate
Goods				
• Centre	7	6.0	8.0	20
• States	8	6.0	9.0	20
Services				
• Centre	7	-	8.0	-
• States	8	-	9.0	-
Total Rate	15	12	17	40

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Some Suggestions / observations of RNR Report

- Determining RNR as much *soft judgment as hard science*
- RNR not to be governed by short term considerations such as compensation to States but by long term considerations
- Better to have lower RNR to start with – so as to avoid tax payers' burden and encourage compliance
- Should have minimum exemption since distorts GST –also exemption should be same across Centre and States

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Some Suggestions / observations of RNR Report

- Standard rate to be same for Goods and services - no need to distinguish between goods and services
- Abatements not necessary – since neutral whether goods or services [assuming same rate for goods and services]
- GST will help capture transactions trail and improve Direct Tax Compliance

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Compensation to States for loss of Revenue due to GST [Sec. 18 of CAA]

- Based on GST Council's advice Parliament to compensate for loss of revenue to State for 5 years – loss on account of GST

Need for compensation –

Shift in Revenue on Account of GST

From	To
Producing states	Consuming States
Manufacturing	Services
Within manufacturing - Intermediate/Capital goods	Final goods

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Compensation to States for loss of Revenue due to GST – RNR Report

- Minimal compensation – reshuffling of taxable revenues not required since states will benefit – tax on services
- Challenges – how / on what basis to compute compensation
- Funding of compensation not by way of factoring higher RNR

Some musings on compensation

- Surplus arising to state on account of shifting of revenues under GST  – RNR is *qua* aggregate of centre and state revenues and not *qua* individual states
- Disputes 

GST COUNCIL

Goods and Services Tax Council ("GST Council") CREATION



- President by order *dated 15.09.2016* constituted GST Council
- GST Council – a constitutional authority for recommendations on GST law
- The Union Cabinet had on 12.9.2016 approved setting up a GST Council Secretariat consisting as follows:
 - Revenue Secretary as Ex-Officio Secretary to GST Council
 - CBEC Chairperson as permanent non-voting invitee in all proceedings
 - 1 Additional Secretary and 4 Commissioners
- Cost of running the GST Council Secretariat to be borne by CG
- First Meeting of the GST Council called on 22.09.2016 and 23.09.2016

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MEMBERSHIP

- Union FM – ***Chairperson***
- Union Minister of State for Finance / Revenue – ***Member***
- State Finance or Taxation or other minister nominated by each state Government - ***Members***
- One State Minister to be chosen by them as ***Vice Chairperson***
- Council to decide its own procedure for functioning

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MEETINGS

- Quorum – 50% of total membership
- Voting majority to carry through a decision
 - Not less than 75% of the weighted votes of members present and voting
 - Vote of CG – weightage – 1/3rd of total votes cast
 - Vote of all SGs taken together – weightage – 2/3rd of total votes cast
- Composition and weightage given to ensure Federal balance so that neither states nor Centre can carry through a decision acting alone
- Centre to get support of atleast 64.5% (approx) of states i.e. 20 states to carry through a decision [assuming 31 states are present].

N.B. 29 states + Union Territory of Puducherry and Delhi having legislatures to be considered as states


ROLE & FUNCTIONS

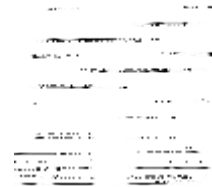
Recommendations

- Taxes, cesses, surcharges of Centre, States and local bodies to be subsumed in GST
- Tax rates (incl. special rates for specific periods to raise resources due to calamities) – Floor rates with bands also *qua* goods / services.
- Tax base – Threshold & exemption
- **Model** laws
- Principles of levy and **place of Supply**
- Principles of apportionment of tax collected on inter-state trade ("IGST") between Union & States
- Date of imposition of GST on petroleum products, gas and ATF
- Special provisions for *NE* states, J&K, Himachal Pradesh and Uttarakhand
- Any other matter as it may decide



ROLE & FUNCTIONS (contd...)

- Establishment of a '**mechanism**' to adjudicate disputes arising out of its recommendations between –
 - CG vs. SG(s)
 - CG + SG(s) vs. SG(s)
 - SG(s) vs. SG(s)
- GST Council itself would not adjudicate
- '**Mechanisms**' could be negotiation, mediation, arbitration or constitution of a judicial authority depending on the nature of dispute
- Enforcement of adjudication 






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ROLE & FUNCTIONS (contd...)

- **Recommendatory** role to Union & States
- One nation, One tax objective – cornerstone for recommendations
- Harmonized GST Structure for Harmonized national market for goods and services.
- 'Recommendatory' role criticized as inadequate to ensure no deviation
 - Any alternatives 
 - Would not making it 'mandatory' give it supremacy over legislatures which would be unconstitutional 
 - Would not membership of each state, 75% majority to carry through a decision and appropriate dispute resolution mechanism be adequate 

Commitment of Centre and States to work in harmony key to success of GST, not a Council with a 'stick' !



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TAXABLE EVENT Existing Regime VS. GST Regime

Including Relevant Definitions

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Taxable Event Existing Regime vs. GST Regime Existing Regime

Sl. No.	Tax	Taxable Event
1.	Excise Duty	'Production' or 'Manufacture' of goods
2.	Sales Tax / VAT	'Sale' of goods for consideration
3.	Service Tax	'Service' provided or agreed to be provided by one person to another for consideration

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Excise Duty

Manufacture encompasses

- Processes that 'transform' a commodity to a new one with distinct name, character or use [natural meaning]
- Processes incidental or ancillary to completion of a manufactured product [s.2(f)(i)]
- Processes specified in Section or Chapter Notes of Sch. I of Central Excise Tariff Act as amounting to manufacture
- Specified processes in relation to goods in Sch.III of Tariff Act e.g. packing, labeling, etc.

Sales Tax

'Sale' Encompasses

- 'Sale' as per natural meaning i.e.
 - Parties competent to contract
 - Mutual assent
 - Transfer of general property in goods from seller to buyer
 - Price in money paid or promised
- Deemed Sales i.e.
 - Involuntary sales (without mutual assent)
 - Transfer of property in goods involved in the execution of a 'works contract'

Continued

Deemed Sales (Contd...)

- Delivery of goods on hire purchase or installment payment system
- Transfer of 'right to use' goods
- Supply of goods by an AOP to its members
- Supply by way of or as part of service food / drink for human consumption

Service Tax

- 'Service' means any activity done by one for another for consideration

GST Regime

Taxable Event

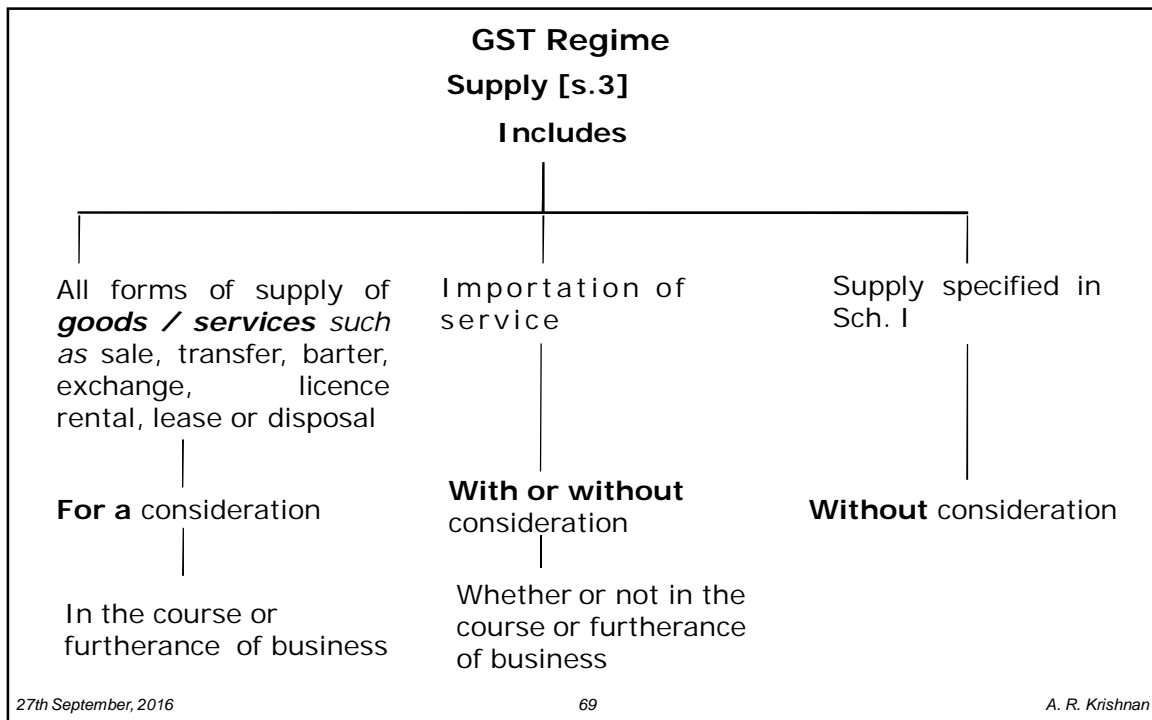
Supply of goods and / or services



Supply 

Goods 


Services 



- SCHEDULE I**
- MATTERS TO BE TREATED AS SUPPLY WITHOUT CONSIDERATION**
1. Permanent transfer / disposal of business assets.
 2. Temporary application of business assets to a private or non-business use
 3. Services put to a private or non-business use.
 4. Assets retained after deregistration
 5. Supply of goods and / or services by a taxable person to another taxable or non-taxable person in the course or furtherance of business
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- In the CGST & IGST Act, 'supply' envisaged is that of 'goods' or 'service'.
- "goods" means every kind of movable property other than actionable claim and money but includes securities, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply;
Explanation.– For the purpose of this clause, the term 'moveable property' shall not include any intangible property. **[s.2(48)]**
- 'goods' to include only tangible property i.e. property that can be 'felt' and 'touched'. [s.2(48), (59) and (93)]

- 'Services' means **anything** other than goods;
Explanation: Services include intangible property and actionable claim but does not include money.
[s.2(88)]

- But what **thing** is this '**anything**' 



New Zealand [Section 2(1) of GST Act]

'Services means anything which is not goods or money'

UK [Section 5 of UK VAT Act, 1994]

"5(1)

(2)

- a) "supply" in this Act includes all forms of supply, but not anything done otherwise than for a consideration;
- b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services"

Australia

➤ Section 9-10 of the Australian GST Act *inter alia* States:

'(1) A supply is any form of supply whatsoever'

➤ Australian GST Act also recognizes the concept of a 'thing'.

Section 195-1 defines 'Thing' as –

'thing means anything that can be supplied or imported'

- 'Anything' means 'everything' but in the context of 'supply' it must mean 'something' done *'for'* the recipient not *'against'* him. Otherwise it would lead to absurd *'things'*.



- Amount received by a law society from a solicitor as costs under an order of a Disciplinary Tribunal was held not be for a supply of services by the Law Society to the Solicitor [Case S65 (1996) 17 NZTC 7408]

27th September, 2016

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Definition of Taxable Person (Sec 9)

↓

Person carrying on business at any place in India / State;

&

registered or required to be registered under Sch. III



Central Govt/State Govt/ Local Authority in respect of activities / transactions engaged as public authorities except those specified in Sch. IV

27th September, 2016

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Person liable/ required to be registered under Schedule III

- Supplier whose aggregate turnover exceeds specified threshold limit
(Refer Slide 78) 
 - 'supplier' means a person making supply of goods and / services and includes an agent acting on behalf of such supplier in relation to such supplied goods and / services
 - 'Agent' means person who supplies/ receives goods and / services on behalf of another (principal), whether disclosed or not
- Every existing assessee- subject to threshold limit w.e.f. a appointed day  (Refer slide 79)

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Threshold limit = 9 lacs (Rs. 4 lacs for NE states)

Aggregate turnover = Value of [taxable supplies (+) non- taxable supplies (+) exempt supplies (+) export supplies] on all India basis *qua* each PAN
minus
CGST/SGST/IGST charged [if any], RCM supplies, inward supplies

- Aggregate Threshold limit to include
 - Agent supplies made on behalf of principal
 - Supplies made by job workers

NOTE: *Not liable to register if Aggregate Turnover consists of goods/ services which are not taxable*  (Back to slide 77)

27th September, 2016

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- Transferee / successor in case of Transfer/ succession
- Transferee in case of amalgamation/ demerger
- Person liable to be registered irrespective of the threshold limit
 - Inter- state supplier of goods/ services
 - Casual taxable person – a person who is occasionally undertaking supply of goods and / service *in course or furtherance of business in a taxable territory where he has no fixed place of business*

Person liable to be registered irrespective of the threshold limit (contd....)-

- Person liable under RCM
- Non resident taxable person – a taxable person who is occasionally undertaking supply of goods/ services *but has no fixed place of business in India*
- Specified/ notified person required to deduct tax on supply of notified goods/ services u/s 37
- Person supplying goods/ service on behalf of another
- Input service distributor (ISD)

Person liable to be registered irrespective of the threshold limit (contd...)-

- Person supplying unbranded goods through e commerce operator
- E commerce operator
- Aggregator supplying services under brand name/ trade name
- Any other person / class of persons as may be notified on recommendation of GSTC

27th September, 2016

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Not Taxable person

- Agriculturist
- Registered supplier until aggregate turnover in F.Y. exceeds 10 lakhs/5 lakhs
- Services in relation to employment
- Person engaged exclusively in supplying non taxable goods and / or services
- RCM for personal use not exceeding specified limit

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Activities where Governments/ local authorities are not considered as taxable person

- Services by government/ local authority to another government / local authority excluding following services –
 - i. Services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services;
 - ii. Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
 - iii. Transport of goods or passengers;

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Activities where Governments/ local authorities are not considered as taxable person (contd..)

- Services to individuals in discharge of its statutory powers or functions **such as** by way of issuance of passport, visa, driving license, birth/ death certificate and assignment of natural resources to farmer for agriculture
- Services (including services by Governmental authority) by way of
 - Any activity in relation to a Municipal/ Panchayat function under Article 243 W/ 243G of Constitution
 - health care
 - education

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Activities where Governments/ local authorities are not considered as taxable person (contd..)

- Services towards diplomatic activities, citizenship, immigration/ emigration, currency and Forex, interstate and international trade and commerce, maintenance of public order
- Service provided in course of discharging any liability on account of any tax levied by such Govt / local authority
- Services by way of
 - (i) Tolerating non-performance of contract for which consideration is received in form of fines/ liquidated damages;
 - (ii) Right to use natural resources assigned before 01.04.2016 (only upfront payment exempt, not periodic payment)

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Activities where Governments/ local authorities are not considered as taxable person (contd....)

- Services provided on payment of Merchant Overtime Charges (MOT)
- Services by way of
 - (i) registration required under any law for time being in force;
 - (ii) testing, calibration, safety check and certification required under any law for time being in force.

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Business [S 2(17)] RELEVANCE

- 'Taxable person' is a person who carries on any 'business'....[Sec 9(1)]
- Section 3 governing 'supply' also refers to 'business'
- Several other provisions use the term 'business'
- The term business itself is *serious business!!*

So - WHAT IS BUSINESS



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BUSINESS [s.2(17)]

Business includes -

- (a) any trade, commerce, manufacture, profession, vocation or any other similar activity, ***whether or not it is for a pecuniary benefit;***
- (b) any transaction in connection with or incidental or ancillary to (a) above;
- (c) any transaction in the nature of (a) above, ***whether or not there is volume, frequency, continuity or regularity of such transaction;***
- (d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
- (e) Provision by a club, association, society or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
- (f) Admission, for a consideration, of persons to any premises; and
- (g) Services supplied by a person as the holder of an office which has been accepted by him in the course of furtherance of his trade, profession or vocation;

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FEATURES

Inclusive definition –

NORMAL CONNOTATION

+


INCLUSIVE PORTION

Normal Connotation

- A course of dealings, either actually continued or contemplated to be continued with a profit motive and not for sport. [State of A.P v. H. Abdul Bakshi & Bros. (1964) 15 STC 644 (SC)]
- Two basic features –
 - Systematic course of activity judged by – volume, frequency, continuity & regularity
 - Profit motive

*NORMAL CONNOTATION WHITTLED DOWN BY INCLUSIVE
PORTION*

INCLUSIVE PORTION

- Trade, commerce, manufacture, profession, vocation or similar activity 
- Transaction – incidental or in connection with or ancillary to above
- Profit motive (pecuniary benefit) - *irrelevant*
- Volume, frequency, continuity, regularity –*irrelevant*

INCLUSIVE PORTION VERY WIDE!!

Two basic features of normal connotation viz., profit motive and regularity made irrelevant

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INCUSIVE PORTION - SPECIAL CASES

- Supply or acquisition of goods, capital assets and services in connection with start and end of 'business' - included
- Provision of facilities by a club, society, etc to its members **for consideration** is 'business'
- Admission to premises for consideration is 'business'
- Supply of services as holder of office in the course or furtherance of his trade, profession or vocation is ' business'

So – WHAT IS **NOT** BUSINESS 




Professionals Quandary ?? MIND YOUR OWN BUSINESS ??

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ISSUES

- Sovereign functions performed by Government / Governmental Authorities 
- Concept of Mutuality 
- Non –profit associations/ charities 
- Railways engaged in commerce – therefore a ‘business’ [(1976) 37 STC 423 (SC)]
- Customs collector disposing of confiscated goods – business [(1999) 113 STC 167 (SC)]

SOME CHALLENGES IN THE IMPLEMENTATION OF GST

SOME CHALLENGES



- Uniformity
- Increase in compliance cost for business
- Avoidance of cascading effect cornerstone of GST– Seamless Credit– *But I 'See less credit'*
 - ✓ RCM pressure
 - ✓ legal restrictions
 - ✓ Discretionary disallowance
- Exemption/ threshold may distort RNR & GST
- Effectiveness of GST Council and adherence to its recommendations
- Efficacy of GSTN

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SOME CHALLENGES

- Tax administration no mention in any policy docs. [refer Shome Committee's 1st Report, 2014] 
- Govt. says *"Prices will fall"* – Time will tell -But I tell *"Prices may* *"*
- GST = Excise law + Service tax + VAT laws

*Intention to get best of all 3!
But does it carry the worst of all 3!*



Wait & Watch

27th September, 2016

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Basic Concepts of GST, Enabling Constitutional Amendments, GST Council and its Role, RNR, Relevant Definitions etc.

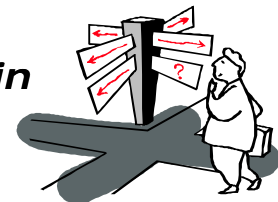
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September 27,2016

**WESTERN INDIA REGIONAL COUNCIL
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 55] नई दिल्ली, बृहस्पतिवार, सितम्बर 8, 2016/भाद्र 17, 1938 (शक)
No. 55] NEW DELHI, THURSDAY, SEPTEMBER 8, 2016/BHADRA 17, 1938 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 8th September, 2016/Bhadra 17, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 8th September, 2016, and is hereby published for general information:—

THE CONSTITUTION (ONE HUNDRED AND FIRST AMENDMENT) ACT, 2016

[8th September, 2016.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (One Hundred and First Amendment) Act, 2016.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. After article 246 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 246A.

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

Special provision with respect to goods and services tax.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation.—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.”.

Amendment of article 248. **3.** In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.

Amendment of article 249. **4.** In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

Amendment of article 250. **5.** In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

Amendment of article 268. **6.** In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.

Omission of article 268A. **7.** Article 268A of the Constitution, as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003 shall be omitted.

Amendment of article 269. **8.** In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.

Insertion of new article 269A. **9.** After article 269 of the Constitution, the following article shall be inserted, namely:—

Levy and collection of goods and services tax in course of inter-State trade or commerce.

“269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

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

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

(3) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.

(4) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.

(5) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.”.

Amendment of article 270.

10. In article 270 of the Constitution,—

(i) in clause (1), for the words, figures and letter "articles 268, 268A and 269", the words, figures and letter "articles 268, 269 and 269A" shall be substituted;

(ii) after clause (1), the following clauses shall be inserted, namely:—

“(1A) The tax collected by the Union under clause (1) of article 246A shall also be distributed between the Union and the States in the manner provided in clause (2).

(1B) The tax levied and collected by the Union under clause (2) of article 246A and article 269A, which has been used for payment of the tax levied by the Union under clause (1) of article 246A, and the amount apportioned to the Union under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).”.

Amendment of article 271.

11. In article 271 of the Constitution, after the words “in those articles”, the words, figures and letter “except the goods and services tax under article 246A,” shall be inserted.

12. After article 279 of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
279A.

“279A. (1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.

Goods and
Services Tax
Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely:—

(a) the Union Finance Minister..... Chairperson;

(b) the Union Minister of State in charge of Revenue or Finance..... Member;

(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.....Members.

(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;

(b) the goods and services that may be subjected to, or exempted from the goods and services tax;

(c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;

(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

(e) the rates including floor rates with bands of goods and services tax;

(f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;

(g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and

(h) any other matter relating to the goods and services tax, as the Council may decide.

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One-half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast,

in that meeting.

(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a Member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

(11) The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute —

(a) between the Government of India and one or more States; or

(b) between the Government of India and any State or States on one side and one or more other States on the other side; or

(c) between two or more States,

arising out of the recommendations of the Council or implementation thereof.”.

Amendment
of article
286.

13. In article 286 of the Constitution,—

(i) in clause (1),—

(A) for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of services or both, where such supply takes place" shall be substituted;

(B) in sub-clause (b), for the word "goods", at both the places where it occurs, the words "goods or services or both" shall be substituted;

(ii) in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted;

(iii) clause (3) shall be omitted.

Amendment
of article 366.

14. In article 366 of the Constitution,—

(i) after clause (12), the following clause shall be inserted, namely:—

‘(12A) “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;’;

(ii) after clause (26), the following clauses shall be inserted, namely:—

‘(26A) “Services” means anything other than goods;

(26B) “State” with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;’.

Amendment
of article 368.

15. In article 368 of the Constitution, in clause (2), in the proviso, in clause (a), for the words and figures “article 162 or article 241”, the words, figures and letter “article 162, article 241 or article 279A” shall be substituted.

Amendment
of Sixth
Schedule.

16. In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3),—

(i) in clause (c), the word "and" occurring at the end shall be omitted;

(ii) in clause (d), the word "and" shall be inserted at the end;

(iii) after clause (d), the following clause shall be inserted, namely:—

"(e) taxes on entertainment and amusements."

17. In the Seventh Schedule to the Constitution,—

Amendment
of Seventh
Schedule.

(a) in List I—Union List,—

(i) for entry 84, the following entry shall be substituted, namely:—

"84. Duties of excise on the following goods manufactured or produced in India, namely:—

(a) petroleum crude;

(b) high speed diesel;

(c) motor spirit (commonly known as petrol);

(d) natural gas;

(e) aviation turbine fuel; and

(f) tobacco and tobacco products.";

(ii) entries 92 and 92C shall be omitted;

(b) in List II—State List,—

(i) entry 52 shall be omitted;

(ii) for entry 54, the following entry shall be substituted, namely:—

"54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.";

(iii) entry 55 shall be omitted;

(iv) for entry 62, the following entry shall be substituted, namely:—

"62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council."

18. Parliament shall, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years.

Compensation
to States for
loss of
revenue on
account of
introduction
of goods and
services tax.

19. Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.

Transitional
provisions.

20. (1) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may,

Power of
President to
remove
difficulties.

by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of three years from the date of such assent.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

DR. G NARAYANARAJU,
Secretary to the Govt. of India.

**Press Information Bureau
Government of India
Ministry of Finance**

03-August-2016 15:32 IST

Frequently Asked Questions (FAQs) on Goods and Services Tax (GST)

Following are the answers to the various frequently asked questions relating to GST:

Question 1. What is GST? How does it work?

Answer: GST is one indirect tax for the whole nation, which will make India one unified common market.

GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Credits of input taxes paid at each stage will be available in the subsequent stage of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

Question 2. What are the benefits of GST?

Answer: The benefits of GST can be summarized as under:

- **For business and industry**

- Easy compliance: A robust and comprehensive IT system would be the foundation of the GST regime in India. Therefore, all tax payer services such as registrations, returns, payments, etc. would be available to the taxpayers online, which would make compliance easy and transparent.
- Uniformity of tax rates and structures: GST will ensure that indirect tax rates and structures are common across the country, thereby increasing certainty and ease of doing business. In other words, GST would make doing business in the country tax neutral, irrespective of the choice of place of doing business.
- Removal of cascading: A system of seamless tax-credits throughout the value-chain, and across boundaries of States, would ensure that there is minimal cascading of taxes. This would reduce hidden costs of doing business.
- Improved competitiveness: Reduction in transaction costs of doing business would eventually lead to an improved competitiveness for the trade and industry.
- Gain to manufacturers and exporters: The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

- **For Central and State Governments**

- Simple and easy to administer: Multiple indirect taxes at the Central and State levels are being replaced by GST. Backed with a robust end-to-end IT system, GST would be simpler and easier to administer than all other indirect taxes of the Centre and State levied so far.
- Better controls on leakage: GST will result in better tax compliance due to a robust IT infrastructure. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an in-built mechanism in the design of GST that would incentivize tax compliance by traders.
- Higher revenue efficiency: GST is expected to decrease the cost of collection of tax revenues of the Government, and will therefore, lead to higher revenue efficiency.

- **For the consumer**

- Single and transparent tax proportionate to the value of goods and services: Due to multiple indirect taxes being levied by the Centre and State, with incomplete or no input tax credits available at progressive stages of value addition, the cost of most goods and services in the country today are laden with many hidden taxes. Under GST, there would be only one tax from the manufacturer to the consumer, leading to transparency of taxes paid to the final consumer.
- Relief in overall tax burden: Because of efficiency gains and prevention of leakages, the overall tax burden on most commodities will come down, which will benefit consumers.

Question 3. Which taxes at the Centre and State level are being subsumed into GST?

Answer:

At the **Central** level, the following taxes are being subsumed:

- a. Central Excise Duty,
- b. Additional Excise Duty,
- c. Service Tax,
- d. Additional Customs Duty commonly known as Countervailing Duty, and
- e. Special Additional Duty of Customs.

At the **State** level, the following taxes are being subsumed:

- a. Subsuming of State Value Added Tax/Sales Tax,
- b. Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States),
- c. Octroi and Entry tax,
- d. Purchase Tax,
- e. Luxury tax, and
- f. Taxes on lottery, betting and gambling.

Question 4. What are the major chronological events that have led to the introduction of GST?

Answer: GST is being introduced in the country after a 13 year long journey since it was first discussed in the report of the Kelkar Task Force on indirect taxes. A brief chronology outlining the major milestones on the proposal for introduction of GST in India is as follows:

- a. In 2003, the Kelkar Task Force on indirect tax had suggested a comprehensive Goods and Services Tax (GST) based on VAT principle.
- b. A proposal to introduce a National level Goods and Services Tax (GST) by April 1, 2010 was first mooted in the Budget Speech for the financial year 2006-07.
- c. Since the proposal involved reform/ restructuring of not only indirect taxes levied by the Centre but also the States, the responsibility of preparing a Design and Road Map for the implementation of GST was assigned to the Empowered Committee of State Finance Ministers (EC).
- d. Based on inputs from Govt of India and States, the EC released its First Discussion Paper on Goods and Services Tax in India in November, 2009.
- e. In order to take the GST related work further, a Joint Working Group consisting of officers from Central as well as State Government was constituted in September, 2009.
- f. In order to amend the Constitution to enable introduction of GST, the Constitution (115th Amendment) Bill was introduced in the Lok Sabha in March 2011. As per the prescribed procedure, the Bill was referred to the Standing Committee on Finance of the Parliament for examination and report.
- g. Meanwhile, in pursuance of the decision taken in a meeting between the Union Finance Minister and the Empowered Committee of State Finance Ministers on 8th November, 2012, a 'Committee on GST Design', consisting of the officials of the Government of India, State Governments and the Empowered Committee was constituted.
- h. This Committee did a detailed discussion on GST design including the Constitution (115th) Amendment Bill and submitted its report in January, 2013. Based on this Report, the EC recommended certain changes in the Constitution Amendment Bill in their meeting at Bhubaneswar in January 2013.
- i. The Empowered Committee in the Bhubaneswar meeting also decided to constitute three committees of officers to discuss and report on various aspects of GST as follows:-
 - (a) Committee on Place of Supply Rules and Revenue Neutral Rates;
 - (b) Committee on dual control, threshold and exemptions;
 - (c) Committee on IGST and GST on imports.
- j. The Parliamentary Standing Committee submitted its Report in August, 2013 to the Lok Sabha. The recommendations of the Empowered Committee and the recommendations of the Parliamentary Standing Committee were examined in the Ministry in consultation with the Legislative Department. Most of the recommendations made by the Empowered Committee and the Parliamentary Standing Committee were accepted and the draft Amendment Bill was suitably revised.
- k. The final draft Constitutional Amendment Bill incorporating the above stated changes were sent to the Empowered Committee for consideration in September 2013.
- l. The EC once again made certain recommendations on the Bill after its meeting in Shillong in November 2013. Certain recommendations of the Empowered Committee were incorporated in the draft Constitution (115th Amendment) Bill. The revised draft was sent for consideration of the Empowered Committee in March, 2014.
- m. The 115th Constitutional (Amendment) Bill, 2011, for the introduction of GST introduced in the Lok Sabha in March 2011 lapsed with the dissolution of the 15th Lok Sabha.
- n. In June 2014, the draft Constitution Amendment Bill was sent to the Empowered Committee after approval of the new Government.
- o. Based on a broad consensus reached with the Empowered Committee on the contours of the Bill, the Cabinet on 17.12.2014 approved the proposal for introduction of a Bill in the Parliament for amending the Constitution of

India to facilitate the introduction of Goods and Services Tax (GST) in the country. The Bill was introduced in the Lok Sabha on 19.12.2014, and was passed by the Lok Sabha on 06.05.2015. It was then referred to the Select Committee of Rajya Sabha, which submitted its report on 22.07.2015.

Question 5. How would GST be administered in India?

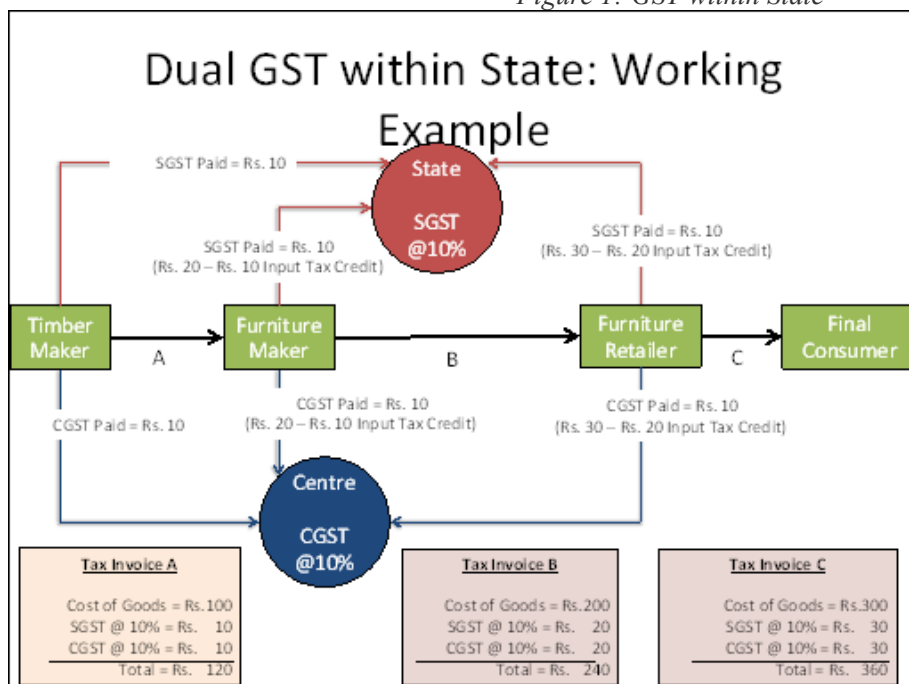
Answer: Keeping in mind the federal structure of India, there will be two components of GST – Central GST (CGST) and State GST (SGST). Both Centre and States will simultaneously levy GST across the value chain. Tax will be levied on every supply of goods and services. Centre would levy and collect Central Goods and Services Tax (CGST), and States would levy and collect the State Goods and Services Tax (SGST) on all transactions within a State. The input tax credit of CGST would be available for discharging the CGST liability on the output at each stage. Similarly, the credit of SGST paid on inputs would be allowed for paying the SGST on output. No cross utilization of credit would be permitted.

Question 6. How would a particular transaction of goods and services be taxed simultaneously under Central GST (CGST) and State GST (SGST)?

Answer : The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services except on exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits. Further, both would be levied on the same price or value unlike State VAT which is levied on the value of the goods inclusive of Central Excise.

A diagrammatic representation of the working of the Dual GST model within a State is shown in Figure 1 below.

Figure 1: GST within State



Question 7. Will cross utilization of credits between goods and services be allowed under GST regime?

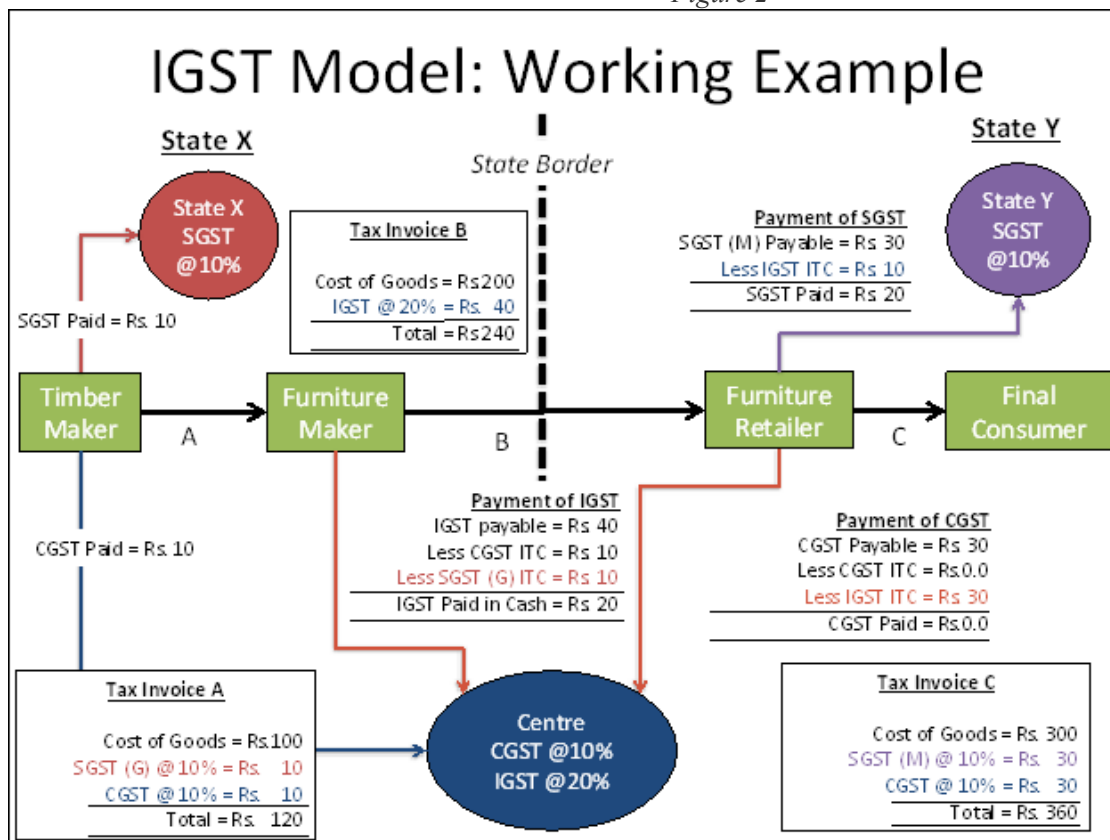
Answer : Cross utilization of credit of CGST between goods and services would be allowed. Similarly, the facility of cross utilization of credit will be available in case of SGST. However, the cross utilization of CGST and SGST would not be allowed except in the case of inter-State supply of goods and services under the IGST model which is explained in answer to the next question.

Question 8. How will be Inter-State Transactions of Goods and Services be taxed under GST in terms of IGST method?

Answer: In case of inter-State transactions, the Centre would levy and collect the Integrated Goods and Services Tax (IGST) on all inter-State supplies of goods and services under Article 269A (1) of the Constitution. The IGST would roughly be equal to CGST plus SGST. The IGST mechanism has been designed to ensure seamless flow of input tax credit from one State to another. The inter-State seller would pay IGST on the sale of his goods to the Central Government after adjusting credit of IGST, CGST and SGST on his purchases (in that order). The exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The importing dealer will claim credit of IGST while discharging his output tax liability (both CGST and SGST) in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. Since GST is a destination-based tax, all SGST on the final product will ordinarily accrue to the consuming State.

A diagrammatic representation of the working of the IGST model for inter-State transactions is shown in Figure 2 below.

Figure 2



Question 9. How will IT be used for the implementation of GST?

Answer: For the implementation of GST in the country, the Central and State Governments have jointly registered Goods and Services Tax Network (GSTN) as a not-for-profit, non-Government Company to provide shared IT infrastructure and services to Central and State Governments, tax payers and other stakeholders. The key objectives of GSTN are to provide a standard and uniform interface to the taxpayers, and shared infrastructure and services to Central and State/UT governments.

GSTN is working on developing a state-of-the-art comprehensive IT infrastructure including the common GST portal providing frontend services of registration, returns and payments to all taxpayers, as well as the backend IT modules for certain States that include processing of returns, registrations, audits, assessments, appeals, etc. All States, accounting authorities, RBI and banks, are also preparing their IT infrastructure for the administration of GST.

There would be no manual filing of returns. All taxes can also be paid online. All mis-matched returns would be auto-generated, and there would be no need for manual interventions. Most returns would be self-assessed.

Question 10. How will imports be taxed under GST?

Answer : The Additional Duty of Excise or CVD and the Special Additional Duty or SAD presently being levied on imports will be subsumed under GST. As per explanation to clause (1) of article 269A of the Constitution, IGST will be levied on all imports into the territory of India. Unlike in the present regime, the States where imported goods are consumed will now gain their share from this IGST paid on imported goods.

Question 11. What are the major features of the Constitution (122nd Amendment) Bill, 2014?

Answer : The salient features of the Bill are as follows:

- g. Conferring simultaneous power upon Parliament and the State Legislatures to make laws governing goods and services tax;

- h. Subsuming of various Central indirect taxes and levies such as Central Excise Duty, Additional Excise Duties, Service Tax, Additional Customs Duty commonly known as Countervailing Duty, and Special Additional Duty of Customs;
- i. Subsuming of State Value Added Tax/Sales Tax, Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States), Octroi and Entry tax, Purchase Tax, Luxury tax, and Taxes on lottery, betting and gambling;
- j. Dispensing with the concept of 'declared goods of special importance' under the Constitution;
- k. Levy of Integrated Goods and Services Tax on inter-State transactions of goods and services;
- l. GST to be levied on all goods and services, except alcoholic liquor for human consumption. Petroleum and petroleum products shall be subject to the levy of GST on a later date notified on the recommendation of the Goods and Services Tax Council;
- m. Compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for a period of five years;
- n. Creation of Goods and Services Tax Council to examine issues relating to goods and services tax and make recommendations to the Union and the States on parameters like rates, taxes, cesses and surcharges to be subsumed, exemption list and threshold limits, Model GST laws, etc. The Council shall function under the Chairmanship of the Union Finance Minister and will have all the State Governments as Members.

Question 12. What are the major features of the proposed registration procedures under GST?

Answer: The major features of the proposed registration procedures under GST are as follows:

- i. **Existing dealers:** Existing VAT/Central excise/Service Tax payers will not have to apply afresh for registration under GST.
- ii. **New dealers:** Single application to be filed online for registration under GST.
- iii. The registration number will be PAN based and will serve the purpose for Centre and State.
- iv. Unified application to both tax authorities.
- v. Each dealer to be given unique ID GSTIN.
- vi. Deemed approval within three days.
- vii. Post registration verification in risk based cases only.

Question 13. What are the major features of the proposed returns filing procedures under GST?

Answer: The major features of the proposed returns filing procedures under GST are as follows:

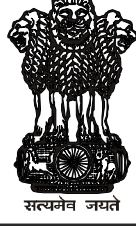
- a. **Common return** would serve the purpose of both Centre and State Government.
- b. There are eight forms provided for in the GST business processes for filing for returns. Most of the average tax payers would be using only four forms for filing their returns. These are return for supplies, return for purchases, monthly returns and annual return.
- c. **Small taxpayers:** Small taxpayers who have opted composition scheme shall have to file return on quarterly basis.
- d. Filing of returns shall be completely online. All taxes can also be paid online.

Question 14. What are the major features of the proposed payment procedures under GST?

Answer: The major features of the proposed payments procedures under GST are as follows:

- i. Electronic payment process- no generation of paper at any stage
- ii. Single point interface for challan generation- GSTN
- iii. Ease of payment – payment can be made through online banking, Credit Card/Debit Card, NEFT/RTGS and through cheque/cash at the bank
- iv. Common challan form with auto-population features
- v. Use of single challan and single payment instrument
- vi. Common set of authorized banks
- vii. Common Accounting Codes

DSM/AR



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 2216]

नई दिल्ली, शनिवार, सितम्बर 10, 2016/भाद्र 19, 1938

No. 2216]

NEW DELHI, SATURDAY, SEPTEMBER 10, 2016/BHADRA 19, 1938

वित्त मंत्रालय

(राजस्व विभाग)

अधिसूचना

नई दिल्ली, 10 सितम्बर, 2016

का.आ. 2915(अ).—संविधान (एक सौ एकवां संशोधन) अधिनियम, 2016 की धारा 1 की उपधारा (2) के तहत प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, एतद्वारा, 12 सितंबर, 2016 को उस तारीख के रूप में नियत करती है जिस तारीख से उक्त अधिनियम की धारा 12 के प्रावधान प्रवर्तित होंगे।

[फा. सं. 31011/09/2015-एसओ (एसटी)]

उदय सिंह कुमावत, संयुक्त सचिव

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

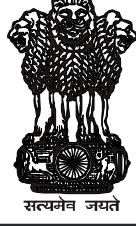
New Delhi, the 10th September, 2016

S.O. 2915(E).—In exercise of the powers conferred by sub-section (2) of section 1 of the Constitution (One Hundred and First Amendment) Act, 2016, the Central Government hereby appoints the 12th day of September, 2016 as the date on which the provisions of section 12 of the said Act shall come into force.

[F. No. 31011/09/2015-SO (ST)]

UDAI SINGH KUMAWAT, Jt. Secy.

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भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 2255]

नई दिल्ली, बृहस्पतिवार, सितम्बर 15, 2016/भाद्र 24, 1938

No. 2255]

NEW DELHI, THURSDAY, SEPTEMBER 15, 2016/BHADRA 24, 1938

वित्त मंत्रालय

(राजस्व विभाग)

अधिसूचना

नई दिल्ली, 15 सितम्बर, 2016

का.आ. 2957(अ).—राष्ट्रपति के निम्नलिखित आदेश को जन सूचना के लिए प्रकाशित किया जाता है।

आदेश

संविधान के अनुच्छेद 279क के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राष्ट्रपति एतद्वारा माल एवं सेवा कर परिषद का गठन करते हैं जिसमें निम्नलिखित सदस्य होंगे, नामतः

(क) केंद्रीय वित्त मंत्री —अध्यक्ष

(ख) राजस्व अथवा वित्त के प्रभारी केंद्रीय राज्य मंत्री —सदस्य

(ग) वित्त अथवा कराधान के प्रभारी मंत्री अथवा प्रत्येक —सदस्य

राज्य सरकार द्वारा नामित कोई अन्य मंत्री

15 सितंबर, 2016

राष्ट्रपति

[फा. सं. 31011/09/2015-एसओ (एसटी)]

उदय सिंह कुमावत, संयुक्त सचिव

MINISTRY OF FINANCE**(Department of Revenue)****NOTIFICATION**

New Delhi, the 15th September, 2016

S.O. 2957(E).—The following Order made by the President is published for general information:—

ORDER

In exercise of the powers conferred by article 279A of the Constitution, the President hereby constitutes the Goods and Services Tax Council consisting of the following members, namely:-

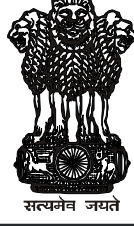
- | | | | |
|----|--|-----|-------------|
| a) | The Union Finance Minister | ... | Chairperson |
| b) | The Union Minister of State in charge of Revenue or Finance | ... | Member |
| c) | The Minister in charge of Finance or Taxation or any other Minister nominated by each State Government | ... | Members |

15th September, 2016

PRESIDENT

[F. No. 31011/09/2015-SO (ST)]

UDAI SINGH KUMAWAT, Jt. Secy.



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 2278]

नई दिल्ली, शुक्रवार, सितम्बर 16, 2016/भाद्र 25, 1938

No. 2278]

NEW DELHI, FRIDAY, SEPTEMBER 16, 2016/BHADRA 25, 1938

वित्त मंत्रालय

(राजस्व विभाग)

अधिसूचना

नई दिल्ली, 16 सितम्बर, 2016

का.आ. 2986(अ).—संविधान (एक सौ एकवां संशोधन) अधिनियम, 2016 की धारा 1 की उप-धारा (2) के तहत प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार एतद्वारा 16 सितंबर, 2016 को उस तारीख के रूप में नियत करती है जिस तारीख से उक्त अधिनियम की धारा 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19 और 20 के उपबंध प्रवर्तित होंगे।

[फा. सं. 31011/07/2014-एसओ (एसटी)]

उदय सिंह कुमावत, संयुक्त सचिव

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 16th September, 2016

S.O. 2986(E).—In exercise of the powers conferred by sub-section (2) of section 1 of the Constitution (One Hundred and First Amendment) Act, 2016, the Central Government hereby appoints the 16th day of September, 2016 as the date on which the provisions of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19 and 20 of the said Act, shall come into force.

[F. No. 31011/07/2014-SO (ST)]

UDAI SINGH KUMAWAT, Jt. Secy.

4471 GI/2016