GOODS AND SERVICES TAX-1

M.Com (Accountancy)

SEMESTER-III, PAPER-III

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FOREWORD

Since its establishment in 1976, Acharya Nagarjuna University has been forging ahead in the path of progress and dynamism, offering a variety of courses and research contributions. I am extremely happy that by gaining 'A' grade from the NAAC in the year 2016, Acharya Nagarjuna University is offering educational opportunities at the UG, PG levels apart from research degrees to students from over 443 affiliated colleges spread over the two districts of Guntur and Prakasam.

The University has also started the Centre for Distance Education in 2003-04 with the aim of taking higher education to the door step of all the sectors of the society. The centre will be a great help to those who cannot join in colleges, those who cannot afford the exorbitant fees as regular students, and even to housewives desirous of pursuing higher studies. Acharya Nagarjuna University has started offering B.A., and B.Com courses at the Degree level and M.A., M.Com., M.Sc., M.B.A., and L.L.M., courses at the PG level from the academic year 2003-2004 onwards.

To facilitate easier understanding by students studying through the distance mode, these self-instruction materials have been prepared by eminent and experienced teachers. The lessons have been drafted with great care and expertise in the stipulated time by these teachers. Constructive ideas and scholarly suggestions are welcome from students and teachers involved respectively. Such ideas will be incorporated for the greater efficacy of this distance mode of education. For clarification of doubts and feedback, weekly classes and contact classes will be arranged at the UG and PG levels respectively.

It is my aim that students getting higher education through the Centre for Distance Education should improve their qualification, have better employment opportunities and in turn be part of country's progress. It is my fond desire that in the years to come, the Centre for Distance Education will go from strength to strength in the form of new courses and by catering to larger number of people. My congratulations to all the Directors, Academic Coordinators, Editors and Lesson- writers of the Centre who have helped in these endeavours.

Prof. P. Raja Sekhar
Vice-Chancellor
Acharya Nagarjuna University

M.Com. (Accountancy)
Semester –III
303CO21- GOODS & SERVICES TAX – I
Syllabus

Learning Outcomes:

After successful completion of this course, the students will be able to:

1. *Acquire knowledge of Overview of Goods and Services Tax*
2. *Know the concepts relating to Comprehensive structure of GST Model in India*
3. *Understand the Taxes & Duties outside the purview of GST*
4. *Comprehend the Procedures and Records for Input Tax Credits*

Syllabus:

Unit –I: Introduction: Overview of Goods and Services Tax-Old Tax System and its Drawbacks – Need for Tax Reforms – Kelkar Committee on Tax Reforms – Constitutional Amendments – Introduction to GST – Concepts – Process of GST Implementation – Territorial Jurisdiction – Multiple Rates of GST.

Unit- II: GST Model: Kelkar – Shah Model – Comprehensive structure of GST Model in India: Advantages and Drawbacks of GST – Features of Single and Dual GST Models.

Unit –III: Taxes and Duties: Transactions and taxes covered under GST – Taxes & Duties outside the purview of GST – Tax Structure , computation administration of Tax on items containing Alcohol, Petroleum products and Tobacco products – Taxation of Services.

Unit IV: Inter – State Goods and Services Tax: Major advantages of IGST Model – Intra-State Goods and Services Tax : Transactions within a State under GST - Inter – State Transactions under GST – Illustrations.

Unit-V: Time of Supply of Goods and Services: Scope of Supply – Place and Value of Supply – GST Rate Structure. Input Tax Credit – Tax Invoice – Distribution of Credit – Procedures and Records for Input Tax Credits – Utilization , Recovery of Input Tax Credit – Leavy and Collection, Tax Liability, Reserve Charge, Composite and Mixed Supplies, Exemptions and Non- Taxable Supplies.

FURTHER READINGS:

1. Goods and Services Tax in India- Notifications on different dates
2. GST Bill 2012
3. The Central Goods and Services Tax Act, 2017, No.12 of 2017, Published by Authority, Ministry of Law and Justice, New Delhi, 12 April, 2017
4. Background Material on Model GST Law, Sahitya Bhavan Publications, Hospital Road, Agra-383 003

CONTENTS

LESSON-1
AN OVERVIEW OF GOODS AND SERVICES TAX

AIMS AND OBJECTIVES

After studying this lesson student should be able to:

- Know the concept of Goods and Services Act (GST)
- Understand the Generation-Skipping Transfer Tax (GSTT)
- Importance of SGST, CGST, IGST and UTGST

STRUCTURE

1.1. INTRODUCTION

The goods and services tax (GST) is an indirect federal sales tax that is applied to the cost of certain goods and services. The business adds the GST to the price of the product, and a customer who buys the product pays the sales price inclusive of the GST. The GST portion is collected by the business or seller and forwarded to the government. The goods and services tax (GST) is a type of tax levied on most goods and services sold for domestic consumption in many countries. It is paid by consumers and remitted to the government by the businesses selling the goods and services. Some countries have introduced GST exemptions or reduced GST rates on essential goods and services or have implemented GST credits or rebates to help offset the impact of GST on lower-income households. The GST is often a single rate tax applied throughout a country and is preferred by governments because it simplifies the taxation system and reduces tax avoidance. In dual GST systems, such as those in Canada and Brazil, the federal GST is applied in addition to a state sales tax. The GST has been identified by critics as regressive and can potentially place a relatively higher burden on lower-income households.

a) Definition of Goods and Services Tax (GST): The goods and services tax (GST) is a value-added tax (VAT) levied on most goods and services sold for domestic consumption. The GST is paid by consumers, but it is remitted to the government by the businesses selling the goods and services.

Critics point out, however, that the GST may disproportionately burden people whose self-reported income are in the lowest and middle income brackets, making it a regressive tax.1 These critics argue that GST can therefore exacerbate income inequality and contribute to social and economic disparities. In order to address these concerns, some countries have introduced GST exemptions or reduced GST rates on essential goods and services, such as food and healthcare. Others have implemented GST credits or rebates to help offset the impact of GST on lower-income households.

Goods and services tax should not be confused with the generation-skipping trust, also abbreviated GST (and its related taxation, GSTT).

b) Meaning: The goods and services tax (GST) is a tax on goods and services sold domestically for consumption. The tax is included in the final price and paid by consumers at point of sale and passed to the government by the seller. The GST is usually taxed as a single rate across a nation. Governments prefer GST as it simplifies the taxation system and reduces tax avoidance. Critics of GST say it burdens lower income earners more than higher income earners.

c) Understanding the Goods and Services Tax (GST): The goods and services tax (GST) is an indirect federal sales tax that is applied to the cost of certain goods and services. The business adds the GST to the price of the product, and a customer who buys the product pays the sales price inclusive of the GST. The GST portion is collected by the business or seller and forwarded to the government. It is also referred to as Value-Added Tax (VAT) in some countries. Most countries with a GST have a single unified GST system, which means that a single tax rate is applied throughout the country. A country with a unified GST platform merges central taxes (e.g., sales tax, excise duty tax, and service tax) with state-level taxes (e.g., entertainment tax, entry tax, transfer tax, sin tax, and luxury tax) and collects them as one single tax. These countries tax virtually everything at a single rate.

France was the first country to implement the GST in 1954; since then, an estimated 140 countries have adopted this tax system in some form or another.2 Some of the countries with a GST include Canada, Vietnam, Australia, Singapore, United Kingdom, Spain, Italy, Nigeria, Brazil, and India.

1.2. OBJECTIVES OF GST

i. To achieve the ideology of 'One Nation, One Tax': GST has replaced multiple indirect taxes, which were existing under the previous tax regime. The advantage of having one single tax means every state follows the same rate for a particular product or service. Tax administration is easier with the Central Government deciding the rates and policies. Common laws can be introduced, such as e-way bills for goods transport and e-invoicing for transaction reporting. Tax compliance is also better as taxpayers are not bogged down with multiple return forms and deadlines. Overall, it's a unified system of indirect tax compliance.

ii. To subsume a majority of the indirect taxes in India: India had several erstwhile indirect taxes such as service tax, Value Added Tax (VAT), Central Excise, etc., which used to be levied at multiple supply chain stages. Some taxes were governed by the states and some by the Centre. There was no unified and centralised tax on both goods and services. Hence, GST was introduced. Under GST, all the major indirect taxes were subsumed into one. It has greatly reduced the compliance burden on taxpayers and eased tax administration for the government.

iii. To eliminate the cascading effect of taxes: One of the primary objectives of GST was to remove the cascading effect of taxes. Previously, due to different indirect tax laws, taxpayers could not set off the tax credits of one tax against the other. For example, the excise duties paid during manufacture could not be set off against the VAT payable during the sale. This led to a cascading effect of taxes. Under GST, the tax levy is only on the net value added at each stage of the supply chain. This has helped eliminate the cascading effect of taxes and contributed to the seamless flow of input tax credits across both goods and services.

iv. To curb tax evasion: GST laws in India are far more stringent compared to any of the erstwhile indirect tax laws. Under GST, taxpayers can claim an input tax credit only on invoices uploaded by their respective suppliers. This way, the chances of claiming input tax credits on fake invoices are minimal. The introduction of e-invoicing has further reinforced this objective. Also, due to GST being a nationwide tax and having a centralised surveillance system, the clampdown on defaulters is quicker and far more efficient. Hence, GST has curbed tax evasion and minimised tax fraud from taking place to a large extent.

v. To increase the taxpayer base: GST has helped in widening the tax base in India. Previously, each of the tax laws had a different threshold limit for registration based on turnover. As GST is a consolidated tax levied on both goods and services both, it has increased tax-registered businesses. Besides, the stricter laws surrounding input tax credits have helped bring certain unorganised sectors under the tax net. For example, the construction industry in India.

vi. Online procedures for ease of doing business: Previously, taxpayers faced a lot of hardships dealing with different tax authorities under each tax law. Besides, while return filing was online, most of the assessment and refund procedures took place offline. Now, GST procedures are carried out almost entirely online. Everything is done with a click of a button, from registration to return filing to refunds to e-way bill generation. It has contributed to the overall ease of doing business in India and simplified taxpayer compliance to a massive extent. The government also plans to introduce a centralised portal soon for all indirect tax compliance such as e-invoicing, e-way bills and GST return filing.

vii. An improved logistics and distribution system: A single indirect tax system reduces the need for multiple documentation for the supply of goods. GST minimises transportation cycle times, improves supply chain and turnaround time, and leads to warehouse consolidation, among other benefits. With the e-way bill system under GST, the removal of interstate checkpoints is most beneficial to the sector in improving transit and destination efficiency. Ultimately, it helps in cutting down the high logistics and warehousing costs.

viii. To promote competitive pricing and increase consumption: Introducing GST has also led to an increase in consumption and indirect tax revenues. Due to the cascading effect of taxes under the previous regime, the prices of goods in India were higher than in global markets. Even between states, the lower VAT rates in certain states led to an imbalance of purchases in these states. Having uniform GST rates have contributed to overall competitive pricing across India and on the global front. This has hence increased consumption and led to higher revenues, which has been another important objective achieved.

1.3. ADVANTAGES OF GST

GST has mainly removed the cascading effect on the sale of goods and services. Removal of the cascading effect has impacted the cost of goods. Since the GST regime eliminates the tax on tax, the cost of goods decreases. Also, GST is mainly technologically driven. All the activities like registration, return filing, application for refund and response to notice needs to be done online on the GST portal, which accelerates the processes.

i. Removing the cascading effect of tax
ii. Higher threshold for GST registration
iii. Composition scheme for small businesses
iv. Simpler online facilities for GST compliance
v. Relatively lessor complaiances under GST
vi. Defined treatment for e-commerce activities
vii.Increased efficiency in logistics
viii.Regulating the unorganized sectors

Dual Goods and Services Tax Structures: Only a handful of countries, such as Canada and Brazil, have a dual GST structure.4 Compared to a unified GST economy where tax is collected by the federal government and then distributed to the states, in a dual system, the federal GST is applied in addition to the state sales tax. In Canada, for example, the federal government levies a 5% tax and some provinces/states also levy a provincial state tax (PST), which varies from 8% to 10%.56 In this case, a consumer's receipt will clearly have the GST and PST rate that was applied to their purchase value. More recently, the GST and PST have been combined in some provinces into a single tax known as the Harmonized Sales Tax (HST). Prince Edward Island was the first to adopt the HST in 2013, combining its federal and provincial sales taxes into a single tax.7 Since then, several other provinces have followed suit, including New Brunswick, Newfoundland and Labrador, Nova Scotia, and Ontario.

1.4. CRITIQUES OF THE GST

i. A GST is generally considered to be a regressive tax, meaning that it takes a relatively larger percentage of income from lower-income households compared to higher-income households.8 This is because GST is levied uniformly on the consumption of goods and services, rather than on income or wealth.
ii. Lower-income households tend to spend a larger proportion of their income on consumables, such as food and household goods, which are subject to GST. As a result, GST can disproportionately burden lower-income households.
iii. Because of this. some countries with GST are discussing possible adjustments that might make the tax more progressive, which takes a larger percentage from higher-income earners.

a) India's Adoption of the GST: India established a dual GST structure in 2017, which was the biggest reform in the country's tax structure in decades.10 The main objective of incorporating the GST was to eliminate tax on tax, or double taxation, which cascades from the manufacturing level to the consumption level.

b) For example, a manufacturer that makes notebooks obtains the raw materials for, say, Rs. 10, which includes a 10% tax. This means that they pay Rs. 1 in tax for Rs. 9 worth of materials. In the process of manufacturing the notebook, the manufacturer adds value to the original materials of Rs. 5, for a total value of Rs. 10 + Rs. 5 = Rs. 15. The 10% tax due on the finished good will be Rs. 1.50. Under a GST system, the previous tax paid can be

applied against this additional tax to bring the effective tax rate to Rs. 1.50 – Rs. 1.00 = Rs. 0.50.
In turn, the wholesaler purchases the notebook for Rs. 15 and sells it to the retailer at a Rs. 2.50 markup value for Rs. 17.50. The 10% tax on the gross value of the good will be Rs. 1.75, which the wholesaler can apply against the tax on the original cost price from the manufacturer (i.e., Rs. 15). The wholesaler's effective tax rate will, thus, be Rs. 1.75 – Rs. 1.50 = Rs. 0.25.
Similarly, if the retailer's margin is Rs. 1.50, his effective tax rate will be (10% x Rs. 19) – Rs. 1.75 = Rs. 0.15. Total tax that cascades from manufacturer to retailer will be Rs. 1 + Rs. 0.50 + Rs. 0.25 + Rs. 0.15 = Rs. 1.90.

c) India has, since launching the GST on July 1, 2017, implemented the following tax rates:

i. A 0% tax rate applied to certain foods, books, newspapers, homespun cotton cloth, and hotel services.
ii. A rate of 0.25% applied to cut and semi-polished stones.
iii. A 5% tax on household necessities such as sugar, spices, tea, and coffee.
iv. A 12% tax on computers and processed food.
v. An 18% tax on hair oil, toothpaste, soap, and industrial intermediaries.
vi. The final bracket, taxing goods at 28%, applies to luxury products, including refrigerators, ceramic tiles, cigarettes, cars, and motorcycles.

The previous system, with no GST, implies that tax is paid on the value of goods and margin at every stage of the production process. This would translate to a higher amount of total taxes paid, which is carried down to the end consumer in the form of higher costs for goods and services. The implementation of the GST system in India is, therefore, a measure that is used to reduce inflation in the long run, as prices for goods will be lower.

1.5. GOODS AND SERVICES TAX VS. GENERATION-SKIPPING TRANSFER TAX (GST VS GSTT)

The goods and services tax (GST) should not be confused with the generation-skipping transfer tax (GSTT Tax), and they are not at all related to one another. The former is a sort of VAT tax added to the purchase of goods or serves. Meanwhile, the generation skipping transfer tax (GST Tax) is a flat 40% federal tax on the transfer of inheritances from one's estate to a beneficiary who is at least 37½ years younger than the donor. The GST Tax prevents wealthy individuals from avoiding estate taxes through naming younger beneficiaries (e.g., grandchildren).

i. What Is the Generation-Skipping Transfer Tax (GSTT)?
The generation-skipping transfer tax is a federal tax on a gift or inheritance that prevents the donor from avoiding estate taxes by skipping children in favor of grandchildren. With the generation-skipping transfer tax, grandchildren receive the same amount as if the inheritance were coming from their parents. Before the generation-skipping transfer tax was introduced in 1976, wealthy individuals were legally able to gift money and bequeath property to their grandchildren, without paying federal estate taxes. The legislation effectively closed the loophole where inheritances could skip a generation to avoid double estate taxation.1

ii. Meaning
The generation-skipping transfer tax (GSTT) is a federal tax that results when there is a transfer of property by gift or inheritance to a beneficiary (other than a spouse) who is at least 37½ years younger than the donor. The GSTT effectively closed the loophole that allowed wealthy individuals to legally gift money and bequeath property to their grandchildren

without paying federal estate taxes. The GSTT tax rate is a flat 40%. Most people will never encounter the GSTT because of the high threshold: the tax only applies when the transferred amount exceeds $12.06 million per individual for 2022 and $12.92 million for 2023.

iii. Understanding the Generation-Skipping Transfer Tax

The generation-skipping transfer tax (GSTT) is an additional tax on a transfer of property that skips a generation, known as a generation-skipping transfer (GST) for short. ii. The GSTT was implemented to prevent families from avoiding the estate tax for one or more generations by making gifts or bequests directly to grandchildren or great-grandchildren. iii. The parent's generation is skipped to avoid an inheritance being subject to estate taxes twice. The GSTT ensures that grandchildren end up with the same value of assets that they would have had if the inheritance was transferred to them directly from their parents, rather than their grandparents. iv. The person giving the gift is referred to as the transferor and the recipient is known as the skip person. Many people use a grandchild as a skip person, but a skip person does not have to be a family member. Any individual is eligible to receive a generation-skipping transfer as long as they are at least 37½ years younger than the transferor. v. The generation-skipping transfer tax is imposed only if the transfer avoids incurring a gift or estate tax at each generation level. To make up for the taxes that may be avoided by skipping one generation, the Internal Revenue Service (IRS) imposes a second layer of tax on gifts and bequests above the estate and lifetime gift exclusion. It means that the GSTT is only due when a beneficiary receives amounts in excess of the GST estate tax credit.

iv. Direct vs. Indirect Skips With the GSTT

i. The taxation of a GST depends on whether the transfer is a direct or an indirect skip. A direct skip is a property transfer that's subject to an estate or gift tax. An example of a direct skip would be a grandmother gifting property to a grandchild. The transferor or their estate is responsible for paying the GST tax for direct skips.

ii. An indirect skip involves a transfer that has intermediate steps before reaching a skip person. There are two types of indirect skips: the taxable termination and the taxable distribution.

A taxable termination involves a skip person and a non-skip person. A non-skip person is the primary beneficiary who will receive property before it is transferred to the skip person. The transfer to the skip person occurs upon the death of a non-skip person—typically the child of the transferor.

iii. As an example of a taxable termination, consider a transferor who establishes an income-producing trust for his son. Upon the son's death, the remaining property would be passed on to the transferor's grandchild, at which time those assets would be subject to the GST tax. A taxable distribution refers to any distribution of income or property, from a trust to a skip person that is *not* otherwise subject to estate or gift tax. If a grandmother established a trust that made payments to her grandson, those payments would be subject to GST taxes, which the recipient is responsible for paying.

v. How Much Is the Generation-Skipping Transfer Tax?

In the past, the GSTT has been hefty, ranging from 35% to 77%.9 The current rate, which has been in effect since 2014, is 40%; however, the Tax Cuts and Jobs Act dramatically lessened the estates that might be affected by it. For 2022, the federal estate, gift, and GSTT exemption is $12.06 million for each individual ($12.92 million in 2023) and $24.12 million for married couples ($25.84 million in 2023), more than doubling the pre-TCJA limit of $5.49 million (for individuals).23

i. Some states also collect generation-skipping transfer taxes, generally the ones that impose their own estate taxes. Only the value of a person's estate that is in excess of the applicable exemption is subject to an estate tax at death or the GSTT, at that flat rate of 40%. So only aggregate gifts and bequests to a skip person in excess of $12.06 million in 2022 ($12.92 million in 2023) would be subject to the 40% flat generation-skipping transfer tax.3

ii. The GSTT is assessed when the gift or property transfer is made; GSTs can occur before or after the death of the transferor. While still alive, the transferor can give the gift directly to the skip person. But upon death, the transferor's will may either stipulate that property is bequeathed to a skip person, or it may call for the establishment of a trust from which distributions will be made. Form 709 is used to report both GST taxes and transfers whereby federal gift taxes are due.

vi. GSTT Strategies

Most beneficiaries will avoid the GST tax because the estates they inherit will be worth less than the government-provided estate tax credit. The GSTT exemption is very high (as noted above). However, in cases where the tax could apply, transferors can create dynasty trusts, which are designed to avoid or minimize estate taxes with each generational transfer. By parking assets in the trust and making specified distributions to each generation, the corpus of the trust isn't subject to estate taxes with the transfer.

vii. What Triggers the Generation-Skipping Transfer Tax?

The generation-skipping transfer tax is triggered when a person gifts another person an asset but skips a generation in doing so. For example, when a person gifts a home to their grandchild and skips their child.

viii. Who Pays the Generation-Skipping Transfer Tax?

The generation-skipping transfer tax is paid by either the grantor or the skipped beneficiary. The grantor pays the direct generation-skipping tax while an indirect generation-skipping tax is paid by the skipped beneficiary. The former is the most common scenario.

ix. How Much Can a Parent Gift a Child Tax-Free in 2022?

A parent can gift a child tax-free $16,000 in 2022. In 2023, the amount is $17,000. This is per parent and per recipient.

x. Who Has to Pay GST?

In general, goods and services tax (GST) is paid by the consumers or buyers of goods or services. Some products, such as from the agricultural or healthcare sectors, may be exempt from GST depending on the jurisdiction.

xi. How Is GST Calculated?

The goods and services tax (GST) is computed by simply multiplying the price of a good or service by the GST tax rate. For instance, if the GST is 5%, a $1.00 candy bar would cost $1.05.

xii. What Are the Benefits of the GST?

The GST can be beneficial as it simplifies taxation, reducing several different taxes into one straightforward system. It also is thought to cut down on tax avoidance among businesses and reduces corruption.

xiii. Are VAT and GST the Same?

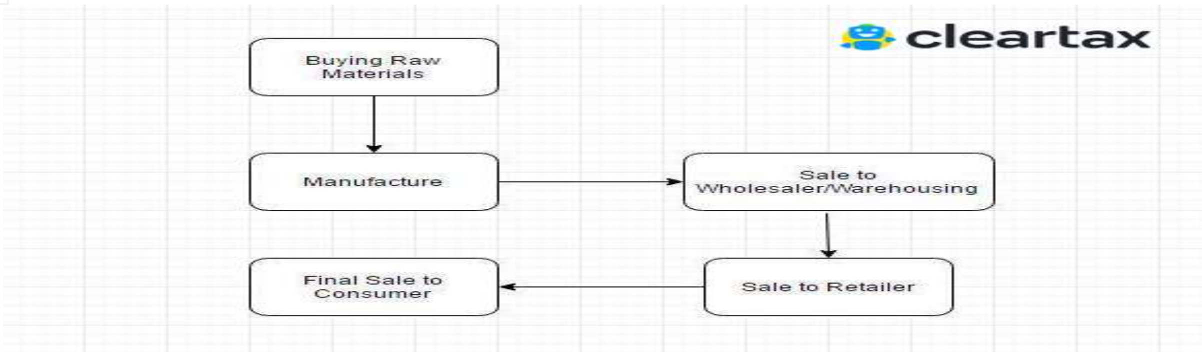
Value-added tax (VAT) and goods and services tax (GST) are similar taxes that are levied on the sale of goods and services. Both VAT and GST are also indirect taxes, which means that they are collected by businesses and then passed on to the government as part of the price of the goods or services.

However, there are some key differences between the two. VAT is primarily used in European countries and is collected at each stage of the production and distribution process, while GST is used in countries around the world and is collected only at the final point of sale to the consumer. VAT is generally applied to a wider range of goods and services than GST, and the rate of VAT and GST can vary depending on the type of goods or services being sold and the country in which they are sold.

1.6. GST IN INDIA (INDIRECT TAX LAW)

1. What is GST in India? GST is known as the Goods and Services Tax. It is an indirect tax which has replaced many indirect taxes in India such as the excise duty, VAT, services tax, etc. The Goods and Service Tax Act was passed in the Parliament on 29th March 2017 and came into effect on 1st July 2017. In other words, Goods and Service Tax (GST) is levied on the supply of goods and services. Goods and Services Tax Law in India is a **comprehensive, multi-stage, destination-based tax** that is levied on every **value addition.** GST is a single domestic indirect tax law for the entire country. Before the Goods and Services Tax could be introduced, the structure of indirect tax levy in India was as follows:
Under the GST regime, the tax is levied at every point of sale. In the case of intra-state sales, Central GST and State GST are charged. All the inter-state sales are chargeable to the Integrated GST. Now, let us understand the definition of Goods and Service Tax, as mentioned above, in detail.

Multi-stage: An item goes through multiple change-of-hands along its supply chain: Starting from manufacture until the final sale to the consumer.
Let us consider the following stages:
Purchase of raw materials- Production or manufacture- Warehousing of finished goods- Selling to wholesalers- Sale of the product to the retailers- Selling to the end consumers



The Goods and Services Tax is levied on each of these stages making it a multi-stage tax.

Value Addition: A manufacturer who makes biscuits buys flour, sugar and other material. The value of the inputs increases when the sugar and flour are mixed and baked into biscuits.
The manufacturer then sells these biscuits to the warehousing agent who packs large quantities of biscuits in cartons and labels it. This is another addition of value to the biscuits. After this, the warehousing agent sells it to the retailer.
The retailer packages the biscuits in smaller quantities and invests in the marketing of the biscuits, thus increasing its value. GST is levied on these value additions, i.e. the monetary value added at each stage to achieve the final sale to the end customer.

Destination-Based: Consider goods manufactured in Maharashtra and sold to the final consumer in Karnataka. Since the Goods and Service Tax is levied at the point of consumption, the entire tax revenue will go to Karnataka and not Maharashtra.

The Journey of GST in India: The GST journey began in the year 2000 when a committee was set up to draft law. It took 17 years from then for the Law to evolve. In 2017, the GST Bill was passed in the Lok Sabha and Rajya Sabha. On 1st July 2017, the GST Law came into force.

1.7. COMPONENTS OF GST

There are three taxes applicable under this system: CGST, SGST & IGST

i. **CGST:** It is the tax collected by the Central Government on an intra-state sale (e.g., a transaction happening within Maharashtra)

ii. **SGST:** It is the tax collected by the state government on an intra-state sale (e.g., a transaction happening within Maharashtra)

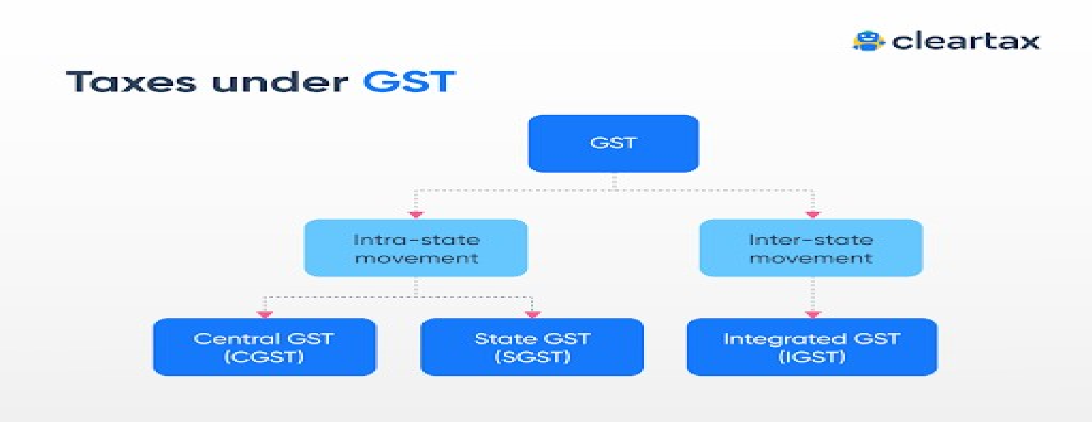
iii. **IGST:** It is a tax collected by the Central Government for an inter-state sale (e.g., Maharashtra to Tamil Nadu)

What is SGST, CGST, IGST and UTGST?

Under the GST law, the central government will collect CGST, SGST or IGST depending upon whether the transaction is intrastate or interstate.

1.7.1. Introduction to CGST, SGST and IGST: Unlike earlier when there were multiple taxes such as Central Excise, Service Tax, State VAT, etc., the GST introduces just one tax with three components- CGST, SGST and IGST. When the supply of goods or services happens within a state called intra-state transactions, then both the CGST and SGST will be collected. Whereas if the supply of goods or services happens between the states called inter-state transactions, then only IGST will be collected. The use of correct GSTIN becomes important to identify the applicability of taxes. Hence, validate with the help of the GST search tool before using the GST number in the sales invoice.

It is to be noted that the GST is a destination-based tax, which is received by a State in which the goods are consumed but not by a state in which such goods are manufactured.



1.7.2. IGST full form and when IGST is applicable: The full form of IGST is Integrated Goods and Services Tax. Under GST, IGST is a tax levied on all interstate supplies of goods and/or services or across two or more states/Union Territories. Further, IGST levy and collection will be governed by the IGST Act, 2017, as amended from time to time.

IGST will be applicable on any supply of goods and/or services in both cases of import into India and export from India.

Note: Under IGST,

- Exports would be zero-rated.
- Tax will be shared between the Central and State governments.

Example for IGST with calculation: Consider that a businessman M/s Rajesh Ltd from Chandigarh in India had sold goods to Anand Ltd from Dadra & Nagar Haveli & Daman & Diu in India worth Rs. 1,00,000. The GST rate is 18% referring particularly to the 18% IGST. In such a case, the dealer has to charge Rs. 18,000 as IGST. This IGST will go to the Centre, latersplitbetweentheCentreand
Dadra & Nagar Haveli & Daman & Diu (if this is ultimate consuming state).

1.7.3. CGST full form and when CGST is applicable: Many seek an answer for 'what is the full form of CGST'. The full form of CGST is Central Goods and Services Tax. Under GST, CGST is a tax levied on intrastate supplies of both goods and services by the Central Government and collected by it for its coffers. Accordingly, the levy and collection of CGST are governed by the provisions of the CGST Act, 2017 as amended from time to time. Together with CGST, an equal value of SGST will also be levied on the same intrastate supply but will be governed by the particular state government.
In other words, if a seller sells a product to a buyer within the same state, say Telangana, then CGST and SGST will apply.
This implies that both the Central and state governments will agree on combining their levies with an appropriate proportion for revenue sharing between them.
It is clearly mentioned in Section 8 of the CGST Act that the taxes be levied on all intrastate supplies of goods and/or services but the rate of tax shall not be exceeding 14%, each.
Note: Any tax liability obtained under CGST can be set off against CGST or IGST input tax credit only and not any SGST.

1.7.4. SGST Full form and when SGST is applicable: SGST means State Goods and Services Tax. Under GST, an equivalent amount of SGST is a tax levied on intrastate supplies of both goods and services by the particular state government where the product sold is consumed.
Therefore, levy and collection of SGST are governed by the respective state's SGST Act, 2017 as amended from time to time, for instance, Telangana GST Act. After the introduction of the SGST, all the state taxes such as the value-added tax, entertainment tax, luxury tax, entry tax, etc. were merged under SGST.
As explained above, CGST will also be levied on the same intrastate supply but will be governed by the Central Government.
Note: Any tax liability obtained under SGST can be set off against SGST or IGST input tax credit only and not CGST.

Example for CGST and SGST with calculation: Let's suppose M/s Rajesh Ltd is a dealer in Chattisgarh who sold goods to Vijay Ltd in Chattisgarh worth Rs. 10,000. The GST rate is 18% comprising of a CGST rate of 9% and an SGST rate of 9%.
In such a case, the dealer collects a total of Rs. 1,800 and deposits over the GST portal, out of which Rs. 900 will be apportioned to the Central Government and Rs. 900 will go to the Chattisgarh Government.

1.7.5. UTGST full form and when UTGST is applicable:

UTGST stands for the Union Territory Goods and Services Tax. Similar to how SGST is levied by the state governments on the intra-state supply of goods and services, UTGST is levied by the handful of Union Territory governments.

It refers to the tax levied on the intra-Union Territory supply of goods and services. It is governed by the UTGST Act, 2017 as amended from time to time and is levied together with CGST.

UTGST is similar to SGST and is levied in Union Territories which do not have their own legislature. UTGST is applicable to the supplies that take place in the Union Territories of Jammu & Kashmir, Ladakh, Andaman and Nicobar Islands, Chandigarh, Dadra & Nagar Haveli and Daman & Diu, and Lakshadweep. Please note that the Union Territories of Delhi and Puducherry will fall under SGST law as they have their own legislature.

Note: The order of ITC utilisation of UTGST is similar to SGST. ITC of UTGST should first be set off against UTGST. Any balance remaining may be used to set off any IGST liability.

a. Why there is split into SGST, CGST, and IGST?
India is a federal country where both the Centre and states have been assigned the powers to levy and collect taxes by our Constitution. Both governments have distinct responsibilities to perform for which they need to raise tax revenue, in the form of GST.

The Centre and states are simultaneously levying GST. The three-type tax structure is implemented to help taxpayers take the credit against each other, thus ensuring “One Nation, One Tax”.

b. What determines if CGST, SGST or IGST is applicable?
To determine whether Central Goods & Services Tax (CGST), State Goods & Services Tax (SGST) or Integrated Goods & Services Tax (IGST) applies in a taxable transaction, find if the transaction is intrastate or an interstate supply.

c. Intrastate supply of goods or services is when the location of the supplier and the place of supply i.e., the location of the buyer are in the same state. In Intrastate transactions, a seller has to collect **both CGST and SGST** from the buyer. The CGST gets deposited with the Central Government and SGST gets deposited with the State Government.

d. Interstate supply of goods or services is when the location of the supplier and the place of supply are in different states. Also, in cases of export or import of goods or services or when the supply of goods or services is made to or by an SEZ unit, the transaction is assumed to be interstate. In an interstate transaction, a seller has to collect **IGST** from the buyer.

1.8. HOW IS INPUT TAX CREDITS ADJUSTED? OFFSET LIABILITY IN GST

The CGST Rules define the logic of adjusting CGST, SGST and IGST input tax credit with the tax liabilities of CGST, SGST and IGST. One must follow the rules since accurate ITC utilisation is crucial to avoid fines later on.

Let us consider that goods worth Rs. 10,000 are sold by manufacturer A from Maharashtra to Dealer B in Maharashtra.

Dealer B resells them to Trader C in Rajasthan for Rs. 17,500.

Trader C finally sells to end-user D in Rajasthan for Rs. 30,000.

Suppose the applicable tax rates for the goods sold are CGST= 9%, SGST=9%, and IGST=9+9=18%

Since A is selling this to B in Maharashtra itself, it is an intra-state sale and so, CGST@9% and SGST@9% will apply.

Dealer B (Maharashtra) is selling to Trader C (Rajasthan). Hence, this is an interstate sale, with IGST@18%.

Trader C (Rajasthan) is selling to end user D also in Rajasthan. Once again it is an intra-state sale and hence, CGST@9% and SGST@9% will apply.

1.8.1. How is SGST, CGST and IGST collected?

			Amount Received as Tax by				
Step		**Sale Price**	**Maharashtra**	**Rajasthan**		**Central**	
I	A to B	10,000	10,000*9%= **900**	------		10,000*9%= **900**	
II	B to C	17,500	------	------		17,500*IGST @18%	3,150
						(-) CGST credit	900
						(-) SGST credit	900
						Net	**1,350**
III	C to D	30,000	------	30,000*SGST @9%	2,700	30,000*CGST @9%	2,700
				(-) IGST credit balance (3150-2700)	450	(-) IGST credit ***	2,700
				Net	**2,250**	Net	0
	Total Receipt		**900**	**2,250**		**2,250**	
IV	Adjustment		(-)900 Going to Centre	(+)450 Coming from Centre		(+)450	
	Final		**0**	**2,700**		**2,700**	

Any IGST credit will first be applied to set off in this order:

- First set off against IGST liability.
- Then either set off with CGST or SGST liability, at your preference.

GST is a consumption-based tax the state where the goods were consumed (Rajasthan) will receive GST. By that logic, Maharashtra (where goods were sold) should not get any taxes. State Rajasthan and Central Government should have got (30,000*9%) = 2,700 each.

Thus, Maharashtra (exporting state) will have to transfer credit of SGST of Rs. 900 (used in payment of IGST) to the Centre.

In turn, Central Government will transfer to the state Rajasthan (importing state) Rs. 450 IGST.

The above example shows the need for 3 taxes: SGST, CGST, and IGST. All 3 together will serve the two purposes of GST :

- One Nation, One Tax – so all taxes on all purchases are available as credits.
- Dual tax system – both the Centre and states have their revenue.

GST is a completely new tax with new concepts like the place of supply and new tax structures. This creates confusion among taxpayers who may end up paying the wrong type of GST.

In most cases, the tax structure under the new regime will be as follows:

Transaction	**New Regime**	**Old Regime**	**Revenue Distribution**
Sale within the State	CGST + SGST	VAT + Central Excise/Service tax	Revenue will be shared equally between the Centre and the State
Sale to another State	IGST	Central Sales Tax + Excise/Service Tax	There will only be one type of tax (central) in case of inter-state sales. The Centre will then share the IGST revenue based on the destination of goods.

Illustration:

- Let us assume that a dealer in Gujarat had sold the goods to a dealer in Punjab worth Rs. 50,000. The tax rate is 18% comprising of only IGST.

In such a case, the dealer has to charge IGST of Rs.9,000. This revenue will go to Central Government.

- The same dealer sells goods to a consumer in Gujarat worth Rs. 50,000. The GST rate on goods is 12%. This rate comprises CGST at 6% and SGST at 6%.

The dealer has to collect Rs.6, 000 as Goods and Service Tax, Rs.3, 000 will go to the Central Government and Rs.3,000 will go to the Gujarat government since the sale is within the state.

1.9. TAX LAWS BEFORE GST

In the earlier indirect tax regime, there were many indirect taxes levied by both the state and the centre. States mainly collected taxes in the form of Value Added Tax (VAT). Every state had a different set of rules and regulations. Inter-state sale of goods was taxed by the centre. CST (Central State Tax) was applicable in case of inter-state sale of goods. The indirect taxes such as the entertainment tax, octroi and local tax were levied together by state and centre. These led to a lot of overlapping of taxes levied by both the state and the centre. For example, when goods were manufactured and sold, excise duty was charged by the centre. Over and above the excise duty, VAT was also charged by the state. It led to a tax on tax effect, also known as the cascading effect of taxes.

1.9.1. The following is the list of indirect taxes in the pre-GST regime:

i. Central Excise Duty, ii. Duties of Excise, iii. Additional Duties of Excise, iv. Additional Duties of Customs, v. Special Additional Duty of Customs, vi. Cess, vii. State VAT, viii. Central Sales Tax, ix. Purchase Tax, x. Luxury Tax, xi. Entertainment Tax, xii. Entry Tax, xiii. Taxes on advertisements, xiv. Taxes on lotteries, betting, and gambling

CGST, SGST, and IGST have replaced all the above taxes.: However, certain taxes such as the GST levied for the inter-state purchase at a concessional rate of 2% by the issue and utilisation of ‘Form C’ is still prevalent. It applies to certain non-GST goods such as: i. Petroleum crude ii. High-speed diesel iii. Motor spirit (commonly known as petrol) iv. Natural gas v. Aviation turbine fuel and vi. Alcoholic liquor for human consumption.

It applies to the following transactions only: i.Resale, ii.Use in manufacturing or processing, iii. Use in certain sectors such as the telecommunication network, mining, the generation or distribution of electricity or any other power sector.

How Has GST Helped in Price Reduction? During the pre-GST regime, every purchaser, including the final consumer paid tax on tax. This condition of tax on tax is known as the cascading effect of taxes.

GST has removed the cascading effect.

Tax is calculated only on the value-addition at each stage of the transfer of ownership. Understand what the cascading effect is and how GST helps by watching this simple video:

The indirect tax system under GST will integrate the country with a uniform tax rate. It will improve the collection of taxes as well as boost the development of the Indian economy by removing the indirect tax barriers between states.

Illustration: Based on the above example of the biscuit manufacturer, let’s take some actual figures to see what happens to the cost of goods and the taxes, by comparing the earlier GST regimes.

Tax calculations in earlier regime:

Action	Cost (Rs)	Tax rate at 10% (Rs)	Invoice Total (Rs)
Manufacturer	1,000	100	1,100
Warehouse adds a label and repacks at Rs.300	1,400	140	1,540
Retailer advertises at Rs. 500	2,040	204	2,244
Total	1,800	444	2,244

The tax liability was passed on at every stage of the transaction, and the final liability comes to a rest with the customer. This condition is known as the **cascading effect of taxes,** and the value of the item keeps increasing every time this happens.

Tax calculations in current regime

Action	Cost (Rs)	Tax rate at 10% (Rs)	Tax liability to be deposited (Rs)	Invoice Total (Rs)
Manufacturer	1,000	100	100	1,100
Warehouse adds label and repacks at Rs. 300	1,300	130	30	1,430
Retailer advertises at Rs. 500	1,800	180	50	1,980
Total	1,800		180	1,980

In the case of Goods and Services Tax, there is a way to claim the credit for tax paid in acquiring input. The individual who has already paid a tax can claim credit for this tax when he submits his GST returns. In the end, every time an individual is able to claims the input tax credit, the sale price is reduced and the cost price for the buyer is reduced because of lower tax liability. The final value of the biscuits is therefore reduced from Rs.2, 244 to Rs.1, 980, thus reducing the tax burden on the final customer.

1.10. NEW COMPLIANCES UNDER GST

Apart from online filing of the GST returns, the GST regime has introduced several new systems along with it.

i. E-Way Bills: GST introduced a centralized system of waybills by the introduction of "E-way bills". This system was launched on 1st April 2018 for inter-state movement of goods and on 15th April 2018 for intra-state movement of goods in a staggered manner.

Under the e-way bill system, manufacturers, traders and transporters can generate e-way bills for the goods transported from the place of its origin to its destination on a common portal with ease. Tax authorities are also benefited as this system has reduced time at check -posts and helps reduce tax evasion.

ii. E-Invoicing: The e-invoicing system was made applicable from 1st October 2020 for businesses with an annual aggregate turnover of more than Rs.500 crore in any preceding financial years (from 2017-18). Further, from 1st January 2021, this system was extended to those with an annual aggregate turnover of more than Rs.100 crore.

These businesses must obtain a unique invoice reference number for every business-to-business invoice by uploading on the GSTN's invoice registration portal. The portal verifies the correctness and genuineness of the invoice. Thereafter, it authorises using the digital signature along with a QR code.

e-Invoicing allows interoperability of invoices and helps reduce data entry errors. It is designed to pass the invoice information directly from the IRP to the GST portal and the e-way bill portal. It will, therefore, eliminate the requirement for manual data entry while filing GSTR-1 and helps in the generation of e-way bills too.

1.11. SUMMARY

After studying this lesson student should be able to Know the concept of Goods and Services Act (GST) like Definition &Objectives of GST Advantages & Critiques of GST. Understand the Generation-Skipping Transfer Tax (GSTT), Further, it is focused on , GST vs GSTT, Components of GST such as: CGST, SGST IGST and UTGST. Hence it is revealed about GST in India as well as Tax Laws before GST.

1.12. TECHNICAL TERMS

GST: GST (Goods and Services Tax) is one indirect tax for the whole nation. It is the resultant tax after subsuming major Central and State indirect taxes. GST is a destination based tax levied on the consumption of goods and services across the nation, thus rendering the country one unified common market.

GSTT: The generation-skipping transfer tax (GSTT) is a federal tax that results when there is a transfer…The GSTT effectively closed the loophole that allowed wealthy individuals to legally gift money and bequeath property to their grandchildren without paying federal estate taxes.

SGST: SGST is one of the tax components of GST in India. SGST Act expands to State Goods and Service Tax. It is one of the three categories under Goods and Service Tax (CGST, IGST and SGST) with a concept of one tax one nation. SGST falls under State Goods and Service Tax Act 2017. A simple understanding could be that, when SGST is being introduced, the present state taxes of State Sales Tax, VAT, Luxury Tax, Entertainment tax (unless it is levied by the local bodies), Taxes on lottery, betting and gambling, Entry tax not in lieu of Octroi, State Cesses and Surcharges in so far as they relate to supply of goods and services etc. are subsumed into one tax in GST called State GST.

CGST: The Central Goods and Services Tax Act, 2017 Act No. 12 of 2017[12th April, 2017.] An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Central Government and for matters connected …IGST: IGST stands for Integrated Goods and Services Tax. IGST is one of the three components of Goods and Services Tax. IGS tax is levied when there is an inter-state transfer of goods and services.

1.13. SELF-ASSESSMENT QUESTIONS

1. Discuss the importance of GST in India.
2. Explain about different components of GST.
3. What are the defects of GST in India?
4. Define GST and explain the objectives of GST.
5. What are the advantages and critiques of GST?
6. “E-way bills”& e-Invoicing.
7. GST vs GSTT

1.14. SUGGESTED READINGS

1. Goods and Services Tax in India- Notifications on different dates
2. GST Bill 2012
3. The Central Goods and Services Tax Act, 2017, No.12 of 2017, Published by Authority, Ministry of Law and Justice, New Delhi, 12 April, 2017
4. Background Material on Model GST Law, Sahitya Bhavan Publications, Hospital Road, Agra-383 003

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LESSON-2
AN OLD TAX SYSTEM & ITS DRAWBACKS

AIMS AND OBJECTIVES

After studying this lesson student should be able to:

- Know the concept of Old Tax System
- Understand the different types of Taxes in India
- Importance of GST in India

STRUCTURE

2.1. Introduction
2.2. Types of Taxes
2.3. Direct Taxes and Indirect Taxes in India
2.4. Different Types of Indirect Taxes in India
2.5. Features of Indirect Taxes
2.6. Benefits of Indirect tax
2.7. Disadvantages of Indirect Tax
2.8. Direct Tax Vs Indirect Tax
2. 9. Who is Eligible to Pay Indirect Tax?
2.10. GST as Indirect Tax
2.11. Advantages of GST in India
2.12. Disadvantages of GST in India
2.13. A Detailed Breakdown of the Procedure for Filing the Tax
2.14. Summary
2.15. Technical Terms
2.16. Self Assessment Questions
2.17. Suggested Readings

2.1. INTRODUCTION

a) Background of Taxation System in India: The taxation system in India traces its roots to ancient texts like Manusmriti and Arthashastra. As prescribed by these texts, artisans, farmers, and traders hundreds of years ago would pay taxes in the form of silver, gold and agricultural produces. Taking clues from these texts and with some added tweaks, the basis for the modern tax system in India was laid by the British when Sir James Wilson introduced income tax in 1860. At the time of independence, the newly-formed Indian Government cemented the system to catalyze the economic progress of the country and also to eradicate income and wealth disparity.

b) Meaning of Tax: Tax is a compulsory payment to be made by every resident of India. It is a charge or burden laid upon persons or the property for the support of a Government. Government decided the rates and the items on which tax will be charged, like income tax, GST, etc Tax can be defined in very simple words as the government's revenue or source of income. The money collected under the taxation system is put into use for the country's development through several projects and schemes. > The Indian Constitution authorizes the Central and the State Governments to levy taxes. > The Parliament passes laws to approve taxes collected by the Central Government. In the case of the State Governments, the State Legislature holds this power. > By the State Government: Also, the local governing and civic bodies too have the right to levy certain taxes.

2.2. TYPES OF TAXES

There are four ways to classify different types of taxes in India: 1. Taxes Levied by the Central Government and State Governments 2. On the Basis of Relationship between Tax Base and Tax Rates 3. On the Basis of Method of Assessment 4. On the Basis of Incidence and Impact of Taxes.

2.2. a. Taxes Levied by the Central Government and State Governments
By the Central Government: These include Income taxes, GST, Customs duties, Corporation taxes, Excise duties, Estate duty and more
By the State Government: These include State GST, Excise on Liquor, VAT(value Added Tax) on Petrol & Diesel, Tax on Agricultural Income, land revenues, tolls and more.
By the Local Civic Bodies: Municipal corporations and other local governing bodies collect taxes like property taxes, Water Taxes, etc.

2.2. b. On the Basis of Relationship between Tax Base and Tax Rates: On this basis the Taxes are classified into Four types, such as;
Proportional Tax**:** A proportional tax, also referred to as a flat tax, impacts low-, middle-, and high-income earners relatively equally. They all pay the same tax rate, regardless of income. Taxes which very in direct proportion to the change in Tax Bases. The Tax base could be income, Value of Goods and Value of Wealth or Property. Example: Wealth Tax and Sales Tax. > ***Progressive Taxes****:* A progressive tax has more of a financial impact on higher-income individuals and businesses than on low-income earners. That means A progressive tax imposes a greater percentage of taxation on higher income levels, operating on the theory that high-income earners can afford to pay more. Example: Income Tax . On the Basis of Relationship between Tax Base and Tax Rates.
Regressive Taxes: Low-income individuals pay a higher amount of their incomes in taxes compared to high-income earners under a regressive tax system because the government assesses tax as a percentage of the value of the asset that a taxpayer purchases or owns. This type of tax has no correlation with an individual's earnings or income level. Example: Taxes on Goods & Services, Such as GST, Excise Duty, etc.
Digressive Taxes: A tax is called Digressive when the rate of progression in taxation does not increase in the same proportion as the income increases. In this case, the rate of tax increases up to certain limit, after that a uniform rate is charged and become constant.

2.2. c. On the Basis of Method of Assessment: On this basis, taxes are classified into two types, Such as; > ***Specific Duty*****:** Taxes levied according to some unit of a product is called as Specific Duty. For example, Excise Duty on cigarettes are levied on the basis of length of the cigarettes. > ***Ad-Valorem Tax*****:** Taxes levied on the basis of value of the goods is called as Ad-Valorem Duty. It is generally expressed in percentage form.

2.2. d. On the Basis of Incidence and Impact of Taxes: Before discussion on the types of taxes in this basis, you have to understand the meaning of two important terms, i.e. 'Incidence' and 'Impact' of Tax are as follows; Incidence of Tax: Incidence of Tax means the first burden of tax. Incidence of tax falls on a person on whom the tax levied for the first time. Incidence of tax can be shifted to another person. Impact of Tax: Impact of tax means the ultimate/final burden of tax. Impact of tax falls on the person who ultimately bears the burden of tax, i.e. the Consumer. On the basis of incidence and impact of tax, a tax can be either, 'Direct Tax' or 'Indirect Tax' On the Basis of Incidence and Impact of Taxes

Direct Taxes*:* The individuals directly pay these taxes to the respective governments. In this case the both Incidence and Impact will fall in a single person, i.e. an assesse. The most notable examples include Income tax, Capital gains tax, Corporate tax, Wealth Tax and Securities transaction tax.

Indirect Taxes: These taxes are not directly paid to the governments but are collected by the intermediaries who sell or arrange products and services. In this case, the Incidence and impact of taxes will fall on two different persons. GST (Goods and Service Tax), Service tax, sales tax, octroi, customs duty, value-added tax, and excise duty, customs duty, are some of the top examples

2.3. DIRECT TAXES AND INDIRECT TAXES IN INDIA

Tax is a mandatory fee imposed upon individuals or corporations by the Central and the State Government to help build the economy of a country by meeting various public expenses. Taxes are broadly divided into two categories- Direct and Indirect taxes. The taxes collected by the Indian Government can be categorized into Direct and Indirect Taxes. Direct Taxes are broadly the taxes which are levied on the Income, revenue or profits earned by an individual or firm, for instance, Income tax, Surcharge, and Gift Tax. These are implemented and governed by the Central Board of Direct Taxes (CBDT). Indirect tax is a type of tax that is passed on to another individual or entity. Indirect taxes are generally levied on a manufacturer or supplier who then passes that tax to the final consumer. Examples of indirect taxes include sales tax, entertainment tax, excise duty, etc. These are levied on the sellers of goods or the providers of service, where it is passed on to the end consumer in the form of service tax, excise duty, entertainment tax, custom duty etc. One of the common examples of an indirect tax is the excise tax imposed on alcohol.

2.3. a. Direct Taxes In India:

It is a tax levied directly on a taxpayer who pays it to the Government and cannot pass it on to someone else. Some of the important direct taxes imposed in India are mentioned below:

i. Income Tax- It is imposed on an individual who falls under the different tax brackets based on their earnings or revenue and they have to file an income tax return every year after which they will either need to pay the tax or be eligible for a tax refund.

ii. Corporate tax- Companies incorporated or having operations in India have to pay tax to the government. They need to pay tax on the profits earned from the business. Unlike, income tax slab rates of individuals, the companies have to pay tax at flat rates prescribed by the government.

iii. Securities Transaction Tax (STT)- STT is a tax levied while dealing with securities listed on a recognised stock exchange. It is an amount that is levied over and above the trade value, and hence, it increases the transaction value.

iv. Estate and Wealth taxes are now abolished.

Advantages of Direct Taxes: Direct taxes do have a certain advantage for a country's social and economic growth. To name a feW,

i. It curbs inflation: The Government often increases the tax rate when there is a monetary inflation which in turn reduces the demand for goods and services and as a result of descending demand, the inflation is bound to condense.
ii. Social and economic balance: Based on every individual's earnings and overall economic situation, the Government has well-defined tax slabs and exemptions in place so that the income inequalities can be balanced out.
Disadvantage of Direct Taxes Direct taxes come with a handful of disadvantages. But, the very time-consuming procedures of filing tax returns is a taxing task itself.

2.3. b. Indirect Tax in India
Indirect tax is defined as the tax imposed by the government on a taxpayer for goods and services rendered. Unlike direct taxes, indirect tax is not levied on the income, revenue or profit of the taxpayer and can be passed on from one individual to another. Custom Duty is to be paid by an importer or exporter for the goods imported or exported out of India. Excise Duty is levied on goods which are manufactured in India. Till 30 June 2017, most of the goods came under its net. Later, GST was introduced which subsumed Excise duty. But there are some goods that still fall under the excise laws such as tobacco products, aviation turbine fuel, natural gas, high-speed diesel and petroleum crude. Goods and Services Tax (GST) refers to the tax on supply of goods or services that must be paid by individuals or businesses who have a turnover more than the prescribed limit.
i. Indirect Tax: An indirect tax is collected by one entity in the supply chain, such as a manufacturer or retailer, and paid to the government; however, the tax is passed onto the consumer by the manufacturer or retailer as part of the purchase price of a good or service. The consumer is ultimately paying the tax by paying more for the product.
ii. Understanding an Indirect Tax: Indirect taxes are defined by contrasting them with direct taxes. Indirect taxes can be defined as taxation on an individual or entity, which is ultimately paid for by another person. The body that collects the tax will then remit it to the government. But in the case of direct taxes, the person immediately paying the tax is the person that the government is seeking to tax. Excise duties on fuel, liquor, and cigarettes are all considered examples of indirect taxes. By contrast, income tax is the clearest example of a direct tax, since the person earning the income is the one immediately paying the tax. Admission fees to a national park are another clear example of direct taxation. Some indirect taxes are also referred to as consumption taxes, such as a value-added tax (VAT).
iii. Regressive Nature of an Indirect Tax: Indirect taxes are commonly used and imposed by the government in order to generate revenue. They are essentially fees that are levied equally upon taxpayers, no matter their income, so rich or poor, everyone has to pay them. But many consider them to be regressive taxes as they can bear a heavy burden on people with lower incomes who end up paying the same amount of tax as those who make a higher income. For example, the import duty on a television from Japan will be the same amount, no matter the income of the consumer purchasing the television.4 And because this levy has nothing to do with a person's income, that means someone who earns $25,000 a year will have to pay the same duty on the same television as someone who earns $150,000; clearly, a bigger burden on the former. There are also concerns that indirect taxes can be used to further a particular government policy by taxing certain industries and not others. For this reason, some economists argue that indirect taxes lead to an inefficient marketplace and alter market prices from their equilibrium price.
iv. Common Indirect Taxes: The most common example of an indirect tax is import duties. The duty is paid by the importer of a good at the time it enters the country. If the importer goes on to resell the good to a consumer, the cost of the duty, in effect, is hidden in the price that the consumer pays. The consumer is likely to be unaware of this, but they will nonetheless be indirectly paying the import duty. Essentially, any taxes or fees imposed by

the government at the manufacturing or production level is an indirect tax. In recent years, many countries have imposed fees on carbon emissions to manufacturers. These are indirect taxes since their costs are passed along to consumers. Sales taxes can be direct or indirect. If they are imposed only on the final supply to a consumer, they are direct. If they are imposed as value-added taxes (VATs) along the production process, then they are indirect.

Indirect tax is the tax levied on a person upon consumption of goods and services. Indirect tax is not directly levied on the income of a person. He needs to pay the tax in addition to the actual price of goods or services purchased by the seller. Indirect is a tax that is passed on to another person. Generally, indirect tax is levied on sellers who pass it on to the final consumer. In indirect taxes, the person on which the burden falls and the person who pays the tax are different. The sellers are required to pay these taxes to the government (e.g., manufacturers, retailers,). But since they sell goods to the consumers, they pass the burden of paying the tax to you. Thus, when you purchase goods, you pay the amount inclusive of tax to the seller. The seller then pays the tax to the government.

v. Indirect Tax Examples: Examples of indirect taxes are excise tax, VAT (Value added tax), service tax, custom duty, sales tax, entertainment tax and Securities Transaction Tax. Illustration Indirect tax**:** Suppose you go out for dinner. In the bill, you may see your total amount plus the GST (Indirect tax). Let's say the bill was Rs 2000 and the GST rate is 5%. Then you will have to pay 2000+100=2100. This Rs 100 is the indirect tax that is passed on to you by the service provider.

2.4. DIFFERENT TYPES OF INDIRECT TAXES IN INDIA

There are different types of indirect taxes in India. Listed below are some popular examples of indirect taxes, explained in brief:

1. Service Tax: Service tax is applicable on the services provided by a company and paid by the recipient of their services, collected by and deposited with the central government.

2. Value Added Tax: Value added Tax, popularly known as VAT, is levied on the sale of movable goods or goods sold directly to the customers. VAT is exacted by the respective state governments on intra-state sales.

3. Excise Duty: Excise duty is levied on the goods produced or manufactured in India, paid by the manufacturers of different goods. Excise duty is often recovered from the customers.

4. Custom Duty: Custom duty is applicable on the goods which are imported into India from other countries. In some cases, it is also levied on the goods being transported out of India.

5. Entertainment Tax: Entertainment tax is levied on all financial transactions related to entertainment such as movie shows, amusement parks, video games, arcades, and sports activities, and is charged by the respective state governments.

6. Stamp Duty: Stamp duty is levied on the transfer of immovable property located within the state, and is charged by the State Government and may vary in rates. It is also applicable on all legal documents.

7. Securities Transaction Tax: Securities Transaction Tax is levied at the time of trade of securities through Indian Stock Exchange.

2.5. FEATURES OF INDIRECT TAXES

In India, there are many different Indirect Taxes which are applicable on different kinds of goods, imports, manufacturing and services. Indirect Tax has some defining characteristics. These are as follows:

1. Charged on Commodities: Indirect taxes are charged on material things such as goods and services. These are not levied on the income you earn.
2. Shifts the Burden of Tax: Sellers of the goods are required to pay the indirect taxes to the government. But they transfer the liability to their consumers.
3. Tax Evasion: Indirect taxes are already included in the price of the commodities. Thus, when you buy goods or a service, you automatically pay your share of the tax. This can thus help to reduce tax evasion.
4. Paid by the Consumer: The liability of indirect tax is passed on by the sellers to the consumers. This tax is thus charged at the point of sales and is paid by the customers.
5. Revenue for Government: Since this type of tax cannot be easily evaded and is applicable on most of the commodities, it serves as a major revenue source for the govt. Its contribution is higher than the direct tax.
6. Consumer is not Directly Affected: The main cause of direct tax evasion is that it is charged on the income directly. Indirect taxes face no such problem as they are not directly affected.

2.6. BENEFITS OF INDIRECT TAX

Indirect tax provides many benefits which are not available in the case of direct taxes.
1. Helps Maintain Equity: Indirect taxes are very equitable. The tax depends on the cost of the goods. The higher the price of the goods the more can be the indirect taxes involved. Thus, the people who can purchase high-priced goods pay higher indirect taxes.
2. Easy to Pay/Collect: Indirect taxes are easy to pay for both taxpayers and the authorities. For the tax-payers: While making payment of direct taxes, you need to file an income tax return statement, though it can be done by yourself, it generally requires a Chartered Accountant. But in case of Indirect Taxes, there is no such need as it is paid when you purchase a good.
For Authorities: It is easier to collect for the authorities. This is because the taxes are collected in the shop, factories themselves.
3. Convenient: While calculating the income, there are 5 heads to go through. It should include all the earnings you have made; this is the reason why people evade income tax. But indirect taxes provide you convenience as these are collected on point of sales, i.e., when you purchase.
4. Limit Harmful Consumption: Commodities that are harmful to our health such as tobacco, wine, etc include the highest indirect tax. This makes them highly expensive. The high cost of goods helps limit their consumption.
5. Has a Broader Scope: Indirect taxes are levied on a range of products and services. It is not the case that some brands incur taxes and some don’t. Also, unlike direct taxes, where it is a one-time payment that is high, indirect taxes are paid as and when you purchase and are much smaller in amount.

2.7. DISADVANTAGES OF INDIRECT TAX

Despite having many advantages, Indirect taxes have some limitations also. It has the following disadvantages of Indirect Taxes.
1. Can be Regressive: Regression is a state which pushes a country backward. Indirect taxes are regressive as they are the same for the commodities. Thus, it doesn’t matter you are rich or poor, you pay the same tax. Thus, if you have a lower income, a larger proportion will go towards indirect tax, making your income even lesser.

2. Can be Inflationary: If the indirect taxes are increased by the government, the sellers will add higher charges to their products, this will increase the prices of goods. Thus, it can lead to inflation.
3. Discourage Industries: Indirect taxes when are levied on the raw materials, will make them costly, this can discourage the industry owners to make the product. This can also affect the competitiveness of the market.
4. Unpredictable Revenue: The indirect tax collection is not fixed. It depends on the purchase of goods and services. Thus the government cannot be certain of how much revenue will come through the indirect tax.

2.8. DIRECT TAX VS INDIRECT TAX

1. Meaning: Direct Taxes are the taxes in which the incidence and impact falls on the same person/assesse Indirect Taxes are such type of taxes where incidence and impact fall on two different persons.
2. Nature of tax: Direct Tax is progressive in nature. Indirect Taxes are regressive in nature.
3. Taxable Event: Taxable Income / Taxable Wealth of the Assessees. Purchase / Sale / Manufacture of goods and /or rendering of services.
4. Levy & Collection: Levied and collected from the Assessee. Levied & collected from the consumer but paid / deposited to the Exchequer by the Assessee / Dealer.
5. Shifting of Burden: Tax Burden is directly borne by the Assessee. Hence, the burden cannot be shifted. Tax burden is shifted to the subsequent / ultimate user.
6. Tax Collection: Tax is collected after the income for a year is earned or valuation of assets is determined on the valuation date. At the time of sale or purchases or rendering of services.
7. Tax Evasion: Comparatively more because of presence of Unorganised sector. Comparatively less because of presence of organised sector.
8. Administered by: Direct Tax is administered by Central Board of Direct Taxes (CBDT) Indirect Tax is administered by Central Board of Indirect Tax & Customs (CBIC). It is formerly known as Central Board of Excise & Customs (CBEC).

2.9. WHO IS ELIGIBLE TO PAY INDIRECT TAX?

The inception of Goods & Services Tax (GST) has consumed almost all the indirect taxes prevailing in India before this. Let us take a look at the parties who are eligible to pay GST.
1. Goods & Services Tax (GST): It stands for Goods and Services Tax. It came into action on 1st July 2017 and has been used since. In India, there is a slab system under which several rates of GST are there. Each commodity can be put in a specific slab. GST is levied on the supply of the goods. If you buy a product, then you have to pay GST based on the slab rate the product falls in. If you run a business and your turnover exceeds Rs 20 lakhs per year, then also you are eligible to pay GST. Though GST has replaced all the previous taxes, there are still some taxes prevailing. There are some taxes that are still active. Each of these taxes is required to be paid by different parties.
2. Customs Duty Tax: If you are involved in international trading then you are eligible to pay customs duty. This is a tax that is charged on the goods that need to be transported outside of your country.
3. Excise Duty: Though GST has replaced this tax, but there are still some commodities that are charged with excise duty. These commodities are Liquor, petroleum, fuel, etc. Excise is levied at the time when the goods are removed from the warehouse.

2.10. GST AS INDIRECT TAX

As there are many different types of indirect taxes levied on the expense incurred by a buyer, the government has made an effort to simplify the taxing process and merged all these indirect taxes into a common indirect tax called the Goods and Service Tax (GST). Merging of all these taxes has reduced the hassles of compliances associated with all these indirect taxes, improving tax governance in the country. Introduced in 2017, the GST has eliminated the cascading effect of multiple taxes. With the implementation of GST, we have already witnessed a number of positive changes in the fiscal domain of India. The various taxes that were mandatory earlier are now obsolete, thanks to this new reformed indirect tax. Not just that, GST is making sure the slogan "One Nation, One Tax, One Market" becomes the reality of our country and not just a dream. That said, with the dawning of the 'Goods & Services Tax (GST), the biggest relief so far is clearly the elimination of the 'cascading effect of tax' or the 'tax on tax' quandary. Cascading effect of tax is a situation wherein the end-consumer of any goods or service has to bear the burden of the tax to be paid on the previously calculated tax and as a result would suffer an increased or inflated price. Under the GST regime, however, the customer is exempted from the tax they would otherwise pay as a result of the cascading effect.

2.10.1. GST Benefits: The implementation of GST in India has helped businesses and industry in a very positive way. The benefits of GST in India have been experienced by many. The companies that have a turnover of up to ₹75 lakh can benefit from the various composition schemes provided under the GST act. They now need to pay only 1% of their turnover. Hence, the taxation process has been simplified for them. GST has helped decrease corruption and regulates the businesses that deal in sales without receipts. GST has also helped decrease taxes on certain products like cars and smartphones, ranging from 2% to 7.5%.

2.10.2. Advantages and Disadvantages of GST in India: When the Goods and Service Tax Act was initially introduced in the country, it was hailed as the greatest tax reform. The aim of the GST (Goods and Service Tax) act is to decrease the quantity of indirect taxes and to unify the Indian market. Following the implementation, the Government has received numerous feedback about the advantages and disadvantages of GST. Regardless, the taxpayers can make an informed decision whether the new regime is beneficial or not by weighing the advantages and disadvantages of GST in depth.

2.11. ADVANTAGES OF GST IN INDIA

The following points explain the advantages of GST: Here are some of the advantages of GST: Removal of the cascading effect of tax (tax on tax effect)- Lower cost of compliance- Simplified online process for GST- Improves efficiency in logistics- Regulation of the unorganized sector- Composition scheme for small businesses- Allows a higher number for registration.

i. GST Put an End to the Cascading Effect of Tax: GST is an all-inclusive indirect tax that was introduced with the vision of bringing all the indirect taxes under one umbrella. As a result, this helped in eliminating the cascading effect that was prevalent in the previous tax structure. Let's take a look at the below example to better understand what cascading effect is and how the GST helped change it:

ii. Previous Tax Regime: Let's assume that a supplier is offering his services for Rs. 50,000 and is charging a service tax of 15% (50,000 x 15% = Rs. 7500). Now say, he also buys supplies for his office for Rs. 20,000 and pays 5% as VAT (20,000 x 5% = 1000). This means that the supplier had to pay an output service tax of Rs. 7500 and did not receive a deduction of the VAT that he paid. This brings his total outflow to Rs. 8500.

iii. Under GST Regime: This is what the suppliers will look under the new GST regime: GST of service of Rs. 50,000 at 18% Rs. 9,000 (-) GST paid on office supplies at 5% Rs. 1,000 Net amount to be paid as GST Rs. 8,000

iv. Lesser Compliance to be Followed: Before the GST act was implemented in 2017, we had several different indirect taxes. Naturally, there were various compliance rules associated with each of these taxes which made things complicated. Since the implementation of the new tax regime, there is only a single unified return to be filed by the taxpayers. The GST has around 11 returns, only 4 of which are basic taxes that apply to all the registered taxpayers regardless of their business type. For ease of filing these returns, only the main GSTR-1 is manually populated while GSTR-2 and GSTR-3 are automatically populated.

v. Greater Threshold for Registration: During the VAT structure, a business having an annual average turnover of more than Rs. 5 lakh was liable to be taxed. The thing to note here is that this limit varies in different states of the country. Further, business entities with turnover less than Rs. 10 lakh were exempt from paying service tax. Under the GST tax structure, this threshold has been raised to Rs. 20 lakh, which eases the pressure from many small businesses.

vi. Improved Efficiency of Logistics: Under the GST Act, the restrictions on inter-state movement of goods have been vastly reduced. Prior to this, the logistics industry was having to maintain multiple warehouses across states in order to avoid the related state entry taxes and CST. Further, companies were forced to operate these warehouses below their capacity, which led to an increase in operating costs. The implementation of GST meant that the restriction on inter-state movement of goods has been relaxed. As a result of these changes, companies and warehouse operators are now encouraged to set up warehouses in more strategic locations rather than every other city on their usual delivery route. This has greatly reduced unnecessary logistics costs and in improving the profit of businesses involved in the supply of goods.

vii. Easy Online Procedure: With the advent of modern technology, everything has gone online. The online world has made things easier for all of us. GST has also followed these tracks and has a dedicated online portal. The entire process of registration to filing returns can be done online in a very convenient way. This has greatly benefited start-ups as they do not need to go from one place to another to get various registrations such as VAT, service tax, and excise.

Growth in India's GDP: It is believed that the implementation of GST would lead to an increase in the GDP of the country. A positive impact has been seen on the GDP.

Another additional advantage of GST is that it would decrease the plausibility of tax evasion in the country.

2.12. DISADVANTAGES OF GST IN INDIA

The following are some of the drawbacks of the GST Act:

i. Increased Software Costs: Before the GST regime, most businesses in India used a simple ERP or accounting software to handle their daily operations. These software and solutions were formulated in accordance with the then-existing tax laws and structures. With the implementation of GST, businesses are now required to upgrade to more expensive GST-compliant software or specialized GST software. This means an increase in operational costs in the form of software purchases and the associated training to employees.

ii. Increased Tax Burden on SMEs: One of the main disadvantages of GST is that it has increased the tax liabilities on small to medium-sized businesses. This is so because, under the previous tax regime, excise had to be paid by businesses having an annual turnover of more than Rs. 1.5 crores. However, under the new tax structure, any business with an aggregate annual turnover of more than Rs. 20 lakh is liable to be taxed. However, this tax structure offers a composition scheme for SMEs that have a turnover of less than Rs. 1 crore. Under this scheme, SMEs are obligated to pay only 1% of their annual turnover. However, if a business decides to use this composition benefit, it cannot claim the input tax credit.

iii. Difficult Migration to Online Filing System: Since the new tax structure came into effect, almost every aspect of the tax is handled online- from registration to submitting tax returns. With the advent of modern-day technology, the adoption of digital solutions by businesses is gradually increasing. However, little space is dedicated to such solutions for small businesses. Although the online system introduced by the government is very convenient for business owners, it still has a steep learning curve that can prove to be challenging for small businesses.

iv. Compliance Burden: Under the new taxation system, companies now have to register with GST in all the states that they operate in. As a part of the registration process, businesses must issue GST-compliant invoices, maintain electronic records, and file returns. The cost of all these services has massively increased the burden on the small and medium businesses in the country. Further, several businesses find it difficult to adapt to GST because the infrastructure of all Indian states is not ready to implement e-governance.

v. Loss in the real estate sector: There has been a major impact on the real estate market due to the implementation of the GST. It has led to an 8% increase in the price of the real estate sector. This has led to a 12% decrease in the demand for properties. But it might also be a short-term trend and might not last forever.

vi. In a nutshell: In conclusion, we would like to say that change is slow, always has, and always will be. The government is actively trying to tackle all the drawbacks that they have faced with the GST. It is important to note that all the global economies that have implemented the GST before us have also faced similar starting troubles. These economies have also found a way to overcome the hurdles to enjoy the advantages of GST.

2.13. A DETAILED BREAKDOWN OF THE PROCEDURE FOR FILING THE TAX

GST is imposed at every point of supply. Also, State GST and Central GST are applicable when intra-state sales take place. However, in the case of inter-state sales, an Integrated GST is applicable. Since its implementation, GST has been able to remove the ‘cascading effect or the 'tax on tax' dilemma in the country. With the elimination of the tax on tax quandary, the markets have witnessed a considerable drop in prices. Also, with GST being more of a technology-driven process, the need for a physical interface has been brought down considerably. An online GST portal which allows registration, GST return filing, application for refund ensure a smooth and transparent GST filing process. It is a tax levied by the Government on goods and services and not on the income, profit or revenue of an individual and it can be shifted from one taxpayer to another. Earlier, an indirect tax meant paying more than the actual price of a product bought or a service acquired. And there was a myriad of indirect taxes imposed on taxpayers. Goods and Service Tax (GST), Customs Duty- , Central Excise Duty, Service Tax, Sales Tax, Value Added Tax (VAT).

2.14. SUMMARY

After studying this lesson student should be able to Know the concept of Old Tax System Understand the different types of Taxes in India and Importance of GST in India such as: Introduction is covered meaning of Tax and Different Types of Taxes in India. Further it is emphasised on Direct Taxes vs Indirect Taxes. It is also revealed that different types of indirect taxes, Features of Indirect Taxes and Importance of GST in India. This lesson is

almost emphasized on the drawbacks of old tax system in India. Earlier, an indirect tax meant paying more than the actual price of a product bought or a service acquired. And there was a myriad of indirect taxes imposed on taxpayers. **Goods and Service Tax (GST)** is one of the existing indirect tax levied in India. It has subsumed many indirect tax laws. Let's discuss a few indirect taxes that were earlier imposed in India: **Customs Duty-** It is an Import duty levied on goods coming from outside the country, ultimately paid for by consumers and retailers in India. Central Excise Duty, Service Tax, Sales Tax, Value Added Tax (VAT).

2.15. TECHNICAL TERMS

Direct Taxes: Direct taxes refer to taxes that are filed and paid by an individual directly to the government. Indirect taxes, on the other hand, are taxes that can be transferred to another entity. Therefore, the burden of paying them can be put on another person's shoulders. Direct taxes can be evaded in the absence of proper collection administration. Indirect taxes: An indirect tax is collected by one entity in the supply chain, such as a manufacturer or retailer, and paid to the government; however, the tax is passed onto the consumer by the manufacturer or retailer as part of the purchase price of a good or service. The consumer is ultimately paying the tax by paying more for the product. Indirect taxes cannot be escaped from because these are charged automatically on goods and services.

Customs Duty- It is an Import duty levied on goods coming from outside the country, ultimately paid for by consumers and retailers in India. Central Excise Duty– This tax was payable by the manufacturers who would then shift the tax burden to retailers and wholesalers.

Service Tax– It was imposed on the gross or aggregate amount charged by the service provider on the recipient. Sales Tax– This tax was paid by the retailer, who would then shifts the tax burden to customers by charging sales tax on goods and service. Value Added Tax (VAT) – It was collected on the value of goods or services that were added at each stage of their manufacture or distribution and then finally passed on to the customer.

2.16. SELF ASSESSMENT QUESTIONS

1. What is the meaning of Tax
2. Explain the Different Types of Taxes in India.
3. Distinguished between Direct taxes and Indirect Taxes.
4. What are the the drawbacks of old tax system in India.
5. What are the Features of Indirect Taxes and also reveals the merits and demerits of Indirect Taxes
6. What is the Importance of GST in India.

2.17. SUGGESTED READINGS

1. Goods and Services Tax in India- Notifications on different dates
2. GST Bill 2012
3. The Central Goods and Services Tax Act, 2017, No.12 of 2017, Published by Authority, Ministry of Law and Justice, New Delhi, 12 April, 2017
4. Background Material on Model GST Law, Sahitya Bhavan Publications, Hospital Road, Agra-383 003

Dr. Krishna Banana

LESSON-3
TAX REFORMS & CONSTITUTIONAL AMENDMENTS

AIMS AND OBJECTIVES

After studying this lesson student should be able to:

- Know the concept of Tax reform and Types of Tax Reforms
- Explain the Objectives of Tax reform
- Understand the various tax avoidance strategies
- Importance of Constitutional Amendments

STRUCTURE

3.1. INTRODUCTION

Tax reform: Tax reform, as the name suggests, is a kind of reform made in the tax system of a nation that can help the government of the same in minimizing the chances of tax evasion and avoidance. It brings sustainability in the revenue levels, addresses issues and conflicts concerning inequality employing behavior change and redistribution, and also aids in the development of a nation. Tax reform is a policy implementation by the government through which few alterations are made into the tax system in order to overcome the loopholes and enhance the effectiveness of the tax administration in the country in order to generate higher revenues from taxes as compared to the overall spending.

a) Purpose: Tax reform is introduced for multiple purposes. The first and foremost purpose is to minimize the slightest of probabilities of avoidance and evasion of the tax from the economy. Another purpose is to induce a higher rate of sustainability in the revenue levels and directing the public investments into desired avenues by means of providing tax deductions, tax breaks, and tax exemptions. The ultimate purpose is to enhance the overall functioning of the tax system and bring economic growth in the country.

3.2. OBJECTIVES OF TAX REFORMS

Tax reform is introduced to fulfill multiple objectives. It aims at improving the efficiency of the tax administration and allowing it to become more systematic by:

i) Decreasing the marginal tax rates.
ii) Lowering the tax implication of savings and investment;
iii) Lowering the occurrence and probabilities of tax avoidance and tax evasion;
iv) Lowering the total number of tax defaulters;
v) Improving economic decision-making;
vi) Lowering the cost involved and time required to organize, plan and implement the change in the tax system;
vii) Uniform treatment in the case of industries, investments, and properties.

Need for Tax reform: There has always been an undying need for the changes in the tax system. The collection of taxes is necessary for funding the services that are arranged and provided by the government of a country. The tax system must be efficient enough for the collection of a sufficient amount of revenues and boosting the economic growth of a country. No matter how systematic the tax system of a country is, the taxpayers will find a way by identifying and taking advantage of the loopholes in the system and avoiding/ evading taxes. As a result of this, the need has risen and ensures that the tax administration of a nation is totally organized.

3.3. TYPES OF TAX REFORMS

Basically three different types include**:**

3.3.1. Individual Income Tax Reform can be learned as a strategy that is used for eliminating the income expenditures and payroll taxes incurred by an individual.

3.3.2. Corporate Income Tax Reform can be learned as a strategy that is used for administering the corporate income taxes and avoid distortions that take place on account of special provisions and also boosts the economic growth and development of an economy.

3.3.3. Other Reform Proposals are used to create and introduce new types of taxes in the tax system for replacing or supplementing the current taxes.

Example: The introduction of Carbon taxes is one of the prominent examples of tax reform. Some of the people suggest that with the introduction of the carbon taxes in any economy, to two goals can be achieved that includes firstly the raising of the revenue of the government as the person who uses the carbon content of the fuel will have to pay the taxes to the government of the country, and another goal is discouraging the use of the carbon-intense energy as with this government is ultimately trying to reduce the negative effect of carbon content in the environment thereby creating positive environmental effects.

3.4. EFFECTS OF TAX REFORMS

The effects of such reform may not be the same for all taxpayers and economies too. On the one hand, It might enhance the functioning of the tax system while, on the other hand, it paves ways for political pressures that are short term in nature. These reforms have somehow contributed to the creation of certain tax incentives that has ultimately led to the distortion in the economy and have even marginalized not just the efficiency of the tax system but has also allowed it to become more fair and transparent as compared to what it used to be earlier.

3.4.1. Benefits:

i) Reduces marginal tax rates;

ii) Ensures that there is the same treatment for all, whether it’s a property, industry, or an investment.

iii) Tax reform ensures that the rate of tax evasion and avoidance gets lowered.

iv) It ensures that the tax structure gets fully organized.

v) It simplifies tax laws and encourages compliance.

vi) It widens the tax base and reduces per capita tax by dividing the tax burden by bringing more and more taxpayers under the umbrella.

3.4.2. Limitations:

i) Ignores the fact that it is the impact of the overall tax administration that is important and not just individual taxes.

ii) It makes the tax system more complicated.

iii) It ignores the fact that the slightest change in the tax system can have a huge impact on the masses.

3.5. TAX REFORM IN INDIA: ACHIEVEMENTS AND CHALLENGES

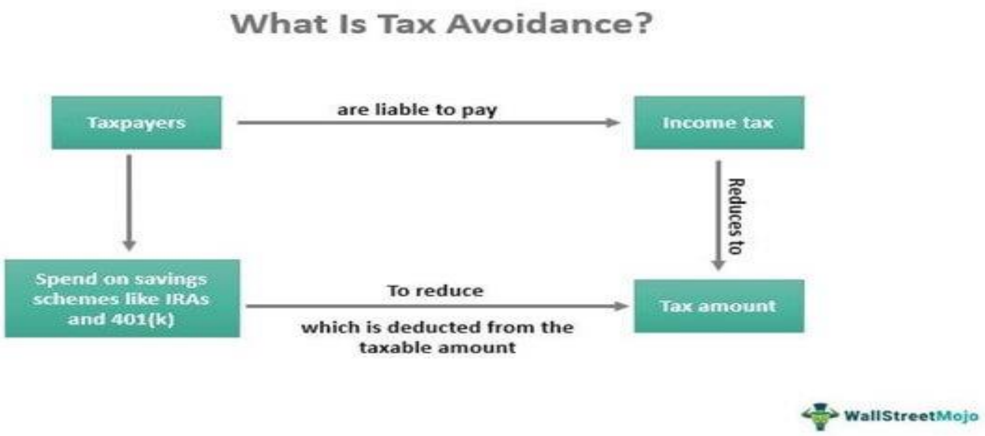
There have been major changes in tax systems in several countries over the last two decades for a variety of reasons. The objective of this paper is to analyse the evolution of the tax system in India since the early 1990s.The paper describes and assesses the introduction of new forms of direct and indirect taxes, their revenue and equity implications and the successes achieved in their implementation. The paper concludes that after eight years of reform improving the tax system remains a major challenge in India. There have been major changes in tax systems of countries with a wide variety of economic systems and levels of development during the last two decades. The motivation for these reforms has varied from one country to another and the thrust of reforms has differed from time to time depending on the development strategy and philosophy of the times. In many developing countries, the immediate reason fortax reforms, has been the need to enhance revenues to meet impending fiscal crises.

As Bird (1993) states, "…fiscal crisis has been proven to be the mother of tax reform" .Such reforms, however, are often ad hoc and are done to meet immediate exigencies of revenue. In most cases, such reforms are not in the nature of systemic improvements to enhance the long run productivity of the tax system. One of the most important reasons for recent tax reforms in many developing and transitional economies has been to evolve a tax system to meet the requirements of international competition (Rao 1992).

The transition from a predominantly centrally planned development strategy to market based resource allocation has changed theperspective of the role of the state in development. The transition from a public sector based, heavy industry dominated, import substituting industrialization strategy to one of allocating resources according to market signals has necessitated systemic changes in the tax system. In an export-led open economy, the tax system should not only raise the necessary revenues to provide the social and physical infrastructure but also minimize distortions. Thus, the tax system has to adjust to the requirements of a market economy to ensure international competitiveness.* Director, Institute for Social and Economic Change, Bangalore, India.

3.6. TAX AVOIDANCE

Meaning: Tax avoidance is the process of reducing the tax payable, given the deductions applicable to taxpayers. It helps reduce the tax burden of individuals and businesses, including major corporates. Avoiding taxes is a legal way of decreasing the tax liabilities of a citizen or business unit in an economy.



Tax avoidance is different from tax evasion, which involves illegal ways of getting rid of the tax responsibilities or conducting tax frauds. Though it is completely ethical to keep the taxes as minimum as possible using this avoidance process, it is still not recommended as it increases the tax burden for everyone else in the nation.

- Tax avoidance reduces the tax amount through deductions and tax credits as applicable to individual taxpayers.
- Some avoidance methods include spending on investments, claiming deductions and tax credits, starting a business, etc.

- When one person avoids tax, it automatically increases the tax burden for the rest of the population.
- It is an ethical and legal way of minimizing the tax burden, unlike tax evasion, involving the false representation of data for evading taxes.

3.6.1. How does Tax Avoidance Work?

Tax avoidance helps individuals and entities adopt legal ways of avoiding their tax liabilities. This is achieved through deductions and credits that an economy allows to the tax payers. In addition, individuals can prevent tax loads by making tax-advantaged investments, including 401(k)s and Individual Retirement Accounts (IRAs).

Every country has a specific tax law to determine the legal ways of tax avoidance. Depending on those provisions, the individuals and businesses decide how to lower their tax liabilities. The motive behind introducing the **tax avoidance schemes** is to encourage people's expenditure on different savings and other charitable initiatives, which people ignore most of the time.

In the attempt to pay less income tax, the individuals and entities try spending more amount into the savings schemes, deducting a portion of their taxable amount to a significant limit. The process is a legitimate way of reducing the tax burden, but it leads to reduced revenue collection for the governments of respective nations. As a result, the tax authorities have to impose extra tax liabilities on the rest of the population to compensate for the losses.

Though it is necessary for taxpaying individuals and businesses to adopt these legal means of avoiding taxes, some might take unfair advantage of it by implementing new ways of avoiding tax liabilities with respect to the legal limits.

3.7. METHODS / VARIOUS TAX AVOIDANCE STRATEGIES

There are various **tax avoidance strategies** to ensure taxpayers save on their income taxes and make their tax planning accordingly. Some of them have been listed below:

i. Savings: Spending on employer-sponsored savings schemes keeps individuals open to tax deductions. For example, IRAs help employees save a portion of their gross income to ensure a happy retirement life and let them enjoy significant tax benefits. For example, US citizens can contribute up to $ 19,000 to a 401(k) scheme if they are below 50 and up to $25,000 if they are 50 and above.

ii. Deductions: The expenses that remain non-reimbursed could be filed and claimed under the annual tax return. However, this applies to only a specific set of workplace expenses, which are a must for employees to keep performing. Some such expenses include union dues, tools, personal conveyances, etc.

iii. Investments: The governments allow deductions for investment in certain funds. For example, the mortgage payments are subject to offering tax benefits to the concerned investors. So, taxpayers must ensure making an investment that helps them enjoy some tax deductions. Home equity comes with tax-deductible interest. Individuals are allowed an amount to a limit, depending on their income, which could be used for annual deduction.

iv. Startup: One of the most efficient **tax avoidance methods** is to have a startup, as business expenses tend to offer huge tax benefits to individuals. This is because the tax authorities allow all the business-related expenses for tax deductions. However, no personal expenses are included.

v. Health Scheme: Expenditures made for paying health, medical, and dental premiums offer tax-deductible advantages to the insurance holders and their dependents. The Health Savings Account (HSA) is a plan that allows individuals to enjoy major tax benefits. One can make payments for health and medical expenses using the insurance coverage and add it to the tax deduction list.

vi. **Tax Credit:** The tax authorities let taxpayers claim for tax credits, which sometimes equate to a zero tax liability. This makes tax credit one of the best **tax avoidance types** for individuals and businesses. The Internal Revenue Service (IRS) has introduced multiple tax credits for taxpayers to claim. Some of these include the Earned Income Tax Credit, Advance Child Tax Credit, Energy Tax Incentives, Tax Relief in Disaster Situations, Federal Tax Deductions for Charitable Donations, etc.

3.8. TAX PLANNING

Tax planning or analysis is a lawful method to reduce tax liabilities over a calendar year by capitalizing on tax deductions, benefits, and exemptions. It assists the taxpayers in obtaining commercial security and retirement savings with the decreased fiscal burden. Nevertheless, tax planning for individuals does not include tax avoidance or tax evasion. You are free to use this image on your website, templates, etc., This certainly aids in the proper usage of full benefit via all favorable tax law provisions. Moreover, it has three types, i.e., purposive, permissive, and short and long-range tax analysis.

3.8.1. Meaning: Tax planning is a legal approach to lowering the tax burden through tax benefits, deductions, and exemptions. It has three types, i.e., permissive, purposive, and short and long-range. It assists the taxpayers in obtaining tax efficiency by adequately planning their expenses and accumulating retirement savings. The tax analysis strategies incorporate broadening the outlook, making annual affordable commitments, and evaluating post-tax returns. The objectives of tax analysis are decreased litigation, financial stability, economic expansion, lesser total tax burden, and profitable investment.

3.8.2. Tax Planning Explained: TTax planning implies evaluating the taxpayer’s financial condition and conceiving approaches to surge tax efficiency ethically, both in corporate and non-commercial industries. This certainly helps them plan their capital budget and expenditures better.

It is completely legitimate if tax planning for retirement is executed according to the regulatory framework and also helps save one’s inheritance. Nonetheless, utilizing questionable strategies like tax evasion is strongly discouraged and is liable to litigation. It has two major categories, namely, Corporate and Inheritance tax analysis.

Here, corporate tax planning refers to the cutback of the tax burden on a registered firm through employee health insurance, business transport, retirement planning, office expenses, etc. Contrastingly, Inheritance tax planning implicates the procedure of passing on the earnings of an estate to the selected beneficiary.

Corporate tax planning aids in decreasing direct and indirect tax liabilities during inflation. Conversely, inheritance tax planning lets the individuals draft a tax-efficient will so that the heirs can live a stress-free life.

Simply put, adequate corporate or uncommercial tax planning for individuals is an outcome of:

i. Attentiveness concerning court judgments and relevant tax laws
ii. Reporting of accurate details to pertinent IT divisions
iii. Flexible analysis to include potential forthcoming changes
iv. Incorporation of legalized tactics and not tax avoidance or evasion.

3.9. TYPES OF TAX PLANNING

To clarify, there are three types of tax planning for individuals:
i. Purposive: It indicates the planning of taxes with a specific aim.
ii. Permissive: This type of tax analysis is performed as per the regulations of the nation's taxation laws.
iii. Long-Range And Short-Range: Here, long and short-range tax planning for retirement is conceptualized at the beginning and end of a financial year, respectively.
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3.9.1. Tax Planning Strategies: Now, let's explore a few smart tax analysis strategies:
1. Make Inexpensive Yearly Commitments: As lucrative as it may sound, every insurance scheme is not worth the investment. Hence, taxpayers must only put their finances into a product or service that is both cheap and profitable in the long run. They must check their available funds to examine their affordability to retain the investment.
2. Analyze Post Tax Returns: While evaluating the tax returns, taxpayers must not let the profitable-yet-suspicious policies distract them. Please note that comprehending tax implications is of paramount importance. Rather, they must check out products with tax-free profits like Public Provident Fund (PPF) and Mutual funds.
3. Broaden The Outlook: Taxpayers must channel their annual returns into policies with long-term benefits. For instance, investing in long-term debt instruments assists them in leveraging the offered withdrawal alternatives. Then, they may reinvest the collected maximum tax-free capital amount in a financial vehicle like Equity Linked Savings Scheme (ELSS).

3.9.2. Tax Planning Objectives: Generally, the primary goals of tax analysis are: You are free to use this image on your website, templates, etc., please provide us with an attribution link

#1–***Financial Soundness***: Please note that the superior tax analysis of an entity is the ultimate testament to its monetary stability and accounting profits.
#2–***Decreased Litigation***: Appropriate tax analysis certainly assists avoid the usual disagreement between the taxpayers and tax collectors.
#3–***Minimal Gross Tax Burden***: Tax analysis undoubtedly lets the taxpayers exploit the available tax benefits, exemptions, and deductions. In addition, it helps arrange the taxpayers' commercial operations as per their tax decisions. As a result, it saves the maximum capital amount from being included in the tax liabilities.
#4–***Economic Expansion***: The growth of a nation is directly related to the development of its citizens. As tax analysis facilitates the flow of white money, it certainly boosts the country's fiscal standing.
#5–***Profitable Investment***: The more the taxpayers save on their tax liabilities, the more they can devote it to a profitable channel. That is to say, an entity with quality tax analysis can direct its earnings into productive investments or dividends. Consequently, this assists in smart investments with optimum utilization of the available resources.
Examples: For better understanding, here are some examples.

Example 1: Davina is the owner of a multinational toy manufacturing firm. First, she assesses the taxable aspects of her annual income ($20000) and computes the payable tax amount. Then, she invests in financial instruments with maximum tax benefits. She invests in PPFs, mutual funds, ELSS, and many other debt funds. Consequently, these investments lower her taxable pay amount by 40% ($8000). So, her tax liability over a fiscal year is now worth $12000.

Example 2: Proactive tax analysis certainly assists small enterprise owners in decreasing their tax liabilities. So here lies a few tax deductions to save the maximum amount of money- Health insurance premiums- Retirement plan contributions- Professional and legal services- Business marketing- Insurance premiums related to the business- Business-related automobile expenditures- Home office discounts- Taxes and licensing for the business- Office supplies- Self-employment tax- Cell phone

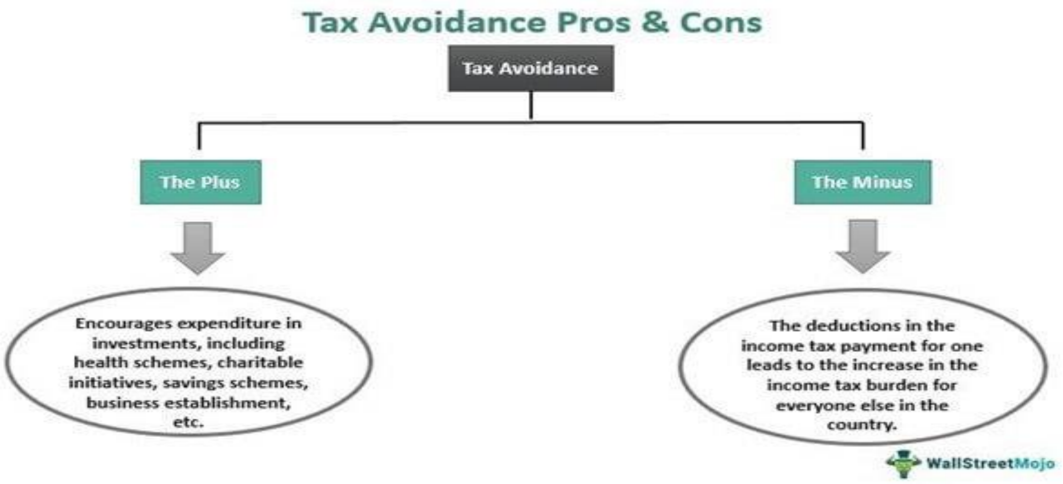
Example 3: Let us consider the following **tax avoidance examples** to understand the concept and the process better: Sarah had an average gross income and is left with a service tenure of 10 years. Hence, she decides to save for her retirement in the Saver's Credit account. Thus, she starts saving $1000 in the account for a financially stable retirement phase. This makes her eligible for a tax credit of up to half the contribution she made for the plan.

Example 4: Mr. X, Y & Z have the same gross income, but they pay different amounts of tax, and their take-home salaries also differ. The reason is the difference between their contributions to various accounts.

	Particulars	Mr. X	Mr. Y	Mr. Z
A	Gross Income	$70,000	$70,000	$70,000
B	Social Security	$6,000	$12,000	$18,000
C	Medicare	$7,000	$7,000	$7,000
D	State Tax	$320	$320	$320
E	FICA	$4,500	$4,500	$4,500
F = A -(B+C+D+E)	Taxable Income	$52,180	$46,180	$40,180
G = F*22%	Federal Tax	$11,480	$10,160	$8,840
H = F-G	Take Home Salary	$40,700	$36,020	$31,340

The table above shows that Mr. Y's take-home salary is reduced by $(40700-36020) = $4680 as he increases his contribution to the retirement funds by $6000. On the other hand, the take-home salary of Mr. X is more, but his retirement fund contribution is less, which would mean a lesser income during retirement. The comparison, however, is similar for Mr. Y and Mr. Z too. Again, this shows how a healthy contribution to retirement funds will mean a healthy amount after retirement while offering heavy tax deduction opportunities in the present.

3.9.3. Advantages



The benefits of the process are as follows:

i) Increases income and savings for individuals and business entities both for present and future
ii) Betters working capital
iii) Enhances savings tendency
iv) Offers tax shelter opportunities
v) Ethical way of fulfilling obligations

3.9.4. Disadvantages

The limitations that the process puts on tax authorities include the following:

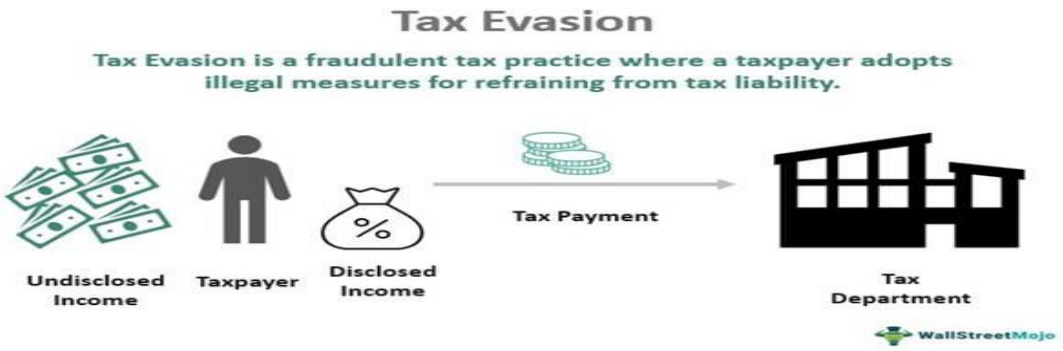
- Decreases government revenue
- Reduces nation's growth rate on the nation
- Increases government intervention
- Stricter tax policies
- More government-friendly than citizen-friendly.

3.9.5. Tax Avoidance vs Tax Exemption

Tax avoidance and tax exemption might sound similar, but they are different in many aspects. Though both the processes reduce the tax amount, they differ in legal terms. While tax avoidance is a legal way of reducing the tax to be deducted from the gross income, tax evasion is an unethical and illegal way of skipping tax payments.\ Individuals and businesses get an opportunity to avoid taxes by utilizing tax shelters. It means they are free to invest in tax-advantaged schemes and initiatives. On the contrary, evading taxes involves sandbagging techniques where individuals and institutions falsify deductions by underreporting the gross income.

3.10. TAX EVASION

Meaning: Tax Evasion is the practice of employing illegal means to intentionally escape tax liability. It involves misreporting income by either understating earnings, claiming ineligible deductions, or siphoning off money to secret foreign accounts. It is a criminal offense under the U.S. Internal Revenue Service (IRS) tax code and is punishable.



Thus, willfully evading taxes may result in imprisonment and penalties under federal law. Tax evasion must be distinguished from tax avoidance and tax planning. Though all techniques aim at reducing taxes, the former is illegal, while the latter approaches are legal. Tax planning is considered to be the most desirable approach to minimize taxes.

Tax evasion is a fraudulent tax practice where a taxpayer adopts illegal measures for refraining from tax liability. It is recognized as a criminal offense by the IRS, and the defaulter person or business entity has to bear strict consequences like penalty, imprisonment, or both. The various method adopted by taxpayers for evasion is submitting false tax returns, claiming incapable deductions and exemptions, transferring income to other accounts, etc. It is not the same as tax planning or tax avoidance, whereby taxpayers use legitimate means to save taxes.

3.10.1. Tax Evasion Explained: Taxes are charges levied by a government on the income of its citizens. It is an essential source of revenue for the government. With this money, the government funds infrastructure and other public work projects for the benefit of the general public. Thus, citizens can enjoy public goods in return for taxes. However, taxpayers may choose to evade taxes in order to save their personal income. In doing so, they continue to enjoy their share of public goods without contributing to it.

However, if many taxpayers start evading taxes, the government's revenue would reduce significantly, resulting in the unavailability of public goods and services. The absence of civic amenities would affect all the citizens of the country and even the economy.

Hence, the tax authorities see evading taxes as a crime. In the eyes of the law, it is a kind of tax fraud whereby a person or corporation acts illegally to avoid tax payments. Thus, the alleged individual or business entity has to bear severe legal consequences for committing such a crime.

Evading taxes cannot be considered as something that happens just by chance. The tax forms being a little complicated may lead to mistakes in filing. Thus, if the taxpayers file the taxes with some errors in the tax return forms, they are not guilty of any charges. However, if the IRS believes that the taxpayer made this mistake deliberately, then such an individual or company has to prove that it happened because of negligence and wasn't intentional.

If underpayment was just an error, then the taxpayer will be asked to pay the deficient amount with a nominal fine or interest on the due amount. If these fines are not paid then, criminal charges may be filed against them. However, if the alleged taxpayer fails to prove the same, the IRS can take serious action against them, including imprisonment and penalties.

3.10.2. Types of Tax Evasion

The IRS has identified the following two ways in which the tax evaders execute their unlawful practices:

1 – Evasion of Assessment: Tax evaders deliberately attempt to avoid the tax assessment by filing a false return. The fraudulent return hides income and claims inadmissible deductions. As a result, it leads to an incorrect assessment of the tax. Note that the act must be beyond the extent of just negligence to constitute evasion of assessment. If the person transfers taxable assets in the books to mislead IRS in tax assessment, it is also considered an attempt to evade the assessment.

2 – Evasion of Payment: If the taxpayer tries to hide the assets after the tax is due and owing, it is an apparent attempt to evade the payment. The various ways of avoiding tax payment include the concealment of the assessable assets or money in a family member's or foreign account so that the IRS couldn't find its clue. However, the inability to pay the due amount doesn't tantamount to evasion.

3.10.3. Tax Evasion Methods

Moving further, let us now discuss the various unlawful practices taken up by the tax evaders to refrain from paying taxes:

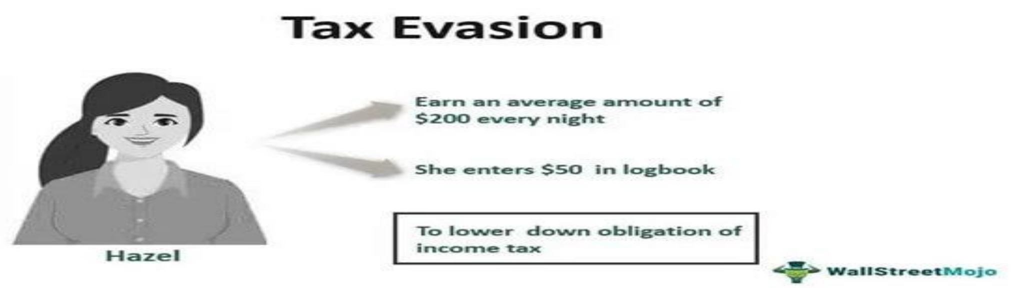
i. Maintaining incomplete or misleading financial statements
ii. Reporting income lower than what is earne
iii. Hiding information while filing the income tax return
iv. ustifying the false claims for exemption with counterfeit documents or evidence
v. Keeping money in foreign accounts or the accounts of family members, friends, or relatives

vi. Dealing in black money, smuggling goods from other countries, and offering a bribe to tax officials

vii. Deliberately not paying the tax dues on time even after receiving the warnings and legal notice

Tax Evasion Examples: *Hypothetical Example*: Hazel is the server at a very popular Chophouse. She earns on average an amount of $200 every night through tips. Unfortunately, the employer of Hazel does not keep any track of tips given to the servers as he relies on them to note down the same in the logbook. Hazel deliberately reports a small amount on her tax return that she mentioned in the employer's logbook. It averages an amount of $50 every night. It was an attempt to lower down the obligation of income tax expense.

According to the rules, the servers have to report the tips given to them as their income. Hence, tax liability exists. However, here Hazel misstated her income throughout the year, intending to evade tax obligations. As a result, she has committed a felony crime.



***Real-Life Example*:** A recent Bloomberg article reports a high-profile tax evasion case of a Russian Banker, Oleg Tinkov. On October 29, 2021, Tinkov was found guilty of submitting a false tax return, where he had not disclosed his enormous gains from the sale of his bank stocks. Moreover, he denied his naturalized U.S. citizenship (which he received in 1996, he was a Russian then) to trick the U.S. Treasury and the IRS.

All this began in 2013 when Oleg Tinkov formed a Russian bank that had no branches but offered online banking and financial services to its clients. The company was named Tinkoff Credit Services (TCS), and Tinkov held the majority of the company's shares.

On selling a chunk of its shareholding just after the IPO release, he received a sum exceeding $192 million. Three days later, he applied for the renouncement of his U.S. citizenship. He concealed earning a considerable sum from shares and only disclosed the assets worth $2 million in his expatriation statement. Also, he didn't mention his property gains of more than $1.1 billion.

Later, his total tax fraud amounted to around $250 million. For his felony, Oleg was asked to pay approximately $509 million, including due taxes and interest on the same. He was also penalized with $250,000, the maximum limit of evasion fine imposed on an individual. He was even put behind bars for time served and a supervised release of a year.

3.10.4. Tax Evasion Vs Tax Avoidance VS Tax Planning

As we know, tax evasion is an illegal and unethical practice of an individual or firm to escape from paying fair taxes to the government. On the contrary, tax planning is a systematic and legal process of using an entity's permissible exemptions, deductions, and other lawful provisions to curtail its tax burden.

Tax avoidance exists somewhere in between the two. It involves using tax laws to benefit the individuals in a way that is not initially intended by law to reduce tax liability. It takes advantage of the ambiguity in tax laws to further an entity's interest.

While evasion is a punishable crime and involves imprisonment and penalties, planning is considered a legally permitted honest mode. On the other hand, tax avoidance, though legal, is generally detested. It is thought of as unethical since it robs the society of the much-needed development funds that should have come as taxes.

Note that the tax authorities are always on a look out to uncover and check tax evasion and avoidance practices, whereas tax planning is a government-endorsed method of reducing the taxpayer's liability. Some of the excellent ways of tax planning include investments in tax-saving municipal bonds, provident funds, Health Savings Accounts, etc.

3.10.5. Penalties for Tax Evasion The taxpayers who are found guilty of evasion have to face harsh consequences. The IRS imposes the following punishments in the U.S. Internal Revenue Code Section 7201 for the same:

1. Penalty: As per the Criminal Fine Enforcement Act 1984's 18 USC Sec 3571, an individual tax evader is fined up to $100,000 (for offenses committed before December 31, 1984) and $250,000 (for offenses committed after December 31, 1984). At the same time, a defaulting firm is penalized with a maximum of $500,000. Other legal penalties accompany these impositions.
2. Imprisonment: Similarly, there is a provision for a maximum imprisonment of five years in such a felony to the alleged taxpayer, whether it is an individual or the owner of a firm.

The defaulter may face any one of the consequences or both at the same time.

3.10.6. How to Control Tax Evasion? The best way to save yourself from the consequences of evading taxes is to avoid doing such unauthorized acts. Given below are some of the measures that can help the tax authorities in identifying and controlling such unethical practices:

i. Ease out the tax filing and payment procedure and regulations
ii. Make strict provisions and laws for audit and collection of taxes
iii. Ensure that there is no interference of the government and political parties with the tax system
iv. Encourage the taxpayers through awareness programs and explain to them how tax planning is a better way of decreasing the tax burden
v. Strengthen the tax administration system with a team of loyal officers
vi. Keep a check over bribery and corruption within the department
vii. Help high net worth taxpayers to legally reduce their tax liability by introducing specific provisions for them.

3.11. AMENDMENT OF INDIAN CONSTITUTION FOR GST

The Constitution contains the Union List and the State List within which the power to levy separate taxes is given to the Centre and States respectively. GST was to be levied in such a way that both the Centre and the States received the power to levy and collect it. Further, the legislation had to remain consistent across the Centre and the various State/Union Territory Legislatures. To provide for this, an amendment in the Constitution was necessary.

Constitution (101st Amendment) Act, 2016

In order to suitably implement the GST legislation, this Act resulted in the insertion, deletion and amendment of certain Articles of the Constitution. The following matters were dealt with as a result of these changes:

i) The delineation of powers to levy and make laws with respect to GST
ii) The applicability and scope of the GST law
iii) The manner of apportionment of revenue from GST among Centre and States
iv) The constitution, powers and duties of the GST Council
v) The discontinuation of existing taxes to give way for GST

vi) The manner of providing compensation to States for loss of revenue on account of the introduction of GST

3.11.1. Article 246A: Special Provision for GST

This Article was newly inserted to give power to the Parliament and the respective State/Union Legislatures to make laws on GST respectively imposed by each of them. However, the Parliament of India is given the exclusive power to make laws with respect to inter-state supplies. The IGST Act deals with inter-state supplies. Thus, the power to make laws under the IGST Act will rest exclusively with the Parliament. Further, the article excludes the following products from the scope of GST until a date recommended by the GST Council:

i) Petroleum Crude
ii) High-Speed Diesel
iii) Motor Spirit
iv) Natural Gas
v) Aviation Turbine Fuel

3.11.2. Article 269A: Levy and Collection of GST for Inter-State Supply

While Article 246A gives the Parliament the exclusive power to make laws with respect to inter-state supplies, the manner of distribution of revenue from such supplies between the Centre and the State is covered in Article 269A. It allows the GST Council to frame rules in this regard. Import of goods or services will also be called as inter-state supplies. This gives the Central Government the power to levy IGST on import transactions. Import of goods was subject to Countervailing Duty (CVD) in the earlier scheme of taxation. IGST levy helps a taxpayer to avail the credit of IGST paid on import along the supply chain, which was not possible before.

3.11.3. Article 279A: GST Council

This Article gives power to the President to constitute a joint forum of the Centre and States called the GST Council. The GST Council is an apex member committee to modify, reconcile or to procure any law or regulation based on the context of Goods and Services Tax in India.

3.11.4. Article 286: Restrictions on Tax Imposition

This was an existing article which restricted states from passing any law that allowed them to collect tax on sale or purchase of goods either outside the state or in the case of import transactions. It was further amended to restrict the passing of any laws in case of services too. Further, the term ‘supply’ replaces ‘sale or purchase’.

3.11.5. Article 366: Addition of Important definitions

Article 366 was an existing article amended to include the following definitions:

i) Goods and Services Tax means the tax on supply of goods, services or both. It is important to note that the supply of alcoholic liquor for human consumption is excluded from the purview of GST.
ii) Services refer to anything other than goods.
iii) State includes Union Territory with legislature.

3.11.6. Compensation to States Under GST: This Act also contains a provision to provide for relief to states on account of the revenue loss to the states arising due to the implementation of GST. It has a validity period of five years. The Goods and Services Tax (Compensation to States) Act, 2017 was born as a result.

3.11.7. What does the Seventh Schedule State?

The Seventh Schedule to Article 246 contains three lists, which contain the matters under which the Union and the State Governments have the authority to make laws.

List – I: Union List : It contains the matters with respect to which the Parliament (Central Government) have the exclusive right to make laws.

List – II: State List: It contains the matters in respect of which the state government has the exclusive right to make laws.

List – III: Concurrent List: It contains the mattes in respect of which both the Central and State Governments have the power to make laws. The relevant entries in this list were adjusted in such a way as to provide for the following:

i) To continue the levy of excise duty by the Centre on manufacture/production of five petroleum products namely: petroleum crude, high-speed diesel, motor spirit, natural gas, and aviation turbine fuel. In addition to the above, excise duty is also levied on tobacco and tobacco products. As a result, tobacco and tobacco products are subject to both excise duty and GST.

ii) The power to levy taxes on the five petroleum products was given to the states too.

iii) Entertainment tax was abolished except where it is levied by local bodies.

3.12. KELKAR COMMITTEE ON TAX REFORMS

Vijay Kelkar suggests single GST rate of 10 % as the ideal reform of the indirect tax structure

Kelkar and Ajay Shah argued that a single GST rate of 10 per cent applied to 70 per cent of India's produce would have earned the Centre and States 7 per cent of the country's GDP.

Former Finance Secretary Vijay Kelkar (File Photo | PTI

As the government gears up to find ways to earn more money from the nation-wide GST tax whose collections have been below par now for more than two years, experts are again raising questions on why a low single rate of GST was not introduced.

Former Finance Secretary Vijay Kelkar and economist Ajay Shah in their book, *In Service of the Republic*, have argued that a single GST rate of 10 per cent applied to 70 per cent of India's produce would have earned the Centre and States 7 per cent of the country's GDP and would have been easier to administer.

"A single 10 per cent rate applied on 70 per cent of the economy yields 7 per cent of GDP as tax revenues and even if we actually obtain a part of this, we are broadly okay," Kelkar and Shah say in their book, adding "At this low rate it would have been able to possible to avoid all exclusions. Petroleum products could have gone in, real estate could have gone in."

India currently has a multi-rate GST system with goods being taxed at 0, 5, 12, 18 and 28 per cent besides some goods such as petroleum products and liquor being left out of the GST set up. The complexity of the system and frequent changes are often blamed for poor collections. Till November-end, the total GST collections have been just over Rs 8 lakh crore, a shortfall of nearly rs 1 lakh crore against the target.

Kelkar and Shah argue that for sin goods such as tobacco and liquor, there could have been layers of non-Vatabale `sin taxes' on top of basic GST imposed by states. States could also chose to impose carbon tax such as a tax on plastics used, layered on top of the GST.

With India turning into a near $ 3 trillion economy in 2019, a basic 10 per cent GST on 70 per cent of the economy would have translated into about $200 billion or Rs 14.4 lakh crore in GST revenues. Sin taxes on top of that on a select few articles could have got states some extra revenues.

May economists have argued in the past that a single low GST tax would have proven easier to administer and given a fillip to consumer demand as prices would have gone down, encouraging buyers to come to the marketplace. The former finance secretary and his co-author says "in the first two years significat resource allocation would have started taking place, with firms discovering more efficient ways of working, This would have fed back into higher GDP growth and thus tax revenues."

Kelkar adds that "the Government at all levels is an important buyer of goods and services ad low rate would have generated a beneficial impact on the budget."

However till now the NDA Government has taken a stand that multiple rates were best for the country. Famously, late finance minster Aru Jailtley had said " a 'hawai chappal' (rubber slippers) and a Mercedes car cannot be taxed at the same rate."

Other economists within the Government including Bibek Deb Roy, chairman of the PM's Economic Advisory Council have argued for reducing the number of rates by merging some of them, something which the current finance ministry seems to be in favour of but by increasing the tax burden on some products.

3.13. SUMMARY

After studying this lesson student should be able to: Know the concept of Tax reform and Types of Tax Reforms, Explain the Objectives of Tax reform, Understand the various tax avoidance strategies, Importance of Constitutional Amendments. Further it is revealed about Tax reform focuses on strengthening the current tax system and widens out the tax base. Tax reform aims at enhancing the efficiency of the overall tax system by lowering marginal tax rate reducing taxation on investment and savings, boosting the economic development of the nations, lowering the number of tax defaulters, etc.

3.14. TECHNICAL TERMS

Tax reform: Tax reform is a policy implementation by the government through which few alterations are made into the tax system in order to overcome the loopholes and enhance the effectiveness of the tax administration in the country in order to generate higher revenues from taxes as compared to the overall spending.

Tax avoidance: The term tax avoidance refers to the use of legal methods to minimize the amount of income tax owed by an individual or a business. This is generally accomplished by claiming as many deductions and credits as are allowable. It may \ also be achieved by prioritizing investments that have tax advantages, such as buying tax-free municipal bonds. Tax avoidance is not the same as tax evasion, which relies on illegal methods such as underreporting income and falsifying deductions.

Tax evasion: Tax evasion is an illegal activity in which a person or entity deliberately avoids paying a true tax liability. Those caught evading taxes are generally subject to criminal charges and substantial penalties. To willfully fail to pay taxes is a federal offense under the Internal Revenue Service (IRS) tax code. Strategies: Strategy has been studied for years by business leaders and by business theorists. Yet, there is no definitive answer about what strategy really is. One reason for this is that people think about strategy in different ways.

Constitution: In simple words, we can say a Constitution is the constitutional law of the state. Constitutional law enjoys the position of being the supreme and fundamental law of the state. It lays down the organisation and functions of the government of state. The Government can use only those powers which the Constitution grants to it.

3.15. SELF-ASSESSMENT QUESTIONS

1. What is tax evasion?
2. How not to pay taxes legally?
3. What are the penalties for tax evasion?
4. How do you get caught for tax evasion?
5. Discuss the Importance of Constitutional Amendments.
6. Explain about various tax avoidance strategies

3.16. SUGGESTED READINGS

1. Goods and Services Tax in India- Notifications on different dates
2. GST Bill 2012
3. The Central Goods and Services Tax Act, 2017, No.12 of 2017, Published by Authority, Ministry of Law and Justice, New Delhi, 12 April, 2017
4. Background Material on Model GST Law, Sahitya Bhavan Publications, Hospital Road, Agra-383 003

Dr. Krishna Banana

LESSON-4
PROCESS OF GST IMPLEMENTATION, TERRITORIAL JURISDICTION & MULTIPLE RATES OF GST

AIMS AND OBJECTIVES

After studying this lesson student should be able to:

- Know the Process of GST Implementation
- Understand the Territorial Jurisdiction
- Importance of Multiple Rates of GST

STRUCTURE

4.1. INTRODUCTION

The important requirement is that the implementation of the GST by all the states together at uniform rate. Otherwise, it will be really cumbersome for businesses to comply with the provisions of the law. Another important challenge is to identify the destination of goods or services. The GST is a destination based tax, not the origin one. In such circumstances, it should be clearly identifiable as to where the goods are going. This may not be so easy in case of services. If the challenges are taken care of certainly the GST would bring a big boost to our economy by removing all barriers of taxes of the states and central government merging into one single tax system which will be a paradigm shift in the country’s tax system.

4.1.1. Challenges Faced: Though GST was implemented in 2019 in India, there was some ambiguity in some of the provisions of the law. To address such ambiguities, the GST Council implemented the new GST return system with effect from April 2020. However, there are still some challenges in implementing this new system. Educating the taxpayers on this new law and its system is one of the challenges as they take time to understand the changes pertaining to the GST system. Taxpayers have to be educated on real-time uploading of invoices and what actions need to be taken to claim an input tax credit (ITC) and report missing invoices.

Taxpayers have to upload their invoices continuously in real-time in GST ANX-1. This annexure contains details of all outward and inward supplies liable to reverse charge and import of goods and services. Individuals and businesses registered under GST must match the supplier's invoices with the book of accounts to claim ITC. The pain point here is that taxpayers have to devote time to these activities, or he has to dedicate personnel to carry out these activities. For instance, if a business wants to match invoices at the time of filing their return, they will not have adequate time to follow up with the supplier, leading to an incorrect or inaccurate claim of ITC. There may be cases where the recipient has a physical invoice, but it is not available in the GST portal. In such a case, the recipient must track these missing invoices and continuously check whether the supplier has uploaded invoices on the portal. This is again an additional responsibility on the recipient despite having paid the tax amount to the supplier.

4.1.2. Benefit of GST to businessman: GST will eliminate the cascading effects of taxes to the businessman. Presently there are lots of compliance to be done by the businessman under various tax (Service tax, Excise, Octroi, Vat, Turnover tax etc) that are compulsory one after another on the supply chain till the time of its utilization. GST will remove all the Indirect taxes levied by state and central government reducing the compliance cost to the businessman. Benefits of GST to Consumer: In current tax system final tax to bear by the consumer same will be in the GST also but consumer will be benefited due to elimination of multiple taxes on the product and double charging in the system.

4.1.3. Benefits of GST to Government: The GST will increase the tax base but lowers down the tax rates and also removes the multiple point This, will lead to higher amount of revenue to both the states and the central government. It will also help India to sale the goods overseas at the competitive prices and boost exports also.

4.1.4. Goods under GST Slabs

5% Tax Slab: Sugar, Tea, Coffee and Edible oil will fall under the 5 % slab, while cereals, milk will be part of the exempt list under GST. This is to ensure that basic goods are available at affordable prices. However, instant food has been kept outside this bracket so, no relief for Maggie lovers! Coal to be taxed at 5 % against the current 11.69 %. This will prove beneficial for the power sector and heavy industries which rely on coal supply. This will also help curb inflation. Expect a good run for Coal India tomorrow. The ‘mithai’ from the neighbouring sweet shop might lose some of its flavors as Indian sweets will now be taxable at 5 %. If you have a sweet tooth, this could hurt your pocket a wee bit in the coming days.

a. 18% Tax slab: Toothpaste, hair oil, and soaps will all be taxed at 18 %, where currently they are taxed at 28 % Most of the cosmetics and fast-moving consumer goods (FMCG) brands should get the benefit of this tax reduction. After all, Fair and Lovely might seem fairer in its pricing from now on! The Council has set the rate for capital goods and industrial intermediate items at 18 per cent. This will positively impact domestic manufacturers as seamless input credit will be available for all capital goods. Indeed, it is time for “Make In India”.

b. Services under GST Slabs: for restaurants serving alcohol, the tax bracket will be 18 per cent

education, healthcare are going to be exempted from GST

services on Non-AC restaurants will be 12%.

4.2. INDIA STEPS TO GST IMPLEMENTATION

With the main India legislation now ratified for the implementation of a new Goods & Services Tax (GST), a number of steps must be undertaken before a roll out. These include:

i. Establish a GST Council to review and conclude on launch details
ii. Resolving the overlap between the new Central, State and Integrated taxes
iii. Agree a country-wide rate for the new consumption tax. This is likely to be between 16% and 18%
iv. Putting in place a dispute resolution and appeals processes
v. Determining details of pricing policies and tax calculations on inter-state transfers of goods
vi. Confirm how input VAT credits will be matched to output VAT payments - a complex and controversial requirement for VAT reporting
vii. Agree on implementation date - potentially sometime in 2017

4.2.1. FIVE Steps For Successful Implementation of GST

a. Formation of cross functional core team to drive implementation of GST. This team shall disseminate the learnings to all the stakeholders of the company by keeping abreast of all the developments in the subject. Finance Head of the company should regularly meet and review the suggestions being made by the team and should take necessary action.

b. ERP Systems: ERP team shall be part of discussions for smooth changeover and should identify the areas / processes requiring changes. It shall be ready for the complications arising out of partial implementation of GST in the country. Should facilitate state-wise trading account CGST and SGST on each transaction to be accounted separately with linkage to state of origin and IGST with linkage to state of destination (Since IGST goes to importing state based on destination principle) as well as state of origin (since there is an additional levy of not exceeding 1% which goes to the originating state) Capturing credit of CGST, SGST and IGST separately state wise on the purchases Automatic setoff and determination of tax liability.

c. Business Process Reengineering: Business performance needs to be improved by Re-engineering the business processes at the earliest basis to take the full advantage of GST

i. ***Procurement***: In the light of implementation of GST, Cost of procurement shall be minimized by optimizing and consolidating supplier location and base by exploring the option of Indigenous Vs. Import Parity or Local procurement Vs. Procurement from outside state as the case may be. Suppliers/ Service Providers shall be aligned according to the sourcing strategy.

ii. ***Manufacturing*****:** Review the manufacturing strategy for alignment with GST and phase out of incentives in the near term. Account for ITC at every point of purchase and integrate with ERP system. Possibility of differential tax base for some time.

iii. ***Distribution:*** Re-aligning depots & Infrastructure to leverage on technology and minimize the cost of distribution. Levy of GST on stock transfers needs to be addressed. Review C&FA, Transportation and other service and rental contracts to build in ITC benefit and changed operating conditions

iv. ***Sales:*** Review sales agreements for margins etc and align the network of stockists with company sales and distribution system. Support the sale partners on IT and GST compliance i.e Infrastructure and training. Examine and evaluate the likely impact of GST rates on various category of goods / service in the context of improved ITC benefit, exemptions and pricing of the products shall be GST efficient

d. Enrollment & Registration: NSDL has been appointed to incubate the GST Portal and develop the functionality. NSDL has created a pilot portal for implementation of GST known as "GST Pilot Portal" In the proposed GST regime, every tax payer or business entity will be issued a 15 digit common identification number which will be called as "Goods & Service Tax Identification Number" (GSTIN) a PAN based number The portal will have a web based enrolment facility for the new dealers. The GST system will have an online application form for dealers to provide their details and upload certain specified documents

i. ***Six Easy Steps For Registration*****:** Enrolment -Login -Dealer Home Page -Initiate -New Registration -Fill-in Registration Application Form - Submit Registration Application Form **Enrolment:** Any dealer expecting to register under GST should first ENROL himself in the enrolment page

ii. **Login:** Users can login only after completing "Enrolment" process. Users can enter Registration Application by submitting "User ID" and "password" received in his registered E-mail ID after Enrolment process is completed.

iii. **Documents:** Keep PAN, existing registration numbers like Central Excise Numbers, Service Tax Numbers, Import & Export Number, Corporate Identity Number, Professional Tax Number, Shops & Establishment Number and any other state specific registration numbers, contact numbers, postal address & E-mail address of business entity, bank account details including MICR code, place of business, details of goods & services, scanned signed photographs of the prescribed persons.

e. Liason With Govt. Engage With Govt. for specific business related issues and tax classifications Uniformity of law, procedures, formats, classification and valuation Re-dressal of issues arising out of GST (e.g. GST on inter-state stock transfers)

4.3. GST RETURN FILING

GST refers to the goods and services tax. It is a form of indirect tax levied on the supply of goods and services. The GST Act was passed in 2017 to simplify the tax payment process, whereby taxpayers must file for just one tax under GST. Earlier, the indirect tax was levied in services tax, excise duty and VAT. Introducing GST allowed for a single domestic indirect tax law across the country. Every business must file for GST returns annually and every two months. Goods and Services Tax (GST) Return is a document that contains all the income details a taxpayer needs to file. Every individual or business registered under the GST Act has to furnish the details of all sales and purchases involving goods and services, including the tax collected and paid. There are 11 forms of returns applicable under GST. Each form serves a different purpose and has a different due date.

The date for filing GST annual returns is usually December 31st each year. Given the pandemic and its difficulties in meeting this deadline, the Government extended the date to February 28th and again to March 31st 2021. It means the GSTR-9 and GSTRC-9C for the financial year 2019-20 have to be furnished by this date. With effect from January 1st, 2021, GST taxpayers having an aggregate annual turnover of up to Rs. 5 crores will be required to fill only four GSTR 3B forms as against the 12 previously. This scheme, referred to as Quarterly filing of Return with Monthly Payment (QRMP), would significantly reduce the taxpayers' professional expenses for filing returns.

4.3.1. Who Should File a GST Return? Under the GST Act, all registered businesses must file for a GST return. Taxpayers operating their businesses and firms across India, interstate or intrastate, are liable to follow the GST registration process. GST return is filed monthly, quarterly and/ or annually based on the type of business and registration obtained. For example, businesses with an annual aggregate turnover of more than five crores are liable to file one annual return and two monthly returns.

4.3.2. Types of GST Returns Filing: Depending on the type of business, one needs to do a monthly or quarterly GST return filing in addition to annual filing in accordance with the Central Goods and Services Tax (CGST) Act, 2017. Following is the list of returns applicable that need to be filed as per the Act:

GSTR-1: A GSTR-1 return is filed monthly or quarterly by registered businesses to provide information regarding their sales or outward supplies. Depending on your business' turnover, if your sales amount up to Rs. 1.5 crore or less, then you can do GST filing every quarter. If your sales incurred are above Rs. 1.5 crore, then monthly return filing is required.

GSTR-2: This type of GST return filing provides details of your purchases, transactions, or inward supplies for a month, including purchases with applicable reverse charges. The monthly GSTR-2 return filing done by registered dealers helps validate sellers' GSTR-1 for invoice matching or ensuring that taxable sales by the seller tally with the taxable purchases of the buyer for the month.

GSTR-3: GSTR-3 provides the summarized details of all monthly purchases and sales, along with the GST amount to be paid. This monthly return is auto-generated based on the data provided in GSTR-1 and GSTR-2 filing.

GSTR-4: GSTR-4 return is to be filed annually by the taxpayers, usually referred to as composition dealers, opting for Composition Scheme, by April 30th every financial year.

GSTR-5: As per the CGST Act, all registered non-resident foreign taxable people, or suppliers not having a business establishment in India and visiting India for a business contract, are required to do a GSTR-5 return filing. The filing return provides details of sales and purchases of the non-resident business people.

GSTR-6: This is to be filed monthly by an Input Service Distributor to provide details of invoices where there has been a credit.

GSTR-7: GSTR-7 return is to be filed by all those who are required to deduct tax deducted at source (TDS) under GST. These include Central or State Government institutions, local authorities, governmental agencies, or entities authorized by the Central or State Government. This type of GST return filing includes the details of TDS deducted, TDS liability payable and paid, TDS refund claimed, if any etc.

GSTR-8: All e-commerce operators mandated to deduct tax collected at source (TCS) must file GSTR-8. It contains the details of supplies carried out through the e-commerce platforms and the TCS amount collected on such supplies.

GSTR-9: GSTR-9 return filing includes details of the inward and outward supplies made or received during the financial year. It thus provides consolidated data of all the monthly or quarterly returns (GSTR-1, GSTR-2A, GSTR-3B) filed during the year.

GSTR-10: All the registered taxable persons who have opted for surrendering or cancelling the GST registration need to file a GSTR-10 return. It is also referred to as the final return.

GSTR-11: Those who have received a Unique Identity Number(UIN), i.e. special classification number assigned for foreign diplomatic missions and embassies exempt from Indian taxes, can file a GSTR-11 return to avail of GST refund for the goods and services purchased by them in India.

4.4. HOW TO CALCULATE GST?

GST can be calculated by following the below-mentioned formula. Apply the following formula to calculate the net price of the product/service after adding GST:

GST Calculation Example: Assuming that a product is priced at Rs. 10,000 and 12% GST is applicable to that product. Then, the net price of the product becomes 12% of 10,000+ 10,000, which would be 1200+10,000 = 11200.

4.4.1. Documents Required for GST Return Filing: GST return filing can be done through the GST portal. The following documents are essential for the GST return filing process: i. Customer GSTIN, ii. Type of Invoice, iii. Place of Supply, iv. List of Invoices including B2B & B2C Services, v. Invoice Number, vi. GST Rate, vii. Total Amount of SGST, IGST, CGST, and GST Cess that is applicable, viii. Summary of Debit & Credit Notes, ix. Combined Intrastate and Interstate Sales, x. Taxable Value, xi. HSN-wise Summary Details.

4.4.2. A Step-by-Step Guide to file GST Return: If you are wondering how to file a GST return online, here's a quick step-by-step guide.

Step 1: Firstly, ensure that your business is registered under GST and you have a 15-digit GST identification number. If you do not have this number, you can register online to get it.

Step 2: Next, visit **www.gst.gov.in**

Step 3: Click on the 'Services' button.

Step 4: Click on 'Returns dashboard', and from the drop-down menu, fill in the financial year and the return filing period.

Step 5: Next, you need to click on 'Prepare online' after selecting the return you want to file.

Step 6: Enter all the requisite values, including the amount and late fee, if any.

Step 7: Once these details are filled in, click 'Save'. A success message will be displayed on your screen.

Step 8: Next, click 'Submit' at the bottom of the page to file your return.

Step 9: You will notice the status of your return has changed to 'Submitted'. Now scroll down and click on the payment of tax tile. After that, click on 'Check balance' to view your cash and credit balance so that you know these details before paying tax under the respective heads. Next, to clear your liabilities, mention the amount of credit you want to use from the available credit. After that, click on 'Offset liability' to make the payment. When confirmation is displayed, click on 'OK'.

Step 10: Finally, check the box against the declaration and select an authorized signatory from the drop-down list. Then click 'File form with DSC' or 'File form with EVC'. Next, click on 'Proceed'. In the next step, make the payment for your respective GST.

4.4.3. How to check GST Returns Status?

There are three ways to check the GST returns status. Let us have a look at these different ways.

a. **Track status using the 'Return Filing Period' option:** Before tracking the GST returns status, the taxpayer needs access to their GST account. The following steps can then be followed to track the status:

i. Access the common GST portal - **www.gst.gov.in**
ii. Log in with your credentials
iii. Move the cursor, select **Service**, click on **Returns** and finally select **Track Return Status.**
iv. Select the Return Filing Period.
v. In the drop-down list, select the concerned financial year for which the return is filed.

vi. In the end, click on the Search button.

b. Track status using the 'ARN' option: Taxpayers are assigned an 'ARN', which means the Application Reference Number. This number is assigned through the taxpayer's email address or contact number. The below-mentioned steps can be followed to track GST return status using the ARN.

i. Access the common GST portal - **www.gst.gov.in**.
ii. Fill in your credentials and login
iii. Move the cursor, select **Service**, click on **Returns** and finally select **Track Return Status.**
iv. Type in your ARN number in the dedicated ARN space.
v. Finally, click on the Search option to track the status.

c. Track status using the 'Status' option: To determine the GST return status by using the 'Status' option, follow the steps cited below:

i. Log into the portal **www.gst.gov.in**
ii. Enter your login page credentials
iii. Click on the **Service** tab, go to **Returns** and select the **Track return Status**
iv. From the drop-down list, select the **Status of Return** option
v. Then click on the **Search** button to know the status

4.4.4. How to Download GST Returns?

Now that you know about GST return filing and checking its status on the portal, let's find out how to download the GST returns from the portal.

Here's a quick stepwise guide on how to download the GST returns:

Step 1: Visit the portal (**www.gst.gov.in**) and log into your account using the credentials

Step 2: Go to **Services** and navigate to **Returns** and click on **View e-filed returns**

Step 3: Select the **Financial Year** (i.e., GST return filing year), **Return filing period** (i.e., annual, quarterly, or monthly), **Period (**i.e., the GST return filing period), and **Return type** (i.e., the GSTR form you wish to download).

Step 4: Once you fill in the required details, click on **view/download** to view the acknowledgement number and date of GST return filing.

Step 5: Click on **Download Filed GSTR** to download your GST return in PDF format

4.4.5. Penalty for Late Filing GST Returns:

As per the new GST laws, a late fee is charged for late GST return filings. This late fee would depend on how late the individual files the return past the due date. Also, the taxpayer cannot use the Input Tax Credit (UTC) in the electronic credit ledger to pay the late fee. The late fee is also applicable for nil returns.

4.5. TERRITORIAL JURISDICTION LIST & GST STATE CODES

Before the advent of Goods and Service tax (GST), we, consumers paid various kinds of taxes under different categories like direct taxes and indirect taxes. For better understanding and proper accounting, all the taxes were merged under one umbrella, known as GST. These taxes are levied upon good and services at every stage of the supply chain. The GST is classified into various types like CGST (Central Goods and Service tax which is levied by the centre), SGST (State Goods and Service tax which is charged by the state), and IGST (Integrated Goods and Service tax which is levied by both centre and the state).

Know your Jurisdiction Under GST TG Team| Goods and Services Tax - Articles| Download PDF 22 Apr 2018 148,275 Views 21 comments CA Payal Gupta One of the Key feature of

GST is Concurrent jurisdiction for levy & collection of GST by the Centre & the States. This feature of GST lead assessee to Know the one Jurisdiction between Central and State. Since two Central and State jurisdictions are involved in GST administration, knowing whether assess has been assigned to Central government Jurisdictional tax authorities or State Government Jurisdictional Tax authorities is being matter of concern in initial stage of Its Implementation GST was introduced on 1st July 2017 and the classified category of business are mandatorily required to get a unique 'GST Identification Number'. This unique number is a combination of several numbers and the first two numbers are made up of state code. Like every registered dealer, even states have registered state code for GST.

4.5.1. **The list of the States and Union Territories is mentioned below along with their GST codes.**

State code	State	State code	State	State code	State
01	Jammu& Kashmir	14	Manipur	27	Maharashtra
02	Himachal Pradesh	15	Mizoram	28	Andhra Pradesh
03	Punjab	16	Tripura	29	Karnataka
04	Chnadigarh	17	Meghalaya	30	Goa
05	Uttrakhand	18	Assam	31	Lakshdweep
06	Haryana	19	West Bengal	32	Kerala
07	Delhi	20	Jharkhand	33	Tamil Nadu
08	Rajasthan	21	Odisha	34	Puducherry
09	Uttar Pradesh	22	Chhattisgarh	35	Andaman&Nicobar Islands
10	Bihar	23	Madhya Pradesh	36	Telangana
11	Sikkim	24	Gujarat	37	Andhra Pradesh
12	Arunachal Pradesh	25	Daman & Diu	97	Other Territory
13	Nagaland	26	Dadra & Nagar Haveli		

4.5.2. Know Your Jurisdiction:

It is important that you are registering yourself under correct jurisdiction for hassle-free process and to avail facilities. For easy registrations, the Government has classified jurisdictions on the basis of geographical area, PIN codes of the respective areas, and different districts. The jurisdictions are classified under: Commissionerates-Division offices-Range offices- To know about your jurisdiction, click on this link: https://cbic-gst.gov.in/know-your-jurisdiction.html- A screen similar to this should appear on your computer screens.- To know about your jurisdiction, enter your state. Then select your zone >> commissionerate >> division >> range.- This will give you detailed information about the jurisdiction.- If you don't want to go through the entire process of locating your jurisdiction, then you can simply refer to the table below and see if your division is mentioned. If not, you will have to go through the traditional process.

State: Andhra Pradesh

Zone: VIsakhapatnam – Amaravathi

Commissionerate Name: Visakhapatnam

Division Name: Kakinada Division

Range Name and Jurisdiction: Amalapuram: Mandal of Amalapuram, Amalapuram Town, Mandals of AinaVilli, Uppalaguptam, Katrenikona, MummidIVaram, I. Polavaram, Mamidikuduru, Allavaram, Razole, Malkipuram and Sakinetipalle of East Godavari District **Kakinada Port**: Municipal area (1 to 25 Wards) of Kakinada Urban Mandal of East Godavari

District **Kakinada town**: Municipal area (26 to 50 Wards) of Kakinada Urban Mandal of East Godavari

District **Ramachandrapuram**: Mandals of Ramachandrapuram, pedapudi, Karapa, Thallarevu, Kajuluru, Pamarru and Rayavaram of East Godavari

District **Ramanayyapeta**: Area of Kakinada Rural Mandal covered North of Railway line **Samalkot**: Mandals of Samalkot & Peddapuram and Samalkot & Peddapuram Town, Pitapuram, Kothapalle, Kirlampudi, Rangampeta, Gandepalle and Jaggampeta of East Godavari

District **Tuni**: Mandals of Tuni, Tuni Town, Kotananduru, Routhulapudi, Sankavaram, Thondangi, Gollaprolu, Prathipadu and Yeleswaram of East Godavari

4.6. MULTIPLE RATES OF GST

The primary GST slabs for regular taxpayers are currently 0% (nil-rated), 5%, 12%, 18%, and 28%. There are a few GST rates that are less commonly used, such as 3% and 0.25%. Furthermore, the taxable composition persons are required to pay General Service Tax at lower or nominal rates such as 1.5%, 5%, or 6% on their turnover.

GST Rates in 2023 - List of Goods and Service Tax Rates, Slab & Revision

GST rates list is crucial for every Indian business and consumer to know. When the GST Council revises GST rates, it hits respective industries, trade bodies and end consumers, impacting the economy. Everyone tends to evaluate their position as a result of this change. Our HSN cum GST rates finder helps you identify the accurate and latest GST rate applicable for the product/service.

4.6.1. Meaning of GST Rates: GST rates refer to the percentage rates of tax imposed on the sale of goods or services under the CGST, SGST and IGST Acts. A business registered under the GST law must issue invoices with GST amounts charged on the value of supply. The GST rates in CGST and SGST (For intra-state transactions) are approximately the same. Whereas, the GST rate in the case of IGST (For inter-state transactions) is approximately the sum total of CGST and SGST rate.

4.6.2. Types of GST Rates and GST Rate structure in India: The primary GST slabs for any regular taxpayers are presently pegged at 0% (nil-rated), 5%, 12%, 18% & 28%. There are a few lesser-used GST rates such as 3% and 0.25%. Also, the composition taxable persons must pay GST at lower or nominal rates such as 1.5% or 5% or 6% on their turnover. There is a concept of TDS and TCS under GST as well, whose rates are 2% and 1% respectively.

These are the total GST rate of IGST for interstate supply or the addition of both CGST and SGST for intrastate supply. The GST rates shall be multiplied by the assessable value of the supply to arrive at the GST amounts in a tax invoice. Further, the GST law levies cess in addition to the above GST rates on the sale of some items such as cigarettes, tobacco, aerated water, petrol, and motor vehicles, rates widely varying from 1% to 204%. The GST rate structure for some of the commonly-used consumable products is given in the below table. For more items, type in the item you wish to know the GST rate of by visiting our HSN code & GST rates finder.

4.6.3. What are the GST rates in India 2023? The year 2023 has begun with key changes in GST rates passed during the last week of December 2022. During its meetings, the GST

Council also revised the GST rates of some key items across 2022. Some were done to correct the prevailing inverted tax structure, whereas a few were revised for revenue augmentation. The following sections cover the summarised details of changes to GST rates in India with the new GST rates 2023. **Here is a summarised version of the list of rate cuts on both Goods and Services:**

SL.no	List of Goods/Services	Changes in Tax Rate
1.	Vegetables preserved but unsuitable for immediate consumption	5% to Nil
2	Vegetables cooked/uncooked via steamed, frozen or boiled (branded)	5% to Nil
3	Music Books	12% to Nil
4	Parts for mfg. renewable energy devices falling under chpt. 84, 85 or 94 of Tariff	5%
5	Natural cork	12% to 5%
6	Fly ash blocks	12% to 5%
7	Walking sticks	12% to 5%
8	Marble rubble	18% to 5%
9	Agglomerated cork	18% to 12%
10	Cork roughly squared or debugged	18% to 12%
11	Articles of Natural cork	18% to 12%
12	Movie Tickets < or = Rs 100	18% to 12%
13	Premium on Third party insurance on Vehicles	18% to 12%
14	Accessories for Handicapped Mobility Vehicles	28% to 5%
15	Power banks	28% to 18%
16	Video game consoles, equipments used for Billiards and Snooker and other sport related items of HSN code 9504	28%to18%
17	Retreated & used pneumatic Rubber Tyres	28% to 18%
18	Colour Television Sets & monitors up to "32 Inches"	28% to 18%
19	Digital & Video Camera recorders	28% to 18%
20	Pulleys, transmission shafts, cranks and gear boxes under HSN 8483	28% to 18%
21	Tax rate on Air travel of pilgrims reduced*	28% to 18%

*For travel by non-scheduled/chartered operations for religious pilgrimage which are facilitated by GoI under bi-lateral agreements. Others: -GST on the composite supply of goods attracting 5% GST rate where it is supplied along with the supply of construction services and other goods for solar power plant, is now levied as follows: 70% of value is considered as supply of goods and taxed at 5% GST. Remaining 30% of the EPC contract value is supply of service and attracts standard tax rate for service. -Rate of 5%/18% to be applied based on transaction value of footwear. -Uniform GST rate of 12% on Flexible Intermediate Bulk Container (FIBC) from existing 5%/12% (depending on the value).

4.6.4. Goods recommended for exemption:

Supply of gold by Nominated Agencies to exporters of article of gold Jewellery. Proceeds received by Government from auction of gifts received by President, Prime Minister, Governor or Chief Minister of a State and public servants, the proceeds of which is used for public or charitable cause. Vehicles imported for temporary purposes under the Customs Convention on the Temporary importation of Private Road Vehicles (carnet de passages-en-douane) will be exempt from IGST and Compensation cess.

4.6.5. Services recommended for exemption:

Services supplied by banks to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY)

Services supplied by rehabilitation professionals recognised under Rehabilitation Council of India Act, 1992 at hospitals, schools or rehabilitation centres established by Government or charitable institute registered under Section 12AA of The Income tax Act,1961.
Loan guarantee services provided by Government to its undertakings and PSUs for bank loans.

4.6.6. GST Rate revision in 28th GST council meeting: 28th GST Council Meeting was held on 21st July 2018. GST Rates for 45 Goods and 2 Services has been revised*.

Recent GST Rate Changes on Goods

S.NO	Items	New Rate	Old rate
1	Rakhi (other than that of precious or semi-precious material)	Nil	18%
2	Sanitary Napkins	Nil	12%
3	Circulation and commemorative coins	Nil	5%
4	Raw material for broom	Nil	12%
5	Stone/Marble/Wood Deities	Nil	5%
6	Sal leaves and its products	Nil	18%
7	Khali dona	Nil	18%
8	Coir pith Compost	Nil	5%
9	Chenille fabrics and other fabrcis under 5801	5%	12%
10	Handloom dari	5%	12%
11	Phosphoric Acid (fertilizer grade only)	5%	12%
12	Handmade Carpets, Textile Floor, Coverings	5%	12%
13	Knitted cap/topi having retails sale value exceeding Rs. 1000	5%	12%
14	Kota Stones and Simliar Stones (other than polished)	5%	18%
15	Ethanol for sale to oil marketing companies for blending with fuel	5%	18%
16	Solid Bio fuel pellets	5%	18%
17	Marine Engine	5%	28%
18	Bamboo Flooring	12%	18%
19	Hand Operated Rubber Roller	12%	18%
20	Brass Kerosene Pressure Stove	12%	18%
21	Zip and Slide Fastener	12%	18%
22	Handicrafts (Excluding handmade)	12%	18%
23	Handbags including pouches and purses; jewellery box	12%	18%
24	Fuel Cell vehicle	12%	28%
25	Televisions upto 68 cm	18%	28%
26	Glaziers' putty, grafting putty, resin cements	18%	28%
27	Refrigerators, freezers, water cooler, milk coolers, ice cream freezer	18%	28%
28	Washing Machines	18%	28%
29	Food Grinders & mixer	18%	28%
30	Vacuum Cleaners	18%	28%
31	Paints and Varnishes (including enamels and lacquers)	18%	28%
32	Shavers, Hair Clippers	18%	28%
33	Hair Cleaners	18%	28%
34	Storage water heaters	18%	28%
35	Immersion heaters	18%	28%
36	Hair Dryers, Hand Dryers	18%	28%
37	Electric Smoothing irons	18%	28%
38	Scent Sprays	18%	28%
39	Toilet Sprays	18%	28%
40	Pads for application of cosmetics or toilet preparations	18%	28%
41	Lithium-ion batteries	18%	28%

42	Powder Puffs	18%	28%
43	Special purpose motor vehicles	18%	28%
44	Work Trucks (Self-propelled, not fitted with lifting or handling e)	18%	28%
45	Trailers & Semi trailers	18%	28%

4.6.7. List of Services Exempt: Senior Citizens: 1. Sevices provided by Coal Mines provident fund organisation to the PF subscribers. 2. Services provided by Old age home run by state government / central government to the citizens aged more than 60 years up to Rs. 25000. GST exempted on the administrative fee collected by National Pension System Trust. 4. Services provided by an unincorporated body or non profit entity registered under any law to own members up to Rs. 1000 per year of membership fees.

4.6.7.1. Agriculture/ Farmers: 1. Services by way of artificial insemination of livestock (other than horses) 2. Services provided by FSSAI to food businesses. 3. Services provided by way of warehousing minor forest produce. 4. Services provided by the installation and commissioning by DISCOMS for extending electricity distribution network for agricultural use.

4.6.7.2. Banking/Finance/ Insurance: 1. Reinsurance services provided to insurance scheme such as Pradhan Mantri Rashtriya Swasthya Suraksha Mission

Government: 1. Guarantees given by central/state government to their undertakings/PSUs.

2. Services provided by government to ERCC by assigning the right to collect royalty to mining lease holders.

4.6.7.3. Miscellaneous: 1. Import of services by Foreign diplomatic missions/UN other international organizations. 2. GST rate slabs will apply on the actual rate for hotel services instead of declared tariff.. GST Rate revision in 25th GST council meeting. 25th GST Council meeting on 18th January 2018. GST council has made the much-awaited announcements around tax rates on various categories of goods on 18th January 2018 at Vigyan Bhavan, Delhi. There has been hype around these rates for a while and now these GST rates are finally in the public domain!

4.7. SUMMARY

After studying this lesson student should be able to know the Process of GST Implementation Understand the Territorial Jurisdiction - Importance of Multiple Rates of GST. The present study is revealed about the Challenges in implementing this new system. Further, it is noticed about 5 Steps for Successful Implementation of GST. It is also explained about Goods and Services Tax (GST) Return Filing. Importance of Territorial Jurisdiction and Multiples Rates of GST is observed in the present lesson.

4.8. TECHNICAL TERMS

GST: GST (Goods and Services Tax) is one indirect tax for the whole nation. It is the resultant tax after subsuming major Central and State indirect taxes. GST is a destination based tax levied on the consumption of goods and services across the nation, thus rendering the country one unified common market. A destination based tax is one which is levied in the state where the goods or services are consumed and not where they are produced. On the other hand, an origin based tax is levied in the state where goods or services are produced (not consumed).

4.9. SELF-ASSESSMENT QUESTIONS

1. Discuss about the importance of GST.
2. Explain about different categories of Multiples Rates of GST.
3. What are the defects of GST?
4. What are the benefits of GST?
5. What are the goods exempted from GST?

4.10. SUGGESTED READINGS

1. Goods and Services Tax in India- Notifications on different dates
2. GST Bill 2012
3. The Central Goods and Services Tax Act, 2017, No.12 of 2017, Published by Authority, Ministry of Law and Justice, New Delhi, 12 April, 2017
4. Background Material on Model GST Law, Sahitya Bhavan Publications, Hospital Road, Agra-383 003

Dr. Krishna Banana

LESSON-5
GST MODELS

AIMS AND OBJECTIVES

After studying this lesson student should be able to:

- Know the Historical background and the global experience of GST.
- Understand the Models of GST: Australian Model- Canadian Model

STRUCTURE

5.1. INTRODUCTION

GST is introduced with a vision to bring benefits to all the stake holders of industry, Government and the citizens. GST is a win – win situation for the entire country. It is envisaged that GST will accrue significant benefits to the stake holders. GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level. GST may give a major boost to the "Make in India" initiative of the government of India by making goods and services produced in India competitive in the national as well as international market. This would make India a manufacturing hub. Under the GST regime, the principle of exporting only the cost of goods or services and not taxes is being followed. This may boost Indian exports thereby improving the balance of payments position. . With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase. : Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST would lead to simplification and uniformity in tax structure. GST is largely technology driven. The uniformity in laws .procedure and tax rates across the country may go a long way in reducing the compliance cost. GST will give more relief to trade and industry through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several central and state taxes in the GST and phasing out of CST. GST has increased the threshold for GST registration for small businesses. While relatively smooth, there have been few challenges and concerns as well in the robust indirect tax regime named GST. Small and medium enterprises (SME'S) have been continuingly struggling to cope with the complexity of the GST laws as well as it's compliances. The biggest bone of contention has been the technological challenges right from the stage of implementation of GST till date primarily because the success of GST depends on a strong technological backbone (so provided by the goods and services tax network (GSTN) Ironically, the goods and services tax (GST) has taken the presence of ubiquitous broadband internet availability for granted India. In addition to this, the readiness of GSTN to process large volume of data (As almost 3 billion invoices are uploaded every month) almost seems to be an impossible task which has already lead to the huge data traffic on the GST common portal. GST defects the objective of "ease of doing business". Needs for centralized single registration. Still lot of taxes which have not been subsumed in GST. Multiple tax rates. Dual control hurdles. Confusions regarding changing laws. Restrictions of cross utilization of CGST & SGST.

The International experience shows that the success of the GST depends mostly on the model and its effective implementation. If we look at some of the major countries like Australia, Canada, Newzealand , Singapore, Japan, Korea, United Kingdom etc. We find that they have done fairly well in most of the macroeconomic indicators. The type of GST frame work varies from country to country. For example, Australia adopted the least neutral, Newzealand most neutral while Canada's GST intermediate. Most of these countries experienced a temporary spike in their price levels immediately after the GST implementation. However, price levels stabilized at lower rate after the implementation of VAT/GST. Other macro indicators like GDP growth rate, fiscal balance, current account balance, Tax- GDP ratio have improved in most of the countries, particularly in case of Canada, Australia, Newzealand, Koria, Singapore and United kingdom. Therefore, a simple and unified tax system like GST has made these economies more competitive, helped to improve exports, generate more revenues and stabilized prices. Under the federal constitution of India, both centre and states are empowered to impose indirect taxes on goods (centre on manufacturing and states on sale)but only the centre could levy taxes on services.

5.2. HISTORICAL BACKGROUND: THE GOBAL EXPERIENCE OF GST

The International experience shows that the success of the GST depends mostly on the model and its effective implementation. Over time, many countries have fine tuned their GST models to reap the benefits of the GST in terms of growth, revenues and price stability. So far, the experience in countries like Australia, Canada and Newgealand shows that there is better fiscal finance and price stability in the short medium term.

There are around 160 countries in the world that have implemented VAT/GST. There are 7 countries ASIAN, 19 IN Asia,53 in Europe,7 I Oceania, 44 in Africa,11 in South America and 19inCaribbean,central and North America. Clearly , Europe has the highest number of countries which have implemented VAT/GST. France was one of the first country to implement GST in 1954, followed by Germany in 1968 and United Kingdom in 1973. Typically, GST is a unifed tax system in most of the countries but Canada and Brazil have dual GST like India. Standard rate of VAT/GST in most of the countries between 16-20 percent similar to India's GST rate of between 18-22 persent. The recent country to implement GST is Malaysia in 2016.

If we look at some of the major countries like Australia, Canada, Newzealand , Singapore, Japan, Korea, United Kingdom etc. We find that they have done fairly well in most of the macroeconomic indicators. The type of GST frame work varies from country to country. For example, Australia adopted the least neutral, Newzealand most neutral while Canada's GST intermediate. Most of these countries experienced a temporary spike in their price levels immediately after the GST implementation. However, price levels stabilized at lower rate after the implementation of VAT/GST. Other macro indicators like GDP growth rate, fiscal balance, current account balance, Tax- GDP ratio have improved in most of the countries, particularly in case of Canada, Australia , Newzealand, Koria, Singapore and United kingdom. Therefore, a simple and unified tax system like GST has made:

- These economies more competitive,
- Helped improve exports
- Generate more revenues
- Stabilized prices

5.3 HISTORICAL BACK GROUND – THE INDIAN EXPERIENCE OF GST

Under the federal constitution of India, both centre and states are empowered to impose indirect taxes on goods (centre on manufacturing and states on sale) but only the centre could levy taxes on services. In the beginning the taxes on goods were levied in a straight jacket formula. Formula = value of goods (inclusive of taxes on inputs) X (Rate of tax /100). As per this formula, Taxes Were Being Levied on Taxes Also.

Now let us go through the phases through which GST has passed:

- 1974: It was for the first time in 1974 when LK Jha committee suggested introduction of value added tax(VAT) In indirect taxes to avoid CASCADING EFFECT (The effect of double taxation i.e. levying tax on tax) of such taxes.
- 1986: The suggestion of LK Jha committee had to wait for 12 years when in 1986 the centre took initiative to introduce modified value added tax[MODVAT] For central excise duties. The main objective of MODVAT was to allow manufacturers to obtain instant & complete re-imbursement of excise duty paid on components and raw materials.
- 1994: Mean while in 1994, another indirect tax i.e. service tax was levied by centre on rendering of services.
- 2004: In 2004,on the basis of the report of vijay kelkar committee, MODVAT was replaced by CENVAT (central value added tax) where in credit of duty / taxes was allowed on both goods and services.
- 2006:
    1. Based on the recommendation of raja chelliah committee, VAT got introduced replacing sales tax regime.
    2. Then finance minister formally announced the target date for implementation of GST w.e.f. 1st april 2010.
    3. Empowered committee of state finance ministers headed by Sh. Asim Das Gupta(FM of west Bengal) was formed to design the road map of GST .

- 2008: In April 2008 , the empowered committee (EC) Submitted a report, titled “ A model and road map for goods and services tax (GST) in India” that contain broad recommendations about structure and design of GST.
- 2009: Based on inputs from government of India and various state governments, The EC released its first discussion paper on goods and services taxes in India on 10th November, 2009 with the objective of generating a debate and obtaining inputs from all stake holders. The committee recommended a DUAL GST MODEL FOR India. As per this model, central GST was to be levied & collected by the centre and the state GST to be levied and collected by the respective states. For interstate transactions, an integrated GST [IGST] to be levied by centre was recommended by EC.
- 2014: The GST law is broadly on lines as indicated in the discussion paper. The earlier provisions of constitution did not provide for imposition of GST. Hence, constitutional amendment was required before introduction of GST. Constitution (one hundred and first amendment) bill, 2014 was introduced in December, 2014 by shri Arun Jaitley, Finance minister, Government of India.
- 2015: Constitution (one hundred and first amendment) bill, 2014 relating to GST was passed by Lok sabha on 7 -5-2015. It was passed by Rajya sabha on 3-8-2016 with certain amendments.
- 2016: These amendments were later rectified by Lok sabha. Subsequently, the constitution (one hundred and first amendment) bill, 2016 was rectified by 17 states out of 29 states, as required under the constitution. It then received ascent of the president on 8-9-2016.

5.4. BENEFITS OF GST

GST is introduced with a vision to bring benefits to all the stake holders of industry, Government and the citizens. GST is a win – win situation for the entire country. It is envisaged that GST will accrue following significant benefits to the stake holders.

a) **Advantages to Economy**

- **Creation of unified national market**: GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.
- **Boost to “Make in India” initiative**: GST may give a major boost to the “Make in India” initiative of the government of India by making goods and services produced in India competitive in the national as well as international market. This would make India a manufacturing hub.
- **Boost to investments, exports and employment**: Under the GST regime, the principle of exporting only the cost of goods or services and not taxes is being followed. This may boost Indian exports thereby improving the balance of payments position. Exporters are being facilitated by grant of provisional refund 90% of their claims within 7 days of issue of acknowledgement of their application, thereby resulting in the easing of position with respect to cash flows.
- Further, the subsuming of major central and state taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of central sales tax (CST) may reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of Indian goods and services in the international market may increase to give boost to investments and Indian exports. With a boost

in exports and manufacturing activity, more employment would be generated and GDP would increase.

- **Simplified tax structure**
  Ease of doing business: simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST would lead to simplification and uniformity in tax structure. Harmonization of laws, procedures and rates of tax across the country will make doing business easier. Common definitions, common forms/formats, common interface through GST portal may result in efficiencies and synergies across the board.
- **Certainty in tax administration**: Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base, common system of classification of goods or services along with timelines for every activity may lend greater certainty to taxation system.
- **Easy Tax Compliance**
- **Automated procedures with greater use of IT**; GST is largely technology driven. They are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments, etc. Inter action is primarily through the GST common portal, therefore, there is less public inter face between the tax payer and the tax administration.
- **Reduction in compliance costs**: The compliance cost may be lesser under GST as multiple records keeping for a variety of taxes is not needed, therefore, there is lesser investment of resources and man power in maintaining records. The uniformity in laws .procedure and tax rates across the country may go a long way in reducing the compliance cost.

b) Advantages to Trade and Industry

- **Benefits to industry**; GST will give more relief to trade and industry through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several central and state taxes in the GST and phasing out of CST .The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance may also lead to lowering of tax burden on an average dealer in trade and industry.
- **Mitigation of ill effects of cascading**; GST is a destination-based consumption tax. It has been designed in a manner so that tax is collected at every stage and the credit of tax paid at the previous stage is available to set off the tax to be paid at the next stage of transaction .This eradicates “tax on tax” and allows cross utilization of input tax credits which benefit the industry by making the entire supply chain tax neutral. Thus, GST will prevent cascading of taxes by providing a comprehensive input tax credit mechanism across the entire supply chain. Such a seamless availability of input tax credit across goods or services at every stage of supply will enable streamlining of business operations.

c) Advantages to small Traders and Entrepreneurs:

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

5.5. DRAWBACKS OF GST

While relatively smooth, there have been few challenges and concerns as well in the robust indirect tax regime named GST, which have been discussed below:

- **Coping with GST: A Struggle for SME'S**; Small and medium enterprises (SME'S) Have been continuingly struggling to cope with the complexity of the GST laws as well as it's compliances. Perhaps, most of them did not expect that GST would indeed see the light of the day so soon and left the preparations for it for the last moment. To quote a few teething problems that small and medium enterprises confronted were incurring costs buying software's required for GST compliances as well as expenses incurred on hiring expert professionals required for operating those soft ware's.
- **Stringent legislative provisions for SME'S**: In addition to the hurdles relating to coping up with the latest technological requirements, some of the legislative provisions, such as applications of reverse charge on purchasers in the case of purchases from unregistered vendors has strongly affected the business of small and medium enterprises.(who were not registered has their annual turnover did not exceed the exemption threshold of rupees twenty lacks under the GST registration laws.)
- **Effort on the export industry**; the export industry also felt the effect of GST, as the export incentives got shrieked in the GST regime. Also there exists a lack of clarity in terms of procedures and timelines for availing refunds of input taxes for exports.
- **Technological barriers**: The biggest bone of contention has been the technological challenges right from the stage of implementation of GST till date primarily because the success of GST depends on a strong technological backbone (so provided by the goods and services tax network (GSTN) Ironically, the goods and services tax (GST) has taken the presence of ubiquitous broadband internet availability for granted India.
- In addition to this, the readiness of GSTN to process large volume of data (As almost 3 billion invoices are uploaded every month) almost seems to be an impossible task which has already lead to the huge data traffic on the GST common portal.
- GST defects the objective of "ease of doing business".
- Needs for centralized single registration. Still lot of taxes which have not been subsumed in GST. Multiple tax rates. Dual control hurdles. Confusions regarding changing laws. Restrictions of cross utilization of CGST & SGST.

5.6. MODELS OF GST PROPOSED AT GLOBAL LEVEL

a) Australian Model: Australia implemented GST n 1st July, 2000 under the aegis of the Howard Government. Under the Australian Model of GST, Value Added Tax(VAT or GST)is levied on the supply of goods and services in Australia ,including the imports of goods or services. But exports are not levied with GST. In other words, imports of goods or services attracts the levy of GST but exports are exempted from GST.

b) Canadian Model: Similar to the Indian context, it is only Canada that has the concept of dual GST. While there was a strong opposition to the introduction of GST in Canada by various political factions, Canada went ahead and implemented it despite the opposition. In fact, the Government of Canada has been pragmatic and consistently worked towards reduced GST rate post implementation. In Canada, the GST replaced the Manufacturer's

Sales Tax(MST) and came in to fore in 1991 by Prime Minister Brain Mulroney and Finance Minister Michael Wilson.

5.7. MODELS OF GST PROPOSED IN INDIA

a) Kelkar Shah model of GST: The concept of goods and services tax or GST was mooted by Dr.Vijay kelkar, former finance secretary in 2004. Kelkar shah model of GST is a unified GST model which is based on grand bargain to merge the central excise; service tax and state VAT to make it a common base for GST.As per this model, two different rates of tax are to be levied by the centre and the states. This is like the HST (Harmonised sales tax) model in Canada.

The kelkar shah model suggested implementation of GST in four stages.

Stage 1	Stage2	Stage 3	Stage 4
Establishing information technology systems	Building the central GST	Political effort of agreeing on "Grand Bargain"	Interaction with the state.

The kelkar shah model intended to merge central excise (cenvat), service tax and state VAT into one common base.

- Three ad-valorem rates proposed (in addition to zero rate)
    - –At centre-6% ,12% and 20%
    - -At states-4%,8% and 14%.
- This model is similar to the HST model in canada.
- GST to be levied both by the centre and the states.
- The model also proposed that the centre shall collect tax revenue from the big industries and the states will collect from the smaller industries.
- This model did not consider the provisions of the constitution (as it proposed centre and states to collect tax revenues on the basis of size of industries), hence was not considered appropriate.
- Imports to be liable to both central GST and state GST.

b) The Bagchi Poddar Model of GST:
This model like kelkar- shah model, prposes to combine central excise, service tax and state VAT to make a common base of GST. These model also proposed that the GST shall be levied by both centre and the states separately .By abolishing the central excise, service tax and state VAT, The taxable event under this model shall be the act of sale of goods or services or both. The model clearly envisages that a constitutional amendment shall be necessary to bring the taxing powers on goods and services under the concurrent list and also to abolish the present divison of taxing power between the centre and states.

Features of the Bagchi Poddar model of GST:

- Combination of central excise, service tax and VAT as a common base for GST.
- Levied by both centre and the states separately.
- Single RNR(Revenue neutral rate) of 6%.
- If more than one rate, then two rate system to the adopted comprising standard rate and lower rate (Lower rate for basic necessities).

- Envisages constitutional amendment by bringing the taxing powers on goods and services under the concurrent list.
- Envisages national hormonisation agreement.

c) Comprehensive Model of GST:

- The GST shall have two components: one levied by the Centre (referred to as Central GST or CGST), and the other levied by the States (referred to as State GST or SGST). Rates for Central GST and State GST would be approved appropriately, reflecting revenue considerations and acceptability.
- The CGST and the SGST would be applicable to all transactions of goods and services made for a consideration except the exempted goods and services.
- Cross utilization of ITC both in case of inputs and capital between the CGST and the SGST would not be permitted except in the case of inter State supply of goods and services(i.e IGST).
- The Center and the States would have concurrent jurisdiction for the entire value chain and for all tax payers on the bases of thresholds for goods and services prescribed for the State and the Center.

d) Dual GST Model:

A “Dual GST” Model has been adopted in view of the federal structure of our country. Center and States will simultaneously levy GST on every supply of goods or services or both which, takes places with in a S tate or Union Territory. Thus, their shall be two components of GST:

I. Central tax (CGST) (Levied and collected under the authority of CGST Act, 2017 passed by the parliament).

II. State Tax (SGST) (Levied and collected under the authority of SGST Act, 2017 passed by respective state).

a) **Non Concurrent Dual GST:** Under this model, GST on goods can be levied by the states only and on services by the center only. The states already have the power of levy the tax on the sale and purchase of goods(and also on immovable property), and the Center for taxation of services. No special effort would be needed for levying a unified Center tax on inter state services. This model of Dual GST would not be acceptable to the Center as well the states. Hence, the Government has already announced its intention to follow the concurrent the Dual GST.

b) **Concurrent Dual GST:** It consist of both the Central GST and State GST levied on same base. Under this model, GST will be levied by both tiers of Governments concurrently. There will be Central GST to be administered by the Central Government and there will be State GST to be administered by State Governments. In this model, both goods and services would be subject to concurrent taxation by the Centre and the States. All types of goods and serviceswill be brought under this proposed GST structure except few exceptions. India and Canada follow the Concurrent dual GST model.

For example, if a product has a cost of Rs.10,000\- and rate of CGST and SGST are 9% then in such case both CGST and SGST will be charged on ? 10,000 i.e. CGST will be ? 900 and SGST will be Rs 900.

e) Central and State GST

Dual GST: Many countries in the world have a single unified GST system i.e a single tax applicable throughout the country. However, in federal countries like Brazil and Canada, a dual GST system is prevalent whereby GST is levied by both the federal and state or provincial governments. In India, a dual GST is proposed whereby a Central Goods and Services Tax (CGST) and a State Goods and Services Tax (SGST) will be levied on the taxable value of every transaction of supply of goods and services.

5.7.1. Features **of Proposed Indian Dual GST:**

1. **Single Registration:** Registration under GST is pan based which means PAN is mandatory for all assesses. The respective asseses are required to take registration for each premises in each state from which supplies are made. Under GST Each assesses are treated as separate assesses and the concept of separate legal entity is totally wiped out.
2. **Destination principle:** The GST structure would follow the destination principle. Accordingly, imports would be subject to GST, while exports would be zero-rated. In the case of inter-state transactions within India, State tax would apply in the state of destination as opposed to that of origin.
3. **Uniform Method:** Procedures for collection of Central and State GSTs would be uniform. Payment of tax is totally online through net-banking thereby encouraging ease of doing business.
4. **Returns:** There are eight GST returns which need to be filled by the persons. As per the proposal, the returns can be filed on a specific date of a month, like on 10th of next month for outward supplies, 15th for inward supplies and 20th in case of monthly returns. There is a provision for filing of GST returns by non-resident tax payers in form GSTR-5. Non-resident tax payers could include taxi aggregators like Uber. There will be a defaulters list of those who will be failing to file returns periodically and such details would be forwarded to GST authorities for necessary action.
5. **Administration:** Harmonization of center and state tax administrations, which would reduce duplication and compliance costs. Elimination of multiplicity of taxesand their cascading effects.
6. **Classification of goods & services:** HSN (Harmonized System of nomenclature) will form the basis of product classification for Central GST and State GST and Service tax accounting codes (commonly known as SAC) for services.

5.7.2. Benefits of Dual GST:

The Dual GST is expected to be a simple and transparent tax with one or twoCGST and SGST rates. The dual GST is expected to result in:

1. Reduction in the number of taxes at the Central and State level.
2. Decrease in effective tax rate for many goods.
3. Removal of the current cascading effect of taxes.
4. Reduction of transaction costs of the taxpayers through simplified tax compliance.
5. Increased tax collections due to wider tax base and better compliance.

5.7.3. Model of GST with example:

a) The GST shall have two components: one levied by the Centre (referred to as Central GST or CGST), and the other levied by the States (referred to as State GSTor SGST). Rates for Central GST and State GST would be approved

b) ISPECIAL services made for a consideration except the exempted goods and services. appropriately, reflecting revenue considerations and acceptability.

c) bThe CGST and the SGST would be applicable to all transactions of goods and Services made for a consideration excepted the exempted goods and services.

d) Cross utilization of ITC both in case of Inputs and capital goods between the

CGSTand the SGST would not be permitted except in the case of inter-State supply of goods and services (i.e. IGST).

e) The Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of thresholds for goods and services prescribed for the States and the Centre.

5.8. SINGLE GST VS DUAL GST

1. Simple and transparent tax: Dual GST is the best solution for countries like India because it will reduce the number of taxes at central and state level. This will also be easy to implement and create accountability for.

2. Decreasing tax rate: Dual GST will also result in reduction in the effectivetax rates for many goods.

3. Removal of cascading effect of taxes: The implementation of GST will reduce the cascading effects of the present taxation system

4. Simplified tax compliance: By reducing the transaction costs of taxpayers,dual GST will bring about simplified tax compliance.

5. Increase in the amount of tax collection: Better compliance and a widertax base will lead to increased tax collections

6. India is a federal country with disparate states: Dual GST is ideally suited for a country like India to ensure unity through diversity. Single point GST is neither desirable economically nor practical administratively, because it means central excise duty, sales tax and service tax will be merged to be collected as a single tax.

7. Questions about the Constitution: The Constitution of India does not permit the Centre to be in charge of sales tax and states similarly are not permitted to levy central excise duty and service tax. If the Constitution is amended to combine all taxes in 1 list (whether Union/State/Concurrent), present federal structure will change fundamentally. This is because the Centre will levy everything if it goes to the Union List and the States would not agree to this. If this goes to the State List, Centre will protest against loss of fiscal power. Concurrent list would be even bigger problem with no one being able to control the power of states to increase taxation rates.

8. Upset fiscal federalism: If dual GST is not adopted and a unified GST system is preferred, this will upset the notion of fiscal federalism which is the fundamental cornerstone of India polity. Moreover, the fundamental structure of the Constitution cannot be changed through an amendment.

9. Unified GST would therefore go against the spirit of the Constitution: Unified GST does not exist in most federal States: With the exception of Australia, unified GST system does not exist in any nation with a federal structure. Countries that have combined GST are unitary states mostly. Though Canada has a single federal GST, it also has states sales taxes andBrazil does not follow a pure single GST system either.

10. Who will collect the GST?: This becomes an issue if single point GST is implemented. States will not allow Centre to be sole tax authority. System will malfunction further if tax collection services at Union and State level are merged.

11. Dual GST most practical for federal India: As Centre already levies CENVAT and tax services, CGST will work well with some harmonization as will SGSTwith symmetry in a dual GST system.

12. Easily attainable: The dual GST system is easy to attaining the current given that India is following an indirect taxation system. Certain may be required, but on the whole, the transition will be easier.

13 Good balance: The dual GST will strike a good balancebetween harmonisation and fiscal autonomy of Centre and States. Government willbe able to apply taxes to goods and services at various the supply chain.

14. Least changes, most benefits: Dual GST will provide a competitive for companies to work on an international scale. Moreover, single will alsoreduce costs to customers

15. Single point GST will impair Centre's revenues: Dual GST will in the Centre's revenue. Reduction in fiscal transfers will off set losses will also have access to revenue resources for future needs. Any other not be revenue neutral for state

16. Better for business: Single GST will mean that businesses will have with different task laws for different states and this will affect business

17. Undermines States powers, is not workable: Unhealthy competition among states using tax structures to attract industries if implemented. Dual GST is more workable and a complete withdrawal from State's taxation could impair the ability of the latter to collect symmetrical manner.

5.8.1. Single GST is better

1. **Dual GST not an ideal model:** It can only be a transitional modelbe levied at two levels and compliance costs may not lessen significantly.
2. **Comprehensive model of Single GST better**: This GST comprehensive model for taxation of inter and intra state transactions andgoods.
3. **Taxation of services at state level a challenge in dual GST:** for services that are provided nationwide such as telecommunicationstransportation.
4. **Prevent economic distortions:** A single/unified GST would be levied ratethereby doing away with classification disputes and economic distortion.
5. **Freeing up of resources:** Reduction in compliance costs would open for more productive pursuits besides making India a one tax nation markets areality. There would also be free distribution of goods and lack of checkpoint or internal tax frontiers and other barriers to trade.
6. **One rate, one bas:** One set of tax rules rates, will form the essence of a unified GST. It will also promote harmonization of tax rates, bases and administration.
7. **Inter has been state less variations than positive to For lessen:** example Indian there experience is substantial with diversion inter-state of variation gold and silver would sales be problematic in areas where in termsVAT is of lower taxation compared of service to other elements states. of Such a unified variations GST would also be ideal from a business perspective as stability in decision making will result.
8. **Minus the cascading effects:** Cascading effects would be contained as therewould be no tax at two levels.
9. **Increase customer awareness:** Customer will know how much is the indirecttax burden in goods and services consumed by him.

5.9. EXAMPLE 1: (COMPREHENSIVE COMPARISON)

Comparison between multiple indirect tax laws and proposed on law

Particulars	Without GST	With GST
Manufacture to Wholesaler		
Cost of production	5000.00	5000.00
Add Profit Margin	2000.00	2000.00

Manufacturing Price	7000.00	7000.00
Add Excise Duty @12%	840.00	-
Total Value (A)	7840.00	7000.00
Add VAT@12.5%	980.00	-
Add CGST @12%	-	840.00
Add SGST@12%	-	840.00
Invoice Value	8820.00	8680.00
Share holder to retailer		
COG to Wholesaler(A)	7840.00	7000.00
Add Profit Margin@10%	784.00	700.00
Total Value(B)	8624.00	7700.00
Add VAT @12.5%	10078.00	-
Add CGST@12%	-	924
Add SGST@12%	-	924
Invoice Value	9702.00	9548.00
Retailer to Customer		
COG to Retailer(B)	8624.00	7700.00
Add Profit Margin	862.40.	770.00
Total Value(C)	9486.40	8470.00
Add VAT @12.5%	1185.80	-
Add CGST@12%	-	1016.40
Add SGST@12%	-	1016.40
Total Price to the final customer	10672.20	10502.80
Cost saving to customer	-	169.40
% Cost saving	-	1.59

Notes: Input tax credit available to wholesaler is Rs980\- and Rs.1680\- incase of without GST and with GST Respectively.

5.10. SUMMARY

The GST shall have two components: one levied by the Centre (referred to as Central GST or CGST), and the other levied by the States (referred to as State GST or SGST). Rates for Central GST and State GST would be approved appropriately, reflecting revenue considerations and acceptability.The CGST and the SGST would be applicable to all transactions of goods and services made for a consideration except the exempted goods and services. Cross utilization of ITC both in case of inputs and capital between the CGST and the SGST would not be permitted except in the case of inter State supply of goods and services(i.e IGST).The Center and the States would have concurrent jurisdiction for the entire value chain and for all tax payers on the bases of thresholds for goods and services prescribed for the State and the Center. Under Non Concurrent Dual GST model, GST on goods can be levied by the states only and on services by the center only.Concurrent GST consist of both the Central GST and State GST levied on same base. The Dual GST is expected to be a simple and transparent tax with one or two CGST and SGST rates. The dual GST is expected to result in: Reduction in the number of taxes at the Central and State level, decrease in effective tax rate for many goods, removal of the current cascading effect of taxes, reduction of transaction costs of the taxpayers through simplified tax compliance, increased tax collections due to wider tax base and better compliance.

5.11. TECHNICAL TERMS

VAT: Value Added Tax
OT: Output Tax
ITC: Input Tax Credit
GST: Goods and Services Tax
CGST: Central GST
SGST: State GST
UT-GST: Union Territory GST
IGST: Integrated GST
NTP: Net Tax Payable
Intra State: Within the State
Inter State: Two or more States

5.12. SELF ASSESSMENT QUESTIONS

1. Briefly explain the global GST model?
2. Explain in details the process of introduction of GST in India?
3. Discuss the Indian experience of introduction of GST?
4. Write about the model of GST proposed in India?
5. Discuss the" Kalker" and "Shah" model of GST?
6. Explain "Bagchi poddar" model of GST?

5.13. SUGGESTED READINGS

1. Goods and Services tax in India – Notification on different States.
2. GST Bill 2012
3. Background material on model GST Law, Sahithya Publication Hospital Road, Agra. 282003.
4. The Central Goods and Services Tax Act,2017, No-12 of 2017 Published by Authority Ministry of Law and Justice, New Delhi, The 12th April 2017.
5. Goods and Services tax – Kalyani Publishers.
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LESSON -6
COMPREHENSIVE STRUCTURE OF GST MODELS IN INDIA

AIMS AND OBJECTIVES

After studying this lesson student should be able to:

- Know the Comprehensive structure of GST in India.
- Understand the Components of GST.

STRUCTURE

6.1 INTRODUCTION

After understanding in detail the deficiencies existing in the previous system of indirect taxes and the foundation (i.e. VAT) for creating the concept of GST, now we can comprehend that how GST (Goods and Services Tax) can become one of the most crucial indirect tax reform in India.

GST is nothing new, but a well designed value added tax that covers both goods and services. GST is a tax that is levied on the value added to a purchased supply (whether goods or a service) before it is sold again. Under the GST regime, tax would be levied on the value addition done at each stage of production and distribution. In the previous tax regime, separate taxes were levied on manufacturing (Excise Duty), on sale within state (VAT), on interstate sale (CST), on provision of taxable services (Service Tax) and on Imports and Exports (Import Duty and Export Duty). But GST would be a comprehensive indirect tax which is levied on Supply of goods or Services or both which includes manufacturing, sale and consumption of both goods and services throughout India. GST would subsume all different kinds of indirect taxes levied by both Central and State Governments.

6.2 GST IS A CONSUMPTION/DESTINATION BASED TAX

GST has a wide coverage. It covers all the intermediaries involved in the supply chain. At every stage beginning from the production to the distribution and ultimately till the goods or services reach the final consumer, GST would be levied. But this does not lead to double taxation, as when one intermediary pays GST on his output supply (supply includes both goods and services), he is allowed to claim the credit of GST paid by him on his input supply. (This provision was available only in case of VAT under the previous tax system). In other words, GST is paid by the final consumer while all the preceding parties (the intermediaries such as wholesaler, dealer, retailer etc.) involved in the supply chain are allowed to take credit benefit of the tax paid while purchasing goods or services. Moreover, GST being a Destination based tax is levied on consumption basisi.e. the tax is levied when goods or services are consumed and the income of the tax revenues accrues to the place where goods or services are consumed.

6.3 GST ALLOWS A CONTINUOUS CHAIN OF TAX CREDIT

GST offers comprehensive and continuous chain of tax credits from the manufacturer's point or the service provider's point up to the retailer level thereby taxing only the value added at each stage of supply chain. The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods or services and can set off this credit against the GST payable on the supply of goods or services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set off benefits at all the previous stage.

Governing principle for Levy of GST → **Output tax - Credit of input tax = Net GST payable**

Let us have a look of the supply chain components, explained below in the figure

SUPPLY CHAIN COMPONENTS

Manufacturer ↓ **Whole seller** ↓ **Retailer** ↓ **Consumer**

- The manufacturer charged GST on supply of output to wholesaler.
- Wholesaler charged GST on supply of output to Retailer
  (-) paid GST to manufacturer on input supply
  Net GST payable by wholesaler
- Retailer Charged GST from consumer on output supply
  (-) paid GST to wholesaler on input supply
  Net GST payable by Retailer
- Consumer ultimately pays the GST

6.4 STRUCTURE OF GST

GST is a comprehensive indirect tax levied on supply of goods or services or both is India, therefore it shall be levied on manufacture, sale, consumption of goods and services throughout India. Goods and Service Tax which is globally known as VAT, is an old concept which was first implemented in France. Various countries across the globe had implemented GST by adopting different models. The details of which are as follows.

Model	Description	Country
1.Single GST (a).National or Central GST	Tax is levied by central with sharing of revenue with the states.	Australia, China.
(b). State GST	Tax levied by the states and retained by the states themselves.	United States of America.
2.Dual GST (a). Non Concurrent Dual GST	Central levies GST on services and state levies GST on goods or vice versa.	_
(b). Concurrent Dual GST	Tax levied by Centre and State on both Goods and Services.	Brazil, Canada, India.

6.4.1. Single GST

(a) National GST or Central GST: Under CGST, Both Central and State government combine their levels to bring into existence a single unified taxation system at Central level, with appropriate revenue sharing arrangement among them and leaving no room or very little for tax levy by state government. Generally under the National GST, the states and UT's are dependent on the Centre, as states operate on behalf of the centre.

(b) State GST: Under SGST, only States alone levy GST and the Centre withdraws power to levy the tax completely on goods or services. This would significantly enhances the revenue generating power of states and the centre offsets its revenue loss by reducing its fiscal transfer benefit to the states or by suitable revenue sharing arrangement if required. State GST increases the compliance cost to business houses as it will have to comply with tax laws of each state within same country and brings unhealthy competition among the states.

6.4.2. Dual GST:

(a) Non Concurrent Dual GST: Under Non Concurrent Dual GST model, the Centre levies GST on either goods or states/UT levy GST on services or it can be vice-versa. But neither centre nor states/UTinterfere in the domain of each other.

(b) Concurrent Dual GST: Under this model, both centre and state Governments will levy GST concurrently. There will be Central GST to be administered by the Central Government and there will be State GST to be administered by State Governments. In this model, both goods and services would be subject to concurrent taxation by the Centre and the States. All types of goods and services will be brought under this proposed GST structure except few exceptions.

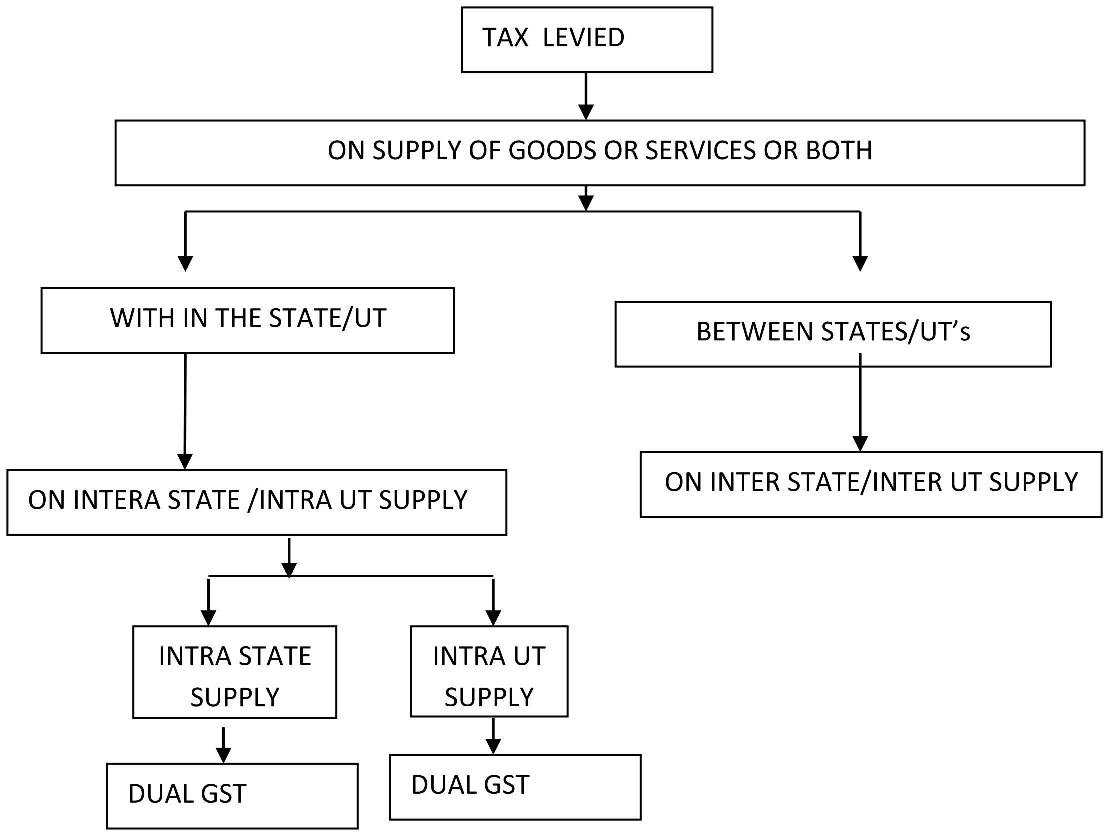
From the various models of GST, India has adopted Concurrent Dual GST Model for implementing GST.

6.5 COMPREHENSIVE STRUCTURE OF GST IN INDIA

Previously, the Central Government levied tax on manufacturing (Central Excise duty), provision of services (Service Tax), interstate sale of goods (CST levied by the Centre but collected and appropriated by the States) and states levied tax on retail sales (VAT), entry of goods in the State (Entry Tax), Luxury Tax, Purchase Tax, etc. It is clearly discernible that this fractured mandate of taxation between the Central and State Governments leaves a lot of gaps in the supply chain. There is cascading of taxes as taxes levied by Central Government are not available to set off against the taxes being levied by the State governments. Further, the variety of VAT tax laws in the country with disparate2.18 GOODS AND SERVICES TAX FUNDAMENTALS tax rates and dissimilar tax practices divides the country into separate economic spheres Creation of tariff and non- tariff barriers such as Octroi, Entry Tax, and Check posts ete hinder the free flow of trade throughout the country. Besides that, the large number of taxes creates high compliance cost for the taxpayers in the form of number of return payments etc. In fact, it is said that our tax laws have created a situation where business decisions are based on tax considerations rather than logical economical factors. All these issues created a need for one tax that will be able to mitigate number of these problems to a large extent

All the taxes mentioned earlier have been subsumed in a single tax called the **Goods and services Tax (GST) which will be levied on supply of goods or services or both at each stage of supply chain starting from manufacture or import and till the last retail level**. GST is proposed to be a dual levy where the Central Government will levy and collect Central GST (CGST) and the states will levy and collect the state GST (SGST). The Centre will also levy and collect Integrated GST (IGST) for inter-state supply of goods and services.

DUAL-GST STRUCTURE IN INDIA

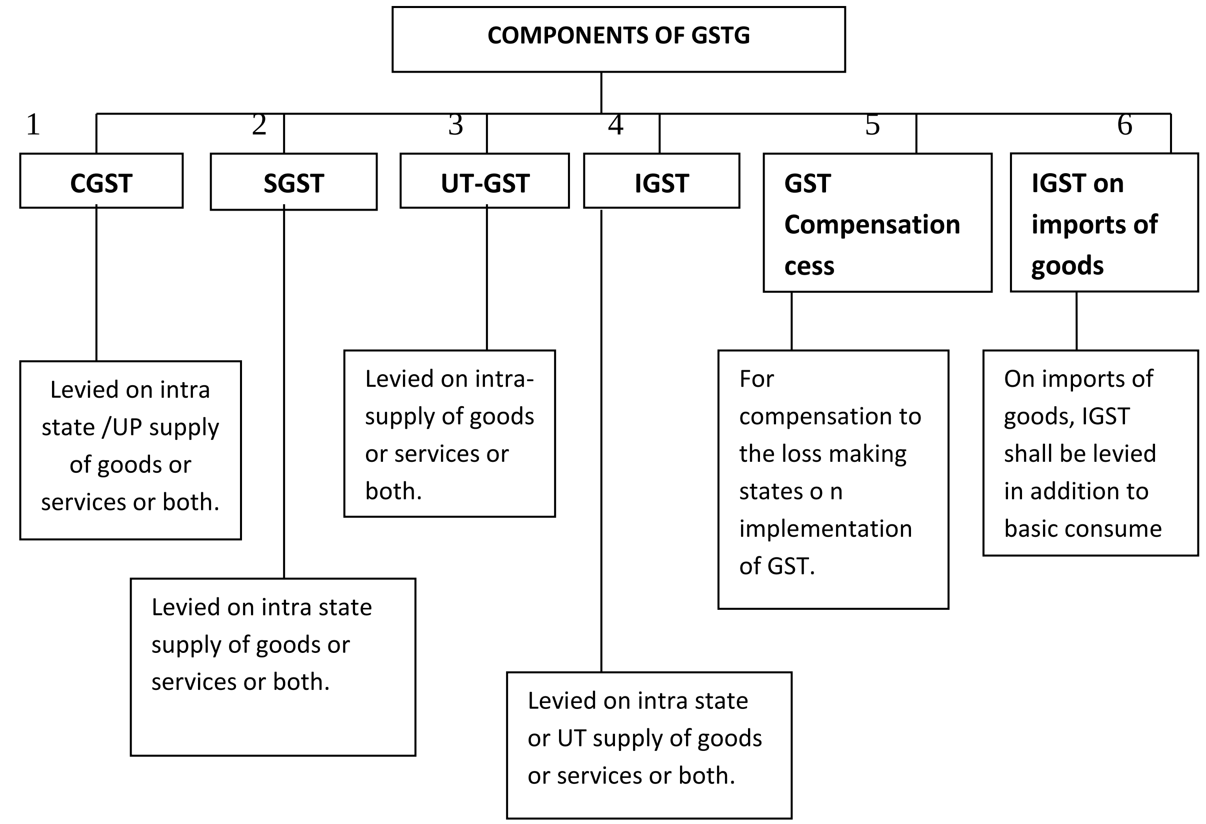


Integrated GST(IGST) Shall be levied on inter state or inter UT supply of goods or services or both between Two States, TwoUT's, State and UT.

6.6. COMPONENTS OF GST

India has adopted a DUAL-GST which is imposed concurrently by the Centre and States, i.e. the CentralGovernment and States/Union Territories simultaneously tax goods and services.

- Both Centre and the States/UT's have the power to tax Intra State Supplies (i.e. within the same state/UT)
- On Inter State Supplies (i.e. between two or more states/UT's), the Central Government hasthe power to levy tax.



6.6.1. Central GST (CGST):

- Central GST is levied by the Central Government.
- Central GST is levied on Intra State or Intra UT transactions i.e. transactions that take place within thesame state or same UT.
- Central GST is levied on Supply of goods or services or both.
- Taxable Event in Central GST is Intra state/UT supply of goods on services or both.
- All Central Taxes got subsumed in CGST such as Excise Duty, Service Tax, Additional Custom Duty, Special Additional Custom Duty, Central Surcharges and Cesses etc.
- CGST is levied under CGST Act, 2017
- Income from CGST is levied and collected by the Central Government.
- Up to 200 NM (Nautical Miles) inside sea is India for the purpose of GST.

6.6.2. State GST [SGST]

- State GST is levied by the respective State Governments.
- State GST is levied on Intra State transactions i.e. transactions that take place within the same state.
- State GST is levied on supply of goods or services or both.
- Taxable Event in State GST is Intra state supply of goods or services or both.
- All State taxes got subsumed in SGST such as VAT (Value Added Tax), Purchase Tax, Luxury Tax, Taxes on lottery & gambling, Entry tax, Entertainment Tax, etc.
- SGST is levied under respective SGST Acts of different states.
- Income from SGST is levied & collected by the State Government with state legislatures.
- Area up to 12 NM inside sea is a part of the state which is nearest.

6.6.3. Union Territory GST [UT GST]

- UT GST is levied by the Central Government.
- UT GST is levied on Intra UT transactions i.e. transactions that take place within the same UT.
- UT GST is levied on supply of goods or services or both.
- Taxable Event in UTGST is Intra UT supply of goods or services or both.
- The VAT that was applicable in Union Territories got subsumed in UTGST.
- UTGST is levied under the UTGST Act, 2017 applicable on all UT's except Delhi and Pondicherry, which have their own legislatureslike state GST for all states.
- Income from UTGST is levied & collected by the UT's without state legislatures.
- Area up to 12 NM inside sea is a part of UT which is nearest.

6.6.4. Integrated GST [IGST]:

- IGST is levied by the Central Government.
- IGST is levied on Inter State or Inter UT transactions (i.e. transaction that take place between two ormore states or UT's).
- IGST is levied on supply of goods or services or both.
- Taxable Event in IGST is Interstate/UT supply of goods or services or both.
- CST i.e. Central Sales Tax got subsumed into IGST.
- IGST is levied under the IGST Act, 2017.
- Income from IGST shall be apportioned between the centre and states on the recommendations of theGST council.
- IGST is sum total of CGST and SGST.

6.6.5. GST Compensation Cess:

- GST Compensation cess deals with the payment of compensation to the states.
- This compensation is for any loss of revenue on account of implementation of GST.
- GST compensation cess has been implemented for a period of five (5) years.
- GST compensation cess is in accordance with the provisions of Section 18 of the GST (Compensation to States) Act, 2017.

- The revenue to be compensated will consist of revenues from all taxes earlier levied by the states(before GST) which have now been subsumed in GST.
- The compensation will be released by the Comptroller bi-monthly and provisionally, Auditor General subject of to India. final adjustment after yearly audit.
- Examples of goods which attract Compensation Cess: Pan Masala, Tobacco products, coal, Aeratedwater, etc.

6.6.6. IGST on Imports of Goods

- The Imports of Goods shall be levied by Basic Custom Duty [BCD], Education cess, [Ed. Cess] Secondary &Higher Education Cess [SHE] under the Customs Act, 1962.
- In addition to the above, IGST also will be levied on import of goods.
- GST compensation cess shall alsobe levied on import of goods.

6.7 DIFFERENCE BETWEEN CGST SGST AND IGST

S.No	Particulars	CGST	SGST	IGST
1.	Meaning	CGST means Central goods and service tax to replace the existing tax like service tax, excise, etc. It is levied by Central Government.	SGST means State goods and service tax, which replaces the existing tax like sales tax, luxury tax, entry tax, etc. and it is levied by the state government	IGST refers to the integrated goods and services tax and it is a combined form of CGST and SGST and it is levied by Central Government
2	Collection of data	Central Government	State Government	Central Government
3	Applicability	Intra state Supply	Intra state Supply	Interstate Supply
4	Composition	The dealer can use the benefit up to Rs. 1 crore under the composition scheme	The dealer can use the benefit up to Rs. 1 crore under the composition scheme	The composition scheme is not applicable in inter state supply
5.	Registration	No registration till turnover crosses 20 lakh (10 lakh for special category states)	No registration till turnover crosses 20 lakh (10 lakh for special category states)	Registration is mandatory

6.8 .COMPREHENDING GST WITH AN EXAMPLE

Let us understand the nuances of GST in detail with the help of a hypothetical example in which there are four stages of value addition, beginning with the first stage which has no purchased inputs to last fourth stage where goods are sold to the final consumer.

I. Stage I Supplier - deals with collection of lac (lac is the scarlet resinous secretion of lac insects) from the forest.
II. Stage II Supplier - Purchases lac from Supplier I, further processes it, adds value to it and sells it to the Supplier III.
III. Stage III Supplier - Purchases processed lac from Supplier II, further processes it, adds further value to it and sells it to the retailer.
IV. Stage IV Retailer supply – Purchases from Supplier III, adds value by procuring, stocking and selling supply to the final consumer.

If these four stages are assumed to exist then let us understand how GST would be levied at every stage in the supply chain and yet will remove the deficiencies ofcascading effect, double taxation and ensure transparency. We also assume that the combined Gs rate. [i.e. Central GST (CGST) and State GST (SGST)]is 10%.

Note: CGST and SGST are levied when goods or services are supplied Intra state or Intra Union Territory.

	Input price of cost price 1	**Value Added 2**	**Total Value added 1+2=3**	**Combined GST@10% on 3=4**	**SP 3+4 =5**	**Tax paid to Govt. (6)**
A Stage I supplier	-	100	100	10	110	10
B StageII Supplier	110 (100+10) Input Tax	50	150 (100+50)	15	165	OT 15 (-) ITC 10 NTP 05
C StageIII Supplier	165 (150+15) Input Tax	40	190 (100+50+40)	19	209	OT 19 (-) ITC 15 NTP 04
D Retailer/ Stage IVSupplier	209 (190+19) Input Tax	30	220 (100+50+40+30)	22	242	OT 22 (-) ITC 19 NTP 03
Total Tax Paid to the Government= 20(10+05+04+03)						

The chart illustrated above explains in layman language, how the concept of ITC is used in GST to avoid double taxation or cascading effect of taxes.

Input Tax Credit = Input Tax Credit simply means credit allowed of tax paid on inputs i.e. InputTax

Output Tax = Output Tax is the tax paid on output.

Under GST, when a person purchases inputs from his supplier, he pays tax to his supplier. Like in this example, when B purchased input from A,B paid tax amounting Rs.10 to A. Now when B supplies goods to C, he charges tax amounting to Rs 15. Now in the earlier regime, the tax paid on inputs were absorbed in the cost of product or service (hence made the product of service more expensive & also lead to double taxation). But in the GST, the tax paid on inputs, like here Rs.10 shall be deducted (allowed as credit) from the output tax, like here out of Rs.15 and B shall only be liable to pay Rs 5 more.

Net Tax Payable = Output Tax- Input Tax Credit

Net tax liability for all suppliers

	A	**B**	**C**	**D**	
Output Tax Less ITC	10 Nil	15 10	19 15	22 19	
Net Tax Payable	10(+)	05(+)	04(+)	03(+)	=22 Total Tax

Here, OT is output Tax, ITC is Input Tax credit and NTP is Net Tax Payable.
Total Tax paid by the consumer = 22 (which is 10% of price).
Government collects total tax amounting to 22.

- From A = 10, From B = 05, From C = 04, From D = 03

Total S.P of product = 242

Table No. 7 has made it clear, how the GST regime would function. Every supplier is eligible to claim set off (credit) of the tax he has already paid while purchasing from his seller. This helps to avoid the cascading tax, double taxation, reduces price of supply, reduces tax burden for the consumer and also ensures transparency.

- Unless every supplier collects tax from his customers, he cannot claim input tax credit (ITC). This ensures transparency in the system.
- Because every customer will further claim ITC on his billed sales, every supplier cannot evade tax, the tax has to be paid to the Government. This avoids tax evasion.
- ITC ensures removal of double taxation.
- **SP of goods/services is less.**
- **Total tax is also less.**

Let us pick another example to understand the various taxes levied under GST.

Illustration 2. Say, a manufacturer in Punjab, purchases inputs from following sources:

I. Imports Inputs from Germany worth rs.100. BCD [Basic Custom Duty] levied @ 10%. Education cess on BCD = 3%.
II. Procures inputs Intra state worth Rs.50.
III. Procures input services Intra state worth rs 20.
IV. Procures input goods and input services Interstate (from Haryana) worth Rs.20.
V. The profit margin of manufacturer is Rs.19.7
VI. The manufacturer after manufacturing final output sells it to the retailer in Punjab.

The retailer further sold goods to the final customer after adding his profit margin and value addition amounting to Rs 30.

A calculate which taxes would be levied on all stages of the supply chain till the output reaches the final customer.

Rate of taxes are: CGST@9%, SGST @9%, IGST@18%

B) Also calculate the net tax payable(NTP) by manufacture and the retailer after taking the benefit of input tax credit.

Solution: Taxes levied at different stages of supply chain

What is the 4-tier GST Tax Structure?

The structure of GST is a 4-tier tax structure in India. The GST tax structure is set up so that all the essential goods, services and a few edibles are encompassed in the lowest level of the GST tax bracket. High valued goods and services and de-valued goods are positioned in the highest level of the GST tax bracket. The Goods and Services Tax or GST Council has decided upon the four-tier structure of GST to be 0%, 5%, 12%, 18% and 28%, and this would be followed strictly. An attempt to keep inflation under check can be seen through the step wherein essential goods and items, which are the primary food units, are excluded from the GST regime. Nonetheless, a 5% tax would still be levied upon some common commodities. On the other hand, most standard services would be charged upon a tax rate of 12% and 18% tax slab, whereas the high valued items would be charged with 28% tax.

GST Tier : India has a 4-tier rate structure of GST or the Goods and Services Tax regime.

Zero Rate (0%): Within this classification of the GST council structure, it has been decided that a few basic commodities would not be charged at all. Most Consumer Price Index (CPI) units can be placed under this rate tier.

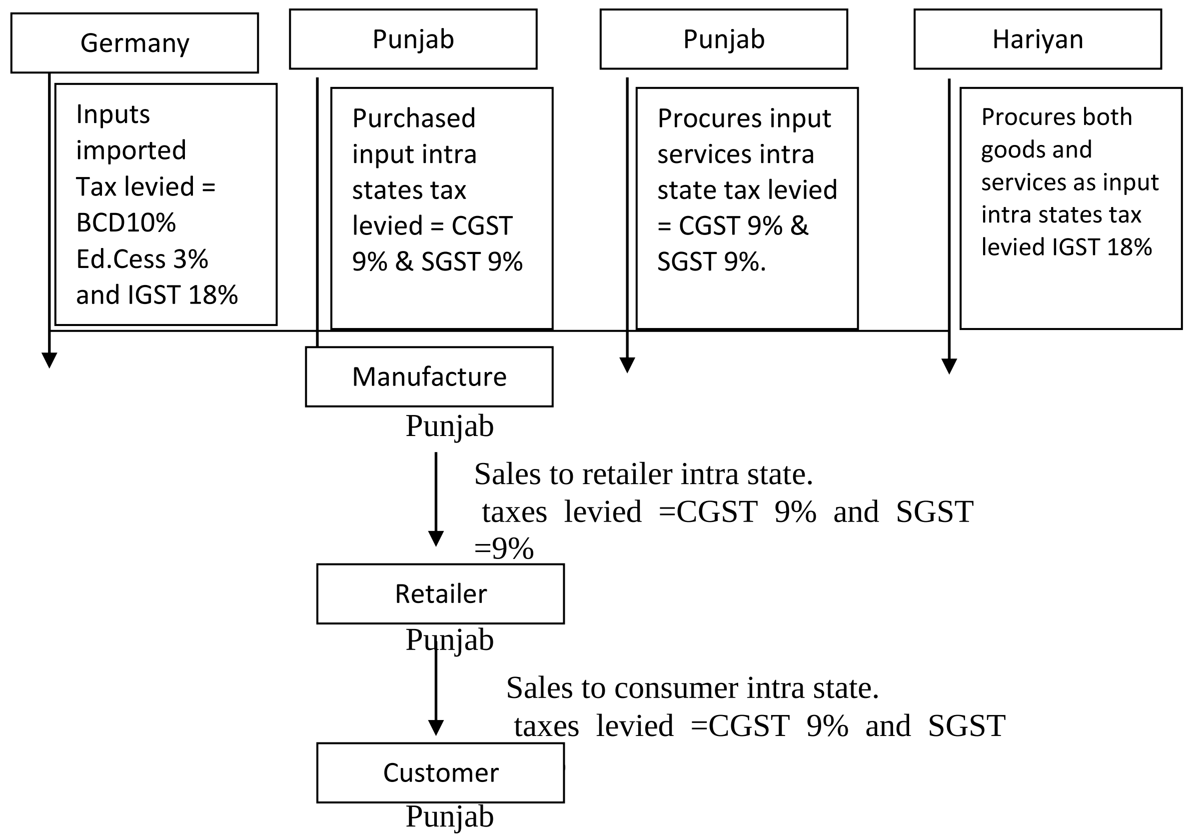
The following items have been placed under the zero rate GST tier structure:

- Raw vegetables such as potatoes, tomatoes and various protein-based vegetables, etc.
- Live animals such as poultry, sheep, goats, bird shelled eggs, fish, etc.
- Unpacked corn, maize, wheat, cereal grains, and soybeans.
- Various constituents of the human blood and human blood itself.
- Raw materials such as raw silk, its waste, khadi fabric and yarn, charcoal, handloom fabrics and unprocessed wool.
- Tools and instruments such as spades, shovels, tools used for agricultural purposes, etc.

Lower Rate (5%): If we look at this rate tier, a 5% tax will be applied on a major part of the common goods and services. This would include the remaining articles under the CPI and large scale consumption products. For example, frozen vegetables, tea, coffee, economy flight tickets, rail tickets, etc.

Standard Rate (12% and 18%): The bulk of goods and services come under the aegis of this rate tier. The Government of India decided to keep two standardised rate slabs of 12% and 18% for this tier to keep inflation under check. The 12% rate slab comprises dairy products, accessories, cell phones, business class air tickets, and movie tickets priced below **₹100**. Items charged under the 18% rate slab are pasta, bakery items, cleaning equipment, hairdryers, panels, electronic items etc.

Higher Rate (28%): This rate slab of 28% sees the inclusion of more than 200 products, which mostly comprise products such as paint, cement, automotive, electronic gadgets, bathing products, soft drinks, etc. However, some items that fall under this slab category are charged with an additional tax by the Indian government.



(i) While procuring input goods and input services: Input imported from Germany : IGST

Goods and imported into India are levied with IGST in addition BCD and education and Cess.

	AMOUNT
Value of imports **Add**: Basic consume duty @10% of 100 (BCD is levied on imported goods under consumer Act 1962)	100 10
Add: Education Cess on BCD 3% on 10	0.30
Add: IGST on imported goods(18% of 110.30)	110.30
[Education Cess is levied @3% on BCD]	19.85
	130.15

Note: IGST(Integrated GST) is levied on imports of goods into India. Refer Chapter =IGST for detailed information.

(ii)Purchased inputs for Punjab: CGST and SGST: Whenever goods are purchased from within the same state i.e. Intra state, both CGST(Centre GST) and SGST (State GST)

	Rs.
Value of Goods **Add:** CGST @9% on 50	50 4.5
Add: SGST @9% on 50	4.5
	59

(iii)Procures input services from the Punjab : CGST and SGST

On Procurement of input services intra state(i.e within the same state), both CGST and SGST is levied.

	Rs.
Value of Goods **Add:** CGST @9% on 20	20 1.8
Add: SGST @9% on 20	1.8
	23.6

(iv)Procures both input goods and services from the Haryana: IGST
On supply of input goods and services intra state IGST is levied.

	Rs.
Value of inputs and services **Add:** IGST@ 18% on 20	20 3.6
	23.6

2. Tax levied at the stage of manufacturing: Let us calculate the cost of manufacture first.

	Rs.
I. Input imported from the Germany (Including BCD and Ed. Cess worth 10.3 because on ITC is available on BCD& Ed. Cess & hence these are added in the cost of inputs) II. Inputs procures intra state. III. Input services procured intra state. IV. Input and input services procured intra state(Haryana)	110.3 50 20 30
	200.3

Taxes paid by Manufacture

	Rs.
Total cost of Manufacture **Add:** Profit margin of manufacture (given in question) **Add:** CGST@ 9% on 220 **Add:** SGST@ 9% on 220	200.3 19.7 220 19.8 19.8
	259.6

Net Tax payable by Manufacture

	CGST	**SGST**
Output Tax Less: ITC on inputs procure intra state Less: ITC on input services intra state Less: ITC of IGST (first use IGST to pay CGST) Less: ITC of IGST(Now use balance IGST to pay SGST)	19.8 4.5 1.8 13.5 13.5 -	19.8 4.5 1.8 13.5 - 9.95(23.45-13.5)
Net tax payable (NTP)	Nil	3.55

Note: Total IGST paid by manufacture	**RS**
(i) On goods imported	19.85
(ii) On inputs/ services intra state	3.6
TOTAL ITC of IGST	23.45

IGST can be utilised to pay out put tax liability but in a sequence as follow:

- First to pay output tax of IGST
- Then to pay output tax of CGST
- Lastly to pay output tax of SGST or UTGST

Therefore, In the chart above of calculation of NTP of manufacture, ITC of IGST was first used to pay CGST amounting to Rs. 13.5 and then out of the balance(23.45-13.5=19.95)left, was used to pay SGST.**(3) Taxes levied at the state of retailer**

	Rs
Cost of retailer(excluding taxes) **Add:** Profit margin and value adding of retailer(given in question)	220 30
	250
Add: CGST @9% on 250 **Add:** SGST @9% on 250	22.5 22.5
	295

Net Tax payable by Retailer

	CGST	**SGST**
Output Tax of retailer Less: ITC of taxes paid to manufacture	22.5 19.8	22.5 19.8
Net Tax payable(NTP)	2.7	2.7

Revenue to the Government of all Taxes

		Rs
(I)IGST(19.85+3.6) • IGST is an income to the central Govt. (II) CGST • On intra state inputs • On intra input services • NTP by retailer	 4.5 1.8 2.7	23.45 09
(III) SGST • On intra state inputs • On intra input services • NTP by Manufacturer • NTP by Retailer	 4.5 1.8 3.55 2.7	 12.55
Total Taxes Collected		45

Total taxes(GST) payable Rs 45. Is equivalent to the output tax liability on the final sale to consumer (CGST 22.5 & a S GST 22.5, hence total output tax on final sale is 22.5+22.5=45

6.9. SUMMARY

GST has a wide coverage. It covers all the intermediaries involved in the supply chain. At every stage beginning from the production to the distribution and ultimately till the goods or services reach the final consumer, GST would be levied. But this does not lead to double taxation, as when one intermediary pays GST on his output supply (supply includes both goods and services), he is allowed to claim the credit of GST paid by him on his input supply. Under CGST, Both Central and State government combine their levels to bring into existence a single unified taxation system at Central level, with appropriate revenue sharing arrangement among them and leaving no room or very little for tax levy by state government. Generally under the National GST, the states and UT's are dependent on the Centre, as states operate on behalf of the centre. Under SGST, only States alone levy GST and the Centre withdraws power to levy the tax completely on goods or services. State GST increases the compliance cost to business houses as it will have to comply with tax laws of each state within same country and brings unhealthy competition among the states. Under Non Concurrent Dual GST model, the Centre levies GST on either goods or states/UT levy GST on services or it can be vice-versa. But neither centre nor states/UT interfere in the domain of each other. Under this model, both centre and state Governments will levy GST concurrently. There will be Central GST to be administered by the Central Government and there will be State GST to be administered by State Governments. In this model, both goods and services would be subject to concurrent taxation by the Centre and the States. All types of goods and services will be brought under this proposed GST structure except few exceptions.

6.10. TECHNICAL TERMS

BCD: Basic Custom Duty, SHE Cess: Secondary and Higher Education Cess

6.11. SELF ASSESSMENT QUESTIONS

1. How to GST is destination based tax?
2. GST in a Consumption and destination based tax comment?
3. Explain the concept of GST with illustration?
4. Explain the components of GST in detail?
5. Explain in detail the comprehension structure of GST in India?
6. Difference between CGST , SGST, IGST?

6.12 SUGGESTED READINGS

1. Goods and Services tax in India – Notification on different States.
2. GST Bill 2012.
3. Background material on model GST Law, Sahithya Publication Hospital Road, Agra. 282003.
4. The Central Goods and Services Tax Act,2017, No-12 of 2017 Published by Authority Ministry of Law and Justice, New Delhi, The 12th April 2017.
5. Goods and Services tax – Kalyani Publishers.
6. Goods and Services1 Himalaya publishing house – 2017

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LESSON 7
TAXES AND DUTIES

AIMS & OBJECTIVES

After study this lesson the student should be able to:

- To know the Difference Between Taxes, Duties, and Tariffs
- To understand the Transactions covered under GST
- To observe the various taxes covered under GST

STRUCTURE

7.1 Introduction
7.2. Difference between Taxes, Duties, and Tariffs
7.2 Transactions covered under GST
7.4. Schedule II of GST Act
7.5. Schedule III of GST Act
7.6. Latest Updates from 1st February 2023 (Budget 2023*)
7.7 Taxes covered under GST
7.8 Taxes and duties outside the purview of GST
7.9. Summary
7.10. Technical Terms
7.11. Self assessment questions
7.12. Suggested Readings

7.1 INTRODUCTION

The definition of 'Goods' under GST includes actionable claims except for money. However, due to this exclusion as per Schedule III, the actionable claims are neither supply of goods nor services. They can be considered as something in substitution of money. It is the principal method of customs valuation. The price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted where appropriate. Goods and Services Tax (GST) is an indirect tax that will replace the entire taxes levy at central and state level and it will unified into one national market across India. If we see at present taxation system, it is more complex as, tax is being collected by central and state and on different basis and according to that businessmen has to maintain their accounts suitable to laws. In business law, a transaction is an event associated with business dealings conducted between two or more parties that involve the formation and performance of an obligation or contract. The word transaction is frequently used in real estate and mergers and acquisitions markets.

M1 consists of currency notes and coins that are in circulation with public as well as the demand deposits with commercial banks. These can be used by the public directly for any transactions. Hence, M1 is also known as 'Transaction Money'. A monetary transaction can be loosely defined as one where someone makes or receives a payment and includes deposits, withdrawals, and exchanges. Specific examples of monetary transactions include electronic funds transfers, checks, money orders, gift cards, and bartering. A transaction is a completed agreement between a buyer and a seller to exchange goods, services, or financial assets in return for money. The term is also commonly used in corporate accounting. In business bookkeeping, this plain definition can get tricky. A statement of account, or account statement, is issued by a vendor to a client. It lists all financial transactions between the two businesses within a specific time period (typically monthly). A nonmonetary transaction includes the exchange of goods or services without actual money changing hands. Nonmonetary transactions include in-kind or barter exchanges, and can be unidirectional (nothing is given in return) or reciprocal (something traded in return). In India, businesses with an annual turnover of more than Rs. 40 lakhs (Rs. 20 lakhs for businesses in some special category states) are required to register for GST.

7.2. DIFFERENCE BETWEEN TAXES, DUTIES, AND TARIFFS

Taxes, duties, and tariffs are often and easily confused with one another when it comes to international shipping. Importers need to understand what they mean and what the key differences are. Duties and tariffs are different types of taxes imposed on foreign goods. A tax is a charge imposed on a taxpayer by a government. Tariffs are a direct tax applied to goods imported from a different country. Duties are indirect taxes that are imposed on the consumer of imported goods. Tariffs and duties help protect domestic industries by making imports more expensive. Taxes, duties, and tariffs all contribute to the total import and export costs of a product. The government imposes taxes, duties, and tariffs to increase tax revenue. The tax revenue from duties and taxes helps fund social and developmental works like education, health, and security.

i. What are Taxes? A tax is a direct or indirect source of government revenue placed on almost all purchases. Taxes are primarily imposed on goods and individuals. Taxes are binding and not voluntary, so an individual is bound to pay tax, and failing to do so is punishable. Import taxes are government fees placed on purchased goods coming into a country. Therefore, duties and tariffs are both types of import taxes. The importer usually pays import taxes. When goods have been purchased abroad, a consumption tax applies and is collected by Customs when goods enter a country.

ii. What are Duties? Duties are an indirect tax imposed by the government on the consumer. Duties are applied to financial transactions and commodities. Duties are considered to be an indirect tax because it is similar to a consumer tax. Duties are imposed on both goods that are imported and goods manufactured locally. This includes excise duties and Customs duties. Duties imposed on goods manufactured domestically are known as excise duties. An excise is a type of indirect tax, so the producer or seller who pays the excise duty is expected to try to recover their loss by raising the price paid by the end-user. Excise duties are imposed in addition to other indirect taxes.Customs duties are an indirect tax imposed by the government on a consumer who imports goods. Customs duties are collected by the government to protect local industries by raising state revenue to offset cheaper manufacturing done abroad. Customs will levy the amount of Customs duties to be paid based on the value, weight, dimensions, etc. of the imported goods. Customs duties vary by product and country of origin and are enforced by United States Customs and Border Protection (CBP). There are different types of Customs import duties: Basic duty- Countervailing duty- Anti-dumping duty-

iii. What are Tariffs? A tariff is a direct tax imposed by the government paid on a particular class of imports or exports. A Tariff relates to the harmonized tariff system codes (HTS), in which imported goods are classified under. HTS codes determine the tariff rate that should be charged on specific products. HTS codes mainly apply to imports. Tariffs can cause a price increase on goods imported into the United States. When the government imposes tariffs on imported goods, their price will increase in the domestic market. As a result of the price increase on imported goods, the quantity of that good being imported will decrease, and the supply of that product will increase in the domestic market. The result of imposing tariffs is that foreign exporters will lose, domestic producers will gain, and the government will collect tariff revenue.

iv. Concept Before GST: Under the erstwhile indirect tax regime, there was no concept of Supply. The stage at which indirect taxes were levied varied under different tax laws. The 'excise duty' was charged on goods manufactured when they were taken out of the factory. 'Service Tax' was levied based on certain rules known as the 'point of taxation' rules, for services rendered. A VAT would arise on the value of the sale of goods or provision of services. The present system has merged all taxes to maintain a single taxable event.

v. Supply under GST: Scope explained
Under GST, Supply is considered a taxable event for charging tax. The liability to pay tax arises at the 'time of supply of goods or services'. Thus, determining whether or not a transaction falls under the meaning of supply, is important to decide GST's applicability.

Supply under GST: Supply includes sale, transfer, exchange, barter, license, rental, lease and disposal. If a person undertakes either of these transactions during the course or furtherance of business for consideration, it will be covered under the meaning of Supply under GST. Elements of Supply: Supply has two important elements: Supply is done for a consideration. Supply is done in course of furtherance of business. If the aforementioned elements are not met with, it is not considered as a sale. Examples: Mr. A buys a table for Rs.10,000 for his personal use and sells it off after 10 months of use to a dealer. This is not considered as supply under CGST as this is not done by Mr A for the furtherance of business. Mrs. B provides free coaching to neighbouring students as a hobby. This is not considered as supply as this act is not performed for a consideration. However, as specified in Schedule I of GST Act, certain activities are considered as supply even if it is made without consideration.

7.3. TRANSACTIONS COVERED UNDER GST

All forms of supply of goods and services such as sale, transfer, barter, exchange, license, rental, lease or disposable made or agreed to be made for a consideration by a person in the course or furtherance of business importation of services, for consideration whether or not in the course of furtherance of business, and a supply specified in schedule 1, made or agreed to be made without a consideration.

i. Meaning of supply as per schedule 1: Permanent transfer/ disposal of business assets where input tax credit has been availed on such assets. Supply of goods or services between related persons when made in the course or furtherance of business.

Supply of goods: by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal. Importation of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business. Determination of the taxable event in any tax law is of utmost significance as levy of tax is based on occurrence of that event. GST is imposed on supply of goods and services. Hence, the term supply is very important in determining the taxability of all transactions, whether commercial or otherwise under GST regime.

ii. Classification of supply and types

a) Composite supply: There are a few supplies which are made together with two or more items. Such supplies are further classified into Composite Supply and Mixed Supply. A supply comprising of two or more goods/services, which are necessarily supplied in conjunction with each other as per frequent business practices followed in that area. In other words, these items cannot be supplied individually. There is a principal supply and a secondary supply in the whole transaction. In such cases, the tax rate on principal supply will apply to the entire supply. E.g. Buying a Dry Fruit Gift Box for Diwali. It includes dry fruits, a box, and a wrapper. Box and wrapper cannot be sold individually without the main content which is dry fruit. This is a composite supply.

b) Mixed Supply: A supply comprising of two or more goods/services, wherein the supplies are independent of each other and are not necessarily required to be sold together is called a mixed supply. The first condition to be met for mixed supply is that 'it should not be a composite supply'. In such cases, the tax rate that is higher of the two supplies will be applicable to the entire supply. E.g Buying a Christmas package consisting of cakes, aerated drinks, chocolates, Santa caps, and other gift items. Each of these items can be sold separately and are not dependent on each other. This is a mixed supply.

7.4. SCHEDULE II OF GST ACT- ACTIVITIES CONSIDERED AS A SUPPLY OF SERVICES AS PER SCHEDULE II OF GST ACT

i. Land and building :1. Lease, rent, tenancy, easement, licence to occupy land 2. Lease or letting out of the building (Building includes commercial/ industrial/residential complex for business use either wholly or partly)
ii. Transfer of business assets: The owner uses or allows to use business assets for personal use.
iii. Construction of a building/complex intended for sale to a buyer wholly or partly Temporary transfer or permitting the use of intellectual property right
iv. Renting of immovable property (Rented residence is exempted from GST)
v. Development of information technology software
vi. Agreeing to refrain from an act – Non-competition agreements
vii. Transfer of right to use any goods for a consideration
viii. Any treatment or process which is applied to another person's goods is a supply of services.

Activities to be treated as supply of goods / services- Schedule II

1.Transfer	**SOG** • Any transfer of the title of goods. • Any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration. **SOS** • Any transfer of right in goods or of undivided share in goods without the transfer of title

2.Land & building	**SOS** • Any lease, tenancy ,easement, license to occupy land • Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly**.**
3. Treatment for process	**SOS** • Any treatment or process which is applied to other person's goods
4. Transfer of business assets	**SOG** • When goods forming part of the assets of a business are transferred or disposed of whether or not for a consideration **SOS** • When a person carrying on a business starts using business goods for any private use or he allows the use by any other person for any private use, whether or not for a consideration **Deemed SOG** • When any person ceases to be a taxable person, any goods forming part of the assets of any business shall be deemed to be supplied by him immediately before he ceases to be a taxable person. **However this will not apply if;** • The business is transferred as a going concern to another person, • The business is carried on by a personal representative who is deemed to be a taxable person**.**
5. supply of service	**SOS** • Temporary transfer or permitting use or enjoyment of any intellectual property right. • Renting of immovable property. • Construction of a civil structure including construction intended for sale to a buyer. **Except when the entire consideration has been received** **1.**after issuance of completion certificate or 2.after its first occupation ; whichever is earlier • Development, design, programming, customization, adaptation, up gradation, enhancement, implementation of IT software. • Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act • Transfer of right to use any goods for any purpose for cash. deferred payment or other Valuable consideration.
6. composite supply	**SOS** • Works contract as defined in Section 2(119) and • Supply under the service of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other Valuable consideration.
7. supply of goods by AOP/BOI	**SOS:** Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

Note: the government may notify the transactions that are to be treated as a supply of goods and not as a supply of services and vice-versa.

7.5. SCHEDULE III OF GST ACT: ACTIVITIES OR TRANSACTIONS TREATED NEITHER AS THE SALE OF GOODS NOR SALE OF SERVICES AS PER SCHEDULE III OF GST ACT

Following are the transactions covered under negative list:

i. Services provided by an employee to the employe
ii. Services of the funeral, burial, crematorium or mortuary including transportation of the deceased
iii. Services by any court or Tribunal
iv. Duties performed by the MP/MLA/MLC/ Members of Local Bodies
v. Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a state government or local authority.
vi. Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.
vii. Sale of Land
viii. Sale of Building (However, If construction of a complex /building intended for sale to a buyer and part of the consideration is received before completion, then it will be treated as Supply of Services)
ix. Actionable claims, other than lottery, betting and gambling
x. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India*
xi. Supply of warehoused goods to any person before clearance for home consumption
xii. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside
xiii. India but before clearance for home consumption*

*These transactions were inserted into the Act with effect from 1st February 2019. However, in Budget 2023, it was proposed that these entries will take retrospective effect from 1st July 2017. However, no refund will be made of all the tax that has been collected between 1st July 2017 and 31st January 2019. The new amendment will apply once notified by the CBIC. Thus, GST law has simplified tax treatment by clearly classifying activities considered as goods/services or transactions considered as neither sale of goods or services.

NEGATIVE LIST

Activities or transactions treated neither as supply of goods nor supply of services (Schedule III)

S.NO	Activities or transactions which shall be treated neither as a supply of goods nor a supply of services
1	Services by an employee to the employer in the course of or in relation to his employment. **Not liable to GST:** i) Amounts received by an employee from the employer on premature

	termination of contract of employment ii) Services provided by casual worker to employer who gives wages on daily basis iii) Casual workers are employed by a contractor, who deploys them for execution of a contract or for provision of security services(Building contractor or A security services agency) **Services provided outside ambit of employment for a consideration would qualify AS SUPPLY.** **Liable to GST:** i) An employee provides his services on contract basis to an associate company of the employer ii) Services provided on contract basis i.e. principal-to-principal basis iii) Any amount paid for not joining a competing business would be liable to be taxed being paid for providing the service of forbearance to act
2.	Services by any court or Tribunal established under any law for the time being in force. Explanation: The term "Court" includes District Court, High Court and Supreme Court.
3.	a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; or b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or Example: Duties performed by President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Comptroller and Auditor General of India, Chairman of Union Public Service Commission, Attomey General of India, in that capacity c) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4.	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5.	Sale of land and, subject to paragraph 5b (Schedule II, sale of building)
6.	Actionable claims, other than lottery, betting and gambling.

II. **Inter-state movement**: Activities/ transaction undertaken by the Central Government, a State Government or any local authority in which are engaged as public authorities shall be covered under the Negative list. Further, services by way of any activity relation to a function entrusted (in relation) to a Panchayat under article 243G of the Constitution or a Municipality under article 243W of the Constitution has been notified under the negative list.

7.6. LATEST UPDATES: 1ST FEBRUARY 2023- IMPORTANT UPDATES FROM BUDGET 2023*

1. Section 16 is amended to state that buyers who fail to pay their supplier the invoice value, including the GST amount, within 180 days from the date of issue of the invoice, must pay an amount equal to the ITC claimed along with interest under Section 50.

2. Sections 37, 39, 44, and 52 are amended to restrict taxpayers from filing their GSTR-1, GSTR-3B, GSTR-9 and GSTR-8 for a tax period after the expiry of three years from the due date.
3. Section 17(5) is revised to include another item under ineligible ITC being expenditure on CSR initiatives for corporate.
4. High sea sales and similar transactions that are neither supply of goods or services are considered exempt and hence ITC proportional to such sales cannot be claimed as per revised Section 17(3).
5. Schedule III has been amended to provide for paras (7) and (8) and explanation (2) to take retrospective effect from 1st July 2017.
6. Section 10 of the CGST Act has been amended to allow businesses that supply goods through an e-commerce operator to opt into the composition scheme.
*These amendments will come into force once notified by the CBIC.

7.7 TAXES COVERED UNDER GST

Under the GST law, the central government will collect CGST, SGST or IGST depending upon whether the transaction is intrastate or interstate.

Introduction to CGST, SGST OR IGST: Unlike earlier when there were multiple taxes such as Central Excise, Service Tax, State VAT, etc., the GST introduces just one tax with three components- CGST, SGST and IGST. When the supply of goods or services happens within a state called intra-state transactions, then both the CGST and SGST will be collected. Whereas if the supply of goods or services happens between the states called inter-state transactions, then only IGST will be collected.

The use of correct GSTIN becomes important to identify the applicability of taxes. Hence, validate with the help of the GST search tool before using the GST number in the sales invoice It is to be noted that the GST is a destination-based tax, which is received by a State in which the goods are consumed but not by a state in which such goods are manufactured.

IGST Full form and when IGST is applicable: The full form of IGST is Integrated Goods and Services Tax. Under GST, IGST is a tax levied on all interstate supplies of goods and/or services or across two or more states/Union Territories. Further, IGST levy and collection will be governed by the IGST Act, 2017, as amended from time to time. IGST will be applicable on any supply of goods and/or services in both cases of import into India and export from India. Under IGST, **exports would be zero-rated- tax will be shared under central and state government**

CGST full form and when CGST would be applicable: The full form of CGST is Central Goods and Services Tax. Under GST, CGST is a tax levied on intrastate supplies of both goods and services by the Central Government and collected by it for its coffers. Accordingly, the levy and collection of CGST are governed by the provisions of the CGST Act, 2017 as amended from time to time. Together with CGST, an equal value of SGST will also be levied on the same intrastate supply but will be governed by the particular state government. In other words, if a seller sells a product to a buyer within the same state, say Telangana, then CGST and SGST will apply. This implies that both the Central and state governments will agree on combining their levies with an appropriate proportion for revenue sharing between them It is clearly mentioned in Section 8 of the CGST Act that the taxes be levied on all intrastate supplies of goods and/or services but the rate of tax shall not be exceeding 14%, each. Note: Any tax liability obtained under CGST can be set off against CGST or IGST input tax credit only and not any SGST

SGST Full form and when SGST is applicable: SGST means State Goods and Services Tax. Under GST, an equivalent amount of SGST is a tax levied on intrastate supplies of both goods and services by the particular state government where the product sold is consumed. Therefore, levy and collection of SGST are governed by the respective state's SGST Act, 2017 as amended from time to time, for instance, Telangana GST Act. After the introduction of the SGST, all the state taxes such as the value-added tax, entertainment tax, luxury tax, entry tax, etc. were merged under SGST.As explained above, CGST will also be levied on the same intrastate supply but will be governed by the Central Government. **Note**: Any tax liability obtained under SGST can be set off against SGST or IGST input tax credit only and not CGST.

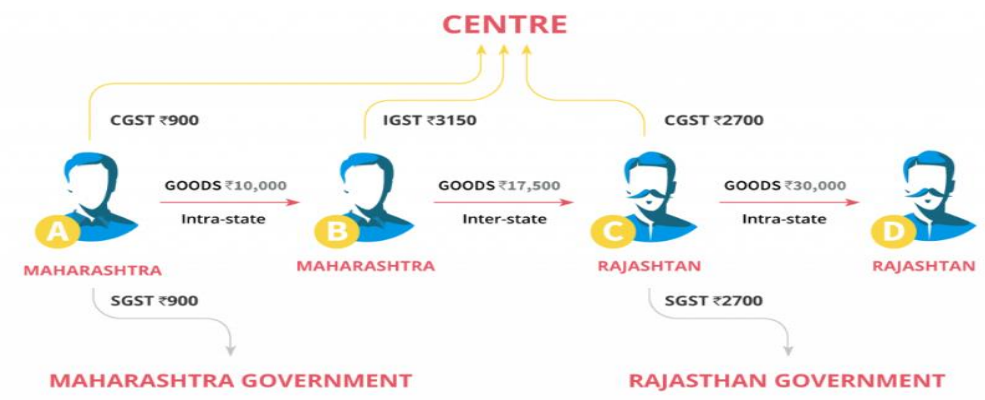
UTGST Full form and when UTGST is applicable:UTGST stands for the Union Territory Goods and Services Tax. Similar to how SGST is levied by the state governments on the intra-state supply of goods and services, UTGST is levied by the handful of Union Territory governments. It refers to the tax levied on the intra-Union Territory supply of goods and services. It is governed by the UTGST Act, 2017 as amended from time to time and is levied together with CGST. UTGST is similar to SGST and is levied in Union Territories which do not have their own legislature. UTGST is applicable to the supplies that take place in the Union Territories of Jammu & Kashmir, Ladakh, Andaman and Nicobar Islands, Chandigarh, Dadra & Nagar Haveli and Daman & Diu, and Lakshadweep. Please note that the Union Territories of Delhi and Puducherry will fall under SGST law as they have their own legislature. **Note:**The order of ITC utilisation of UTGST is similar to SGST. ITC of UTGST should first be set off against UTGST. Any balance remaining may be used to set off any IGST liability.

Why there is split into SGST, CGST, and IGST?

India is a federal country where both the Centre and states have been assigned the powers to levy and collect taxes by our Constitution. Both governments have distinct responsibilities to perform for which they need to raise tax revenue, in the form of GST. The Centre and states are simultaneously levying GST. The three-type tax structure is implemented to help taxpayers take the credit against each other, thus ensuring "One Nation, One Tax".What determines if CGST, SGST or IGST is applicable?To determine whether Central Goods & Services Tax (CGST), State Goods & Services Tax (SGST) or Integrated Goods & Services Tax (IGST) applies in a taxable transaction, find if the transaction is intrastate or an interstate supply.

Intrastate supply of goods or services is when the location of the supplier and the place of supply i.e., the location of the buyer are in the same state. In Intrastate transactions, a seller has to collect **both CGST and SGST** from the buyer. The CGST gets deposited with the Central Government and SGST gets deposited with the State Government.

Interstate supply of goods or services is when the location of the supplier and the place of supply are in different states. Also, in cases of export or import of goods or services or when the supply of goods or services is made to or by an SEZ unit, the transaction is assumed to be interstate. In an interstate transaction, a seller has to collect **IGST** from the buyer.



How are input tax credits adjusted? Offset liability in GST: The CGST Rules define the logic of adjusting CGST, SGST and IGST input tax credit with the tax liabilities of CGST, SGST and IGST. One must follow the rules since accurate ITC utilisation is crucial to avoid fines later on. Let us consider that goods worth Rs. 10,000 are sold by manufacturer A from Maharashtra to Dealer B in Maharashtra. Dealer B resells them to Trader C in Rajasthan for Rs. 17,500. Trader C finally sells to end-user D in Rajasthan for Rs. 30,000. Suppose the applicable tax rates for the goods sold are CGST= 9%, SGST=9%, and IGST=9+9=18% Since A is selling this to B in Maharashtra itself, it is an intra-state sale and so, CGST@9% and SGST@9% will apply. Dealer B (Maharashtra) is selling to Trader C (Rajasthan). Hence, this is an interstate sale, with IGST@18%. Trader C (Rajasthan) is selling to end user D also in Rajasthan. Once again it is an intra-state sale and hence, CGST@9% and SGST@9% will apply.

How is SGST, CGST and IGST collected?

			Amount Received as Tax by				
Step		**Sale Price**	**Maharashtra**	**Rajasthan**		**Central**	
I	A to B	10,000	10,000*9%= **900**		------	10,000*9%= **900**	
II	B to C	17,500	------		------	17,500*IGST @18%	3,150
						(-) CGST credit	900
						(-) SGST credit	900
						Net	**1,350**
III	C to D	30,000	------	30,000*SGST @9%	2,700	30,000*CGST @9%	2,700
				(-) IGST credit balance (3150-2700)	450	(-) IGST credit ***	2,700
				Net	**2,250**	Net	0
	Total Receipt		**900**		**2,250**		**2,250**
IV	Adjustment		(-)900 Going to Centre		(+)450 Coming from Centre		(+)450
	Final		**0**		**2,700**		**2,700**

*** Any IGST credit will first be applied to set off in this order:

- First set off against IGST liability.
- Then either set off with CGST or SGST liability, at your preference.

GST is a consumption-based tax the state where the goods were consumed(Rajasthan) will receive GST. By that logic, Maharashtra (where goods were sold) should not get any taxes. State Rajasthan and Central Government should have got (30,000*9%) = 2,700 each.

Thus, Maharashtra (exporting state) will have to transfer credit of SGST of Rs. 900 (used in payment of IGST) to the Centre. In turn, Central Government will transfer to the state Rajasthan (importing state) Rs. 450 IGST. The above example shows the need for 3 taxes: SGST, CGST, and IGST. All 3 together will serve the two purposes of GST:

- One Nation, One Tax – so all taxes on all purchases are available as credits.
- Dual tax system – both the Centre and states have their revenue.

GST is a completely new tax with new concepts like the place of supply and new tax structures. This creates confusion among taxpayers who may end up paying the wrong type of GST.

7.8 TAXES & DUTIES OUTSIDE THE PURVIEW OF GST

The taxes subsumed in GST include Central Excise Duty, Service Tax, VAT, and several other taxes. However, direct taxes such as income tax, customs duty on imports and taxes on petroleum products are not subsumed in GST. The State-level Taxes Replaced by GST: Purchase tax.-Central sales tax.- VAT.- Surcharge and CESS- Entry tax.- Taxes on lottery, gambling and betting.-Taxes on advertisements.

GST (goods and services tax) is an Indirect Tax which replaced many Indirect Taxes in India. The good and services tax act was passed in 2017 and has been implemented since then. Before GST, taxes such as service taxes, state vats, entry taxes, luxury taxes were applied on goods. These taxes have been absorbed under GST. Similarly, Service tax, entertainment tax were levied on services. Now there is only a single tax, that is, GST. Under GST, tax is levied directly at every point of sale. Below taxes are not subsumed in GST.

1. Custom Duty - The Countervailing Duty (CVD) and Special Additional Duty (SAD) will subsumed under GST, but the Basic Customs Duty (BCD) will be charged according to current law only and not GST. Customs duties are charges levied on goods when they cross international borders. Customs duties are charged by special authorities and bodies created by local governments and are meant to protect local industries, economies, and businesses. Customs taxes are imposed on the import and export of commodities all over the world in order to generate income and/or protect domestic institutions from foreign competitors. Custom duties are taxed on consumers for harmful products such as tobacco and alcohol to discourage public use. In practice, import duty is levied when imported goods first enter the country. For example, in the United States, when a shipment of goods reaches the border, the owner, purchaser or a Customs broker (the importer of record) must file entry documents at the port of entry and pay the estimated duties to Customs.

Customs duty is a form of indirect tax which is imposed at the time of both import and export of goods and services. The tax which is imposed on the import of goods and services are is known as Import duty and for export of goods and services are known as Export duty. All goods imported into India are subject to duty. The duty is levied at the time of import and is paid by the importer of the goods. The main purpose of import duty is to protect Indian industries from cheaper foreign goods. According to Customs Act, 1962 section 27 and 26 deals with the eligibility of importers and exporters to claim a refund and if the refund is not paid within the stipulated time interest is payable on the amount of refund at the rate of 15 p.a. as per the section 27A of the Customs Act 1962. Under GST, these multiple taxes have been replaced by just one tax known as IGST (Integrated Goods and Services Tax). Only the integrated tax and the basic customs duty will be chargeable on the import of goods.

2. Stamp Duty - The buyer has to the pay stamp duty for the registration of the property, and GST will not cover Stamp duty and will be subsumed as per the tax levied by the government. Stamp duty is a tax imposed on the sale of property/property ownership by the state government. It is payable under Section 3 of the Indian Stamp Act, 1899. The duration of the stamp duty at the time of registration shall be based on the value of the house/property. A penalty is levied if the charges are not paid. Stamp duty is the evidence that a property has been bought either in the buyer's or seller's name and is valid for 6 months. It is levied on all legal property transactions. Several documents require stamp duty.Stamp duty is a government indirect tax, which is levied on all legal property transactions. Stamp duty is, therefore, a tax which is evidence, as it were, of any purchase or sale of a property between two or more parties. Stamp papers, which have to be bought either in the name of the seller or buyer are valid for 6 months, provided the stamp duty is paid without any delay. Stamp Duty Act: Stamp duty is paid as per the provisions of Section 3 of the Indian Stamp Act, 1899. Stamp duty is levied to boost revenue for local governments besides lending legality to a document.

Stamp Duty Payment: It is important to note that stamp duty should be paid in full and without any delay, failing which, a penalty is levied. A stamp duty document is a legal instrument that has evidentiary value (admissible in a court of law as evidence). Stamp duty has to be paid before execution (signature by an individual’s party) of a given document, the next day, or on the day of document execution. Stamp duty is paid by a buyer in most cases. However, both the seller and the buyer have to bear the burden of stamp duty for property exchange cases. As per Section 13 of the Indian Stamp Act, 1899, an individual executing a given instrument has to cancel the stamp (adhesive) by writing his initials or name across it. If a stamp is not canceled in the aforementioned method, the document is considered unstamped. In other words, the stamp should be visible on the face of an instrument and therefore, cannot be applied to another instrument.

Stamp Duty Charges: Stamp duty rates differ in various states across the country as stamp duty in India, is a state subject. However, the central government fixes the stamp duty rates of specific instruments. As mentioned above, a delay in the payment of stamp duty will attract a penalty of 2% every month (up to 200% of the remaining amount). Stamp Duty on Property Registration: Legal evidence of ownership or transfer of a property is mandatory. In the end, the buyer, in most cases, has to register his or her name in the municipal records. The buyer has to pay stamp duty at the time of registration. The amount of stamp duty may vary from one state to another. Stamp duty also depends on whether a given property is new or old.

Stamp Duty Registration Factors: Age of the Property-Value of the Property- City or location of the Property-Gender and age of the Property owner-Usage of Property-Documents which Require for Stamp Duty. Some of the documents which require stamp duty are listed below: Transfer instruments- Deed of partition- Reconveyance of mortgaged property- Mortgage deed-Certificates of sale- Gift deed- Exchange deed-Tenancy agreement- Power of attorneys- License agreement- Lease deeds

3. Vehicle Tax - GST does not cover road tax, so the Vehicle Tax will not be charged under GST, and will remain under the Motor Vehicle Act. Andhra Pradesh is known for its easy interstate connectivity facilitated by its rail and road network. The Motor Vehicles Act, 1988 includes a separate provision for the state that mandates the payment of road tax by all vehicle owners in the state. The State Government invests the revenue collected through road tax in new roads and infrastructure maintenance. While you can pay the tax at the RTO office, new Andhra Pradesh (AP) road tax payment online portals have made it very easy to complete this process at home. Hence, if you own a vehicle or are planning on buying one, there are some fundamentals about RTO tax in Andhra Pradesh you should know. Why Does the State Government Levy Road Tax? The State Government is responsible for the construction and maintenance of roads in the state. They recover the cost to maintain the infrastructure of these roads in the form of road tax from the vehicle owners. The government then uses these funds to expand the network of roadways in the state and provide its citizens with basic amenities like street lights and road signs. How to Pay Road Tax Online in Andhra Pradesh (AP)? Vehicle owners in Andhra Pradesh can pay the road tax at their local RTO office or at the place of vehicle registration. Thanks to the digitisation of government-mandated formalities, you can also complete the vehicle tax payment online in AP. In order to complete the AP road tax online payment, you can follow these simple steps:

Visit the AP road tax payment online portal on the AP transport department's official website or the Pragathi portal.- Go to the 'Tax and Fees Payment' section- Enter your vehicle registration number and chassis number. Then, click on the 'Get Taxation Search' button- The screen will display your application details. Navigate to 'Pay Tax'. Here, you will be able to view the last date for your RTO tax payment and validity- From the given options of quarterly, half-yearly and yearly, select your payment type and then proceed to payment- The fee details will be displayed; tick the agreement box. Select the payment options for AP transport road tax online payment- Once the Andhra Pradesh road tax online payment has been completed successfully, a receipt will be generated which you can download and print

How is Road Tax Calculated in Andhra Pradesh? The RTO manages road tax collection in Andhra Pradesh and is in charge of calculating the road tax. Here are some of the main factors that are taken into account while determining the vahan tax charges: Vehicle type- Engine capacity- Age of the vehicle- Purpose of Vehicle Usage

4. Excise on Liquor - For the time being, Liquor has been kept outside the GST. Under the Chapter, various types of beverages, including juices and mineral water, are specified. Alcoholic drinks would be taxable at 18% GST rate under ethyl alcohol and other spirits, denatured, of any strength. Even though liquor hasn't been brought under the purview of Goods and Services Tax, it still falls under other taxes that contribute to its rising prices. These taxes are: Excise Duty. Excise duty from alcohol has increased at a Compound Annual Growth Rate (CAGR) of 13.3%, whereas other sources of revenue for the states registered a growth rate of 12.1 %. Last year, when the Delhi government announced its new liquor policy, it expected one in five rupees it collects would come from excise duties. Under the Chapter, various types of beverages, including juices and mineral water, are specified. Alcoholic drinks would be taxable at 18% GST rate under ethyl alcohol and other spirits, denatured, of any strength.

5. Tax on Sale and Consumption of Electricity - The exclusion of electricity from GST means that there is no mechanism to get an input tax refund for taxes paid on the inputs used for generating electricity. Supply of 'Electrical energy' is exempted from gst as per Serial No. 104 of Notification No. ELECTRICITY (DUTY) ACT, 1963. (2) There shall be levied for and paid to the Government the electricity duty at the rate of 1[four paise] per unit also by a person generating energy for his own use or consumption on the energy used or consumed by him in a month. 1 Lac. Currently, certain category of person e.g. Individual, HUF are required to file a tax return only if his total income exceeds maximum amount not chargeable to tax. Apart from electricity, currently, petrol, diesel, jet fuel, tobacco and land do not fall in the ambit of the indirect tax that came into effect in 2017

6. Entry Taxes and Toll - GST will not cover the Toll Tax as such taxes like road tax, toll tax, environment tax and others are directly paid by users and will be levied by States directly. Toll tax is a user fee for vehicles using certain roads or bridges. It is a mechanism that generates revenue to finance the maintenance and upkeep of the infrastructure. Toll tax collection typically occurs at a designated toll plaza or toll booth. Toll tax is a type of indirect tax (levied on services). Hence, it is not charged to the individuals (their income, capital gains, revenue, etc.) Toll tax is used for road construction and maintenance purposes. Road tax is collected by the RTO for using roads within a state. Toll tax is collected for using inter-state highways. Is GST applicable on the collection of higher/double toll charges? NO. Collection of higher toll charges whether double or more will be treated at par with toll charges i.e., exempt service. Once a highway is built, Fee is to be collected to recover the cost. Once cost is recovered the fee is collected at reduced rate of 40% as the road is to be maintained in good condition for the travelers.

7. Entertainment Tax (Levied by Local Bodies): Entertainment tax is levied by the government on commercial shows, movie tickets, sporting events, music festivals, amusement parks, exhibitions, theatre shows, and other private festivals. Entertainment tax varies from state to state. Entertainment tax comes under the category of indirect tax. Note: Entertainment tax has been replaced by the Goods and Services Tax(GST) starting 1 July 2017. Taxation is an essential feature of the governance model of any country. Various kinds of taxes are applicable on goods and services bought and sold by individuals and enterprises. Tax is also levied on income earned by different individuals and business houses. Entertainment tax is a sort of tax levied by the government on movie tickets, commercial shows (large scale) and other private festival celebrations.

Features of Entertainment Tax in India: Entertainment tax forms a part of the tickets that we buy for watching movies or big entertainment shows.- Some of most prominent features of term insurance plans are listed below: Entertainment tax is applicable to some or the other form of entertainment throughout the country and is a part of the various costs borne by customers- State governments are the authorities responsible for collection of entertainment tax from customers- Entertainment tax in the country is different for different states since it is under the purview of the state governments. Article 246 of the Indian constitution lists down all rules and guidelines that are applicable to the entertainment tax in India. Paid television services like Dish TV and Tata Sky have led to further taxes being levied on entertainment

Entertainment tax applies to the following categories of entertainment too:Exhibitions-Activities related to sports- Amusement Parks-Arcades- Celebrity Stage Shows-Theatre Shows-Video Games- Entertainment tax was launched when the British Government ruled India, in order to curb public gatherings. However, the levying of the tax continued in the post-independence era too and still exists in all states of the country.

8. Road Tax - GST will not cover the Road Tax as such taxes like toll tax, road tax, environment tax and others are directly paid by users and will be levied by States directly. Theroad tax in Andhra Pradesh is a one-time payment. Vehicle owners can choose to pay the payment in one go or break it down into a quarterly or half-yearly plan. The price of the road tax depends on the following factors: 1. Type of vehicle, 2. Engine capacity, 3. Place of manufacturing, 4. Vehicle age, 5. Purpose of the vehicle. How can one check the validity of the vehicle registration number in Andhra Pradesh? The validity registration period for vehicles is 15 years. The vehicle owner must be physically present with the vehicle at the RTO office to check the validity of the registration number or renew it. Is it possible to drive an Andhra Pradesh vehicle in Hyderabad? You can easily drive a vehicle bought in Andhra Pradesh in Hyderabad for 30 days. After 30 days, you will have to change the address on the registration card to the new address in Hyderabad to continue driving. Additionally, if your stay exceeds 12 months, you will be required to get your vehicle re-registered in Hyderabad, Telangana. Are vehicle owners expected to pay any road tax while entering Andhra Pradesh? Personal vehicle owners are not expected to pay any road tax while entering Andhra Pradesh. However, commercial vehicles entering with goods have to pay a road tax. The amount of the road tax depends on the duration of the stay.

7.9. SUMMARY

After study this lesson the student should be able : To know the Difference Between Taxes, Duties, and Tariffs, To understand the Transactions covered under GST, To observe the various taxes covered under GST. It is also covered that the Difference Between Taxes, Duties, and Tariffs, Transactions covered under GST, Schedule II of GST Act, Schedule III of GST Act, Latest Updates from 1st February 2023 (Budget 2023*),Taxes covered under GST,Taxes and duties outside the purview of GST. Tax is a mandatory obligation payable to the government. Duty is a fee charged by the government on manufacture and import / export of goods. Levied on. Income, wealth, services, sales etc. A tax is a charge imposed on a taxpayer by a government. Tariffs are a direct tax applied to goods imported from a different country. Duties are indirect taxes that are imposed on the consumer of imported goods. Tariffs and duties help protect domestic industries by making imports more expensive. Customs Duty is a tariff or tax imposed on goods when transported across international borders.

7.10. TECHNICAL TERMS

Import of goods: Imports of goods occur when economic ownership of goods changes between residents and non-residents. This applies irrespective of corresponding physical movements of goods across frontiers

Export of goods. Exports of goods and services consist of transactions in goods and services (sales, barter, and gifts) from residents to non-residents. Exports of goods occur when economic ownership of goods changes between residents and non-residents.

Levied on Income: A levy is the legal seizure of property to satisfy an outstanding debt. If you fail to pay your taxes, the Internal Revenue Service may respond by levying your tax return or property. Tax authorities can also levy other assets, such as bank accounts, rental income, or retirement accounts.

Levied on services: Service tax is a tax levied by the government on service providers on certain service transactions, but is actually borne by the customers.

Levied on sales: A levy is the legal seizure of property to satisfy an outstanding debt, often a tax debt. Learn about different types of levies and how to avoid them. A levy is a legal seizure of your property to satisfy a tax debt. Levies are different from liens. A lien is a legal claim against property to secure payment of the tax debt, while a levy actually takes the property to satisfy the tax debt.

7.11. SELF ASSESSMENT QUESTIONS

1. What do you mean by supply? How to distinguish whether a particular supply involves supply of goods or supply of services?
2. What is the time of supply and when it is taxable? Explain the effects of changes in rates of tax on time of supply
3. What is meant by the term IGST and why IGST mechanism is needed?
4. What is incidence of tax under GST?
5. What are the Difference Between Taxes, Duties, and Tariffs
6. Which Transactions covered under GST
7. What are the activities come under Schedule II of GST Act
8. Which activities includes in Schedule III of GST Act
9. What are the Taxes covered under GST
10. What are theTaxes and duties outside the purview of GST

7.12. SUGGESTED READINGS

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LESSON 8
GST TAX STRUCTURE

AIMS & OBJECTIVES

After studied this lesson the student should be able to:

- Understand the concept of GST
- Know the objectives & importance of GST
- Aware the process of GST registration & Rates of GST on Taxable Services

STRUCTURE

8.1 INTRODUCTION

GST was introduced with the aim of minimizing the tax burden and inflation rates. An amalgamation of various taxes, GST is a comprehensive, uniform, multi-stage, destination-based tax system that is applied to every value addition. Although the new tax regime has brought some tax relief, a fact that is undeniable is that the significant increase in compliance cost.

The GST tax structure comprises of Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST), Integrated Goods and Services Tax (IGST) and Union Territory Goods and Services Tax (UTGST). There are four slab tiers ranging from 5 percent to 28 percent wherein the lowest are for essential items and the highest for luxury goods.

8.2. OBJECTIVES OF GST

The objectives of the Goods and Services Tax are listed below to further explain the structure of GST:
i. To Reach the Goal of a Unified Tax Regime for the Country: The Goods and Services Tax regime has facilitated the collation of various taxes under a single inverted tax structure. The benefit of this single tax pattern is that every state in India would follow the same GST rate

structure for the same products and services. Hence, controlling tax rates becomes subtle for the Central Government and makes deciding rates and policies easy. To Encompass Majority of the Tax Rates in India: For many years, India followed a cascade of indirect taxes such as Central Excise, Value Added Tax (VAT), etc., which were applied at various supply chain levels. In addition, taxes were governed by both the states and the Centre. Therefore, instead of a unified and unionised tax structure, GST was introduced.

ii. To Keep a Check on Tax Evasion: India's Goods and Services Tax laws are quite stricter than the earlier indirect taxes in action. Under the new GST tax regime, the taxpayers can mark out an input tax credit only on bills put up by their respective suppliers. The initiation of e-invoicing has further encouraged this motive. Additionally, as GST is a national level taxing structure, it becomes easier for the government to keep surveillance and catch the defaulters more quickly and efficiently.

iii. To Enlarge the Base of Taxpayers: GST has facilitated enlarging the taxed population in India. Earlier, every single registration had to be enrolled under every tax law with a different ending limit based on the business's overall value. But now, with GST being a single integrated tax system levied both on goods and services, it has led to an increase in businesses registered under tax statutes.

Through the structure of GST, the Government of India has attempted to smoothen the tax collection and distribution processes and bring about the business setups under a formal economic tone. When businesses are well aware and follow the structure of GST properly, they get to experience the benefits of having a unified tax system and easy input credits. Stakeholders and finance experts welcome GST as a new change as it helps provide an Iapetus to the economy. Hence, the Goods and Services Tax can be seen as quite an effective step to bring about a formal structure in the Indian economy which would help in proper tax appropriation and distribution.

Rule 42: Reversal of ITC on inputs/input services. This would also include zero-rated supplies like exports and supplies to SEZ. ITC on the inputs that is assumed to have been used partly in making taxable supplies and partly in making exempt supplies or used for a non-business purpose.
(1) The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of three working days from the date of submission of the application.
Antiprofiteering measure. — (1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.
The only option left to any exporter, who has accumulated ITC on account of procurement of capital goods, is to claim the same on zero rated supplies on payment of tax u/r 96. However, rule 96(10) restricts the EOUs to claim the refund under this option also.
What is rule 37 in GST? Rule 37 under GST Act prescribes the conditions for the reversal of input tax credit (ITC) on goods and/or services if full payment is not made within 180 days of the invoice's issue.
21A – Suspension of registration- (3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2), 5 “or sub-rule (2A)” shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.
As per Section 70 (1) of the CGST Act, summons can be issued by the proper officer to any person whose attendance is considered necessary either for giving evidence or producing a

document or any other thing in an inquiry in the same manner, as provided in the case of a civil court under the provisions of Code of Civil ..
As per Rule 42 and 43 of the CGST Act, 2017, ITC on Inputs/Input services or Capital Goods used to make taxable as well as non-taxable/exempt supply or for manufacturing supplies some of which were used for non-business or personal purposes is determined and required to be reversed.

Registration Process for GST: The following entities have to mandatorily do GST Registration Process: Business entities with an aggregate turnover per annum exceeding 40 lakhs.

i. Sellers of goods on the e-commerce platform
ii. When sellers sell goods to other states
iii. E-commerce aggregators
iv. Businesses that are liable to pay Reverse Charges
v. Individuals supplying via e-commerce aggregators

The structure of GST comprises three taxes levied under different conditions:
1. Central Goods and Services Tax: CGST is appropriated by the Union Government of India in all states for state sales. **For example**, a trade and commerce exchange is happening within Bihar.
2. **State Goods and Services Tax:** SGST is appropriated by the state government on a state to state sale. **For example**, a transaction taking place in Madhya Pradesh.
3. **Integrated Goods and Services Tax:** IGST is collected by the Union Government for sales between states. **For example,** a trade transaction happens from Bihar to Jharkhand.

8.3. GST TAX STRUCTURE

The structure of GST is a 4-tier tax structure in India. The GST tax structure is set up so that all the essential goods, services and a few edibles are encompassed in the lowest level of the GST tax bracket. High valued goods and services and de-valued goods are positioned in the highest level of the GST tax bracket. The Goods and Services Tax or GST Council has decided upon the four-tier structure of GST to be 0%, 5%, 12%, 18% and 28%, and this would be followed strictly. An attempt to keep inflation under check can be seen through the step wherein essential goods and items, which are the primary food units, are excluded from the GST regime. Nonetheless, a 5% tax would still be levied upon some common commodities. On the other hand, most standard services would be charged upon a tax rate of 12% and 18% tax slab, whereas the high valued items would be charged with 28% tax.

8.3.1. GST Tier: India has a 4-tier rate structure of GST or the Goods and Services Tax regime

i. Zero Rate (0%): Within this classification of the GST council structure, it has been decided that a few basic commodities would not be charged at all. Most Consumer Price Index (CPI) units can be placed under this rate tier. The following items have been placed under the zero rate GST tier structure:

i. Raw vegetables such as potatoes, tomatoes and various protein-based vegetables, etc.
ii. Live animals such as poultry, sheep, goats, bird shelled eggs, fish, etc.
iii. Unpacked corn, maize, wheat, cereal grains, and soybeans.
iv. Various constituents of the human blood and human blood itself.

v. Raw materials such as raw silk, its waste, khadi fabric and yarn, charcoal, handloom fabrics and unprocessed wool.
vi. Tools and instruments such as spades, shovels, tools used for agricultural purposes, etc.

ii. Lower Rate (5%): If we look at this rate tier, a 5% tax will be applied on a major part of the common goods and services. This would include the remaining articles under the CPI and large scale consumption products. For example, frozen vegetables, tea, coffee, economy flight tickets, rail tickets, etc.

iii Standard Rate (12% and 18%): The bulk of goods and services come under the aegis of this rate tier. The Government of India decided to keep two standardised rate slabs of 12% and 18% for this tier to keep inflation under check. The 12% rate slab comprises dairy products, accessories, cell phones, business class air tickets, and movie tickets priced below **₹100**. Items charged under the 18% rate slab are pasta, bakery items, cleaning equipment, hairdryers, panels, electronic items etc.

iv. Higher Rate (28%): This rate slab of 28% sees the inclusion of more than 200 products, which mostly comprise products such as paint, cement, automotive, electronic gadgets, bathing products, soft drinks, etc. However, some items that fall under this slab category are charged with an additional tax by the Indian government.

8.4 TAXATION OF SERVICES UNDER GST

The GST Council, on the second day of its 2-day meeting in Srinagar, has considered and finalised GST to be applicable for different types of services. Some key aspects related to services of the meeting have been captured below: As against expectations, the government has finalised four tax rates that will apply to services, namely 5%, 12%, 18% and 28%.

i. Education and Healthcare services to be exempt under GST
ii. Transportation services to be taxed at 5%
iii. Aggregators like Ola and Uber to be taxed at 5%
iv. Economy class air travel to attract 5% GST and business class 12%
v. Complications which currently exist at the time of charging tax on Works Contract should be eased with Works Contract set to be taxed at 12%.

5 Star and AC restaurants to attract higher taxes:

i. Restaurants with a turnover of INR 5 million or less will levy 5% GST
ii. Restaurants without a liquor license and with a turnover higher than INR 5 million will be charged 12% GST.
iii. AC restaurants and restaurants with a liquor license to fall under the 18% tax slab.

5 Star hotels to levy 28% GST

i. Hotels with tariff below INR 1000 to be exempt
ii. Hotels with tariff of INR 1000-2500 will levy 12% GST
iii. Hotels with tariff above INR 2500 but below INR 5000 would attract 18% GST.
iv. Hotels with tariff above INR 5000 to charge 28% GST.
v. Telecom and Financial services to attract 18% GST

The highest tax slab i.e. 28% would be reserved for luxury services like cinemas, betting, etc. No consensus on the fixation of rate on gold List of exemptions which are in existence as per the current legislation being grandfathered are likely to continue in the GST regime. Valuation of services also computed u/s 15 of CGST Act. Whole of the amount charged by service provider, while rendering a service is the taxable value of service provided, upon which GST is levied. Out of the gross amount charged for supply of service, no deduction is allowed regarding the expenses/costs incurred while rendering such service.

For example: While getting a photocopy of a document, what you pay is for the service received by you and not for the paper used. Likewise, a photographer charges for the service of photography and not for the cost incurred. Therefore, whole of the consideration received by the service provider is the taxable value for GST purpose, therefore, not deduction is allowed for provision of services. In a nutshell, in case of a provision of service, gross consideration is the taxable value of such service, without any deduction there from for the cost/expenses incurred in rendering such services.

8.5. RATES OF GST ON TAXABLE SERVICES

W.e.f. 1 July, 2017, GST is levied on services, instead of earlier service tax charged. General rate of GST on services is 18%, though certain lower rates also charged on specified services listed below:

1.	**Restaurant services by all categories**	**5%**
2.	**(2) First class in A.C. coach, railways passenger services. Transportation of goods by railway except exempted categories, road transportation services, AC Bus services, Air services in economy class, inland water transportation services**	**5%**
3.	**Non economy air services**	**12%**
4.	**General rate on other services**	**18%**

8.6. INTRA STATE SUPPLY OF SERVICES

If the place of provision of services and place of provider of services is in the same state/UT, is called intra-State supply of services, upon which general rate of GST shall be charged as follows: 9% CGST on Taxable Value. 9% SGST on Taxable Value.

8.6.1. Intrastate Meaning in GST: Intrastate supply is where the supplier of goods or services and the place of supply is within the same state. Intrastate supplies are liable to CGST (Central Goods and Services Tax) and SGST/UTGST (State Goods and Services Tax/Union Territory Goods and Services Tax). They are levied by the Central and State/UT governments, respectively. The Intra-state GST rate varies depending on the type of good or service being supplied. The vendors need to collect both CGST and SGST from the customers in intrastate transactions.

8.6.2. Intrastate GST Rate Example: ABC ltd. is located in Jaipur, Rajasthan supplies mobiles worth Rs. 2,00,000 to another entity located in Udaipur, Rajasthan. The GST is charged at 18%, which is apportioned as 9% CGST and 9% SGST. CGST/SGST calculation: Rs. 2,00,000 * 18% = Rs.36,000. Here, Rs. 18,000 is CGST and Rs. 18,000 is SGST.The dealer collects Rs. 36,000. Out of this, Rs. 18,000 is paid as CGST to the Central Government, and Rs.18000 is paid to the Rajasthan Government.CGST/SGST is levied by both the Central Government and the state government, respectively. However, the rate of CGST and SGST together sum up to the IGST rate levied. Hence, the total tax amount remains the same irrespective of whether it is an interstate or intrastate supply. The only difference lies in the levy.

8.7. INTER-STATE SUPPLY OF SERVICES

If the place of provision of services and the place of provider d services are in two different States/UT:/IGST shall be charged on such services @ 18% as IGST. Interstate supply is where the goods or services provider is in a different state or Union Territory, and the place of supply is in a different state or Union Territory.

8.7.1. Interstate Meaning in GST: Interstate supply is where the goods or services provider is in a different state or Union Territory, and the place of supply is in a different state or Union Territory. The supplies involving import, export, or supply to or from a Special Economic Zone (SEZ) unit or Export-oriented Unit (EOU) are also considered interstate supplies. The Central Government levies integrated GST (IGST) on the interstate supply of goods and services in India. When goods and services are supplied from one state to another, the IGST is levied by the central government and then distributed to the destination state. The revenue generated from IGST is shared between the central and state governments according to a predetermined formula. This ensures that the tax revenue is shared between the central and state governments and avoids the need for multiple taxes to be paid by businesses operating in different states.

Parameters	**Interstate Supplies**	**Intrastate Supplies**
Applicable on	Supply of goods and services between different states and Union Territories.	Supply of goods and services within the same state or union territory.
Levied by	Central Government	CGST by the Central Government and SGST/UTGST by the state/Union Territory government
Tax rate	IGST rate is applicable at the rates in force based on the good or service	CGST and SGST rates are applied equally and separately at the applicable rate in force based on the good or service
Destination state	Receives a share of the IGST collected	Receives the full amount of SGST collected
Place of supply	Different state than the location of the supplier	Same state as the location of the supplier

Input Tax Credit	The input tax credit of IGST can be used to set off IGST liability and, thereafter, CGST/SGST liabilities in any order	Once IGST credit has been exhausted fully, CGST credit and SGST credit can be utilised to set off CGST liabilities and SGST liabilities, respectively, and for setting off IGST liabilities. Inter-utilisation between CGST and SGST is not allowed.

8.7.2. Interstate GST Rate Example: A company ABC ltd is located in Jaipur, Rajasthan, and it supplies mobiles worth Rs.1,00,000 to Mumbai, Maharashtra. This supply will be considered an interstate supply. The goods supplied fall under the GST slab of 18%. IGST, or Integrated GST, is levied by the Central Government, a share of which is paid to the destination state. IGST Calculation: 1,00,000 * 18% = Rs.18,000. The dealer will charge Rs.18,000 as IGST. This amount is paid to the Centre and then split in a predetermined ratio between the Centre and the destination state, i.e. Maharashtra. As an exception, if the goods are supplied from Jaipur, Rajasthan, to a Special Economic Zone (SEZ) unit in Rajasthan, it will also be considered an interstate supply. All the goods and services supplied to or from an SEZ unit are considered interstate supplies.

8.7.3. Difference between Interstate and Intrastate in GST

Here is a tabular format that highlights the key differences between interstate GST and intrastate GST in India: Overall, Interstate GST and Intrastate GST are two different types of GST in India that are applied depending on the location of the supplier and the place of supply. The key difference between the two lies in the levy of the tax.

8.8. GOODS/ MATERIAL SUPPLIED BY SERVICE PROVIDER

Under GST regime provision of services or supply of goods, both are called supply and shall be chargeable at the applicable rates of goods and services. Such supply of goods is chargeable separately at prevailing rates of GST. **Examples of Supply of Goods along with Services:** 1. Unexposed films or CD supplied by photographer. 2. Supply of spare parts along with repair or maintenance services. 3. Supply of cosmetic product along with beauty treatment. 4. Supply of lubricant, stores etc. by service station.

1. Unexposed films or CD supplied by photographer.: Not exposed. a sheltered area unexposed to the wind. especially : not subjected to radiant energy. unexposed film. obscure, uncharted, undetected, undiscovered, unexplored, unfamiliar, unheard-of, unknown, untraveled. Non-exposure prone procedures (non-EPPs) are procedures where the hands and fingers of the healthcare worker (HCW) are visible and outside of the body at all times and procedures or internal examinations that do not involve possible injury to the HCW's hands by sharp instruments and/or tissues, provided routine ... A candid photograph is a photograph captured without creating a posed appearance.

Cinematography is the art and craft of making motion pictures by capturing a story visually. Though, technically, cinematography is the art and the science of recording light either electronically onto an image sensor or chemically onto film. Exposure in film photography is defined as the quantity of light that is allowed through the camera lens and onto the photo film controlled by the intensity of light (through the aperture) and length of time (determined by the shutter speed).

2. Supply of spare parts along with repair or maintenance services: As per Section 13(2), generally the place of supply of services shall be the location of the recipient of service. However, if the location of the recipient of service is not available in the ordinary course of business, the place of supply shall be the location of the supplier of service. Other maintenance, repair and installation (except construction) services are taxable @18% with Input Tax Credit. Maintenance services are classified under SAC code 9987 and are subject to GST (Goods and Services Tax) in India. The GST rate for maintenance services is 18% for most services. Automobile spare part GST rates are now taxed at 28%.Common repair and maintenance expenses include costs incurred for:Replacing broken or worn-out parts with comparable parts.-Repairing HVAC units, toilets, and faucets.-Cleaning building structures and systems.-Pool cleaning (residential properties)-Routine inspections and checks.-Changing fleet engine oils. examples of MRO items include: Industrial Equipment (e.g., pumps, motors, belts)-Consumables (e.g., cleaning supplies, office supplies)-Maintenance Supplies (e.g., lubricants, gaskets, repair tools)

3. Supply of cosmetic product along with beauty treatment: Cosmetics are constituted mixtures of chemical compounds derived from either natural sources ... Those designed for personal care and skin care can be used to cleanse or .. They include: Hair dyes.- Makeup.-Perfumes- Skin-care creams. Specifically, there are seven categories of cosmetics and personal care products - oral care, skin care, sun care, hair care, decorative cosmetics, body care and perfumes. Some of the best Cosmetics brands in India are: Lakme.-L'Oreal India.-Colorbar.-Maybelline.-Lotus- Biotique - Mamaearth.- Sugar Cosmetics. What are the most important skincare products?Cleanser. A face wash removes dirt and impurities from skin to help prevent dullness, clogged pores and breakouts, plus prep skin for leave-on products like serums and moisturizers.-Serum. ..-Moisturizer. - Sunscreen.

4. Supply of lubricant, stores etc. by service station: Most common methods used for lubrication in conventional methods are: Drip oil feed lubrication; Splash oil feed lubrication; Force oil feed. An automatic lubrication system consists of a pump with reservoir, a controller, metering devices, hose and fittings and accessories. All automatic lubrication systems have a similar set-up. The pump and reservoir provide a steady flow of lubricant. A controller is necessary to activate and monitor the system. The lubrication system of an engine provides a supply of lubricating oil to the various moving parts in the engine. Its main function is to enable the formation of a film of oil between the moving parts, which reduces friction and wear. The lubricating oil is also used as a cleaner and in some engines as a coolant. Lubricants are classified in several ways; these could be liquid, semisolid (greases), and solids such as graphite, molybdenum disulfide, boron nitride, tungsten disulfide, and polytetrafluoroethylene. There are three different types of lubrication: boundary, mixed and full film. Each type is different, but they all rely on a lubricant and the additives within the oils to protect against wear. Reduce friction (rubbing or deformation) Prevent pieces from wear. Absorb/reduce shocks. Protect from corrosion. In most automobiles, which lubrication system is commonly used? Explanation: Pressure type lubrication is used commonly in most automobiles. In this system, oil is drawn in from the sump and forced to all the main bearings of the crankshaft through distributing channels.

Section 7. Scope of supply.- (1) For the purposes of this Act, the expression - "supply" includes- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business; 1[(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration. Explanation .-For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;] (b) import of services for a consideration whether or not in the course or furtherance of business; 2[and] (c) the activities specified in Schedule I, made or agreed to be made without a consideration; 3[****] d) 4[****]. 5[(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.] (2) Notwithstanding anything contained in sub-section (1),- (a) activities or transactions specified in Schedule III; or (b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services. (3) Subject to the provisions of 6[sub-sections (1), (1A) and (2)], the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as - (a) a supply of goods and not as a supply of services; or (b) a supply of services and not as a supply of goods.

8.9. MAJOR – SERVICES

A. Construction-Service: Works contract service is a specie of construction service, which is defined u/s 2(119) of CGST Act. Under para 6(a) of schedule II of CGST Act, it is a supply of service and GST is payable on such service.Works contract is Essentially and inherently a contract of service, irrespective of legal fiction created by Article 366(29A) of Constitution of India, as deemed sale. Basically, works contract is a contract for work, where supply of material is incidental to the contract. **General Rate of GST on Works Contract Service:** General rate of GST on works contract service is 18% (9% CGST and 9% SGST) or 18% IGST.

B. Distributive Trade Services: (a) Trading and hospitality services- (i) Trading Services- Wholesale trade, retail trade, (ii) Hospitality Services-Accommodation, food and beverage services. (b) Services of commission agent-In whole sale trade, in retail trade. General Rate is 18% (9% CGST and 9% SGST) or 18% IGST

C. Passenger Transport Service: (i) By Rail-In first class or air conditioned coach, GST rate is 5% (2.5% CGST and 2.5% SGST or 5% IGST) (ii) Services of transport by air in metro, monorail or tramway and in railways in class other than first class or A. C. Coach, are exempt from GST. (iii) Road transport of passengers in the following categories is taxable: (a) A. C. contract carriage (b) A. C. stage carriage (c) Radio Taxi. GST rate is 5% (2.5% CGST and 2.5% SGST) or 5% IGST. (iv) **Transport of Passenger by Water**: General rate is 18% while inland water transportation of passengers is exempt. (v) **Transport of Passenger by Air**: Economy Class-GST rate 5%. Other Classes-GST rate 12% , North East area services are exempt.

D. Goods Transport Service: (i) **Goods Transport by Road:** All such services are exempt from GST, except GTA and courier services, which are taxable @ 5% (2.5% CGST and 2.5% SGST) or 5% IGST. **Reverse charge in respect of GTA services** : In case of services of

Goods Transport Agency (GTA), the recipient of services is liable to GST located in taxable territary. Thus, GTA itself is liable to pay GST in the following cases: (a) Recipient is unregistered individual. (b) Transportation of household goods when frieght is paid unregistered individual. (c) Services supplied to a person located in non-taxable territory, (like transport to Bhutan, Nepal, Bangladesh) where recipient is paying freight there.

(ii) **Exemption in Respect of Specified Goods:** Services provided by GTA by way of transport in a goods carriage are exempt from GST: (a) Agricultural produce. (b) Where consideration for single carriage does not exceed ₹ 1,500, (c) Where consideration charged for single consignee does not exceed 750. (d) Milk, salt and foods, rice, pulses. (e) News papers and magzines. (f) Relief materials. (g) Defence equipments.

E. Financial Services: (i) **Services of Banking and NBFC:** The main service of banks is payment of interest to depositors. Services by way of extending deposits, loans or advances, in so far as the consideration is by way of interest of discount, is exempt from GST.

(ii) **Foreign Exchange Conversion Services**: For a currency, when exchanged from or to, Indian Rupees (INR), value of service shall be equal to the difference in the buying rate or the selling rates, as the case total units of the currency. If RBI refence rate is not available for a currency the value shall be 1% of the gross amount of INR.

(iii) **Supply of Money is Neither Goods nor Services:** u/s 2(52) and 2(102) of CGST Act, which specifically excluded money from definition of goods and services.

(iv) **Chit Fund Service**: Services provided by foreman of a chit fund in relation to chit are subject to GST @ 12% (6% CGST and 6% SGST).

(v) **Insurance Services**: GST rate is 18% (9% CGST and 9% SGST) or 18% IGST .

Exemption to service of general insurance and life insurance under specified schemes of public interest implemented by government, vide notification No. 9/2017 and 12/2017 both dated 28.06.2017, effective from 01-07-2017.

F. Real Estate Service: Renting or Leasing Services: GST is 18% (9% SGST and 9% CGST)**. S**ince place of supply is the location of immovable property, IGST is not applicable. Renting for residential purposes is exempted.

G. Leasing and Licensing Services:

(a) Hire and licensing services: (i) Leasing and rental of machinery (ii) Leasing and rental of goods. (iii) Licensing services for right to use IPR and other products.

(b) Leasing or renting of land and building is 'supply of service'.

(c) Transfer of right to use goods is supply of service.

(d) Leasing of air craft for operating scheduled air transport service or cargo service. Subject to GST of 5% (2.5% CGST and 2.5% SGST) to 5% IGST.

H. Business And Production Services:

(i) Business auxiliary and support services.

(ii) Services by incubatee and incubator.

(iii) Legal Services: Service provided in relation to advice, consultancy or assistance in any branch of law and includes representional services before any court, tribunal or authority. In case of legal services, GST is payable by recipient, if he is business entity located in India.

(iv) Advertising services and provision of advertising space or time. Selling advertising space in print media is subject to 5% GST (2.5% CGST and 2.5% SGST) or 5% IGST.

(v) **New Agency Services**: Collecting and providing news by Press Trust of India or United News of India are exempt from GST.

(vi) **Travel arrangement and Tour Operator Services:** Subject to 5% GST. but services supplied to a foreign tourist in relation to tour conducted outside India is exempt from GST.

(vii) Events and exhibition organisation services outside India.

(viii) Support services of agriculture, forestry, fishing and animal husbandry are exempt from GST.

(ix) **Job-Work**: Service classification for manufacturing services on physical inputs (goods) owned by others.

In case of job work relating to printing, textiles, jewellary etc. GST rate is 5% (2.5%, CGST and 2.5% SGST) and 5% IGST.

I. Tele-Communication Broadcasting And Information Services

(i) Tele-Communication: GST rate 18%

(ii) Online Information and Database Access or Retrieval (OIDAR Services.

J. Community Social Services

(i) Community Services, social and personal services

(ii) **Education Services**: Commercial education is subject to 18% GST (9% CGST and 9% SGST) or 18% IGST, various exemption contained in notifications No. 12/2017 and 9/2017 both dated 28.6.17

(a) Services provided by an educational institution to its students faculty and staff is exempted from GST.

(b) Services upto HSC Level are exempt.

(c) Services by IIM, NSDC, DDUY (Grameen Kaushal Yojana) are exempt.

(d) Govt. sponsored training programmes: Exempt

(e) No GST on hostel by educational institution.

K. Human Health and Social Care Services: Exempted

(i) Health care services

(ii) Waste treatment facility to medical establishment

(iii) Services of cord Blood Bank

(iv) Authorised medical practioner

(v) Clinical establishment.

L. Sanitation and similar, services: Exempt

M. Services of Housing Societies or RWA for monthly contribution up to 5,000.

N. Recreational, Cultural and Sporting services.

Admission to entertainment events or amusement facilities including exhibitions of films, theme parks, water parks, joy casinos, race-courses, Ballet and sporting events like IPL-GST rates 28 (14% CGST and 14% SGST) or 28 IGST .

Admission to cinema hall, where admission ticket is up to 100 and all other cultural and sporting services GST rate is 18% (9% CGST and 9% SGST) or 18% IGST.

O. Services of performing artists and models: Exempted, consideration charged for such performance is not more than Rs. 150000 (except for brand ambassador)

P. Museum and preservation services: national parks, wildlife sanctuary , tiger reserve, zoo are exempt.

Q. Gambling and betting and racing services GST @ 28% (14% CGST and 14% SGST) or 28% IGST.

8.10. PRACTICAL PROBLEMS RELATING TO VALUATION OF VARIOUS SERVICES

Valuation of various services is undertaken on the basis of relevant rules and other applicable provisions; Gross amount charged by provider of service is valuation of such service, which chargeable at general rate or other concessional rate, as the case may be. Before attempting to solve the practical problems, consider the facts and requirements of the case concerned and care for following steps:
1. Is service taxable or exempt.
2. If taxable, find out gross amount charged.
3. No deduction for cost/expenses incurred.
4. Goods sold by service provider is chargeable as supply of goods. GST on services and/or goods shall be total GST.

GST Acts,

i. The Central Goods and Services Tax Act, 2017
ii. Constitution (One Hundred and First Amendment) Act, 2016
iii. CGST (Extension to Jammu and Kashmir) Act, 2017
iv. The Integrated Goods and Services Tax Act, 2017
v. IGST (Extension to Jammu and Kashmir) Act, 2017
vi. The Union Territory Goods and Services Tax Act, 2017
vii. The Goods and Services Tax (Compensation to States) Act, 2017
viii. The Central Goods & Services Tax Rules, 2017
ix. The Integrated Goods and Services Tax Rules, 2017

8.11. SUMMARY

This lesson is emphasized on the concept of GST, the objectives of GST, the importance of GST in the Indian and global economy and its contribution to the economic development. The student is also many aspects through this lesson viz., who should register for GST?. 4-Tier GST tax structure, Objectives of GST, Taxation of services, Rates of GST on Taxable Services, Intra State Supply of Services, Inter-State Supply of Services, Goods/ material supplied by service provider, Major – Services and Practical problems relating to valuation of various services. Persons making inter-state supply of services are exempted from obtaining GST registration up to a turnover limit of Rs. 20 Lakhs (Rs. 10 Lakhs in special category states). Persons making taxable supply of services through e-commerce operators are not required to obtain compulsory GST registration up to aggregate turnover of Rs. 20 Lakhs (Rs. 10 Lakhs in special category states). Persons making inter-state supply of goods either directly or through e-commerce operator are liable for compulsory GST registration without any threshold limit. if a person is making taxable supply of services (except notified supplies u/s 9(5)) through e-commerce operator and having aggregate turnover up to Rs. 20 Lakhs (Rs. 10 Lakhs for special category states) in a financial year has been exempted from obtaining compulsory GST registration. However, this relaxation is not available for supply of goods through e-commerce operators. Goods & Services Tax (GST) has been implemented with effect from 1st July, 2017 subsuming almost all the indirect taxes prevailing in the country. The threshold limit for registration under GST was Rs. 20 Lakhs (Rs. 10 Lakhs in special category states) for both suppliers of goods & services initially. However, the threshold limit was later increased to Rs. 40 Lakhs for those suppliers who are exclusively engaged in supply of goods vide Notification No. 10/2019 dated 07.03.2019.

8.12. TECHNICAL TERMS

GST tax structure: GST has new gst rates of 5%, 12%, 18%, and 28%. 7% items are exempted from GST, whereas, 14% items have 5% GST tax slab and 17% items have 12% GST tax slab. Around 43% items have 18% GST slab rate and 19% items have 28% GST slab rates. Get Started!

Rates of GST: The primary GST slabs for any regular taxpayers are presently pegged at 0% (nil-rated), 5%, 12%, 18% & 28%. There are a few lesser-used GST rates such as 3% and 0.25%. Also, the composition taxable persons must pay GST at lower or nominal rates such as 1.5% or 5% or 6% on their turnover.

Taxation of services: Service tax is a tax levied by the government on service providers on certain service transactions, but is actually borne by the customers. Point of taxation means the point in time when goods have been deemed to be supplied or services have been deemed to be provided. The point of taxation enables us to determine the rate of tax, value, and due dates for payment of taxes.

Taxable Services: taxable service means any service provided or to be provided to any person , by a practising chartered accountant in his professional capacity, in any manner and the term "service provider" shall be construed accordingly.

Intra State: Intrastate supply is where the supplier of goods or services and the place of supply is within the same state. Intrastate supplies are liable to CGST (Central Goods and Services Tax) and SGST/UTGST (State Goods and Services Tax/Union Territory Goods and Services Tax)

Inter-State: Interstate supply is where the goods or services provider is in a different state or Union Territory, and the place of supply is in a different state or Union Territory

8.13. SELF ASSESSMENT QUESTIONS

1. What is the structure of GST?
2. What are the advantages and disadvantages of four tier tax structure?
3. What are the objectives of GST
4. Explain about GST tax structure
5. What is Taxation of services
6. What are the Rates of GST on Taxable Services
7. Intra State Supply of Services- Explain.
8. Inter-State Supply of Services – Discuss.
9. Which Goods/ material supplied by service provider?
10. What are the Major – Services taken into consideration under GST?
11. What are the Practical problems relating to valuation of various services
12. who should register for GST?

8.14. SUGGESTED READING

1. S.S Gupta (2017)- GST-Laws and practice, Taxmann's publications, new delhi
2. GST – Goods and Services Tax and Customs ACT- DR.H.C. Mehrotra & PROF.V.P. Agarwal,
3. Sahitya Bhawan publications.

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LESSON 9
TAX ON ALCOHOL, PETROLEUM PRODUCTS AND TOBACCO PRODUCTS

AIMS & OBJECTIVES

After studied this lesson the student should be able to:
- know why these products are outside the purview of GST
- learn the taxation of commodities
- know the impact on industry

STRUCTURE

9.1. INTRODUCTION

The previous system, with no GST, implies that tax is paid on the value of goods and margin at every stage of the production process. This would translate to a higher amount of total taxes paid, which is carried down to the end consumer in the form of higher costs for goods and services. GST is a single domestic indirect tax law for the entire country. Who is founder of GST? The reform of India's indirect tax regime was started in 1986 by Vishwanath Pratap Singh, Finance Minister in Rajiv Gandhi's government, with the introduction of the Modified Value Added Tax (MODVAT).Before the Goods and Services Tax could be introduced, the structure of indirect tax levy in India was as follows: Under the GST regime, the tax is levied at every point of sale. In the case of intra-state sales, Central GST and State GST are charged. A new GST rule has become mandatory for businesses with an annual turnover of Rs 100 crore from May 1, 2023. All such firms will have to upload their electronic invoices on the Invoice Registration Portal (IRP) within seven days of the issue of such invoice.

The GST council is headed by the finance minister. The current head of the GST council is Nirmala Sitharaman. What is GST limit? In India, businesses with an annual turnover of more than Rs. 40 lakhs (Rs. 20 lakhs for businesses in some special category states) are required to register for GST. A GST return is a document containing details of all income/sales and/or expenses/purchases that a GST-registered taxpayer (every GSTIN) is required to file with the tax administrative authorities. This is used by tax authorities to calculate net tax liability. A 'taxable person' under GST, is a person who carries on any business at any place in India and who is registered or required to be registered under the GST Act. Any person who engages in economic activity including trade and commerce is treated as a taxable person. GST exemption from registration-Individuals belonging to the threshold exemption limit-Exempt suppliers of goods and services- A person supplying non-GST goods and services- Taxpayers engaging in activities other than the supply of goods or services-Agriculturists- Ones supplying goods covered under reverse charge.

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

i. Alcoholic liquor for human consumption: is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.

ii. Petroleum crude, diesel, petrol, ATF and natural gas: As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council. Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

iii. Tobacco: Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.

iv. Opium, Indian hemp and other narcotic drugs and narcotics: Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties. Further, real estate sector has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property.

9.1.1. The Objectives of introduction of GST are. 1. One Nation One Tax. 2. Avoid Cascading Effect of Taxes. However, by keeping the petroleum products outside the purview of GST, both the objectives got defeated. Therefore, it is a time to go for Tax Reforms once again. By bringing Petroleum products under GST following benefits can be achieved.

i. One Nation One Tax: The idea of "One Nation, One Tax" was first propounded by Atal Bihari Vajpayee during his presidential tenure in the year 2000. The ratio decidendi behind the idea was to bring reform in the taxation structure of the nation, after which the government formed a GST committee to draft in relation to GST laws. The Constitution has engaged simultaneously with Center and the states to impose GST on the supply of goods as well as services inside the state. In this way, it will bring about one central law on GST (CGST) and around 29 state laws on GST (SGST) as every state will have one SGST.

It is expected that the concept of One Nation One Tax should truly come in reality. At present, the maximum rate of GST is 14% Central Tax and 14% State Tax. Bringing petroleum products in the ambit of GST will reduce the burden of taxes to a great extent. For this purpose, no constitutional amendment is required. In is pertinent to note that both the governments i.e Central and State can levy Cesss in addition to GST, if at all needed.

ii. Avoiding Cascading Effect of Taxes: A cascade tax or cascading tax refers to a system that imposes sales taxes on products at each successive stage in the supply chain from raw material to consumer purchase. Each buyer in the supply chain pays a price based on its cost, including the previous tax or taxes that have been charged. There is another important reason for the need to bring petroleum products under GST and that is Input Tax Credit. Since Petroleum products are subject to excise duty to avoid cascading effect of taxes, Cenvat Credit Rules are prescribed. Some states also have made provisions for set off of VAT. For the goods and services Input Tax Credit provisions are made under Central Goods and Services Tax Rules 2017. Due to present structure of taxes and different provisions for tax credit, Input Tax Credit under GST cannot be utilised for payment of Excise Duty. Similarly,Cenvat Credit cannot be utilised for payment of GST. There is no interchangeability.

A cascade tax is a tax that is imposed on products at each successive stage in the supply chain. A cascade tax has the effect of inflating the final consumer price of the product. Alternatives to the cascade tax include value-added tax (VAT) and goods and services tax (GST). There is a long list of benefits, which are being claimed as a result of GST law and one such benefit is the removal of the cascading tax effect. In simple words "cascading tax effect" means a tax on tax. It is a situation wherein a consumer has to bear the load of tax on tax and inflationary prices as a result of it. Cascade refers to something that falls or hangs down in large amounts. Waterfalls are the most common example of a cascade, though many other things can be said to cascade, including fabric, very long hair, sand and rocks.

iii. GST system in India: The implementation of the GST system in India is, therefore, a measure that is used to reduce inflation in the long run, as prices for goods will be lower.

India has, since launching the GST on July 1, 2017, implemented the following tax rates:
i. A 0% tax rate applied to certain foods, books, newspapers, homespun cotton cloth, and hotel services.
ii. A rate of 0.25% applied to cut and semi-polished stones.
iii. A 5% tax on household necessities such as sugar, spices, tea, and coffee.
iv. A 12% tax on computers and processed food.
v. An 18% tax on hair oil, toothpaste, soap, and industrial intermediaries.
vi. The final bracket, taxing goods at 28%, applies to luxury products, including refrigerators, ceramic tiles, cigarettes, cars, and motorcycles.

The goods and services tax (GST) is a type of tax levied on most goods and services sold for domestic consumption in many countries. It is paid by consumers and remitted to the government by the businesses selling the goods and services.

9.2 TAXATION OF ALCOHOL

Is liquor tax free in India? Such tax can be levied only by the central government. The state can only levy excise duty on alcoholic liquor that is fit for human consumption when its manufacture is complete, and not on the raw material or input that is still in process of being rendered fit for consumption. India imposes a 150% duty on imported alcohol, including on Scotch whiskey. Why is Goa liquor cheap? Goa has many local brands compared to other states, which naturally keeps the prices of liquor down. Also the raw material required for alcohol is easily available here. This makes alcohol production cheaper in Goa compared to other states. In one of the recent rulings, the Authority for Advance Rulings (AAR), Karnataka ruled that non-alcoholic malt drinks are liable to attract GST @ 28% and Cess @ 12%, i.e. an aggregate tax of 40% on such drinks. [In United Breweries Ltd. (2022) 9 TMI 841 (AAR, Karnataka)]. India's alcoholic beverages/liquor is heavily regulated by the government with high excise and taxes imposed on the companies. Hence it is an important source of revenue. According to the survey, liquor sector is the second largest contributor of taxes to State Government exchequers. Why alcohol has no GST? GST on alcohol was not charged. Rather, the alcohol or liquor was never brought under the purview of GST regime primarily due to two reasons: To ensure that the State Governments continue to have a strong inflow of revenue (other than what they get from GST).

The liquor industry constitutes a significant chunk of India’s revenue. It’s also one of the most significant Alco beverages sectors across the globe. The Indian liquor market is further estimated to grow at a CAGR of 7.4% during the period 2017-2030. Each of the 29 states of India list down their own set of rules regarding taxing liquor. For instance, in Gujarat, liquor is prohibited, whereas, in states like Kerala, Tamil Nadu, Bihar, various restrictions have been imposed on alcohol consumption. Uttar Pradesh collected the highest revenue from the excise tax on liquor, totalling Rs 31,517 crore in 2019-20. However, even Puducherry earns its primary income from alcohol trading, while Goa has the least alcohol tax rates.

GST was introduced in 2017 as a significant indirect tax subsuming multiple indirect tax laws existing in the country. It applies to the supply of all goods and services. However, liquor meant for human consumption is kept outside its purview. Hence, even today, the old taxes and fees continue to apply to liquor, which includes:

i. Excise duty on production of alcoholic liquor for human consumption
ii. State Value Added Tax (VAT) on its sale
iii. Fee such as gallonage fee, and license fee

Thus, speaking of just the sale of liquor for human consumption, the tax rules are pretty simple. GST is not levied on liquor for human consumption. However, VAT is applicable on total supply value. While the output remains under the already existing taxation regime, i.e., Excise duty and VAT, GST is applicable on:

i. All Inputs used/to be used in the course or furtherance of the business
ii. All input services used about alcoholic beverages

A primary concern here is the non-availability of Input Tax Credit (ITC) on GST paid on inputs since the output is kept outside the ambit of GST.

9.3. NO GST ON ALCOHOL FOR HUMAN CONSUMPTION

There are broadly two significant **reasons** why there is no GST on alcohol for human consumption:

i. The inflow of revenue for state government: Liquor constitutes a significant source of income for the states, on all counts. Further, the applicability of GST on alcohol for human consumption would have meant half of the revenue share going to the central government. Thus when the GST bill was drafted, the state governments were reluctant to give up on this significant revenue source. As a result, alcohol was exempted from GST to ensure a continued revenue inflow for the states.

ii. To charge high tax rates: Tax rates applicable on liquor are comparatively higher than the rates listed down under the GST regime. Thus, the second major reason for excluding alcohol from GST was to keep the prices high by charging high tax rates to limit consumption. The **GST on the liquor** industry is both direct and indirect. Let's understand how:

iii. *The direct impact of GST rates on the liquor industry*: Liquor for human consumption attracts the old taxation regime; however, industrial alcohol falls within the scope of GST and is chargeable at a tax rate of 18%. Further, Ethyl alcohol and other spirits, denatured, of any strength shall also fall under GST and will be taxed at 18%.

Particulars	**GST Rates**
Liquor for human consumption	Not applicable
Industrial alcohol	18%
Ethyl alcohol & other spirits	18%

iv. Debatable issue: A derivative of sugarcane molasses, ENA is used as a raw material in liquor production after considerable processing and dilution. ENA is also used in manufacturing cough syrups. Thus, the pharmaceutical sector raised their pressing demand regarding the inclusion of ENA in the GST to avail of Input Tax Credit (ITC) for the same. However, the state held its stand, stating it would be difficult for them to keep track of alcohol production if ENA is brought within the scope of GST.

v. The indirect impact of GST on the liquor industry- Although GST is not applicable on liquor meant for human consumption, its implementation has led to a rise in the price of alcohol. Since the output is subject to Excise duty and VAT, the inputs attract GST. Earlier, the tax charged on input materials remained somewhere between 12% to 15%. But with GST, inputs began to be taxed at 18%, majorly for which no ITC is available, which led to a rise in the cost of manufacturing. This additional cost is further passed on to the consumers leading to the total increase in liquor prices.

Further, even the GST paid on freight and transportation of liquor is another cause impacting liquor costing. Earlier, freight attracted 15% service tax. However, post-GST, they are taxed at 18%. Since the output is outside the ambit of GST, no ITC can be claimed for the tax paid on freight. This further forms part of the cost of the product, leading to a rise in the prices of output

vi. Some notable effects of exclusion of alcoholic beverages from GST:

a. Tax cascading - impacts the prices, volume, and growth of the sector
b. Distortion of credit chain - affects the trade
c. Multiple regulations - leads to increased complexities

The liquor sector is particularly highly regulated in India regarding its sale, storage, marketing, and distribution. The GST on the liquor industry has been significant. However, still, the alcohol beverages sector has been somewhat overlooked in GST due to political concerns. Certain debatable issues still exist, a prominent one being, “Whether or not alcohol for human consumption should be brought under the ambit of GST.” The law is still a work in progress and has a long way to go.

9.4. TAXATION OF PETROLEUM PRODUCTS

Most goods and services in India are covered under the ambit of GST, which was rolled out on 1 July 2017. However, petroleum products like petrol, diesel, ATF and natural gas are outside the ambit of GST. They still attract the legacy taxes like VAT, Central Sales Tax and Central Excise Duty. The government should make a proposal to consider petroleum products under GST as a welcome move towards the rationalization of the GST regime. Products like kerosene, naphtha and LPG will be under the GST regime while other items like crude oil, natural gas, aviation fuel, diesel, and petrol are out of the GST regime during the initial years. Therefore petroleum products and related industries have to comply with the old tax regime. Under the law, the taxing of petroleum products has been shared between centres and States and there is the absence of standardization which has produced a complex set of taxes. However, states will continue to have the freedom to levy local sales tax on it. Earlier, states were against the **GST on petroleum goods** but now are looking at it from a different angle as it will bring down the overall tax rate and allow the industry to get credit.

Yet in another stance by the government, Liquefied petroleum gas (LPG) has been considered to be in the same bracket of tax as both domestic and commercial. Currently, the sales tax taxed by states on LPG is average (0-3%), that on commercial LPG is much leading at 12.5-14%. In the same case, the domestic LPG is exempted from the excise duty and a commercial unit **attracts an 8 per cent duty** as a whole. But now as the ministry and the petroleum minister itself clarified that the same rate has been decided for the domestic and commercial units of LPG.

Tax at a marginal rate would not hurt the consumers much but will benefit the industry in a big way. GST has reduced the cascading effect of taxes paid on petroleum products due to which the restricted utilization of input tax credits on various goods and services consumed during exploration and production. Considering the size and importance of the petroleum sector, the proposal to subsume its products under GST is a positive one as it allows the industry to utilize the input tax credits on the goods and services consumed in the supply chain.

The petroleum industry has a major contributor to the State exchequer as many states rely heavily on it. Petroleum is also on the list to be included under the GST ambit as cleared by the former Petroleum Minister Dharmendra Pradhan as he pointed out that the inclusion of petroleum into the GST will benefit the states Overall. The minister has said these statements at an event organized to award the bidding winners of petroleum and oil gas sites contracts. Inclusion under **GST provides a positive impact on State revenue**, as petroleum products would likely be taxed at a higher rate and States are authorized to compensate for revenue shortfall through an additional levy. It simplifies the tax and regulatory issues associated with the production, storage, and distribution of petroleum products by related sectors. The central government levies an excise duty of Rs 32.9 per litre on petrol and Rs 31.8 per litre on diesel. These make up 31% and 34% of the current retail prices of petrol and diesel, respectively. Note: Delhi levies 30% VAT on petrol and 16.75% VAT on diesel. Sources: Indian Oil Corporation Limited; PRS.

Why Petrol and Diesel should be brought under GST: Recently, while answering to a question in Loksabha, Hon. Petroleum Minister provided details of the taxes charged by the Central Government on Petrol and Diesel. During the period when explanation was given by Hon. Minister, the price of petrol had crossed the milestone of Rs.100/- per litre. After perusal of the composition of central taxes on petrol and diesel, a study of the taxes levied by the State Governments was also done. For the study purpose the State Taxes leviable in Maharashtra is considered. However, the others states also have similar provisions. Following are the details of various components of the petrol and diesel prices.

The Central Government collected Rs 1,01,598 crore through excise duty on petrol and Rs 2,33,296 crore through excise duty levy on diesel during 2020-21. Excise duty on petrol and diesel went up by 43 per cent and 68.8 per cent respectively between March 2020 and February 2021, Even after the introduction of Goods and Services Taxes w.e.f. 1st July 2017, the petroleum products are kept out of the purview of GST. These products are still under Entry No.84 of the List I (Union List) of Seventh Schedule to Constitution of India as amended w.e.f.16.09. 2016. Therefore Central Government is empowered to levy excise duty and cesses on petroleum products and gases. Sates will have powers to impose Sales Tax within the state on Petroleum Products as per Entry No.54 of List II (State List) of Seventh Schedule to Constitution of India. As per Section Sec 9 (2) of the CGST Act 2017 and Section 5(2) of IGST Act 2017, GST on the supply of petroleum crude, high speed diesel, motor spirit (Commonly known as Petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the GST Council. Therefore, Central Government and State Government are still authorized to levy taxes on these products. Central Government levies duties on the manufacture and State Governments Levy Taxes on selling and distribution activities as per the powers given to them by Constitution of India.

Particulars	Petrol	Diesel
Basic price of petrol (including freight, dealers commission)	40.92	43.23
Excise duty	1.40	1.80
Special Additional Duty	11.00	8.00
Road & Infrastructure Development Cess	18.00	18.00
Agriculture Infrastructure Cess	2.50	4.00
Total Taxes (Central)	32.90	31.80
VAT	19.98	16.97
Cess levied by State Government	10.20	3.00
Total Taxes levied by State	30.18	20.97
Total Taxes	63.08	52.77
Selling price	105.00	96.00

Source: CMA Dr. Sanjay R Bhargave Practicing Cost Accountant

VAT of Petrol and diesel in Mumbai is charged at higher rate by 3%. The above composition of the various factors in prices shows that approximately 60% and 55% of the total price of petrol and diesel respectively is collected by the Central and State Governments.

Except petroleum and few other products, all other goods and services are covered under GST provisions. The petroleum companies and gas companies do require various plant and machineries, equipment and services for their activities. Many machineries and services are imported by these companies. Similarly, the goods and services procured domestically also attract GST. These companies also pay GST under reverse charge on manpower, security services, director sitting fees and services received from Governments and local authorities under reverse charge. Just to quote an example for transportation of petrol, diesel and gases pipelines are laid down. These pipes are essential capital goods for these companies. Similarly laying pipeline is essential service. Eventhough these companies pay GST on these pipes and laying pipeslines, they are not entitled to avail and utilize Input Tax Credit of the same for payment of Excise Duty and VAT. Similarly,refineries also need huge capital investment in plant and machineries, The Input Tax Credit on the plant and machinery also cannot be utilised for payment of excise duty and VAT. This results in cascading effect of taxes. In fact, it is an unjust enrichment. By bringing petroleum products in the ambit of GST, thousands of crores of rupees ITC can be utilised for payment of taxes on petroleum products which will help in reducing the cost substantially and ultimately prices of Petrol, Diesel and CNG. The other manufacturing tax payers under GST also can avail and utilise input tax credit of Diesel used in generating electricity for captive consumption. This will also reduce their cost of production.

Ease of doing business: Presently petroleum and gas companies have to comply provisions under Central Excise, VAT and GST also. The compliance includes filing returns, audits by government departments and professionals and litigations. Bringing petroleum products under GST will result in reduction in compliances. This will also achieve the purpose of the government in true sense i.e ease of doing business. In view of the above, it can be said that it is a time for tax reforms once again. It is also expected that by bringing petroleum products GST, the prices can be reduced by at least 15%.

9.5. TAXATION OF TOBACCO PRODUCTS

The tobacco industry is booming as evident by the balance sheet of ITC. Many reports have been released by WHO claiming that India is harboring the world's highest incidence of mouth cancer. We are the second largest consumers of tobacco, having an astonishing 275 million users! But how will GST affect this multi-million dollar industry? Let us see the impact of GST rates on the tobacco industry in India. In the past decade, excise duty rates have been revised for cigarettes and other tobacco products, but locally manufactured bidi was exempted. GST tax rate on tobacco and tobacco-related products was declared on 18th May by the GST council

9.5.1. Impact of GST Rate on the Tobacco Industry: The cess rate for tobacco has been fixed at Rs 4,170 per thousand stick plus 290 per cent ad valorem or 100 per cent of the retail sale price per unit. So far, the highest rate was Rs 4,170 per thousand stick plus 290 per cent ad valorem. The cess is levied over and above the highest GST rate of 28 per cent. Excise duty is charged on the manufacturing of cigarettes, bidi, and other chewing tobacco products at different rates. Cigarette – 64%, Bidi – 22%,Chewing products – 81%. A lot of revenue is generated from the sale of tobacco for the Indian government. Although the tax burden levied on the Indian tobacco industry is not enough as per the recommendation of the WHO for a tax burden of 75% on all tobacco-related products. There has been an increasing demand for a higher tax burden on the tobacco manufacturers. Under GST, there will be an additional cess charged on the tobacco-related products, over and above the GST charged at the rate of 28%.

i. Let's Understand the Pricing of 1 Cigarette under GST with an Example: ITC manufactures cigarette, chewing tobacco and pan masala. Cigars and cigarillos will be charged at the rate of 28% and an additional cess up to 21% or Rs 4.170 per stick would be levied. Chewing tobacco has also been kept under the 28% category and an additional cess of 142% would be levied upon chewing tobacco (with lime tube) and 160% on chewing tobacco (without lime tube). Impact on the tobacco industry is going to be largely neutral since the 5% cess declared by the Indian government was less than the expected rate by the tobacco industry. There will be an increase in the expense of smokers due to the rise in the price of a cigarette in the initial period. Although, it is expected that the tobacco India.

Particulars	Cigarettes under 65mm	Cigarettes between 65mm to 70mm	Cigarettes between 70mm and 75mm	Cigarettes above 75mm	Pan masala	Pan masala with gutkha (tobacco)
Value per unit (A)	Rs 5	Rs 10	Rs 15	Rs 15	Rs 5	Rs 10

Probable maximum cess of the value of goods or transactions. (B)	Rs 0.25 (5%)	Rs 0.50 (5%)	Rs 0.75 (5%)	Rs 0.75 (5%)	Rs 3 (60%)	Rs 20.40
Probable cess per 1000 sticks (C)	Rs 1.591	Rs 2.876 (non-filter) and Rs 2.126 (filter)	Rs 2.876 (both filter and non-filter)	Rs 4.170 (both filter and non-filter)	Not applicable	Not applicable
GST rate @28% (D)	Rs 1.40	Rs 2.80	Rs 4.20	Rs 4.20	Rs 1.40	Rs 2.80
Probable price that can be charged on products (A + B+C+D)	Rs 8.016	Rs 16.176 (non-filter) Rs 15.426(filter)	Rs 21.502 (both filter and non-filter)	Rs 24.12	Rs 9.40	Rs 33.20

9.6. IMPACT OF GST ON CIGARETTES & TOBACCO PRODUCTS

Tobacco is classified as sin goods; thus, various taxes such as Central Excise duty, National Calamity Contingent Duty (NCCD), GST, and compensation cess are levied on it. The WHO has recommended at least a 75% tax on all tobacco products. However, there isn't enough tax levied on such products in India. Under the budget 2023, it states that GST on tobacco products and cigarettes will be 28%, which is the highest GST rate in India. In addition to compensation cess levied under the GST law as well as duties imposed under the Central Excise law. It states that all tobacco products, including paan masala, cigars, cigarillos, hookah, and other similar products.

While our finance minister, Nirmala Sitharaman, said the last revision of National Calamity

Contingent Duty (NCCD) on cigarettes was done almost 3 years ago, and it should be revised and raised upwards of 16%. In the last revision of the NCCD, taxes on cigarettes were raised ranging from 212% to 388% depending on the sizes of the cigarette sticks. This is possible as NCCD is a surcharge, meaning it is imposed in addition and independently to excise duty and GST. What tobacco products have remained untouched in this new policy? Smokeless cigarettes, chewing tobacco and bidis have remained untouched in the budget 2023 with no additional cess levied. Even though they are already subject to 28% of GST. Excise, NCCD and Cess on tobacco products. The pointers below will list the NCCD, compensation cess and excise duty on tobacco charged on the manufacture of cigarettes and tobacco products of different variations under budget 2023.
Excise duty on;

i. Cigarettes up to 65mm in length – 5 rupees per one thousand sticks
ii. Cigarettes between 65mm and 70mm – 5 rupees per one thousand sticks
iii. Filter cigarettes up to 65mm in length** – 5 rupees per one thousand sticks
iv. Filter cigarettes between 65mm and 70mm** – 5 rupees per one thousand sticks
v. Filter cigarettes between 70mm and 75mm** – 5 rupees per one thousand sticks
vi. Other cigarettes containing tobacco – 10 rupees per one thousand sticks
vii. Cigarettes of tobacco substitutes – 5 rupees per one thousand sticks

National Calamity Contingent Duty (NCCD)

i. Cigarettes up to 65mm in length – 230 rupees per one thousand sticks
ii. Cigarettes between 65mm and 70mm – 290 rupees per one thousand sticks
iii. Filter cigarettes up to 65mm in length** – 510 rupees per one thousand sticks
iv. Filter cigarettes between 65mm and 70mm** – 510 rupees per one thousand sticks
v. Filter cigarettes between 70mm and 75mm** – 630 rupees per one thousand sticks
vi. Other cigarettes containing tobacco – 850 rupees per one thousand sticks
vii. Cigarettes of tobacco substitutes – 910 rupees per one thousand sticks

Compensation cess

i. Cigarettes up to 65mm in length – 5% + Rs.2076
ii. Cigarettes between 65mm and 70mm – 5% + Rs.3668*
iii. Filter cigarettes up to 65mm in length** – 5% + Rs.2076
iv. Filter cigarettes between 65mm and 70mm** – 5% + Rs.2747
v. Filter cigarettes between 70mm and 75mm** – 5% + Rs.3668
vi. Other cigarettes containing tobacco – 36% + Rs.4170
vii. Cigarettes of tobacco substitutes – ₹4006

9.7. SUMMARY

After studied this lesson the student should be able to know why these products are outside the purview of GST-learn the taxation of commodities -know the impact on industry. Further it is emphasized on Taxation of alcohol, Reasons for why there is no GST on alcohol, Taxation of petroleum products, Taxation of tobacco products and. Impact of GST on Cigarettes & Tobacco Products. In one of the recent rulings, the Authority for Advance Rulings (AAR), Karnataka ruled that non-alcoholic malt drinks are liable to attract GST @ 28% and Cess @ 12%, i.e. an aggregate tax of 40% on such drinks. TCS is applicable on the sale of timber, scrap, minerals, liquor, tendu leaves, forest produce, cars, and toll tickets. Under Section 194Q, TDS is applicable on the purchase of goods, if the amount exceeds Rs. 50 lakhs. As a result, pre-packaged and labelled milk products, including paneer, curd, lassi, and buttermilk, will now be taxed at 5% GST. Additionally, ultra-high temperature (UHT) milk will also be taxable at 5%. Furthermore, dairy products, such as condensed milk, cheese,

butter, and ghee, will be taxable at 12% GST. The cess rate for tobacco has been fixed at Rs 4,170 per thousand stick plus 290 per cent ad valorem or 100 per cent of the retail sale price per unit. So far, the highest rate was Rs 4,170 per thousand stick plus 290 per cent ad valorem. The cess is levied over and above the highest GST rate of 28 per cent. As per a finance ministry notification dated March 31, the GST cess rate that would be applicable on pan masala is 0.32 times the retail sale price (RSP) of the pan masala pouch.

9.8. TECHNICAL TERMS

Taxation of petroleum products: In the case of diesel, this is close to 49%. The central government taxes the production of petroleum products, while states tax their sale. The central government levies an excise duty of Rs 32.9 per liter on petrol and Rs 31.8 per liter on diesel.

Taxation of tobacco products: National Calamity Contingent Duty (NCCD) is levied on cigarettes based on their size. NCCD is levied per 1,000 cigarette sticks and is a part of the total tax on tobacco. The overall tax on cigarettes includes GST, NCCD and compensation cess, accounting for more than 52 per cent.

Authority for Advance Rulings (AAR): Advance Ruling means written opinion or authoritative decision by an Authority empowered to render it with regard to the tax consequences of a transaction or proposed transaction or an assessment in regard thereto. It has been defined in section 245N (a) of the Income-tax Act, 1961 as amended from time-to-time.

Ultra-high temperature: Ultra-high temperature processing (UHT), ultra-heat treatment, or ultra-pasteurization is a food processing technology that sterilizes liquid food by heating it above 135 °C (275 °F) – the temperature required to kill bacterial endospores – for 2 to 5 seconds.

Labelled milk products: Soy, oat, almond and other drinks that bill themselves as "milk" can keep using the name, according to draft federal rules released Wednesday by the Food and Drug Administration.

9.9. SELF ASSESSMENT QUESTIONS:

1. Why was the need to amend the constitution before introducing the GST?
2. Examine the status of taxation of such commodities after introduction of GST
3. Discuss article 246A which grants the power to make laws with respect to GST
4. Discuss the leviability of GST
5. Briefly explain Taxation of alcohol.
6. Explain the Reasons for why there is no GST on alcohol.
7. Taxation of petroleum products - explained
8. Briefly explain Taxation of tobacco products
9. What is the Impact of GST on Cigarettes & Tobacco Products

9.10. FURTHER READING:

1. S.S Gupta (2017)- GST-Laws and practice, Taxmann’s publications, new delhi
2. https://cleartax.in/s/gst-on-petrol
3. https://taxguru.in/goods-and-service-tax/tax-tobacco-products.
4. GST – Goods and Services Tax and Customs ACT- DR.H.C. Mehrotra & PROF.V.P. Agarwal, Sahitya Bhawan publications.

Dr. Srinivasarao Seethalapu

LESSON-10
INTER-STATE GOODS & SERVICES TAX

AIMS AND OBJECTIVES

After studying this lesson, you should be able to:

1. Understand the concept behind the Inter-State supply
2. know various examples of inter-state supplies under GST

STRUCTURE

10.1. INTRODUCTION

The goods and services tax (GST) is a value-added tax (VAT) levied on most goods and services sold for domestic consumption. The GST is paid by consumers, but it is remitted to the government by the businesses selling the goods and services. Critics point out, however, that the GST may disproportionately burden people whose self-reported income are in the lowest and middle income brackets, making it a regressive tax. These critics argue that GST can therefore exacerbate income inequality and contribute to social and economic disparities. In order to address these concerns, some countries have introduced GST exemptions or reduced GST rates on essential goods and services, such as food and healthcare. Others have implemented GST credits or rebates to help offset the impact of GST on lower-income households.

10.2. INTER STATE COUNCIL

The Inter State Council is a consultative body with the authority to examine and discuss issues of mutual interest between the Union and State (s) or between States. In order to preserve coordination between the state and centre levels, this mechanism establishes norms for debate forums and other types of discussions.

On May 28, 1990, the President issued an executive order creating the Inter State Council (ISC) in accordance with Article 263 of the Indian Constitution. According to Article 263, a council should be formed "if it seems to the President at any time that the creation of a Council would serve the public interests." This was in response to the advice of the Sarkaria Commission.

The provision contained in the study and recommendations on potential or impending disputes between states. Help all the states or maybe some of the—discuss and investigate various issues. Making suggestions on diverse subjects ensures the synchronization of all policies, and every action taken in response to a recommendation needs to be approved by a presidential order. A council that could address the aforementioned recommendations is formed with the president's assistance. It also outlines the duties that the council and their organization must carry out in accordance with the right procedure.

10.3. INTERSTATE MEANING IN GST

Interstate supply is where the goods or services provider is in a different state or Union Territory, and the place of supply is in a different state or Union Territory. The supplies involving import, export, or supply to or from a Special Economic Zone (SEZ) unit or Export-oriented Unit (EOU) are also considered interstate supplies. The Central Government levies integrated GST (IGST) on the interstate supply of goods and services in India.

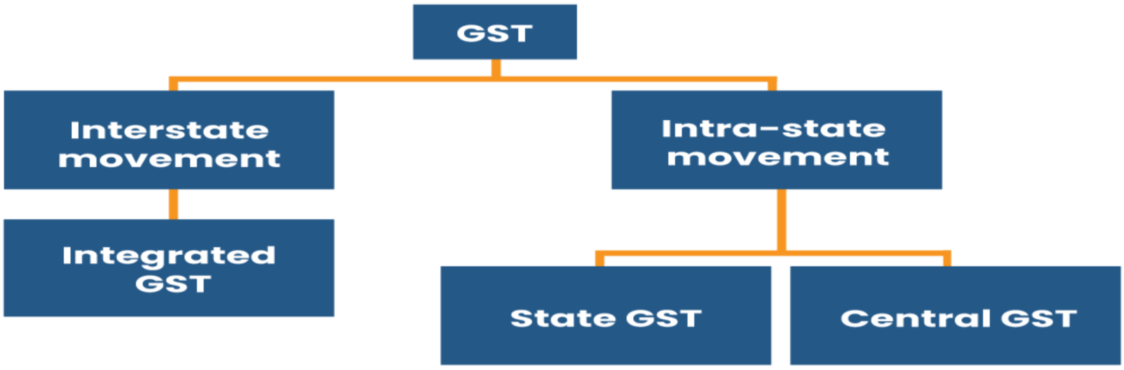
When goods and services are supplied from one state to another, the IGST is levied by the central government and then distributed to the destination state. The revenue generated from IGST is shared between the central and state governments according to a predetermined formula. This ensures that the tax revenue is shared between the central and state governments and avoids the need for multiple taxes to be paid by businesses operating in different states.

10.4. INTERSTATE GST RATE EXAMPLE

A company ABC ltd is located in Jaipur, Rajasthan, and it supplies mobiles worth Rs.1,00,000 to Mumbai, Maharashtra. This supply will be considered an interstate supply. The goods supplied fall under the GST slab of 18%. IGST, or Integrated GST, is levied by the Central Government, a share of which is paid to the destination state. IGST Calculation: 1,00,000 * 18% = Rs.18,000. The dealer will charge Rs.18,000 as IGST. This amount is paid to the Centre and then split in a predetermined ratio between the Centre and the destination state, i.e. Maharashtra. As an exception, if the goods are supplied from Jaipur, Rajasthan, to a Special Economic Zone (SEZ) unit in Rajasthan, it will also be considered an interstate supply. All the goods and services supplied to or from an SEZ unit are considered interstate supplies.

10.5.CONCEPT OF THE INTER-STATE SUPPLY UNDER GST PLACE OF SUPPLY OF GOODS

GST is a destination based tax, i.e., the goods/services will be taxed at the place where they are consumed and not at the origin. So, the state where they are consumed will have the right to collect GST. Therefore, place of supply is crucial under GST as all the provisions of GST revolve around it. Place of supply of goods under GST defines whether the transaction will be counted as intrastate or interstate, and accordingly, levy of SGST, CGST & IGST will be determined. Hence, it is recommended to cross-check the place of the supplier, using the GST search tool.



10.5.1. Place Of Supply When There Is Movement Of Goods:

When the provider and the place of supply are in different states, this is referred to as inter-state supply. The transaction is also presumed to be Inter-State when goods or services are exported or imported, or when products or services are supplied to or by an SEZ unit. As per the GST Act, Inter stat supply means the transportation of goods or services between the state and union territory. Before they reach the customs station, products delivered to India are frequently referred to as an Inter-State Supply. Inter-State Supplies are the transportation of products and services from or to an exclusive economic zone or a specific development zone.

i. **Supply Type**: Involves movement of goods, whether by supplier, or buyer or by any other person. **Place of supply**: Location of the goods when the movement of goods terminates for delivery to the recipient

ii. **Supply Type** :Goods are delivered by the seller to the buyer on the directions of a third party (whether or not an agent), before or during the movement of goods, by the way of transfer of title in goods or the documents or some other way. **Place of supply**: It is assumed that the third person has received the goods and therefore, the place of supply of the goods will be the principal place of business of the third party.

Sections 7 & 8 under the IGST Act talks about the criteria for determining the type of supply i.e. inter-state or intra-state. As per Section 7 of the said Act, if the supplier's location & the supply's place are in:

Then the supply would be tagged as inter-state supply. Interstate supply is where the goods or services provider is in a different state or Union Territory, and the place of supply is in a different state or Union Territory. The supplies involving import, export, or supply to or from a Special Economic Zone (SEZ) unit or Export-oriented Unit (EOU) are also considered interstate supplies. The Central Government levies integrated GST (IGST) on the interstate supply of goods and services in India. When goods and services are supplied from one state to another, the IGST is levied by the central government and then distributed to the destination state. The revenue generated from IGST is shared between the central and state governments according to a predetermined formula. This ensures that the tax revenue is shared between the central and state governments and avoids the need for multiple taxes to be paid by businesses operating in different states.

10.6. GST: INTER-STATE AND INTRA-STATE SUPPLY-DETERMINATION AND IMPLICATIONS

10.6.1. Background: This is the right time to discuss the framework of GST as its likely to be a reality with effect from 01 July 2017. GST law is dual tax mechanism where the State and Center both will be charge the tax. The GST law is known to be One Nation, One Tax. But if we go through the law, it provides many situations where we find this slogan is not workable. We have focused on the major concern of GST law that What is Inter-State or Intra- State Transactions?, Why it is important to determine?, How this can be determined and any other implications ?. We will also discuss the industry specific charge ability on whether to charge IGST or CGST/SGST/UTGST.

10.6.2. What is Intra- State and Inter- State Supply: The above two terms have been defined under Section 7 and 8 of IGST Act, 2017. Section 7 provides for determination of Inter-State Supply whereas Section 8 provides for determining the Intra- State Supply.

10.6.3. Why supply is required to be differentiated?
Under GST regime, 4 types of taxes i.e. CGST, SGST, UTGST and IGST. If a transaction/supply is determined as Intra- State Supply then CGST and SGST/UTGST shall be chargeable and payable whereas in case of Inter-State Supply then IGST shall be chargeable and payable. Therefore, it is well established that different taxes is to be paid on respective supplies and it becomes more important to determine the Supply to be Intra- State and Inter-State supply.

10.6.4. How to distinguish between Intra- State Supply and Inter- State Supply:
A supply can be categorized as Intra- State Supply if the following conditions are satisfied: The Location of Supplier and Place of Supply are in the same State or Union Territory;
A supply can be categorized as Inter-State Supply in the following situations: The Location of Supplier and Place of Supply are in different State or Union Territory; The imported goods till they cross the customs frontiers of India(CFI); -The import of services;-The export of goods; -The export of services; - The location of supplier in India and Place of supply outside India; Supply to or by SEZ Developer/ unit; "location of the supplier of services" means,– (a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business; (b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment; (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and (d) in absence of such places, the location of the usual place of residence of the supplier; The place of supply for goods is defined as per section 10 & 11 and for services is defined as per section 12 & 13 of IGST Act, 2017;
***The GST law does not define the location of supplier for goods*.** Considering that the location of supplier will be location of goods, in this type of transaction there will not be any inter- State supply since the location of the supplier and the place of supply will be in the same State. However, the most crucial thing is to determine the Place of Supply of services or goods. The IGST law shall be referred for section 10, 11, 12 & 13 to determine the place of supply.

10.7. WHAT IS INTERSTATE SUPPLY?

The distribution of goods or services through one state is referred to as interstate supply under GST. The act GST defines interstate distribution as to where the supplier's location and customer's supply points are:

i. Two separate states
ii. Two separate union territories;
iii. A state as well as a union territory.

In addition to those mentioned above, interstate supply means the supply of commodities imported into India till they reach the customs station. Interstate supply also includes delivering products or services to or from a Special Economic Area operator or a Special Industrial Region unit.When the provider and the place of supply are in different states, this is referred to as interstate supply. When products or services are transported or imported, or when items are provided to or by an SEZ unit, the transaction is deemed inter-state. As defined by the act GST, interstate supply occurs when the supplier's location and a site of supply are in separate states. Interstate supply, meaning in GST, is the movement of products or services from one state to another. The taxpayer is responsible for paying the Integrated Good and Service Tax (IGST), which the government collects on interstate shipments. The supply of raw materials from Punjab to Delhi is an example of interstate supply.

10.7.1. Interstate Supply: Points to Remember

- As defined by the GST Act, interstate supply is the movement of a product or service in a state and a union territory.
- Products supplied to India are commonly referred to as interstate supply before they approach the customs post.
- The conveyance of goods & services from or to the exclusive trade zones or from a particular development zone is known as interstate supplies.

10.7.2. Inter-State Supply: Points to Remember

- As defined by the GST Act, interstate supply is the movement of a product or service in a state and a union territory.
- Products supplied to India are commonly referred to as interstate supply before they approach the customs post.
- The conveyance of goods & services from or to the exclusive trade zones or from a particular development zone is known as interstate supplies.

10.7.3. Inter-State supply in light of the Judgment of the Hon’ble Kerala High Court

Recently, the division bench of Hon’ble Kerala High Court in the case of “Kun Motor Co. Pvt. Ltd. & Vishnu Mohan Vs. ASTO, Kerala State GST Department and others dated 06/12/2018” has pronounced a judgment in the context of Section 10 (1)(a) of IGST Act. The facts of this case were more or less similar to the facts of the example illustrated for initiating the discussion under this article.

i. Penalty Under Section 129: The case before the Hon’ble High Court was basically relating to penalty under Section 129 for violation of the provisions of Rule 139. In the said case, a person from Trivandrum went to Pondicherry and purchased a car. He instructed the dealer to dispatch the Car to Trivandrum in the state of Kerala. The dealer dispatched the Car to Pondicherry. However, before dispatching the Car, as per the requirement of law under Motor Vehicle Act, the dealer covered the Car with Insurance and obtain a temporary registration at Pondicherry showing the address of the purchaser at Trivandrum. The dealer raised an invoice and charged IGST. The Car was intercepted in Kerala and penalty was levied for non-accompanying of the consignment with the E-way bill. The court delved into the aspect of whether the sale was an intra-state one or an inter-State one and concluded that the supply of Car was an intra-state sale. Their lordships observed “When, a resident of Trivandrum purchases a car in Puthuchery, takes possession of the same, obtain temporary registration in his name and takes out an insurance cover for a period of one year, also in his name; which insurance cover is mandatory under Section 146 of the M.V. Act, the presumption can only be that the delivery was effected in Puthuchery itself. All of these factors indicate that the transfer of property in goods vests with the purchaser, at Puthucherry itself, wherein the supply terminated. The Court has observed that as the transaction of supply was terminated at Puthucherry it-self and the property in vehicle was transferred in puthucherry, the supply was intra-state only.

ii. A transaction which terminates with the supply within a State :The Hon’ble Court though has not agreed with the principles emerging out of the above discussion, still observed that “A transaction which terminates with the supply within a State is an intra-State supply. However, when a dealer or manufacturer within the State of Kerala purchases goods for the purpose of further sale or manufacture within the State of Kerala, from an outside State dealer and transports it to their manufacturing unit or dealership, then the transaction occasions the movement of goods. Though the sale occurs in that outside State, the place of supply of goods is in this State since the transaction of sale occasions the movement of goods from one State to another and the supply is terminated in this State; whether the movement is by the supplier or the recipient himself. But, when a person residing in one State goes to another State and purchase goods for his own use, the supply with respect to the transaction terminates on the individual taking possession of the goods in that other State. The movement of the goods, after such sale is terminated and delivery is effected, whether it be inside the State or to outside that State, would be the prerogative of the purchaser, who owns the goods, in whom the property in such goods vests and such movement would not be that occasioned by the sale transaction or the supply thereon.”

iii. How an Intra-State Sale would be Converted to an Inter-State Sale: It was also observed “We cannot also comprehend how an intra-State sale would be converted to an inter-State sale merely for reason of it being transported in a carriage. A purchase of, say, a Television by a resident of Kerala from Bangalore would be an intra-State sale and the nature of the supply, whether it be an inter-state or intra-State, would not depend on whether the purchaser carries it as a head-load through the borders or transports it through his own conveyance or through a transporter.”

iv. Principles laid by the Court in the old regime : While referring to the above discussion and the facts and decision in the case of Kun Motor Co. P Ltd., it so appears that the said judgement has not differed significantly with the principles laid by the Court in the old regime with respect to the provisions and intent thereof under the CST Act, yet has taken a decision which is different from the principles laid thereunder. It is especially noteworthy that the Hon’ble Kerala High Court has suggested different treatment of sales in case of B to B and B to C sales, whereas neither the wordings of section 10 of IGST Act apparently suggests so, nor the said suggestion appears to be in line with the judgments of CST era.

v. Drafting of section 10 of the IGST Act: Despite of all the difference of interpretations, it is beyond any doubt that drafting of section 10 of the IGST Act seems to be made hurriedly and is going to cause more and more litigations and as usual the business community will be sufferer. The judgement in case of Kun Motor Co. P Ltd. of the Kerala High Court is also not in agreement with the principle laid by the judgment of Hon'ble Gauhati High Court in the case of "Buishi Yada Motors Vs. State of Arunachal Pradesh and others, [2004] 135 STC 438 (Gau)", which is quite akin to the said case. In the case decided by Gauhati High Court, in a similar situation, an Arunachal based dealer has sold vehicles to unregistered dealers at Assam, it was held – "

vi. Form 21 of the Central Motor Vehicle Rules, 1989: In the case at hand, it has already been indicated hereinabove that in the face of the certificates granted by the petitioner in Form 21 of the Central Motor Vehicle Rules, 1989, showing addresses of the buyers located in the State of Assam, the movements of vehicles to the State of Assam for registration at the residential addresses of the buyers form the incident of contract, such movements were necessitated by the contracts themselves and that the movements of the vehicles were inextricably inter-linked with the sale inasmuch as for the transactions to be completed, vehicles were required to be moved to the State of Assam for the purpose of registration. In the face of the assertion of the petitioner that the vehicles had moved out in pursuance of the contracts of sale, the onus rested squarely on the respondents to show that contrary to the terms of the agreement of the sales, the vehicles, in question, had not moved out of the State of Arunachal Pradesh. Until it is so done, the sales will not be treated as intra-State sales."

vii. Incident of the contract of sale : In the case of Hon'ble High Court of Kerala also, there was an apparent covenant or incident of the contract of sale that the vehicle will be moved to Kerala. The recipient has not only disclosed his name and address, but has also disclosed his intent to take the vehicle to his State. The said fact has been reflected in the invoices, which stated Kerala as place of supply and which charged IGST on such supply. But it seems that Hon'ble Court has not preferred to give importance to the contract of supply, intent of the supplier and recipient and has insisted on the 'transactions of supply' as such and has given weightage only to the point of 'transfer of property in goods' which is not determinative as per the other decisions on similar issue. I wonder, whether the recent judgment of the Kerala High court suggests more strict definitions of inter-state sales under GST laws.

viii. Principles of destination based taxation: It may sound unpleasant but I apprehend that in the light of the aforesaid judgment, principles of destination based taxation is losing its significance. The wise coining of terms in an unclear backdrop and without proper use of explanations and harmony between provisions can hardly help but only detoriate the position of settled propositions and trade practices in the bona fide. Let us hope that the seriousness of the issue will be addressed in the earnest and within the earliest possible time to deliver to the ideology posed by Learned author C.B. Fillebrown that: "In the process of taxation the industry of the nation must be disturbed no more than is necessary"

10.8. WHAT IS AN INTER-STATE TRANSACTION?

Under the GST act, an inter-state transaction of goods or services is named as a supply from between two states i.e from one state to another. The GST Act specifies an interstate or a domestic supply when the position of the supplier and the place of delivery are :

i.Two different states

ii.Two locations falling under the same union territory or the locations involving one state and one union territory.

Furthermore, the supply of goods that are imported in the country is often called interstate supply before reaching the customs offices. Also, the supply of goods and/or services is regarded as an inter-state supply to/from a specific economic or development zone.
For instance, if your business operates in the state of Maharashtra and you supply your goods or services to a company in Karnataka, then this transaction is listed under the interstate supply. It is also used when the supplier and the receiver are in two different countries.

10.8.1 What are the Consequences of wrongfully taxes collected and paid?
As per section 77 of CGST Act, 2017, where a registered taxable person who has paid the CGST & SGST/UTGST considering a transaction to be an Intra- State supply but subsequently such transaction held to be an Inter-State Supply, then IGST shall be payable (with no interest) and refund would be claimable of CGST & SGST/UTGST under the provisions of refund;
In the same line, section 19 of IGST Act, 2017 provides for refund of IGST and payment of correct tax i.e. CGST & SGST/UTGST; Wrong paid tax shall be refundable and correct tax would be required to be paid; Therefore, it becomes most important and critical to correctly determine the category of supply;

10.8.2 The following are industry specific cases/instances denoting the applicability of CGST & SGST/UTGST or IGST:
Nature of business Category of Supply Applicable tax
i. Hotel, Inns, etc. Intra- State Supply CGST & SGST/ UTGST
ii. Restaurants Intra- State Supply CGST & SGST/ UTGST
iii. Import/Export of goods Inter-State Supply IGST
iv. Import/ Export of services Inter-State Supply IGST
v. Renting of immovable property Intra- State Supply (If landlord and property is located in same State) CGST & SGST/ UTGST
vi. Renting of immovable property Inter-State Supply (If landlord and property is located in different State) IGST

We have discussed the determining fundamentals of IGST and CGST/SGST/UTGST and implications of wrong tax payment. It is pertinent to note that refund can be claimed within 2 years from the relevant date however the assessment from department can be concluded within 3 years or 5 years from the due date of furnishing of annual return for the Financial Year to which tax relates. Keeping the above provisions, it is very important to define and document a transaction as Inter-State Transaction and Intra- State Transaction.

10.8.3. Examples of Inter-State Supplies Under GST
Example 1: Suppose you have a firm, viz., ABC, in the State of Uttar Pradesh. Your company supplies product to another enterprise, namely XYZ, located in Delhi, then it comes under the ambit of inter-state supply.
Example 2: suppose Company A provides services to client B for Rs 7 lakh. The services are rendered from company A in Hapur (UP) and are received in the client's location in Delhi. Such supplies would come under the regime of inter-state supply.
It means that interstate supply will come into play if the supplies of the goods and services occurred in the place where the supplier belongs.

10.8.4. HSN and SAC code: Full-forms in GST
i. HSN Code Full Form: HSN stands for Harmonized System of Nomenclature and is used to classify goods in a systematic manner. It was developed by the World Customs Organization (WCO) and is considered the global standard when it comes to naming goods. This 6-digit uniform code can be used to classify more than 5,000 products and is also used for classification for tax purposes.

ii. Understanding how HSN Code is used in India
Since 1971, India has been a member of WCO and was using 6-digit HSN codes to classify goods for Customs and Central Excise since 1986. However, the Customs and Central Excise added 2 more digits later to make HSN codes for better differentiation. With the introduction of GST in India.

iii. HSN is now being used under a 3-tiered system.
This includes the following:

- Businesses that have a turnover of less than Rs 1.5 crore do not need to use HSN
- Businesses that have a turnover of more than Rs 1.5 crore, but still less than Rs 5 crore, must use 2-digit HSN codes
- Businesses that have a turnover of more than Rs 5 crore must use 4-digit HSN codes
- Businesses that deal with imports and exports have to use an 8-digit HSN code

Within the context of GST, HSN codes are used in order to make GST something that is used worldwide. HSN codes, in general, contain 21 sections, within which you can find 99 chapters along with 1,244 headings, and 5,224 subheadings.
Each section number that is used is further divided into chapters, which are then divided into headings and then, subheadings. The sections and chapters describe the product while the headings and subheadings offer much greater detail about the product itself.

iv. For clarity, let's look at this HSN-62.13.90: In this case, the first two digits (62) are used to describe apparel or clothing (but not knitted or crocheted clothing). The next two digits (13) refer to handkerchiefs. Finally, (90) refers to the fact that these handkerchiefs are made of other textiles or materials. So, this code is referring to handkerchiefs that are made from textile materials.
In India, there are two additional steps. If the handkerchiefs were made of man-made textiles, then the total code would be 62.13.90.10 wherein the 10 refers to the man-made textiles. Similarly, if the products were made of silk or silk waste, then the code would be 62.13.90.90, wherein the 90 refers to the silk or silk waste.

v. What about SAC? SAC stands for Servicing Accounting Code and is used to classify services instead of goods. All services tend to begin with the number 99, which is what identifies the code as a SAC and not an HSN. For clarity, let's look at this SAC- 99.82.13. Here, the 99 represents all services in general. 82 classifies this as legal services and 13 classifies it as legal documentation for patents.

vi. How to avoid mistakes with HSN in GST? One of the easiest ways to avoid mistakes with your HSN information while filing GST is by using smart payment dashboards and functions that are offered by Razorpay.
One of the many benefits of using Razorpay is that you can generate GST-compliant invoices automatically with every transaction (or with a few transactions together) if you need to. You can even save templates of your invoice or line items so that you don't have to enter them, again and again, each time you need an invoice created!
Also Read: How to generate GST compliant dynamic QR codes with Razorpay
These invoices are easy to share and download. Ensure your business is compliant with all tax regulations by working on an automated platform that does everything for you!
Be sure to also check what tax rate you're subject to for your goods and services. Get GST inclusive and exclusive prices for your goods with our free GST calculator.

vii. What is the HSN code in India? HSN stands for Harmonized System of Nomenclature and is used to classify goods in a systematic manner.

viii. What is the GST E-bill? Electronic Way Bill or an E-Way Bill is a bill issued for the movement of goods in India. The bill has to be generated on the E-Way Bill Portal.

ix. What is HSN code used for? HSN codes are used to classify the commodities into various sections, chapters, headings, and sub-headings for convenience.

x. Is HSN code mandatory in GST invoices? Yes, under GST invoice rules and formats, suppliers are required to mandatorily display the HSN code or SAC code of the goods or services supplied with an invoice.

xi. Is HSN an 8 digit code? Businesses that have a turnover of more than Rs 1.5 crore, but still less than Rs 5 crore, must use 2-digit HSN codes < Businesses that have a turnover of more than Rs 5 crore must use 4-digit HSN codes < Businesses that deal with imports and exports have to use an 8-digit HSN code

xii. GST Calculator: The easiest way for businesses to calculate their GST
Cost of Goods / Services (GST Exclusive) ₹ □□ Enter amount & hit "Enter" to get started! ✨

+ Add Profit Ratio **Select GST Rate**

3% 5% 12% 18% 28% Check Full Breakup
Automate your banking and finances in one place with the improved RazorpayX.
GST - the Goods and Services Tax, is an indirect tax in India.
With its origin, it has replaced many other indirect taxes in India such as VAT, CST, central excise duty, service tax and so on. GST is levied on the sale of goods and services in the country. GST is collected at the point of consumption and not at the point of origin unlike other taxes.
GST is a comprehensive, multi-stage, destination-based tax. This is levied on every value addition. The law governing GST was passed in the parliament on the 29th of March 2017 and it was implemented across the country on the 1st of July 2017.
GST majorly consists of the following tax slabs:
0% -3% - 5% - 12% - 18% - 28%
Certain products and services like petroleum products, high-speed diesel, motor spirit, natural gas, aviation turbine fuel, and alcoholic liquor for human consumption do not come under GST. These products and services are taxed by the individual State Governments, as per their tax policies.

xiii. What are different tax components under GST?
CGST-Central Goods and Services Tax (CGST) - This is applicable to the transactions done within state boundaries or at the **intrastate** level.
SGST-State Goods and Services Tax (SGST) - Very much like CGST, this tax is also applicable to the transactions done within state boundaries or at the **intrastate** level
IGST-This tax component is applicable to the transactions done between different states or at the **interstate** level
Any sale or supply of goods or services within the state will be liable to **CGST & SGST** . That means the revenue collected from such sales are **shared equally between the centre and the state.** Before the introduction of GST, such transactions were subjected to VAT, central excise or service tax. Similarly, **IGST** collected from any interstate transaction is **collected by the Centre** and then shared on the basis of destination of goods.

What is GST calculator? GST calculator is an online ready-to-use calculator to compute the payable GST payable for a month or quarter depending on the amount. This calculator is apt for use by users all types of trade - buyers, sellers etc.
Advantages of GST Calculator: The simplified GST calculator helps you determine the price for gross or net product depending on the amount and gives you a split of percentage-based GST rates. It helps give the division of the rate between CGST and SGST or calculate IGST accurately.

10.9. SUMMARY

After studying this lesson, you should be able to understand the concept behind the Inter-State supply and know various examples of Inter-state supplies under GST. It emphasized on Inter State Council, Interstate Meaning In GST , Interstate GST Rate Example, Concept of the Inter-State Supply Under GST Place of Supply of Goods, GST:Inter-State and Intra-State Supply-Determination and Implications, What is Interstate Supply? What is an Inter-State Transaction? The previous system, with no GST, implies that tax is paid on the value of goods and margin at every stage of the production process. This would translate to a higher amount of total taxes paid, which is carried down to the end consumer in the form of higher costs for goods and services. The implementation of the GST system in India is, therefore, a measure that is used to reduce inflation in the long run, as prices for goods will be lower. India established a dual GST structure in 2017, which was the biggest reform in the country's tax structure in decades. The main objective of incorporating the GST was to eliminate tax on tax, or double taxation, which cascades from the manufacturing level to the consumption level. GST, or the Goods and Services Tax, was first introduced in India on July 1st, 2017. Interstate and intrastate GST are the most important components of GST as it helps one determine whether IGST, CGSST, or SGST is to be paid. Whether a supply is considered interstate or intrastate depends on the location of the supplier and the place of supply.

10.10. TECHNICAL TERMS

Inter-State: Interstate supply is where the goods or services provider is in a different state or Union Territory, and the place of supply is in a different state or Union Territory. The supplies involving import, export, or supply to or from a Special Economic Zone (SEZ) unit or Export-oriented Unit (EOU) are also considered interstate supplies. The Central Government levies integrated GST (IGST) on the interstate supply of goods and services in India.
Intrastate : Intrastate supply is where the supplier of goods or services and the place of supply is within the same state. Intrastate supplies are liable to CGST (Central Goods and Services Tax) and SGST/UTGST (State Goods and Services Tax/Union Territory Goods and Services Tax). They are levied by the Central and State/UT governments, respectively. The Intra-state GST rate varies depending on the type of good or service being supplied. The vendors need to collect both CGST and SGST from the customers in intrastate transactions.
CGST: The full form of CGST is Central Goods and Services Tax. Under GST, CGST is a tax levied on intrastate supplies of both goods and services by the Central Government and collected by it for its coffers. Accordingly, the levy and collection of CGST are governed by the provisions of the CGST Act, 2017 as amended from time to time. Together with CGST, an equal value of SGST will also be levied on the same intrastate supply but will be governed by the particular state government. In other words, if a seller sells a product to a buyer within the same state, say Telangana, then CGST and SGST will apply. This implies that both the Central and state governments will agree on combining their levies with an appropriate

proportion for revenue sharing between them. It is clearly mentioned in Section 8 of the CGST Act that the taxes be levied on all intrastate supplies of goods and/or services but the rate of tax shall not be exceeding 14%, each.

SGST : SGST means State Goods and Services Tax. Under GST, an equivalent amount of SGST is a tax levied on intrastate supplies of both goods and services by the particular state government where the product sold is consumed. Therefore, levy and collection of SGST are governed by the respective state's SGST Act, 2017 as amended from time to time, for instance, Telangana GST Act. After the introduction of the SGST, all the state taxes such as the value-added tax, entertainment tax, luxury tax, entry tax, etc. were merged under SGST. As explained above, CGST will also be levied on the same intrastate supply but will be governed by the Central Government.

UTGST : UTGST stands for the Union Territory Goods and Services Tax. Similar to how SGST is levied by the state governments on the intra-state supply of goods and services, UTGST is levied by the handful of Union Territory governments. It refers to the tax levied on the intra-Union Territory supply of goods and services. It is governed by the UTGST Act, 2017 as amended from time to time and is levied together with CGST. UTGST is similar to SGST and is levied in Union Territories which do not have their own legislature. UTGST is applicable to the supplies that take place in the Union Territories of Jammu & Kashmir, Ladakh, Andaman and Nicobar Islands, Chandigarh, Dadra & Nagar Haveli and Daman & Diu, and Lakshadweep. Please note that the Union Territories of Delhi and Puducherry will fall under SGST law as they have their own legislature.

IGST: The full form of IGST is Integrated Goods and Services Tax. Under GST, IGST is a tax levied on all interstate supplies of goods and/or services or across two or more states/Union Territories. Further, IGST levy and collection will be governed by the IGST Act, 2017, as amended from time to time. IGST will be applicable on any supply of goods and/or services in both cases of import into India and export from India.

Inter-state supply: Under GST, the supply of goods or services from one state to another would be called interstate supply. The GST Act defines interstate supply as when the location of the supplier and the place of supply for the customer are in: State and a Union territory.

Intra-state supply: Intrastate supply is where the supplier of goods or services and the place of supply is within the same state. Intrastate supplies are liable to CGST (Central Goods and Services Tax) and SGST/UTGST (State Goods and Services Tax/Union Territory Goods and Services Tax).

Inter State Council: The Constitution of India in Article 263, provided that an Inter-State Council (ISC) may be established "if at any time it appears to the President that the public interests would be served by the establishment of a Council".

Interstate GST Rate: The IGST rate will be equal to the CGST plus SGST rate. For instance; When charges on a particular commodity are 9%, the inter-state supply should be charged at @ 9% CGST and at 9% SGST. The Interstate supply known as IGST is charged 18% (i.e., 9% + 9%).

Inter-State Transaction: When the provider and the place of supply are in different states, this is referred to as inter-state supply. The transaction is also presumed to be Inter-State when goods or services are exported or imported, or when products or services are supplied to or by an SEZ unit.

10.11. SELF ASSESSMENT QUESTIONS

1. Explain the concept of Inter-state Supply under GST with examples.
2. Explain the concept of Intra-state Supply under GST with examples.
3. Distinguish between Inter-state and Intra-state supply under GST.
4. What is IGST Model?
5. Describe the Inter – state supply
6. Describe the Inter – state Transactions.
7. What is CGST?
8. What is SGST?
9. What is UTGST?
10. What is Inter-State council?

10.12. SUGGESTED READINGS

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Dr. Naga Raju Goli

LESSON-11

INTRA-STATE GOODS & SERVICES TAX

AIMS AND OBJECTIVES

After studying this lesson, you should be able to

1. Know the Concept Behind the Intra-State Supply
2. Understand about GST Billing: Intra-state Vs. Inter-state transactions
3. Difference Between Inter-State and Intra-State In GST
4. “Place of Supply of goods” according to Section 10 of IGST Act

STRUCTURE

11.1. INTRODUCTION

Intra State supply of products or services occurs when the supplier’s location and the place of supply, i.e., the buyer’s location, are both in the same state. A vendor must collect both CGST and SGST from the customer in intra-state transactions. A seller must collect both the State Goods and Services Tax (SGST) and the Central Goods and Services Tax (CGST) from a buyer in Intra State Supply. This stipulates that if the supplier’s and buyer’s positions are both located within the same State, the supply is considered an Intra State Supply. The Central Goods and Services Tax (CGST) is to be placed with the federal government, while the State Goods and Services Tax (SGST) is to be deposited with the state government.

i. Intrastate Meaning in GST: Intrastate supply is where the supplier of goods or services and the place of supply is within the same state. Intrastate supplies are liable to CGST (Central Goods and Services Tax) and SGST/UTGST (State Goods and Services Tax/Union Territory Goods and Services Tax). They are levied by the Central and State/UT governments, respectively. The Intra-state GST rate varies depending on the type of good or service being supplied. The vendors need to collect both CGST and SGST from the customers in intrastate transactions.

ii. **Intrastate GST Rate Example:** ABC ltd. is located in Jaipur, Rajasthan supplies mobiles worth Rs. 2,00,000 to another entity located in Udaipur, Rajasthan. The GST is charged at 18%, which is apportioned as 9% CGST and 9% SGST. CGST/SGST calculation: Rs. 2,00,000 X 18% = Rs.36,000 Here, Rs. 18,000 is CGST and Rs. 18,000 is SGST. The dealer collects Rs. 36,000. Out of this, Rs. 18,000 is paid as CGST to the Central Government, and Rs.18000 is paid to the Rajasthan Government. CGST/SGST is levied by both the Central Government and the state government, respectively. However, the rate of CGST and SGST together sum up to the IGST rate levied. Hence, the total tax amount remains the same irrespective of whether it is an interstate or intrastate supply. The only difference lies in the levy.

11.2. CONCEPT BEHIND THE INTRA-STATE SUPPLY

Under GST, intra-state supply comes into effect when the supplies of the goods and services occurred within the same State or territory.
The intra-state supply would remain applicable as long as provider and buyer location falls in the same jurisdictions.
A seller must obtain both SGST & CGST from the buyer in case of intra-state transactions.
The CGST is furnished to the Central Government, and SGST is deposited to the State Government.

a. What is Intra State Transaction?

Under the GST act, an intrastate transaction takes place when the exchange of goods or services occurs within the same union territory or state. In other words, the supply of goods or services in terms of an intrastate transaction takes place when the position of the sender, as well as the receiver, are the same. In case of an intra-state transaction, the supplier must receive both SGST and CGST from the customer. While SGST is deposited with the state government, CGST is filed with the central government.
For instance, when a supplier of Mumbai (in the state of Maharashtra) sends goods to a buyer of Pune (another place in Maharashtra), the involvement of both locations within Maharashtra is considered as an intrastate transaction. This simply means that, if the seller's location and the location of delivery falls within the same state or union territory, supply is intrastate and the transaction will require SGST and CGST.

b. Intra state GST vs Interstate GST

i. The Integrated (GST) Goods and Services Tax, or IGST, is imposed on interstate supplies under the GST.
ii. An intra-state supply is subject to both the CBT and the State Goods and Services Tax (SGST).
iii. The GST rate for products and services sold within the state would stay unchanged.
iv. The GST and tax rate, on the other hand, will be shared evenly between two headings: SGST and CGST.
v. Different taxes are charged on different commodities or services depending on the supply location under the current GST law.
vi. If the transaction is an intra-state supply of goods and services, the Center of Commerce collects the central GST (CGST) and the State GST (SGST) is collected by the state where the supply takes place.
vii. The Centre collects integrated GST on interstate supplies of goods and services (IGST). In this instance, no CGST or SGST will be applied.
viii. The IGST rate will be equal to the sum of the CGST and the SGST.

11.3. GST BILLING: INTRA-STATE VS. INTER-STATE TRANSACTIONS

When talking about the GST Bill format, the terms interstate and intrastate have a great significance in deciding the involvement of IGST, SGST or CGST. While interstate supply associates with IGST, intra-state supply links with SGST and CGST. In this article, you'll learn the difference between interstate and intrastate transactions and the conditions required for their initiation.

a. GST Bill Format: Interstate vs. Intrastate Transactions

i. Interstate supply within GST accounts for integrated Goods and Services Tax or IGST.
ii. Both the State Goods and Services Tax (SGST) and CBT apply for the intra-state supply.
iii. In the case of an intrastate transaction, the GST rate stays the same for the involved services or goods. However, the tax rate and GST must be categorized into two groups: CGST and SGST.
iv. According to the existing GST law, taxes must be imposed on all the goods and services according to their supply position.
v. If the transaction involves an intra-state supply of goods (or services or both), then the Center of Commerce is responsible for collecting the CGST, and the SGST needs to be collected by the State authority where the transaction takes place.
vi. When talking about inter-state transactions of goods or services, the Central authorities collect the IGST. There is no need for the CGST and SGST in this case. Further, the IGST rate is the same as the combined value of SGST and CGST.

b. Why is it Necessary to Differentiate the Supply in the GST Bill Format?

A GST bill format requires classifying the transaction in one of the four types of taxes including SGST, CGST, IGST and UTGST (Union Territory GST). When an intrastate transaction takes place, UTGST/SGST and CGST are filed and need to be paid. Whereas an IGST is required in international or interstate transactions.Therefore, it is clear that different taxes need to be filed and paid depending on the type of transaction.

c. What are Interstate GST and Intrastate Supply Under GST?

The region of the provider, and the jurisdiction of the provided, decide whether we can categorise a supply as an intrastate or interstate GST. You should identify the service source to determine whether you should pay integral tax or state tax. The phrase "interstate supply of products" refers to the provision of commodities between two union territories or states. Intrastate product delivery, on either side, refers to items delivered in the same provinces or union territory as the provider. This article will cover an intrastate supply, an interstate supply and intrastate versus interstate.

Because of the different legal norms that come with it, the tax assessment system may be difficult for some to grasp. Various variables influence the supply of products or services under GST when it is implemented. Under GST, one of them is an intrastate supply and interstate supply. The taxpayer is responsible for paying GST independently of whether the goods & services are provided within the city or outside state lines. The government of India created the Good and Service Tax to revolutionise the country's taxation structure (GST). This is a huge step forward in the country's economic restructuring. It simplifies all prior taxes into one, resulting in a consistent taxation structure based on "One Market, One Tax."

Intrastate GST is levied on goods and services supplied inside a single province or a union territory, while interstate GST is on goods and services provided between states. GST is

India's tax measure that is most advantageous in terms of the short & long terms benefits and drawbacks. To comprehend the meaning and basic distinction between intrastate supply and interstate supply in GST, we must first grasp the definition and basic difference between IGST or CGST and SGST/UTGST. Furthermore, a business owner must be aware of the elements that influence the provision of products or services under GST. GST is India's most successful tax change, with several short- and long-term benefits. If you're having trouble calculating the GST amount, you may use the GST calculator based on the tax rates and supply. Intrastate supplies meaning is when a supply occurs when you provide products and services within a state. Do you have issues with payment management and GST? Install the Khatabook App, a friend-in-need and one-stop solution for all issues related to income-tax or GST filing, employee management and more. Try it today!

d. GST Interstate vs Intrastate Supply Meaning: Understanding the concept of IGST (Integrated Good and Service Tax), CGST (Central good and Service Tax), and SGST (State Good and Service Tax) interstate supply vs intrastate supply is critical. Interstate refers to the distance between two states, whereas intrastate refers to the distance inside a single state.

i. Interstate GST: When you supply products and services over the boundaries of two or more states or union territories, it is GST interstate supply. Only the IGST, not the CGST or SGST, is payable on interstate supplies, and the SEZ supplies are likewise included in the interstate GST (Special Economic Zone).

ii. Intrastate GST: When you supply goods and services within a state, we refer to it as an intrastate supply in GST. The individual must pay both the CGST and the SGST in this case. This does not imply that the tax will be raised, and rather, it is the same as IGST and is shared evenly between CGST and SGST. The provider and the buyer in a GST intrastate supply are from the state.

e. What is Intrastate Supply?

An intrastate supply in GST is a provision of goods or services inside the identical state or union territory subject to GST. Intrastate GST would not apply to products or services provided to a special trade area operator or Special Economic Zone unit located within the state. Interstate supply means any provision of products or services to a Special Financial Zones operator or Special Economics Zone unit. When the supplier's region, as well as the location of supply, i.e., the buyer's area, both are in the same state, it's called intrastate supply in GST. In intrastate transactions, a seller must receive CGST and SGST from the consumer.

Intrastate supply, as defined by the act GST, happens when the supplier's location and the location of supply are both in the state. Intrastate supply, in basic terms, involves supplying products or services within a state's borders. The taxpayer must pay either the Central Good and Service Tax (CGST) or the States Good and Service Tax (SGST) on intrastate supplies (SGST). The Central Government collects the CGST, whereas the State Government collects the SGST. The supply of completed goods from Jawaharlal Place to Lajpat Nagar is an intra-state supply (within the Delhi border).

f. Intrastate Supply: Points to Remember

In intrastate supply, a seller should receive the State Good and Service Tax (SGST) and the Central Good and Service Tax (CGST) from a buyer.

- This specifies that the supply is regarded as an intrastate supply if the supplier and buyer are situated inside the state.
- The Central Government will get the Central Good and Service Tax (CGST), while the State Government will receive the State Good and Service Tax (SGST).

g. GST Interstate vs Intrastate Supply

Interstate sales are subject to the Integrated Good and Service Tax, or IGST, under the GST. Both the Central Good and Service Tax (CGST) and the State Good and Services Tax (SGST) apply to intrastate supplies (SGST). The GST rate for the products or services would stay the same in the case of intrastate supply. The GST rate and tax amount, on the other hand, will be split evenly between the two headings of SGST or CGST.

- Under the GST, interstate supplies are subject to the Integrated Good and Service Tax, or IGST.
- The CBT and the State Good and Service Tax apply to intrastate supplies (SGST).
- For items and services sold inside the state, the GST rate would remain constant.
- On the other side, the GST & tax rate will be split evenly between these two categories: SGST or CGST.
- Under the existing GST law, various taxes are paid on different goods or services based on the supplier location.
- If the transaction involves an intrastate supply of goods and services, the Center of Commerce collects the central GST (CGST), while the states where the supply occurs collect the state GST (SGST).

11.4. DIFFERENCE BETWEEN INTER-STATE AND INTRA-STATE IN GST

Here is a tabular format that highlights the key differences between inter-state GST and intra-state GST in India:

Parameters	Interstate Supplies	Intrastate Supplies
Applicable on	Supply of goods and services between different states and Union Territories.	Supply of goods and services within the same state or union territory.
Levied by	Central Government	CGST by the Central Government and SGST/UTGST by the state/Union Territory Government.
Tax rate	IGST rate is applicable at the rates in force based on the good or service	CGST and SGST rates are applied equally and separately at the applicable rate in force based on the good or service.
Destination state	Receives a share of the IGST collected	Receives the full amount of SGST collected
Place of supply	Different state than the location of the supplier	Same state as the location of the supplier

Input Tax Credit	The input tax credit of IGST can be used to set off IGST liability and, thereafter, CGST/SGST liabilities in any order	Once IGST credit has been exhausted fully, CGST credit and SGST credit can be utilised to set off CGST liabilities and SGST liabilities, respectively, and for setting off IGST liabilities. Inter-utilisation between CGST and SGST is not allowed.

Overall, Interstate GST and Intrastate GST are two different types of GST in India that are applied depending on the location of the supplier and the place of supply. The key difference between the two lies in the levy of the tax.

CGST/SGST is levied by both the Central Government and the State Government, respectively. However, the rate of CGST and SGST together sum up to the IGST rate levied. Hence, the total tax amount remains the same irrespective of whether it is an interstate or intrastate supply. The only difference lies in the levy.

11.5. INTER-STATE SUPPLY OR INTRA-STATE SUPPLY OF GOODS – SCOPE AND MEANING OF THE TERM "SUPPLY INVOLVES MOVEMENT OF GOODS"

As we all know, the fundamental power to levy taxes on sale of goods lies with the States. Immediately after independence, situations arose that when there was an inter-state sale, every State having territorial nexus with a transaction of sale, attempted to levy and collect tax on it, thereby, giving rise to multiple demands by different States on the same sale transaction. In order to address this issue, the sixth amendment of the Constitution was made and the Central Sales Tax Act, 1956 was enacted. Section 3 of the erstwhile Central Sales Tax Act, 1956 while discharging the duty entrusted by the Article 269 (3) of the Constitution of India laid the basic principle that 'a sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase occasions the movement of goods from one State to another or the sale or purchases is effected by a transfer of documents of title to the goods during their movement from one State to another.

i. Indirect tax regime before GST was implemented in India: The State from which the movement commenced was authorised to collect and retain taxes on sales and purchases under the indirect tax regime before GST was implemented in India. Thus irrespective of the nature of sales, i.e., whether inter-state sale or intra-sate sale, tax on all sales was collected by the originating State and the State receiving the goods was not entitled for any tax on sale of goods. Therefore, there was almost no dispute relating to inter-state or intra-state character of B to C sales in the old tax regime. However lots of disputes arose in case of B to B transactions, because of the benefit of concessional rate of tax on fulfilling of certain conditions for inter-state sales. Furthermore, there were some disputes on stock transfers vs. inter-state sales, on which interest of the revenue of two states conflicted.

ii. After introduction of Goods and Service Tax :After introduction of Goods and Service Tax, there has been a major paradigm shift in the indirect tax regime from origin based tax system to destination based tax system and consequentially, the taxation on inter-state sales or supply of goods has also seen major change. Like in the earlier tax regime, during GST regime also, the state tax on intra-State sales or supply of goods goes to the credit of the State from where the supply is originated. However, unlike during CST era, the state tax on inter-

State supply goes to the coffer of the recipient (destined) States. Thus, during current tax regime, the fact that whether a particular sale is inter-state or intra-State will decide that which state will get the State tax on such sale/ supply. Thus, the question that whether a sale/supply is inter-state supply or intra-state supply has become very critical in the GST era. Unless and otherwise, the law is drafted in a lucid manner and the principles formulated to decide inter-state supply properly, inter-state disputes are inevitable.

iii. Example: Say for example, an individual from Tura (Meghalaya) comes to Guwahati (Assam) and purchases a car and asks the dealer to deliver the same at Tura. The Assam dealer obtains insurance and temporary registration in the name of the purchaser and issues an invoice charging IGST. Say after a span of time, the officer of Assam determines the same transaction as intra –state and asks the dealer to deposit CGST & SGST. As per Section 19 of IGST Act, in such case, the dealer will be entitled for refund of IGST paid by him erroneously. The question arises whether the IGST paid will be refunded without the consent of the Meghalaya officer. Can the decision of the Assam officer bind the Meghalaya officer to grant refund to the Assam dealer or can the Meghalaya officer differ and resist this refund based on his interpretation of the provisions of Section 10(1)(a) of IGST Act.
This kind of issue and many more such issues, where the claim for revenue by one State may be challenged or objected by another State will arise in the history of federal indirect tax system, perhaps for the first time. The principles determining the inter-state sale/ supply will be affected by many factors, not one, like, the location of supplier of goods, place of supply and the address of delivery to the recipient, so as to ensure the protection of interest of the recipient as well as the dispatching States. All these issues can be examined and interpreted by arising by critically though harmoniously, analyzing the provisions of Section 7 and Section 10 of the IGST Act, as has been legislated.

iv. Inter-state supply of goods as follows; Before initiating discussion on Section 10, i.e. determination of place of supply of goods, let us first refer to Section 7 of the IGST Act, to evaluate the importance of the term "place of supply of goods" dealt by Section 10. Section 7 (1) of the IGST Act defines inter-state supply of goods as follows;- "Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in-

(a) two different States;
(b) two different Union territories; or
(c) a State and a Union territory,

shall be treated as a supply of goods in the course of inter-State trade or commerce." Thus, whether a supply of goods from a state is inter-state supply or not will depend on two venues, i.e., 'the Location of the supplier of goods' and 'the place of supply of goods'. The term, 'location of the supplier of goods' has not been defined in the Act, however it has been widely accepted that location of supplier of goods will be normally determined on the basis of the place of business of the supplier of goods. Let us now refer to what Section 10 says.

11.6. "PLACE OF SUPPLY OF GOODS" ACCORDING TO SECTION 10 OF IGST ACT

"Place of Supply of goods" according to Section 10 of IGST Act explains the term "Place of Supply of goods" in the following terms;- "S. 10. Place of supply of goods, other than supply of goods imported into, or exported from India. –

(1) Supply of goods imported into, or exported from India :The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,— where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person; where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient; where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly; where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

(2) Place of supply of goods cannot be determined : Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed." Specific to the issue illustrated in the example above and such other transactions involving purchase of goods and delivery thereof terminating in different States, where determining the nature of supply as inter-state or intra state is required, clause (a) under sub-section (1) of Section 10, as reproduced above, is to be studied along with the provisions of Section 7 of the IGST Act (supra). The Section 10 (1)(a) appears to have three distinct limbs, i.e., where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

A) Where the supply involves movement of goods:- The phrase "supply involves movement" is most important and is going to be discussed in various court judgments, sooner or later. Let us first discuss the meaning of the term 'supply' and 'involves'.

(i) Meaning of the term "Involve":- As per Oxford dictionary, the verb 'involve' mean "have or include (something) as a necessary or integral part or result". It is a wider term than the term occasion.

(ii) "Involves" versus "Occasions":- Earlier the word used in Section 3(a) of the CST Act was "occasions", which literally means "to reasons" or "to cause". However, when interpreting the meaning of the word "occasions", much wider meaning has been assigned to the said term in the context of Section 3 (a) by the highest Court of the country. It has been held on numerous occasions that the said term not only includes the movement of goods caused by a contract itself, but also includes the movement of goods caused as a necessary incident of the contract of sale. In the case of Coffee Board, Bangalore vs Joint Commercial Tax Officer, 1970 SCR (3) 147 (SC)], it was held that the word "occasion" does not necessarily mean immediately cause; it also means "to bring about especially in an incidental or subsidiary manner". The Apex Court in TISCO's case, also says that the sale will be covered by section 3(a), even if the inter-state movement is covenant or incidental of the contract of sale. Apparently, the meaning of the term "involves" is wider than the term "occasions". It so appears that the new term "involves" has been used by the law makers of GST as a better substitute of the old word "occasions" in sync of the liberal interpretation of the said old term by various Courts of the country in the old regime. Thus, in no case, this term can be assigned a narrower meaning than that of the earlier term. It would not be an exaggeration thus to say that the GST law makers in their own vision and wisdom have replaced the phrase "the sale occasions the movement of goods" by the phrase "the supply involves movement of goods" to widen the scope whilst retaining the spirit of the view taken by the Courts of this country in such cases. Recently, Hon'ble Kerala High Court in the case of Kun Motor Co. Pvt. Ltd. vs The Asstt. State Tax Officer has also used the term "involves" and "occasions" in the same meaning while discussing the clause (a) of Section 10 (1) of the IGST Act. The said use of the word "occasions" several times in place of the word "involves" under GST law affirms of the above belief.

(iii) Meaning of the term "Supply":- The term 'Supply' is the most important word of the GST law and has been defined under clause (21) of Section 2 of IGST Act stating that that the term "supply" shall have the same meaning as assigned to it under Section 7 of the CGST Act. Section 7 of the CGST Act provides an inclusive definition of the term 'supply', without specifying what the term 'supply' is. It merely says that it will include all form of supply of goods or services or both such as sale, transfer, barter, etc. It is thus clear that, the Entry 1(a) of Schedule II of CGST Act treats a transfer of the title in goods as a supply of goods, but does not in any manner restrict the term "supply of goods" to the act of transfer of the title in the goods.

(iv) "Sales" versus "Supply":- In clause (a) section 10(1), the word "Supply" has been used in the same fashion in which the word "Sale" is used in section 3(a) of the CST Act. Unlike CST Law, GST is applicable on sales as well non-sales transactions and therefore using the term "Supply" in place of the word "sale" was a compulsion and not a choice. The term 'supplier' in the GST Act is a wider term and is larger enough to take 'sale' in its ambit. In case of a sale of goods, the term 'supply' may also be read and understood as the word "sale".

(v) "Contract of Sale/ Supply" and "Intent of Supply":- The Apex Court and many high courts have repeatedly indicated that the term "if the sale or purchase occasions the movement" should mean as "if the contract of the sale or purchase occasions the movement". In Tata Iron and Steel Co. Ltd. … v. S. R. Sarkar (1961 AIR 65) (SC) held that "The question then arises, when does a sale occasion the movement of goods sold ? It seems clear to us that a sale can occasion the movement of the goods sold only when the terms of the sale provide that the goods would be moved; in other words, a sale occasions a movement of goods when the contract of sale so provides". The Court also says that the sale will be covered by Section 3(a), even if the inter-state movement is covenant or incidental of the contract of sale. After the enactment of the CST Act, 1956, this interpretation of the Honorable Apex Court of the country is the first and the continuous position of law governing the meaning and concept of the phrase "the contract of sale or purchase occasions the movement of goods". It seems logical to understand the phrase "if the supply involves movement of goods" as "if the contract of supply involves movement of goods" because the term 'sale' in context of Section 3 (a) is to be read and understood as "contract of sale". Furthermore, it needs to be noted that under GST, the term "supply" does not remain restricted to "sale" as earlier. Every sale is backed by a contract, however, every supply does not bring in a contract, like, supply to distinct persons under same PAN (earlier known as stock transfers) are not backed by any contract. Thus, in spirit of the principle laid by the Supreme Court in the case of TISCO (supra), the position under GST may be interpreted as indicative of "if the intent of supply involves movement of goods".

(vi) Transaction of Supply:- Some experts are of the view that the term "supply involves movement" stands for "if the transaction of supply involves movement". I do not have any reservation on using the said term, unless and otherwise a restrictive meaning is assigned to the term "transaction". The said term also covers all the aspect of buying and selling and is also synonyms of the word "contract". Neither the term 'Sale' under section 3(a) of CST Act, 1956 was treated as being confined to the Act of transfer of property in goods and nor the term “supply’ in section 10(1)(a) can be restricted to the Act of transfer of property in goods or handing over the possession of the goods.

(B) Whether by the supplier or the recipient or by any other person:- Movement as contemplated by Section 10(1)(a) has to either be by the supplier or by ‘the recipient’ or by any other person.

(i) Movement of the goods by the Supplier:- The word “supplier” has been defined by clause (105) of section 2 of CGST as “supplier” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied. This part of the second limb is confined to the cases where goods are moved by the supplier himself or his agent. While considering the definition of the term “agent” as per clause (5) of section 2, it is clear that the goods moved through transporter does not come under this part of the limb.

(ii) Movement of the goods by the ‘Recipient’:- The term ‘recipient’ has been defined in clause (93) of Section 2 of CGST Act and accordingly recipient of goods means the person who is liable to pay the consideration and also includes agent of the recipient. Thus, use of the phrase “by the recipient” in Section 10(1)(a) also indicates that law makers have an intent that even if the goods are moved by the recipient to his place, the place of supply of goods will be the place where such movement is terminated i.e. place of the recipient. Experts who are in favour of the narrower interpretation of the term “supply involves movement” argue that presence of the term ‘by the recipient’ would include only those cases where movement is undertaken by the recipient with a condition that the transfer of property will only take place after the goods are moved to the place of delivery. The wordings of the Act, in my opinion do not vouch for such interpretation. Generally, once the goods are handed over to the recipient, the property in goods stand transferred to the recipient, however delivery may terminate at a later point of time as indicated in the contract or agreement, whether written or verbal. It needs to be categorically noted and appreciated that instead of using a single phrase “by any person”, three different terms i.e. ‘Supplier’, ‘Recipient’ and ‘any other person’ have been deliberately used in the second limb. This itself indicates that the law makers wanted to cover those instances where the recipient himself moves the goods in case of inter-state supply, even though the transfer of title in goods may have been completed in the supplier’s state itself. The restriction, during the CST regime that the buyer cannot move the goods in case of inter-state trade, unless and otherwise he is under a contractual or legal obligation of doing so, has been intentionally and specifically given a go bye and a fresh intent has been conveyed in the form of the legislated Section 10(1)(a) to cover those cases, where the recipient himself has collected the goods with a disclosed intention to move the said goods to a pre-disclosed place of the recipient.

(iii) Movement of the goods by “any other person”:- This part of the limb make it open that the movement of goods can be by any person. Transporters whether assigned by the supplier or the recipient will also come under this.

(C) The place of supply of such goods : The place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient:- The concluding part of the clause (a) i.e. the third limb states that the place where the movement of the goods terminates for delivery to the recipient is the place of supply. Thus, it so appears that this limb cannot independently operate except under the framework of the preceding two limbs read with the definition of the term “address of delivery” as defined under the sub-section (2) of Section 2 of the CGST Act. Meaning thereby, the phrase "to the recipient" used in Section 10(1) (a) can be understood as "to the address of delivery" as recorded in the invoice issued by the registered supplier at the instance of the recipient, irrespective of the person who is causing the movement of the goods. This interpretation also finds solace in the provisions under Section 31 of CGST Act, which mandates issue of tax invoice before or at the time of removal of goods, in a case of supply which involves movement of goods. A Tax invoice essentially needs to mention place of supply in terms of Rule 46 of the CGST Rules. Since, this tax invoice is to be raised before commencement of the movement of goods, particularly, by the recipient, the supplier is bound to rely upon the declaration/ statement of the recipient in this regard. In no circumstances, the onus to prove that the goods were moved accordingly can be forced upon the supplier, especially when the supplier has not gained any special benefit like concessional rate of tax or any exemption etc. against the said supply of goods.

Gen GST software :

Gen GST software, a complete GST solution is designed and developed by SAG Infotech Private Limited (Jaipur, Rajasthan, India) and is available in both Desktop and Online variants. The software allows unlimited return filing for unlimited clients. Both the desktop and online variants of Our GST compliance software are based on highly secured JAVA language. Our GST ready software (Billing, Returns Filing, E-invoicing & E waybill) is OS independent (Online) which means that regardless of OS running on the system, the software is all set to work and operate on the desktop right away from the installation. The Gen GST software is available for free download or anyone can avail online GST SaaS service working on the cloud, accessible anytime anywhere giving on-the-spot assistance to the small businesses in India for GST billing, e-filing & E way bill purpose. Download free Demo.

The company has prepared multiple GST software modules that ensure faster and easier GST tax filing and invoicing work all with the help of software. GST return filing is done online and the payments are accepted via Net Banking, Credit/Debit card, so considering the safety measures for professionals, the software has been integrated with secure payment gateways for safe payment transactions. The same goes for the GST e-way bill which is a mandatory form to fill up before transporting goods exceeding value INR 50,000, our software is capable to handle bulk e waybill generation, with registration and cancellation features attached.

As currently, there is a need of several GST returns filing per year, which accounts for GSTR 1, GSTR 2A, GSTR 2B, GSTR 3B, GSTR 4, GSTR 4A, GST CMP 08, GSTR 7, GSTR 9, GSTR 9B, GSTR 9C, etc. making the task complex. So to overcome this issue, the Gen GST software has been made compliant with all government prerequisites. CBIC had earlier introduced GSTR 9 (Regular Taxpayers) and GSTR 9C (GST Audit Form) for the annual return filing for all the transactions under CGST, SGST and IGST. The Gen GST allows the filing of all GSTR forms including annual return forms and as per the QRMP scheme. Also, our GST billing software has the best user interface presenting each and every feature displayed on-board used on a day to day basis. Indian businesses can generate specific invoicing formats along with sales and purchase invoices, e-way bills, payment vouchers, refund vouchers, credit note/debit note, purchase RCM and more productive features by our GST billing software.

What's New In Our GST Compliance Software

i. GSTR 9C self-certified form e-filing facility instantly through DSC/EVC along with import/export details from Excel, JSON etc.
ii. GSTR 9 Annual return filing with single click preparation from GSTR 1, 3B & 2A

iii. Get return filing status of supplier or receiver along with their monthly/Quarterly mode to know whether GSTR-1 is filed or not and when the credit will be available
iv. Option to view GSTR-2A as per return, as per period i.e. monthly/Quarterly etc. and supplier GSTN wise with their excel export
v. GST credit register (calculation of credit as per rules 37(2), 42 & 43)
vi. Resolve errors before final uploading based upon GSTIN, POS & Inter-Intra, match-mismatch with schema validation with error report (Zip) file
vii. Reconciliation of GSTR-2A with Input Credit register for assessing the difference in ITC in GSTR-3B and GSTR-2A
viii. Reconciliation of GSTR-3B with Input Credit Register
ix. Reconciliation of GSTR 1, GSTR 2A, GSTR 3B, GSTR 1 portal & software data
x. ITC Match Between GSTR 2A and GSTR 3B through GST filing software
xi. At the time of importing data, existing data will be compared and mismatch error report is generated
xii. Import data from excel of Tally, Busy, JSON, SAG & Govt.
xiii. Download bulk status of return filing details of GSTR-1, 3B, 4
xiv. Download all the return data from the GSTN portal on single click

11.7. SUMMARY

After studying this lesson, you should be able to Know the Concept Behind the Intra-State Supply, Understand about GST Billing: Intra-state Vs. Inter-state transactions , Difference Between Inter-State and Intra-State in GST, and "Place of Supply of goods" according to Section 10 of IGST Act. Under GST, intra-state supply occurs when the distribution of goods and services takes place within the same state or territory of the Country. The distribution of goods or services intra-State is when the provider 's position and place, i.e., the buyer's location, are the same. A seller must obtain both CGST and SGST from the buyer in the intra-State transactions. The CGST is deposited with the Government of the Central, and SGST is filed with the State Government. For example – when a company has supplied to Mysore (in the State of Karnataka) goods from the Bengaluru factory, both sides in Karnataka are considered an intrastate supply. This means that, if the supplier 's position and the delivery place is within the same State, supply is an intra-State supply.

11.8. TECHNICAL TERMS

Intra-State Supply: In simple words, intra-state supply means supplying goods or/and services within a state border. In the case of intra-state supplies, the taxpayer is liable to pay Central Goods and Services Tax (CGST) or States Goods and Services Tax (SGST). Here CGST is collected by the Central Government and SGST is collected by the State government.
GST Billing:

Intrastate transaction :Under the GST act, an intrastate transaction takes place when the exchange of goods or services occurs within the same union territory or state. In other words, the supply of goods or services in terms of an intrastate transaction takes place when the position of the sender, as well as the receiver, are the same

11.9. SELF ASSESSMENT QUESTIONS

1. What is Intra state? Explain about Intra-State Supply
2. Difference Between Inter-State and Intra-State in GST
3. Discuss “Place of Supply of goods” according to Section 10 of IGST Act

11.10. SUGGESTED READINGS

1. H.C. Mehrotra & V. P. Agarwal, ‘***Goods and Services Tax (GST)***’, Sahitya Bhawan Publications, Agra, 2020.

2. Arpit Haldia & Mohd Salim, ‘***GST Law & Practice***’, Taxmann Publications Private Limited, New Delhi, 2021.

3. S.K. Mishra, ‘***Simplified Approach to GST***’, Educreation Publishing, New Delhi, 2018.

4. Vineet Gupta & N.K. Gupta, ‘***Goods and Services Tax with Customs Law***’, Sultan Chand & Sons, New Delhi, 2022.

5. B. Viswanathan, ‘***Goods and Services Tax (GST) in India***, New Century Publications, New Delhi, 2016.

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LESSON-12

INTER-STATE TRANSACTIONS UNDER GST - ILLUSTRATIONS

AIMS AND OBJECTIVES

After studying this lesson, you should be able to:

1. Know the Determinant Factors for Inter State Transactions Under GST
2. Ascertain Valuation for Inter-Branch Transactions Under GST
3. Explain about GST registration compulsorily under Section- 24

STRUCTURE

12.1. INTRODUCTION

Under the GST act, an inter-state transaction of goods or services is named as a supply from between two states i.e from one state to another. The GST Act specifies an interstate or a domestic supply when the position of the supplier and the place of delivery are : Two different states

a. Inter State Transactions Under Proposed: How will Inter State Transactions be affected with the advent of GST? This is the basic question which is hovering over common man’s mindset these days. Will the situation be favourable or more adverse? Whether Rate to be increased/ decreased? Who will levy the tax- Centre or State? Will State’s Revenues be reduced????? This article will help you in getting answers to these basic questions. Firstly, we look at the ‘Present Indirect Tax Structure’ in India.

b. Inter State Transactions- Present Situation

i. Inter State Transactions Power to levy Sales Tax on Inter State Transactions vests with the Union Government. Power to levy Service tax on Inter State -Transactions vests with the Union Government.

ii. Intra State Transactions Power to levy Sales Tax on Intra State -Transactions vests with respective State Governments. Power to levy Service tax on Intra State -Transactions vests with the Union Government.

Now it is quite clear that the State Government has no role to play as far as Service Tax is concerned. Only the Central Government can levy Service Tax whether the Service is rendered within the State or outside it. One more point, Sales Tax is segregated between the Centre and States for Interstate and Intra State Transactions. Only one Government can levy the Sales Tax. No question of Sales Tax levy by Dual Governments is present. Goods Imported in India are subject to Import Duty under the Customs Act, 1962. Revenue goes to the Union Government. State Governments are not entitled to any part of the Import Duty anyhow. Services Imported in India are taxable through 'Reverse Charge Method'. It means Tax is paid by the Service Recipient at the time of Import of Service. Usually, it is the Service Provider who pays the Service Tax. Since, power of levy vests with the Centre, situs (place of provision) is not an issue here.

12.2. DETERMINANT FACTORS FOR INTER STATE TRANSACTIONS UNDER GST

How to determine whether a Transaction is an Inter State Supply or not depends upon some factors -:

i. Sale of Tangible Goods: It may depend either upon movement of goods or location of parties. Ii. Sale of Intangible Goods And Provision of Services : It may depend either upon location of parties or consumption of service.

iii. Composite Transactions (goods and services both): They may be treated same as provision of services.

GST is levied on destination or consumption principle. So, determining the place of supply is very important as tax revenue accrues to the State where supplies occur or deemed to occur.

Like other countries, in India also a set of Rules (Place of Supply Rules) will be prescribed for defining the 'Place of Taxation' or 'Place of Supply'. These Rules will help in determining the place where the supply of goods or services will take place plus whether the supplies are interstate or intra state. A Supply is taxable in a given jurisdiction only if the supply is considered to take place in that particular jurisdiction.

a. Factors determining jurisdiction for supply of Services or Intangible Property:

i. Place of performance of service
ii. Place of enjoyment of service/intangible property
iii. Place of residence/location of recipient
iv. Place of residence/location of supplier

b. Services with Own Set of Rules for fixation of sites:

i. Immovable Property services e.g., services of estate agents or architects
ii. Banking & other financial services
iii. Transport of goods by road
iv. Business auxiliary and event management services
v. Advertisement given on PAN India basis in print or electronic form.

c. Special Rules for Mobile Services (no fixed place of performance or enjoyment):

i. Passenger travel services

ii. Freight transportation services
iii. Telecommunication services
iv. Motor vehicle lease rentals
v. E-commerce transactions
vi. Software development through electronic mode
vii. Supply of goods during transportation

For the above mentioned mobile services, Special rules may be designed to yield best results. More certainty and clarity is assured in situations where place or location or residence of the supplier or recipient is not clearly defined at the time of supply.

12.3. POSSIBLE PLACE OF TAXATION

1. Business To Business (B2b): Place of destination is normally the place where the recipient is established or located.

2. Business To Customer (B2c):

Tangible Supplies: Place of destination could be the place where the supplier is located or established, which is generally the place where the service is performed. E.g., haircuts, hotel accommodation, local transport, entertainment services.

Intangible/Mobile Supplies: Place of supply could be the place of residence of the customer or the place where services are used or enjoyed. E.g., telecommunication, e-commerce services. Now for proper application of sub national tax on inter state supplies of goods & services, suitable mechanism is required. Instead of zero rating of inter state supplies, preferred approach is required. Various models are adopted by other countries for inter state transactions. Instead of discussing all the models in detail & zero rating of inter state transactions; our focus will be on IGST (Integrated Goods & Services Tax) Model. This is the ideal model for our country. IGST model envisage levy of IGST by the Centre on all transactions during inter state taxable supplies.

12.4. VALUATION FOR INTER-BRANCH TRANSACTIONS UNDER GST

A. Need for Valuation Rules for Transactions: Within Company During the pre-GST era, for inter-State stock transfers the major concern of the Industry was with regard to additional cost of CST and the compliance burden of submission of statutory forms. However, there was no concept of deemed service between branches located in two different States and hence there was no requirement to pay Service Tax on such activities. With the introduction of GST, by virtue of Schedule I, the scope of levy has been enhanced to cover even deemed service transactions. The scope of supply enumerated under Section 7 of the CGST Act, 2017 covers within its ambit the term “transfers” and further Schedule I specifically covers within its scope the supply made between related or distinct persons even if made without a consideration.

The term distinct person derives its meaning from section 25 of the CGST Act, 2017 which would cover the branches or units or offices, etc., belonging to the same person, whether registered or not. It is clear from the literal interpretation of the provisions that stock transfer / services between branches covered under two different GSTINs attracts levy under GST, the challenge comes with the valuation for such transfers. Section 15 of the CGST Rules, 2017 prescribes the valuation to be adopted, wherein the supplier and recipient of the supply are not related, and price is the sole consideration for such supply. Sub section (4) & (5) of section 15 of the CGST Act,2017 provides that in any other case the valuation shall be determined in such manner as may be prescribed and the prescription is in rules.

The basic objective of the valuation rules in such cases, appears to address the concerns of over/under invoicing, in order to avoid tax loss to the Revenue. For instance, an input is transferred by Branch A in Chennai to Branch B in Delhi for further manufacture, wherein the input is taxable, and the final product is exempted. In such a scenario, the issuing branch could try to possibly reduce the price to minimise the impact of tax cost at the receiving branch. In order to avoid such tax planning, the valuation for such transactions are governed under specific rules under the CGST Rules,2017.

B. What the Valuation Rules provide for: Chapter IV of the CGST Rules, 2017 covers rule 27 to 35 which deals with the valuation procedure to be adopted for every case where the parties are related. Rule 28 specifically deals with determining value of supply between distinct or related persons. Rule 28 reads as follows: "The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-

(a) be the open market value of such supply;

(b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;

(c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order:

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person: Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. The term Open Market Value is defined by virtue of Explanation provided under Chapter IV of the CGST Rules, 2017 as follows: "open market value of a supply of goods or services or both means the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made"

C. Where is the Confusion? The doubt arises by virtue of the provisos given under Rule 28 in order to determine the "Open Market Value" The first proviso provides an option to the supplier to adopt a value, which is equal to 90% of the value at which the recipient supplies similar goods to unrelated customers, where the goods are intended for further supply. The second proviso provides that the value given in the invoice would be termed to be the open market value where the recipient is eligible for full ITC.

A question arises as to whether the second proviso is a continuation of the first, or the same has to be read independently. In this context the TN AAR in the case of Specs makers Opticians Private Limited [2019 (27) G.S.T.L. 596 (A.A.R. – GST)], had ruled that "both provisos are to be read together and not independently, i.e. the Applicant cannot choose whichever proviso is favourable to them. Applicable rule would be R.28(a) i.e. Open Market Value, on satisfaction of both the conditions given in the above provisos i.e. the value would be 90% of the price charged for sale to unrelated consumers on satisfaction of the condition that the receiving branch is eligible for full credit." The Authority gave the above ruling based on the words “provided further” used in the second proviso, which they interpreted to be a continuation of the first proviso.

The AAR TN states that if the interpretation of applicant is adopted then he can value any amount and transfer the credit to the recipient. Law has to be interpreted as it is and cannot add or delete words. Law cannot be interpreted based on the consequences that emanate from the interpretation. For instance, when ITC is restricted for certain input/input services, we cannot argue that the consequence of the same results in additional cost in the hands of the recipient and hence ITC would be available. However, in an earlier contrary ruling by the AAAR in the case of GKB lenses Pvt Ltd [2018-TIOL-18-AAAR-GST] which upheld the order of the AAR, which held that “The Applicant has the option of not supplying goods to its branches under the first proviso of Rule 28 and is eligible to value these goods by applying the terms of Second proviso to Rule 28 of the CGST Rules, 2017”.

D. What the Statute actually provides for : 1. Reference to Judicial Precedents In this context we would like to refer the order of the Hon’ble High Court of Calcutta in the case of Ever Bright Plastics Pvt. Ltd. v. Collector of Customs [1993 (65) E.L.T. 196 (Cal.)] wherein it was argued that the word “further” indicates something in addition to what had been provided to the first proviso and if any permission was required for the cases covered by the first proviso, then such permission would also be required in the second category of cases the HC ruled that “The phrase ‘provided further’ in the second proviso, only means that another proviso was being added to sub-section (3) of Section 46. From this, it does not necessarily follow that the second proviso was the continuation of the first proviso.”

2. Reference to Existing Provision of CGST Act,2017 In addition, we can also refer to the existing provision under the CGST Act,2017 which contains more than one proviso. For instance, section 16 of the CGST Act, 2017 contains two provisos in a similar fashion as provided under rule 28 of the CGST Rules, 2017 which is as under: Provided that where the goods against an invoice are received in lots or installments, the registered person shall be entitled to take credit upon receipt of the last lot or installment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed: If the view mentioned in the case of Specks maker ibid is adopted, the above 2nd proviso (of credit reversal in case of late payment to vendor) would be interpreted to be applicable only in case of supplies in lots and not in case of other supplies. However, we are aware that the Government does not intend to interpret it so. It is thus abundantly clear that both provisos are independent and cover two different aspects related to input tax credit. That being the case, similarly worded provisions in a statute cannot be interpreted differently. Thus, it is clear that the two provisos in rule 28 of the CGST Rules,2017 are mutually exclusive and the assessee has the option to choose either of the two.

3. Provisos redundant for a Service Transaction If the view in the case of Specs makers Opticians ibid is considered to be correct i.e. in case the first proviso is applicable for a particular supply, then the said value will have to be adopted which will be considered as deemed OMV as per the 2nd proviso, then the word ‘service’ used in the 2nd proviso is redundant as the 1st proviso is applicable only in case of goods and thereby the 2nd proviso cannot be considered to be in continuation of the 1st one as it is a settled principle that the

statue never wastes words as held by the Supreme Court in the case of Visitor Amu v. K.S.Misra [2007 (8) SCC 594]. Also, in view of the authors, even going by the intention of the valuation rules where the recipient is eligible for full ITC (revenue neutral issue), the benefit of opting for either of the provisos should be available.

12.5. GST REGISTRATION FOR INTER-STATE SUPPLY OF SERVICES

Goods & Services Tax (GST) has been implemented with effect from 1st July, 2017 subsuming almost all the indirect taxes prevailing in the country. The threshold limit for registration under GST was Rs. 20 Lakhs (Rs. 10 Lakhs in special category states) for both suppliers of goods & services initially. However, the threshold limit was later increased to **Rs. 40 Lakhs** for those suppliers who are exclusively engaged in supply of goods vide Notification No. 10/2019 dated 07.03.2019. But following the said notification read with section 24 of CGST Act, the supplier of taxable goods making inter-state supply are still liable for compulsory registration under section 24 irrespective of turnover threshold.

a. Analysis of Section 24:_Analysis of section-24 from perspective of our topic makes clear two points: Firstly, if a person is making inter-state supply of goods or services, he is required to obtain GST registration compulsorily. The threshold limit of Rs. 40 Lakhs is not applicable in this case. Secondly, if a person is making any taxable supplies of goods or services through electronic commerce operator such as Amazon, Meesho, Urbanclap etc., GST registration is compulsory. However, above scenario is quite harsh for small service providers as services are provided by a large number of freelancers, software professionals crossing the state boundaries. The GST Council recognised the concern of small service providers and allowed suitable exemptions for service providers from obtaining GST registration.

b. Inter-state supply of services up to Rs. 20/10 Lakhs allowed without GST registration
To address the concern of small service providers, CBIC issued Notification No. 10/2017-Integrated Tax dated 13/10/2017. This notification exempts service providers from obtaining GST registration in case of inter-state supply of services. Persons required to obtain compulsory GST Registration.

12.6. GST REGISTRATION COMPULSORILY UNDER SECTION- 24

- **i.** Person making **any inter-state taxable supply**
- **ii.** Casual Taxable Persons
- **iii.** Persons who are required to pay tax under reverse charge
- **iv.** Persons who are required to pay tax under section 9(5) of the CGST Act
- **v.** Non-Resident Taxable persons making taxable supply
- **vi.** Persons who are required to deduct tax under section 51
- **vii.** taxable persons whether as an agent or otherwise
- **viii.** Input Service Distributor
- **ix.** Persons who supply goods or services through electronic commerce operator who is required to collect tax u/s 52 of the CGST Act
- **x.** Electronic Commerce Operator
- **xi.** Supplier of online information and database access or retrieval services from a place outside India to a person in India, other than a registered person
- **xii.** Other notified persons
- **xiii.** Persons who make taxable supply of goods or services or both on behalf of other

The important features of this Notification are as below:

i. Persons making **inter-state supply of taxable services** and having all India PAN basis **turnover up to Rs. 20 Lakhs** in a financial year is exempted from obtaining GST registration.
ii. However, in the **special category states**, the turnover limit for exemption from compulsory GST registration in case of inter-state supply of services **will be Rs. 10 Lakhs** instead of Rs. 20 Lakhs.

Following are the special category states where exemption limit is Rs. 10 Lakhs:

Arunachal Pradesh	Assam	Manipur
Meghalaya	Mizoram	Nagaland
Sikkim	Tripura	Himachal Pradesh
Uttarakhand		

Jammu & Kashmir has opted for threshold limit of Rs. 20 Lakhs.

d. Is inter-state supply of services through e-commerce operator liable for GST registration?

Vide Notification No. 65/2017- Central Tax dated 15/11/2017, if a person is making taxable supply of services (except notified supplies u/s 9(5)) through e-commerce operator and having aggregate turnover up to Rs. 20 Lakhs (Rs. 10 Lakhs for special category states) in a financial year has been exempted from obtaining compulsory GST registration. However, this relaxation is not available for supply of goods through e-commerce operators.

Persons making inter-state supply of services are exempted from obtaining GST registration up to a turnover limit of Rs. 20 Lakhs (Rs. 10 Lakhs in special category states). Persons making taxable supply of services through e-commerce operators are not required to obtain compulsory GST registration up to aggregate turnover of Rs. 20 Lakhs (Rs. 10 Lakhs in special category states). Persons making inter-state supply of goods either directly or through e-commerce operator are liable for compulsory GST registration without any threshold limit.

12.7. ILLUSTRATIONS

EXAMPLE: 1 (Comprehensive Comparison)

Comparison between Multiple Indirect tax laws and proposed one law

Particulars	without GST (Rs.)	with GST
Manufacture to Wholesaler		
Cost of Production	5,000.00	5,000.00
Add: Profit Margin	2,000.00	2,000.00
Manufacturer Price	7,000.00	7,000.00
Add: Excise Duty @ 12%	840.00	–
Total Value(a)	7,840.00	7,000.00
Add: VAT @ 12.5%	980.00	–
Add: CGST @ 12%	-	840.00
Add: SGST @ 12%	-	840.00

Invoice Value 8,820.00 8,680.00

Wholesaler to Retailer		
COG to Wholesaler(a)	7,840.00	7,000.00
Add: Profit Margin@10%	784.00	700.00
Total Value(b)	8,624.00	7,700.00
Add: VAT @ 12.5%	1,078.00	–
Add: CGST @ 12%	-	924.00
Add: SGST @ 12%	-	924.00
Invoice Value	9,702.00	9,548.00
Retailer to Consumer:		
COG to Retailer (b)	8,624.00	7,700.00
Add: Profit Margin	862.40	770.00
Total Value(c)	9,486.40	8,470.00
Add: VAT @ 12.5%	1,185.80	–
Add: CGST @ 12%	-	1,016.40
Add: SGST @ 12%	-	1,016.40
Total Price to the Final consumer	10,672.20	10,502.80
Cost saving to consumer	-	169.40 %
Cost Saving	-	1.59

Notes: Input tax credit available to wholesaler is Rs.980 and Rs.1,680 in case of without GST and with GST respectively. Likewise Input tax credit available to Retailer is Rs.1,078 and Rs.1,848 in case of without GST and with GST respectively. In case, VAT rate is also considered to be 12%, the saving to consumer would be 1.15%.

IGST Model (Inter-State Transactions of Goods & Services) and Input tax credit (ITC) with example:

a. Existing CST (Central state tax, tax on interstate movement of goods) shall be discontinued.

b. Center would levy IGST (cumulative rate for CGST and SGST) on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services.

c. The ITC of SGST, CGST shall be allowed as applicable.

d. Since ITC of SGST shall be allowed, 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 SGST liability (while selling the goods in state itself). Thereafter, the Centre will transfer to the importing State the credit of IGST used in payment of SGST.(Please see example 4 & 5)

e. The relevant information shall be submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective state governments or central government to transfer the funds.

Advantage of IGST:

- No refund claim in exporting State, as ITC is used up while paying the tax.
- Maintenance of uninterrupted ITC chain on inter-State transactions.
- No upfront payment of tax or substantial blockage of funds for the inter-State seller or buyer.

EXAMPLE –2 (Input Tax Credit):

Shiva, a registered dealer had input tax credit for CGST and SGST Rs.750/- and Rs.1,050/- respectively in respect of purchase of inputs and capital goods. He manufactured 1800 liters of finished products. 200 liters was normal loss in the process. The final product was sold at uniform price of Rs.10 per liter as follows:- Goods sold within State – 800 liter. Finished product sold in inter-State sale – 650 liter. Goods sent on stock transfer to consignment agents outside the State – 350 liter. Further, CGST and SGST rate on the finished product of dealer is 5% and 7% respectively. Further IGST rate is 12%. Calculate tax liability of SGST and CGST to be paid after tax credit.

Solution: Output Tax Calculation

Particulars	Sales Within State	StockTransfer OutsideState	Inter-State Sales	Total
Qty.Sold	800	350	650	
Price per unit	10	10	10	
Value of Goods Sold	8,000	3,500	6,500	18,000
Tax Amount:				
Tax Amount-CGST(5%)	400	-	-	400
Tax Amount-SGST(7%)	560	-	-	560
Tax Amount-IGST(12%)	-	420	780	1,200

Calculation of Tax Payable Calculation of Tax Payable

Particulars	CGST	SGST	IGST	
Total Tax Payable Amount	400	560	1200	
Less: Input Tax Credit				
CGST	400	-	350	750
SGST	-	560	490	1050
Balance Payable	-	-	360	360

Notes:

a. There would be no treatment for normal loss.

b. Input tax credit of CGST and SGST of Rs. 750 and Rs. 1050 are paid on inputs. This input tax credit should first be utilized for payment of CGST and SGST, respectively, and balance is to be used for payment of IGST. Thus, balance available for payment of IGST is Rs. 350 of CGST and Rs. 490 of SGST and he is liable to pay balance amount of IGST of Rs. 360 by cash (1200-350-490 = 360). Since credit of SGST of Rs.490 has been utilized for payment of IGST, the State Government will get debit of Rs. 490 from the Central Government.

EXAMPLE –3 (Input Tax Credit):

Now, continuing with the above example 2, suppose the dealer purchases goods interstate and have input tax credit of IGST available is Rs.2,000/-. Compute the tax payable.

Solution: Calculation of Tax Payable

Particulars	CGST	SGST	IGST
Tax Payable Amount	400	560	1,200

Less: Input Tax Credit				
CGST - - - SGST - - - IGST	400	400	1,200	2000
Balance Payable	-	160.00	-	160

Note: Input tax credit of Rs.2000, IGST is available. This input tax credit should first be utilized for payment of IGST and balance is to be used first for payment of CGST and remaining for SGST. Likewise in this case Rs.400 and balance Rs.400 are utilized for CGST and SGST respectively. He is liable to pay balance amount of SGST of Rs.160 by cash.(2000-1200-400-560 = 160).

Some Specific points for specific products (being high revenue generating products) ·

This tax does not apply to alcohol and petroleum products.

They will be continued to be taxed as per the existing practices. ·

Tax on Tobacco products will be subject to GST.

But government can levy the extra tax percent over and above GST rate.

Other key points:

a. Manufacturing state (the state in India in which the goods are manufactured) will be allowed to levy an additional tax percent (say 1%) on supply of goods.

b. PAN based identification number will be allowed to each taxpayer to have integration of GST with Direct Tax.

c. The taxpayer would need to submit periodical returns, in common format as far as possible, to both the CGST authority and to the concerned SGST authorities.

Exemption/Composition Scheme under GST:

a. The Small Taxpayer: The small taxpayers whose gross annual turnover is less than 1.5 Crore will not be covered by GST law and no need to pay tax.

b. Scope of composition and compounding scheme under GST to be provided for this purpose, an upper ceiling on gross annual turnover (say Rs.50 Lacs) and a floor tax rate (say 0.5%) with respect to gross annual turnover should be provided.

c. Treatment for goods exempt under one state and taxable under the other to be provided.

d. List of exempt items which shall be outside the purview of GST shall be provided. GST on

Export & Import with example:

a. GST on export would be zero rated

b. Both CGST and SGST will be levied on import of goods and services into India.

The incidence of tax will follow the destination principle i.e. SGST goes to the state where it is consumed. Complete set-off will be available on the GST paid on import on goods and services.

EXAMPLE-4 (Import):

Shri Shiva imported goods for Rs. 10,000/- and incurred expenses to produce final saleable goods. BCD @ 10 % was chargeable on imported goods. These manufactured goods were sold within the state at Rs. 45,000 plus applicable GST. Rate of CGST and SGST is 5% and 7% respectively. Compute Cost, Sale value and tax payable for the transaction.

Solution: **Calculation of Net cost of imported goods**

Particulars	Amount (Rs)
Cost of Goods imported	10,000
Add: Basic Customs Duty @ 10%	1,000
Cost of imported goods (including BCD)	11,000
Add: CGST on Import @ 5%	550

Add: SGST on Import @ 7%	770
Cost of imported goods (including BCD & GST) (Note below)	12,320

Calculation of Sale value after import

Particulars	Amount(Rs)
Sale Value (before tax)	45,000
Add: CGST on Import @ 5%	2,250
Add: SGST on Import @ 7%	3,150
Sales Value	50,400

Tax Payable Calculation

Particulars	CGST (Rs.)	SGST (Rs.)
Output tax	2,250	3,150
Less: Input tax credit	-	-
CGST	550	–
SGST	-	770
Net tax payable	1,700	2,380

Note: Please note that GST shall be levied including Basic Customs Duty considering.

EXAMPLE-5 (Export):

Now continuing with the above example 4, suppose the same good is exported after 1 year of use after adding margin and modification amounting Rs.10,000/- and use factor of 1 year for refund calculation is 0.20. Therefore the refund will be 0.80 of Duty amount. Compute Export Value and Refund Value.

Solution: Export Value calculation

Particulars	Amount (Rs)
Cost of Imported Goods(from above example)	50,400
Add: Margin and Modification Amt.	10,000
Sale Value	60,400
Add: CGST on Export @ 5%	-
Add: SGST on Export @ 7%	-
Export Value	60,400

Refund Calculation

Particulars	Amount (Rs)
Basic Customs Duty(BCD, from above example)	1,000.00
Refund Factor	0.80
Refund amount of BDC	800.00
Add: CGST(from above example)	550.00
Add: SGST(from above example)	770.00
Total Refund amount	2,120.00

The above example withstand two basic principles of Taxation Laws i.e. Exports are zero rated and the incidence of tax will follow the destination principle (The taxes will remain with the state where the goods are used, however use factor can be prescribed by the law)

Indirect taxes that will be included under GST:-

State taxes which will be subsumed in SGST · VAT/Sales Tax ·
Entertainment Tax (unless it is levied by local bodies) · Luxury Tax ·
Taxes on lottery, betting and gambling. ·
State cess and surcharges to the extent related to supply of goods and services. ·
Entry tax not on in lieu of octroi. Central Taxes which will be subsumed in CGST ·
Central Excise Duty. · Additional Excise Duty. ·
The Excise Duty levied under the medical and Toiletries Preparation Act ·

Service Tax. · Additional Customs Duty, commonly known as countervailing Duty (CVD) · Special Additional duty of customs(SAD) · Education Cess · Surcharges

Taxes that may or may not be subsumed due to no consensus between the Central and State Governments: — Stamp Duty — Vehicle Tax — Electricity Duty — Other Entry taxes and Octroi — Entertainment Tax (levied by local bodies) — Basic customs duty and safeguard duties on import of goods into India

Other Benefits of GST apart from discussed in first 2-3 paragraph of this article:

- ***i. Reduces transaction costs and unnecessary wastages***: A single registration and a single compliance will suffice for both SGST and CGST provided government produces effective IT infrastructure and integration of states level with the union.
- ***ii. Eliminates the multiplicity of taxation***: The reduction in the number of taxation applicable in a chain of transaction will help to reduce the paper work and clean up the current mess that is brought by existing indirect taxation laws.
- ***iii. One Point Single Tax***: They would be focus on business rather than worrying about their taxation that may crop at later stages. This will help the business community to decide their supply chain, pricing modalities and in the long run helps the consumers being goods competitive as price will no longer be the function of tax components but function of sheer business intelligence and innovation.
- ***iv. Reduces average tax burdens:-*** The cost of tax that consumers have to bear will be certain and it is expected that GST would reduce the average tax burdens on the consumers.
- ***v. Reduces the corruption***:- As the no. of taxes reduces so does the no of visits to multiple department reduces and hence the reduction in corruption. In all cases except a few products and states, there would be uniformity of tax rates across the states.

General points on Various Business Sectors that arise after GST implementation:-

- ***i. Real Estate Industr***y: Construction and Housing sector need to be included in the GST tax base being high tax revenue generating sector and for reduction in no. of tax legislations involved.
- ***ii. FMCG Sector:*** .Implementation of proposed GST and opening of Foreign Direct Investment (F.D.I.) are expected to fuel the growth and raise industry's size.
- ***iii. Rail Sector:*** There have been suggestions for including the rail sector under the GST umbrella to bring about significant tax gains and widen the tax net so as to keep overall GST rate low.

This will have the added benefit of ensuring that all inter–state transportation of goods can be tracked through the proposed Information technology (IT) network. Information

- ***i. Technology enabled services***: At present, if the software is transferred through electronic form, it should be considered as Intellectual Property and regarded as a service and if the software is transmitted on media or any other tangible property, then it should be treated as goods and this classification is full of litigation. As GST will have uniform rate for Goods and Services and no concept of state revenue being VAT or central revenue being service tax and hence, the reduction in litigation.
- ***ii. Transport Sector***: Truck drivers spend more than half of their time while negotitating check post and tolls. At present there are more than 600 check points and more than ton types of taxes in road sector. After the introduction of GST, the time spend by the road transport industry in complaining with laws will reduce and service is going to be better which will boost the goods industry and thus the taxes also.

Impact on Small Enterprises: There will be three categories of Small Enterprises in the GST regime.

a. Those below threshold limit of Rs.1.5 Crores would not be covered.

b. Those between the threshold and composition turnovers will have the option to pay a turnover based tax i.e. composite tax or opt to join the GST regime.
c. Those above threshold limit will need to be within framework of GST. Possible downward changes in the threshold in some States consequent to the introduction of GST may result in obligation being created for some dealers.

12.8. SUMMARY

After studying this lesson, you should be able to: Know the Determinant Factors for Inter State Transactions Under GST, Ascertain Valuation for Inter-Branch Transactions Under GST and Explain about GST registration compulsorily under Section- 24. It also covered that revealed about Possible Place of Taxation, GST Registration for Inter-State Supply of Services and . Illustrations have consider under GST.

12.9. TECHNICAL TERMS

Inter State
Transactions Under GST
Possible Place of Taxation
GST Registration
Inter-State Supply
Supply of Services

12.10. SELF ASSESSMENT QUESTIONS

1. What is Inter State? Explain about it
2. Explained about Transactions Under GST
3. What the importance of Possible Place of Taxation?
4. Is the GST Registration mandatory? Discuss it.
5. What is the meaning of Inter-State Supply? Explain it.
6. what are the Supply of Services under GST?

12.11. SUGGESTED READINGS

1. H.C. Mehrotra & V. P. Agarwal, '***Goods and Services Tax (GST)***', Sahitya Bhawan Publications, Agra, 2020.
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3. S.K. Mishra, '***Simplified Approach to GST***', Educreation Publishing, New Delhi, 2018.
4. Vineet Gupta & N.K. Gupta, '***Goods and Services Tax with Customs Law***', Sultan Chand & Sons, New Delhi, 2022.
5. B. Viswanathan, '***Goods and Services Tax (GST) in India***, New Century Publications, New Delhi, 2016.
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Dr. Krishna Banana

LESSON-13
INTEGRATED GOODS AND SERVICES TAX (IGST) MODEL

AIMS AND OBJECTIVES

After studying this lesson, you should be able to

1. The scope of IGST Model
2. Salient Features Integrated GST
3. Applicability of IGST
4. Issues to be considered by the Government

STRUCTURE

13.1. INTRODUCTION

Integrated Goods and Services Tax-According to 4 sources IGST full form is Integrated Goods and Services Tax. It is a tax levied on inter-state trade of goods and services by the Central Government. Such a tax helps the government to control interstate trade of goods or services and ensure that the SGST component of GST goes to the consumer State. Under GST, a **Dual GST model** has been implemented keeping in mind the federal structure of India. As per this Model, both Centre and States would simultaneously charge GST on the supply of goods or services made within States or Union Territories (UTs). In addition to the CGST and SGST component of GST, there is a third component known as the Integrated Goods and Services Tax (IGST). IGST was introduced to undertake inter-state trade of goods or services. You will learn go through what is IGST, utilization of ITC under IGST and provisions with regards to IGST.

13.1.1 What is IGST? IGST full form is Integrated Goods and Services Tax. It is a tax levied on inter-state trade of goods and services by the Central Government. Such a tax helps the government to control interstate trade of goods or services and ensure that the SGST component of GST goes to the consumer State.

According to Model IGST Law, IGST shall mean the tax levied under the IGST Act on the supply of any goods and / or services in the course of inter-state trade or commerce. IGST Act shall apply to whole of India. According to the report of the Task Force on GST, 13th Finance Commission (2009), it had recommended that adoption of the IGST Model for implementation with the caveat that a 'strong IT infrastructure and complete information of the interstate transactions is a precondition and essential prerequisite for considering the IGST model

13.2. KEY ENABLERS OF IGST

Common e – Return for CGST, SGST & IGST
Uniform e – Registration
Common periodicity of returns for a class of dealers
Uniform cut-off date for filing of returns
Effective fund settlement among Centre & States.
System based validations on ITC availed, tax refunds Extensive
Computerization & strong IT infrastructure
National Agency
Trained and well equipped staff

13.3. THE SCOPE OF IGST MODEL

The scope of IGST Model is that Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services. The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. 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 in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information is also submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds. Revenue from IGST will be apportioned among Union and States by Parliament on basis of recommendation of Goods and Service Tax Council [Proposed Article 269A(2) and Article 270 (1A) of Constitution of India]. The apportionment will be required as input tax credit of IGST can be used for SGST and vice versa. Since IGST will be on 'supply of goods or services', IGST will be payable on stock transfers, branch transfers and even when goods are dispatched inter-state job work and return. The inter-state adjustment will be made by Central Clearing Agency and the Assessee will not be concerned with such adjustment at all. Under IGST, a dealer can establish hub and spoke approach for distribution of his final products. He can maintain depots at few strategic locations in country and from those locations, he can distribute goods to nearby States. This will be very cost effective distribution network for assesses.

IGST Model permits cross utilisation of credit of IGST, CGST & SGST for paying IGST unlike intra state supply where CGST/SGST can be utilised only for paying CGST/SGST respectively. It would meet the objective of providing seamless credit chain to taxpayer across states. This model obviates the need for refunds to exporting dealers as well as the need for every state to settle account with another state. Exporting state will transfer to the Centre the credit of SGST used for payment of IGST. The Centre will transfer to the importing state the credit of IGST used for payment of SGST. Now, finally the Central Government will act as a clearing house for all the states through transfer of funds.

13.4. SALIENT FEATURES INTEGRATED GST

On inter-state and cross border transactions Centre would levy and collect IGST in lieu of CGST and to be shared between Centre / States. Single IGST rate. IGST would be levied on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services. Inter-State dealer will pay IGST after adjusting available, input IGST, CGST and SGST on purchases. IGST

i. Seller of the origin state will charge IGST (CGST+SGST) on interstate transactions.
ii.Interstate seller will now able to pay net IGST after utilizing credit of input CGST & SGST.
iii. Interstate buyer will also avail input tax credit for payment of his own IGST, CGST or SGST on the basis of tax invoice.
iv. Both buyer & seller shall report these transactions in their e-returns.
v. The sum of CGST and SGST. Will be shared by the Centre and State.
vi. Levied on the Inter-state and the cross-border transactions of Goods and Services.
vii. Amount paid by the seller in his State along with input tax credit claimed by him will be remitted by the Central Agency to the buying state. This mechanism is required to maintain GST a destination based tax.
viii. B2B transactions will be able to get input tax credit without any break till it reaches the final consumer.
ix. There will be a uniform IGST rate across the country.
x. Interstate trader will pay IGST after adjusting the available input IGST, SGST and CGST on the transactions.

13.5. IGST ACT

Furthermore, it is governed by the IGST Act, 2017. Unlike the Central Sales Tax Act, 1956, which regulated the inter-state trade prior to GST, IGST would enable the recipients to claim ITC for the tax paid on the inputs. IGST Act gives provision for levy and collection of tax on inter-State supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

a. Chapter I – Preliminary

(1) IGST Act may be called the Integrated Goods and Services Tax Act, 2017.
(2) It shall extend to the whole of India except the State of Jammu and Kashmir.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:
Provided that different dates may be appointed for different provisions of IGSTAct and any reference in any such provision to the commencement of IGST Act shall be construed

as a reference to the coming into force of that provision

b. How can I track IGST refund Status

- **i.** To track the status of refund for IGST and/ or Cess paid on account of Export of Goods after logging in to the GST Portal, perform the following steps.
- **ii.** Navigate to Services > Refunds > Track status of invoice data to be shared with ICEGATE command.
- **iii.** Select the Financial Year and Month from the drop-down list.
- **iv.** Click the SEARCH button.
- **v.** The search results are displayed.

13.6. ADVANTAGES OF IGST MODEL

- ➢ A simple, transparent and self-monitoring model.
- ➢ Maintenance of tax neutrality in the country
- ➢ The overall tax paying process will be quick with no additional burdens on the taxpayer.
- ➢ No requirement for the physical verification of documents and claims as all the relevant data will be available on the GSTN server.
- ➢ As payment of tax will be on an online platform, the process will be easy and invulnerable to disputes and manipulations.
- ➢ Ensuring that the Input Tax Credit chain for the Interstate transactions is continuous.
- ➢ There will be no significant blockage of funds or an upfront payment of tax for the Interstate sellers and buyers.
- ➢ There will be no requirement of claiming refunds in the exporting State, as Input Tax Credit will be used up while paying the tax.
- ➢ Efficient management of ‘Business to Business’ (B2B) as well as ‘Business to Consumer’ (B2C) transactions.
- ➢ The uniformity in tax rates and simplified procedures in the country will also help in minimizing the cost of compliance.
- ➢ Maintenance of uninterrupted ITC chain on inter-State transactions.
- ➢ No upfront payment of tax or substantial blockage of funds for the inter-State seller or buyer.
- ➢ No refund claim in exporting State, as ITC is used up while paying the tax.
- ➢ Self monitoring model.
- ➢ Level of computerization is limited to inter-State dealers and Central and State Governments should be able to computerize their processes expeditiously.
- ➢ As all inter-State dealers will be e-registered and correspondence with them will be by e-mail, the compliance level will improve substantially.

13.7. APPLICABILITY OF IGST

Nature of supply in a given transaction determines the applicability of IGST under GST Law. Accordingly, there are two types of supplies under GST:

a. Intra-state Supply: Intra-state supply refers to a supply where location of the supplier and place of supply are in the same state or Union Territory. Furthermore, in case of such a supply of goods and services, a seller has to collect both CGST and SGST. After collecting both the taxes, the CGST part gets deposited with the Central Government. And the SGST portion gets deposited with the respective State Government.

b. Inter-State Supply: Inter-State Supply refers to any supply where the location of the supplier and the place of supply are in:

i. Two different States
ii. 2 Different Union Territories
iii. A State and a Union Territory

Additionally, any supply in a taxable territory, that is not an Intra-State supply is deemed to be an Inter-State supply. The following supplies are also treated as Inter-State supplies:

i. Supplies to or by Special Economic Zones (SEZs)
ii. Goods or services imported to India
iii. Services or goods exported outside India
iv. Supply of goods or services to international tourists

Thus, on the Inter-State supply of goods or services, only IGST is levied and collected by the Central Government.

c. Location of Supplier: Location of the supplier is the registered place of business or the fixed establishment of the supplier from where the supply is made. However, where the location of supplier or the place of supply is in territorial waters, the location of the supplier or the place of supply, as the case may be, would be taken as the coastal state or UT where the nearest point of appropriate baseline is located.

d. Place of Supply: There are separate provisions deciding the place of supply of goods or services under GST. Such provisions have been made considering the destination or the consumption principle. In case of goods, it is easy to decide the place of supply as goods are tangible. Typically, place of delivery becomes place of supply in case of goods. However, since services are intangible in nature, it is difficult to decide the place where the services are consumed. Therefore, in respect of certain categories of services, place of supply of services is decided with reference to a proxy. There are separate provisions for the supply of goods or services to determine the place of supply under GST.

e. These provisions are made under the following heads:

i. Place of supply of goods other than import and export (Section 10)
ii. The place of supply of goods in case of import and export (Section 11)
iii. Place of supply of services in case of domestic supplies (Section 12) (Where location of supplier and the location of recipient of services is in India)
iv. The Place of supply of services in case of cross border supplies (Section 13) (Where location of the supplier or the location of the recipient of services is outside India)

f. Export or Import of Services: A supply is taken as export or import if the following conditions are satisfied.

g. In Case of Export of Services: A supply of service would be taken as export if: 1. Supplier of such service is located in India, 2. Recipient of services is located outside India, 3. Place of supply of services is outside India, 4. Payment received by the supplier is in convertible foreign exchange, 5. Supplier and recipient of service are not establishments of distinct person

h. In Case of Import of Services: A supply of service is taken as import if:1. Supplier of service is located outside India, 2. Recipient of services is located in India, 3. Place of supply of services is in India

i. Zero Rated Supply: Exports and supplies made to SEZs are deemed as zero rated supplies. As per GST Law, no tax is payable on such supplies. However, taxpayers can claim ITC on such supplies via the following two options: Supplies made under bond or LUT without the payment of IGST. In such a case, taxpayer can claim refund of unutilized ITC. The supplies made on payment of IGST. In this case, the taxpayer can claim IGST paid on zero rated supplies.

13.8. ITC UTILIZATION UNDER GST

Initially, the ITC could be utilized in the following manner:

Availment of Input Tax Credit (ITC) and Utilisation thereof under GST Law There are two different concepts under GST that are 'Availment of ITC' through credited in Electronic Credit Ledger (ECL) and 'Utilisation thereof' to pay output tax liability' as per Section 49 of the Central Goods and Service Tax Act, 2017 (CGST Act, 2017). Both these concepts have their importance under GST law as there is penalty provisions regarding ITC wrongly availed and utilisation thereof. If any person avails ITC wrongly and utilised the same, then penal provisions under GST Law will applicable. Therefore, first it becomes crucial to know about penal provisions regarding ITC wrongly availed and utilisation thereof, which are as under- Section -73 Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful mis-statement or suppression of facts. Section – 50 Interest on delayed payment of tax ITC wrongly availed but no utilised shall not draw penal proceedings under GST "availment of a credit is a positive act and unless carried out for reducing any tax liability by its reflection in the return filed for any financial year, it cannot be a case of either availment or utilization" The above quote is from the judgement pronounced on 18.07.2019 by The Hon'ble High Court of Patna in the case of M/s Commercial Steel Engineering Vs The State of Bihar; wherein it was held that wrongly availed input tax credit, reflecting in an Electronic Credit Ledger under GST shall not draw penal proceedings until the same, fully or partially is utilized against the tax liability, so as to make it recoverable by the authorities.

CGST Liability	**SGST Liability**	**IGST Liability**
First, ITC on account of CGST is utilized	First, ITC on account of SGST is utilized	First, ITC on account of IGST is utilized
Then, ITC on account of IGST is utilized	Then, ITC on account of IGST is utilized	Then, ITC on account of CGST is utilized
Finally, ITC on account of SGST is utilized		

There was no rule that the ITC on account of IGST had to be completely exhausted first even before utilizing ITC on account of CGST and SGST. As per Circular No. 98/17/2019-GST issued on April 23rd, 2019, the government clarified the utilization of input tax credit of integrated tax in a particular order. As per this rule, ITC of Integrated Tax can be utilized to pay output tax liability towards central and state tax in any order. However, this rule was subject to a condition that the entire ITC with regards to IGST must be first completely exhausted before utilizing the ITC with regards to Central tax or state tax.

13.8.1. The following table shows the order of utilization of ITC as per this circular:

Input tax Credit on account of	**Output liability on account of Integrated tax**	**Output liability on account of Central tax**	**Output liability on account of State tax / Union Territory tax**
Integrated tax	(I)	(II) – In any order and in any proportion	
(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily			
Central tax	(V)	(IV)	Not permitted
State tax / Union Territory tax	(VII)	Not permitted	(VI)

Inserted by the CGST (Amendment) Act, 2018 dated 30.08.2018, w.e.f. 01.02.2019 vide Notification No. 02/2019-Central Tax, dated 29.01.2019. Now, to better understand, it is necessary to consolidate the aforesaid provisions of utilisation of ITC and their sequences and the same may be read as under-

First Step -Check total/ Complete Restriction regarding utilisation of ITC Total/Complete Restriction: ITC of CGST cannot be utilized to settle the liability of SGST/UTGST and ITC of SGST/UTGST cannot be utilized to settle the liability of CGST [Please refer to clause (e) and (f) of Section 49(5) of the CGST Act, 2017]

Second Step -Utilisation of ITC of IGST i. ITC of IGST will be first utilized to settle the liability of IGST. [Please refer to Rule 88A and Section 49(5)(a) of the CGST Act, 2017]; ii. If after payment of entire IGST, there is a balance of ITC of IGST in ECL, if any, may be used either for payment of CGST or SGST/UTGST in any order i.e. as per the choice of taxable person [Please refer to Rule 88A of CGST Rules, 2017 -it overrides Section 49(5)(a) of CGST Act]; iii. The taxable person can partially utilise ITC of IGST for liability of CGST and partially for SGST/UTGST as per his choice after first utilising fully towards liability of IGST [Please refer to Circular No.98/17/2019-GST dated 23-4-2019].

Third Step -Utilisation of ITC of CGST i. ITC of CGST will be first utilized to settle the liability of CGST [Please refer to Section 49(5)(b) of the CGST Act, 2017]; ii. Then, balance ITC of CGST will be utilized to settle the liability of IGST [Please refer to Section 49(5)(b) of the CGST Act, 2017] Please note only after the ITC of IGST is fully exhausted then ITC of CGST can be utilized to settle the liability of IGST [Please refer to Proviso to Rule 88A and Section 49A of the CGST Act, 2017]. iii. If no IGST is payable, that credit should be carried forward. iv. ITC of CGST cannot be utilized to settle the liability of SGST/UTGST [Please refer to clause (e) of Section 49(5) of the CGST Act, 2017].

Fourth Step -Utilisation of ITC of SGST i. ITC of SGST will be first utilized to settle the liability of SGST [Please refer to Section 49(5)(c) of the CGST Act, 2017]; ii. Then, balance ITC of SGST will be utilized to settle the liability of IGST [Please refer to Section 49(5)(c) of the CGST Act, 2017] Please note only after the ITC of IGST is fully exhausted and there is no balance of ITC of CGST, then ITC of SGST can be utilized to settle the liability of IGST [Please refer to Proviso to Rule 88A, Section 49A and Proviso to Section 49(5)(c) of the CGST Act, 2017]. iii. If no IGST is payable, that credit should be carried forward. iv. ITC of SGST cannot be utilized to settle the liability of CGST [Please refer to clause (f) of Section 49(5) of the CGST Act, 2017].

Fifth Step -Utilisation of ITC of UTGST i. ITC of UTGST will be first utilized to settle the liability of SGST [Please refer to Section 49(5)(d) of the CGST Act, 2017]; ii. Then, balance ITC of UTGST will be utilized to settle the liability of IGST [Please refer to Section 49(5)(d) of the CGST Act, 2017] Please note only after the ITC of IGST is fully exhausted and there is no balance of ITC of CGST, then ITC of UTGST can be utilized to settle the liability of IGST [Please refer to Proviso to Rule 88A, Section 49A and Proviso to Section 49(5)(d) of the CGST Act, 2017]. iii. If no IGST is payable, that credit should be carried forward. iv. ITC of UTGST cannot be utilized to settle the liability of CGST [Please refer to clause (f) of Section 49(5) of the CGST Act, 2017].

13.8.2. Refund of IGST In Case Of Tourists Leaving India

Since international tourist has been categorized as a non-resident, the refund of IGST paid on goods provided to such a tourist leaving India can be claimed.

13.9. ISSUES TO BE CONSIDERED BY THE GOVERNMENT

1. Specific provisions for determining nature of activity (whether the transaction is a sale or service) are required.
2. For ascertaining consideration price of sale, specific rules are necessary. E.g., sometimes freight element in a transaction of sale to other state is more than the base price of goods. Now the confusion is whether freight element is part of sale or service.
3. Provisions are also required to allow inter GST set off between CGST & SGST of input tax. This will avoid cascading effect of taxes.
4. Whether exemption in respect of import sale and high seas sales u/s 5(2) of the CST Act will be continued or not?
5. Whether exemption to penultimate exports will be continued?

6. Whether exemption on subsequent sales u/s 6(2) of the CST Act will be continued?
7. Provisions are also required for sale or purchase of goods declared by Parliament to be of special importance in interstate trade or commerce.
8. Rules are required for determination of value in case of transfer of goods to branches/ consignment agent/ inter related parties.
9. Measures are also required to avoid litigation which may arise due to fixation of situs. Revenue sharing arrangements among the states on inter state transactions are to be prescribed.

Above issues need to be resolved before GST is to be implemented. 'Prevention is better than cure' – same goes with GST. Every phase is to be looked seriously plus the ultimate consumer is not to be penalized anyhow. Then only, reform will be successful.

Without addressing these fundamental concerns of IT infrastructure and information support systems, the adoption of IGST model which is still at a conceptual stage is far from realistic at this stage in adoption of GST in the course of interstate transaction in goods and GST for the nation'. Central Government would levy IGST (which would be CGST plus SGST) on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services.

13.10. ILLUSTRATION FOR IGST MODEL

Mr. A is based in Maharashtra & Mr. B is based in Gujarat. Mr. A supplied goods to Mr. B and paid 17% IGST. Mr. A has Input credit of CGST 8% and SGST 8% from local purchases made by him. Now, Mr. A is required to pay only 1% IGST to the Central Government. He will be able to utilise input credit of 16% for paying IGST. Maharashtra will transfer to Centre 8% SGST used for payment of IGST. Mr. B who had purchased those goods supplied the same locally to Mr. C who is also based in Gujarat. Now he is liable for SGST 10% and CGST 8 %. He will utilise credit of IGST of 17% first for CGST 8% and 9% for SGST. He will be required to pay 1% in cash. Gujarat Government is entitled to SGST since it is the destination state. Centre will transfer 9% IGST credit used for payment of SGST to Gujarat.

13.10.1. Points to Remember:

1. Maharashtra Government will not get any tax anyhow since it is inter state supply from Maharashtra to Gujarat.
2. Central Government will get 9 % IGST (8% from Maharashtra & 1% paid in cash by Mr. A) on inter state supply of goods to Gujarat.
3. Gujarat Government will get 10 % SGST (9% from Central Government & 1 % paid in cash by Mr. B) for intra state supply of goods.
4. B (based in Gujarat) has been allowed full credit of IGST paid by Mr. A (based in Maharashtra) of 17%.

a) Illustration: Maharashtra seller selling to Karnataka buyer for Rs.1,00,000/-. IGST payable assuming an 8% rate is Rs.8,000/-. 8,000/- can be paid by adjusting Inter-State purchases (IGST) Rs.3,000/- Local purchases (CGST) Rs.1,500/- Local purchases (SGST) Rs.1,500/- Since dealer has used SGST of Maharashtra to the extent of Rs.1,500/-, Centre has to transfer Rs.1,500/- to Maharashtra Government. IGST of Rs.8,000/- is availed as credit by Karnataka buyer. Karnataka dealer sells the goods at Rs.2,00,000/- attracting CGST of say Rs.16,000/- and SGST of Rs.16,000/-. If IGST of Rs.8,000/- is used to pay the SGST then Karnataka Government has to transfer Rs.8,000/- to the Centre. IGST is the provision under GST to monitor the Inter-state movement of Goods and Services. IGST will not replace the existing Central Sales Tax and is also not an extra added tax. It basically is the sum of Central

GST (CGST) and State GST (SGST). IGST = CGST + SGST.IGST will help in ensuring that the ultimate SGST is received by the state in which the goods and services are consumed since GST is a destination-based tax. It helps in achieving two main objectives – Prevent cascading effect, by allowing inter set off of State and Central GST. Helps in fulfilling the principal of destination based consumption tax.

b) Illustration -1: Mr. A is based in Maharashtra & Mr. B is based in Gujarat. Mr. A supplied goods to Mr. B and paid 17% IGST. Mr. A has Input credit of CGST 8% and SGST 8% from local purchases made by him. Now, Mr. A is required to pay only 1% IGST to the Central Government. He will be able to utilise input credit of 16% for paying IGST. Maharashtra will transfer to Centre 8% SGST used for payment of IGST. Mr. B who had purchased those goods supplied the same locally to Mr. C who is also based in Gujarat. Now he is liable for SGST 10% and CGST 8 %. He will utilise credit of IGST of 17% first for CGST 8% and 9% for SGST. He will be required to pay 1% in cash. Gujarat Government is entitled to SGST since it is the destination state. Centre will transfer 9% IGST credit used for payment of SGST to Gujarat.

c). Illustration-2: Mr X based in Rajasthan supplied goods to Mr Y based in Gujarat & paid 17% IGST. Mr X has input credit of CGST 8% & SGST 8% from local purchasers. So he paid only 1% to central govt. account. Rajasthan will transfer 8% SGST to center used for payment of IGST. Mr Y based in Gujarat who had purchased those goods supplied the same locally to Mr Z (based in Gujarat) & liable to 10% SGST & 8% CGST. He will utilize the credit of IGST of 17% first for CGST 8% & balance for SGST 9% & will pay 1% in bank.
Solution:

- Rajasthan govt. in this transaction will not get any tax in this interstate supply from Rajasthan to Gujarat.
- Gujarat govt. will get 10% SGST for import of goods (9% from central govt. & 1% paid by Mr. Y)
- Central govt. will get 9% IGST on intestate supply of goods in Gujarat (8% from Rajasthan govt. & 1% pad by Mr. X).

d. Illustration-3: Mr. A of Nashik, Maharashtra sells 10 refrigerators to Mr. B of Pune, Maharashtra for delivery at Mr. B's place of business in Pune. Determine the place of supply of goods and nature of transaction.

Solution: As per Section 10(1)(a) of the IGST Act, the place of supply is Pune in Maharashtra. Since the location of supplier is Nasik (Maharashtra) and place of supply is Pune, CGST and SGST shall be charged as it comes under the category of intrastate supply.

Particulars	**Supplier's factoryfrom where goods are removed**	**Termination of movement for delivery**
Movement of goods by the supplier (goods dispatched by supplier) (Section 10(1)(a) read with2(96)(a) of CGST Act	Odissa	Assam
	Orissa	Orissa
Movement of goods by the recipient (goods collected by recipient) (Section 10(1)(a) read with 2(96)(b) of CGST Act)	Kerala	Goa
	Kera la	Kerala

Section 10(1)(a)

Particulars	**Supplier's factory from where goodsare removed**	**Termination ofmovement for delivery**	**Place of supply**	**Tax payable**
Movement of goods by the supplier (goods dispatched by supplier) (Section 10(1)(a) read with 2(96)(a) of CGST Act	Orissa	Assam	Assam	IGST payable at Orissa
	Orissa	Orissa	Orissa	CGST / SGST payable at Orissa
Movement of goods by the recipient (goods collected by recipient) (Section 10(1)(a) read with 2(96)(b) of CGST Act)	Kerala	Goa	Goa	IGST payable at Kerala
	Kerala	Kerala	Kerala	CGST / SGST payable at Kerala

e. Illustration-4: Maharashtra seller selling to Karnataka buyer for Rs.1, 00,000/-. IGST payable assuming an 8% rate is Rs.8, 000/-. 8,000/- can be paid by adjusting'Inter-State purchases (IGST) Rs.3, 000/- Local purchases (CGST) Rs.1, 500/- Local purchases (SGST) Rs.1, 500/- Since dealer has used SGST of Maharashtra to the extent of Rs.1, 500/-, Centre has to transfer Rs.1, 500/- to Maharashtra Government. IGST of Rs.8, 000/- is availed as credit by Karnataka buyer. Karnataka dealer sells the goods at Rs.2, 00,000/- attracting CGST of say Rs.16, 000/- and SGST of Rs.16, 000/- If IGST of Rs.8, 000/- is used to pay the SGST then Karnataka Government has to transfer Rs.8, 000/- to the Centre.

13.11. SUMMARY

After studying this lesson, you should be able to Know the scope of IGST Model ,Salient Features Integrated GST**,** Applicability of IGST and Issues to be considered by the Government. Further, it is also revealed about Key Enablers of IGST, IGST Act, Advantages of IGST Model, Applicability of IGST, ITC Utilization Under GST and Illustration for IGST Model. The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. 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 in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The Empowered Committee has accepted the recommendation for adoption of IGST model for taxation of inter-State transaction of Goods and Services.

13.12. TECHNICAL TERMS

CGST: The full form of CGST is Central Goods and Services Tax. Under GST, CGST is a tax levied on intrastate supplies of both goods and services by the Central Government and collected by it for its coffers. Accordingly, the levy and collection of CGST are governed by the provisions of the CGST Act, 2017 as amended from time to time

SGST: SGST means State Goods and Services Tax. Under GST, an equivalent amount of SGST is a tax levied on intrastate supplies of both goods and services by the particular state government where the product sold is consumed.

IGST: The full form of IGST is Integrated Goods and Services Tax. Under GST, IGST is a tax levied on all interstate supplies of goods and/or services or across two or more states/Union Territories. Further, IGST levy and collection will be governed by the IGST Act, 2017, as amended from time to time. IGST will be applicable on any supply of goods and/or services in both cases of import into India and export from India.

ITC : Availment of Input Tax Credit (ITC) and Utilization thereof under GST Law There are two different concepts under GST that are ' Availment of ITC' through credited in Electronic Credit Ledger (ECL) and ' Utilization thereof' to pay output tax liability' as per Section 49 of the Central Goods and Service Tax Act, 2017 (CGST Act, 2017).

13.13. SELF ASSESSMENT QUESTIONS

1. Who are the Key Enablers of IGST?
2. Explain the scope of IGST Model.
3. Discuss about Salient Features Integrated GST.
4. What is IGST Act?
5. What are the Advantages of IGST Model?
6. What is IGST? How Applicability of IGST in India?
7. How ITC Utilization Under GST?
7. What are the Issues to be considered by the Government? Explain briefly about it.
8. Explain about hypothetical Illustration for IGST Model.

13.14. SUGGESTED READING

1. H.C. Mehrotra & V. P. Agarwal, '***Goods and Services Tax (GST)***', Sahitya Bhawan Publications, Agra, 2020.
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4. Vineet Gupta & N.K. Gupta, '***Goods and Services Tax with Customs Law***', Sultan Chand & Sons, New Delhi, 2022.
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Dr. Krishna Banana

LESSON – 14

TIME, PLACE AND VALUE OF SUPPLY IN GST

LEARNING OBJECTIVES

To understand the concepts of time, place and value
To know the rate structure in GST
To understand the various levels of tax applicability's
To Follow the Act through various amendments and changes.

STRICTURE

14.1. INTRODUCTION

For any taxation system, time of taxation or point of taxation is of crucial importance. Point of taxation (POT) refers to the point in time when tax is required to be paid for a taxable event. This is a mechanism which is used to determine the point in time when the tax liability will arise.

The GST is payable on supply. This supply may be of goods or services or both. A supply consists of various elements that can be separated in time like when:

(1) An agreement to supply of goods or services is made.
(2) The services are rendered or the goods are delivered.
(3) The invoice is issued.
(4) The payment is made.
(5) The due date for issue of invoice arises.

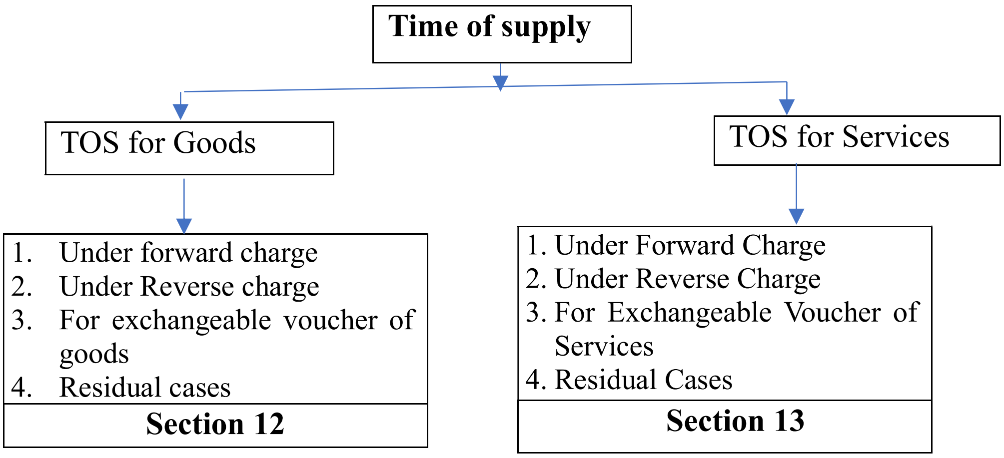
Now, a question arises at which of the above points of time will GST become payable? The concept of time of supply (TOS) provides answers to all such and other questions that arise on the timing of the liability to pat GST.

14.2. TIME OF SUPPLY AND GST

The time of supply means the point in time when a supply shall be deemed to have been provided. Under GST, the point of taxation, i.e., the liability to pay CGST/SGST will arise at the time of supply as determined for Goods & Services. Time of supply is generally the earliest of one of the three events, namely

1. Receiving payment,
2. Issuance of invoice or
3. Completion of supply.

The following cases are to be covered in this regard:



However, in some circumstances, the time of supply could be different based on the nature of the transaction. The following concepts are look at GST time of supply for goods, services and reverse charge transactions.

14.3. TIME OF SUPPLY OF GOODS

The point of taxation under GST is the point in time when goods or services have been deemed to be supplied. Thus, such a point in time under GST determines the rate of tax, value as well as due dates for payment of taxes. provisions regarding time of supply revolve around four categories:

- Forward Charge Mechanism
- Reverse Charge Mechanism
- Vouchers
- All Other Instances

14.3.1. Forward Charge Mechanism

The following graphic explains the provisions with regards to time of supply of goods in case of forward charge mechanism. Accordingly, the time of supply of goods would be the earliest of:

a. Date of Issue of Invoice
b. Due Date for Issue of Invoice
c. Date of Receipt of Payment

However, these provisions must be contemplated taking into consideration the following points:

14.3.2. The Invoice Must Be Issued

- On or before the time of removal of goods. This is in cases where supply involves movement of goods.
- On or before delivery of goods to the recipient. This should happen where supply does not involve any movement of goods.
- On or before issuance of statement of account. This should take place in cases where there is a continuous supply of goods.
- On or before the time of supply subject to a maximum of 6 months from the date of removal, whichever is earlier. This occurs in cases where goods are supplied on "approval for sale or return" basis.

The date of receipt of payment would be considered the earlier of:

- Date of credit in the entity's bank account, as displayed in the bank statement
- The date on which payment is recorded in the books of accounts of the supplier

There might be a scenario when the supplier receives excess payment up to Rs 1000. The time of supply of goods for such excess value can be taken as the date of invoice issued with respect to such excess amount.

14.3.3 Illustration for Understanding

Sivaram Ltd. supplied goods to Sharma Ltd. The terms of the contract stipulated that goods are delivered to the factory of Sharma Ltd. Goods were removed from the factory of Sivaram Ltd. on September 9th, 2022 and were delivered to the factory of Sharma Ltd. on September 15th, 2022.
Now, the invoice was issued on September 18th, 2022 and payment was credited to Sivaram Ltd's account on October 20th, 2022. However, the entry was made in the books when the cheque was received i.e. on September 19th, 2022.

As per the above scenario, various dates are as under:

1. Actual date of issue of invoice = September 18th, 2022
2. Due date for issue of invoice = September 9th, 2022 (as supply involves movement of goods)
3. Date of receipt of payment = September 19th , 2022 (earlier of entry in books of accounts and credit made in the bank account)

Therefore, as per rule, the time of supply would be the earliest of the above dates, that is, September 9th, 2022.

14.3.4 Illustration for Understanding

Say Sivaram Ltd. receives payment of Rs 1,00,000 in advance. And the invoice issued is for Rs 99,000.

In this case, the Rs 1000 is in excess of the invoice amount that stands at Rs 99,000. The invoice for the excess amount of Rs 1,000 would be issued subsequently. Hence, the time of supply in this case can be taken to be the date of the issue of the next invoice for the excess amount. This is despite the fact that the payment was received earlier.

14.4. REVERSE CHARGE MECHANISM

Under "reverse charge mechanism", the time of supply is the earliest of:

1. Date of receipt of goods
2. 30 days from the date of invoice
3. Date of payment

Now the date of payment would be considered the earlier of:

a. Date of debit in the bank account as depicted in the bank statement
b. The date of recording the payment in the books of account by the recipient

14.4.1 Illustration for Understanding

Giri is an unregistered trader. He supplies goods to a registered recipient on Feb 1st, 2018. Goods supplied were received by Gaurav at his factory on February 28th, 2018. The invoice for the supply made was issued on February 15th, 2018. However, the payment was made on March 5th, 2018.

This is the case of reverse charge mechanism since the supplier that is Giri is unregistered. Hence, the time of supply would be the earliest of:

a. **Date of receipt of goods**: In this case, February 28th, 2018 is the date of receipt ofgoods.
b. **30 days from date of invoice:** In this case, March 16th, 2018 is 30 days from the date of invoice
c. **Date of payment:**In this case, March 5th, 2018 is the actual date of payment. Hence the time of supply would be February 28th, 2018.

14.4.2 Vouchers

In case a supplier gets vouchers in lieu of supply of goods, the time of supply is determined as under:

a. The first case is the one where the supply is identifiable at the time of the issue of the voucher. The time of supply in such a scenario is taken as the date of issue of the voucher.
b. The second case relates to the one where supply is not identifiable at the time of issue of the voucher. In this scenario, date of redemption of the voucher would be taken as the time of supply.

14.4.3 Illustration for Understanding

Vipul Ltd., enters into an arrangement with "Carlton London" and buys vouchers in return. These vouchers get issued on December 14th, 2022. The company then distributes these vouchers, each carrying a denomination of Rs 4,000, to all its employees on December 24th, 2022.

The validity of the vouchers ends on January 31st, 2023.Thus, using such vouchers, the employees can buy shoes of their choice. Now, employees make the most of this opportunity and get their vouchers redeemed on the first day of the new year, that is, on January 1st, 2023.
In this case, the supply is identifiable at the point of issue of the voucher. Therefore, the time of supply would be taken as date of issue of vouchers, that is, December 14th, 2022.

14.4.4 All Other Instances

In case of instances other than the ones mentioned above, the time of supply is taken as:

1. Due-date for filing periodic returns or
2. In other cases, the date of payment of GST

14.5. TIME OF SUPPLY IN CASE RATE OF TAX CHANGES

The change in the rate of tax with regards to goods or services are defined in section 14 of the CGST Act. There are two scenarios under this.

1. The one where goods or services have been supplied before the change in the rate of tax. and
2. The one where goods or services have been supplied after the change in the rate of tax.

14.5.1 Supply of Goods or Services before Change in the Rate of Tax

1. The first case relates to the one where invoice is issued and the payment is received after the change in rate of tax. In such a case, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier.
2. Next case relates to the one where invoice is issued prior to the change in rate of tax. But payment is received after the change in rate of tax. In such a case, the time of supply shall be the date of issue of invoice;
3. There are cases where payment is received before the change in rate of tax. But the invoice for the same is issued after the change in rate of tax. In such a case, the time of supply shall be the date of receipt of payment.

14.5.2 Supply of Goods or Services after Change in the Rate of Tax

There are cases where payment is received after the change in rate of tax. But the invoice is issued prior to the change in rate of tax. In such a case, the time of supply shall be the date of receipt of payment.

Then, there are also times when invoice is issued and payment is received before the change in rate of tax. In such cases, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier.

Lastly, there are also cases where invoice is issued after the change in rate of tax. But the payment is received before the change in rate of tax. In such cases, the time of supply shall be the date of issue of invoice. Provided that the date of receipt of payment shall be the date of credit in the bank account. This happens only if such credit in the bank account is after four working days from the date of change in the rate of tax.

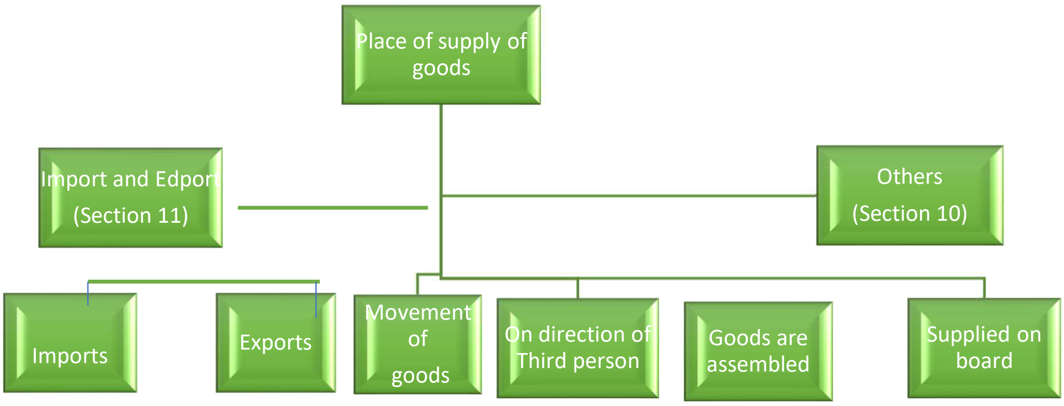
14.6. PLACE OF SUPPLY AND GST

In GST, the concept of a place of supply has been made relevant not only for the supply of services but also for the transaction of goods. Which tax is to be levied will depend on whether the particular transaction is an Inter-state supply or Intra-state supply. Hence, every transaction will have to go through the test of provisions relating to the place of supply in order to determine which tax is to be levied.

The purpose of the place of supply provisions is two-fold:

1) In case of cross-border transactions, to determine whether tax is to be levied on a particular transaction.
    - Section 7 of IGST Act defines what an inter-state supply is. Broadly, inter-state supply is when “location of supplier” and “place of supply” are not in the same state or same union territory
2) In the case of domestic transactions, to determine whether a particular transaction is an inter-state supply or an intra-state supply.
    - Section 8 of IGST Act speaks about Intra-state supply. Broadly, intra-state supply is when “location of supplier” and “place of supply” are in the same state or same union territory.

The above transactions are further divided int some broad categories as below:



POS for Imports and Exports (Section 11)

1) **Imports**: The place of supply of goods imported into India shall be the location of the importer.
2) **Exports**: The place of supply of goods exported from India shall be the location outside India.

14.7. TRANSACTIONS OTHER THAN IMPORT OR EXPORT (Section 10)

1) Movement of Goods Section 10(1)(a):

"Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient"

This implies that place of supplier or receiver is of no consequence to determine the place of supply when it comes to those transactions which involve the movement of goods. The place where delivery terminates i.e., where the ownership is passed on shall be critical to determine the place of supply.

Example:
Rathi Limited of Andhra Pradesh sells 50 cell phones to Shah Traders in Telangana. Rathi Limited delivers the product to Shah Retailers in its warehouse in Hyderabad. Place of supply, in this case, will be Hyderabad and IGST will be levied as it is an Inter-State transaction.

2) Bill To Ship to Transactions: Section 10(1)(b):

"Where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person"

Note: When goods are delivered to a party on the direction of a third person the place of supply will be the location of such third person and not where the delivery terminates.

Example: Hanuman Traders, a dealer in furniture, located in Maharashtra, receives an order from Ram Traders, also located in Maharashtra. The order is for the supply of 50 Tables, with an instruction to ship the Tables to Prime Hardware, located in Tamil Nadu. Prime Hardware is a customer of Ram Traders.

There are two parts to this transaction:

- **First part of the transaction** – between Hanuman Traders and Ram Traders: Hanuman Traders is the supplier of Tables, and Ram Traders is the buyer. Accordingly, Hanuman Traders bills the transaction to Ram Traders, and as per the instruction, ships the goods to Prime Hardware in Tamil Nadu.
- **The second part of the transaction** – between Ram Traders and Prime Hardware: Ram Traders is the supplier, and Prime Hardware is the buyer. Ram Traders bills the transaction to Prime Hardware, and endorses the lorry receipt (goods shipped in a lorry by Hanuman Traders) in favour of Prime Hardware. This lorry receipt (LR) will enable Prime Hardware to take the delivery of the goods.

Over here, on the instruction from Ram Traders, Hanuman Traders ships the aluminium ladders to Prime Hardware located in Tamil Nadu.

Here, Ram Traders is deemed as the third person. Therefore, the place of supply will be the principal place of business of the third person, i.e., Maharashtra. Accordingly, Hanuman Traders charges CGST and SGST on billing to Ram Traders. The second part of the transaction between Ram Traders and Prime Hardware will also be interstate, and IGST will be charged.

1) **No Movement of Goods Section 10(1)(c):**
The section states that where the supply does not involve movement of goods, whether, by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient; When goods are of such nature which does not require any movement, place of supply shall be the location of such goods.

Example: Lumbini Limited registered in Andhra Pradesh sold its pre-installed transmission tower (electric tower) located at Telangana to Hindustan Limited registered in Chennai.

In this case, the location of the supplier is Andhra Pradesh, but a place of supply will be Telangana. Hence, IGST will be levied.

2) **When Goods are Installed Section 10(1)(d):**
This section reveals that where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

Example: Bharat Limited registered in Andhra Pradesh opens a new office in Hyderabad. It purchases 10 ACs to be installed at its Hyderabad office from Raman electronics in Andhra Pradesh.

In this case, the location of the supplier is Andhra Pradesh, but a place of supply will be Hyderabad, Telangana State. Hence, IGST will be levied.

3) **Goods on Board a conveyance Section 10(1)(e):**
This section states that

> "Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board."

This provision includes those purchases which are done while traveling on a conveyance.

Example: Mr. Mohan is traveling on a cruise liner from Mumbai to Goa. He purchases a book from the in-house store in the cruise liner. These books were on-boarded from Mumbai. Registered place of business of the book shop is in Mumbai. Place of supply, in this case, will be Mumbai. This is an intrastate supply, and CGST and SGST will be charged.

14.8 VALUE OF SUPPLY AND GST

The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

14.8.1 The Value of Supply Shall Include

1. Any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

2. Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

3. Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

4. Interest or late fee or penalty for delayed payment of any consideration for any supply; and

5. Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

   Note: For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

14.8.2 The Value of the Supply Shall Not Include Any Discount Which Is Given

1. Before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
2. After the supply has been affected, if—
   a. such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
   b. input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.
Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

Explanation.: For the purposes of this Act, —

(a) persons shall be deemed to be "related persons" if—
   (i) such persons are officers or directors of one another's businesses;
   (ii) such persons are legally recognised partners in business;
   (iii) such persons are employer and employee;
   (iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;
   (v) one of them directly or indirectly controls the other;
   (vi) both of them are directly or indirectly controlled by a third person;
   (vii) together they directly or indirectly control a third person; or
   (viii) they are members of the same family;

(b) the term "person" also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

14.9 GST - RATE STRUCTURE

The introduction of GST (Goods and Services Tax) has changed the face of the Indian tax system by bringing in uniformity and transparency. It is one of the most significant tax reforms introduced to eliminate the cascading effect of the earlier tax system. GST is collected at each level of the supply chain, thus eliminating the cascading effect of tax. This game-changer tax reform has helped businesses in various ways to boost the company and the economy as a whole. Small and medium enterprises can benefit from the more competitive space due to the introduction of the GST. GST has reduced logistics costs and made the nationwide market easily accessible for SMEs for the future expansion of business.

Various GST rates have been defined to enhance transparency and trust between the customers and sellers in the taxation process. Each of these slabs includes different categories of items depending on certain parameters. These rates are decided by the GST Council. This Council revises the rate slab of goods and services periodically. The GST rates are usually high for luxury supplies and low for essential needs. In India GST rate for various goods and services is divided into four slabs: they are:

1. 5% GST,
2. 12% GST,
3. 18% GST, and
4. 28% GST.

14.9.1 List of Items under The 5% GST Slab Rate

The lowest standard rate applies mostly to household necessities and daily essentials. Refer to the following table to find the products and services with a 5% tax rate under GST. Refer to the table to understand what GST percentage applies to particular goods.

Goods	Services
1) Edibles like: • Spices • Plain chapati • Oil • Pizza bread • Fish fillets • Khakhra • Tea • Coffee (excluding instant coffee) • Baby food • Sugar • Cashew nuts • Indian sweets (Mithai or Mishti) • Frozen vegetables • Unbranded namkeen • Pawan Chakki or wind-based Atta Chakki 2) Fuel like: • Coal • Biogas 3) Fertilisers	1) Aircraft leasing 2) Crude and petroleum products transport 3) Takeaway food 4) Economy class flight tickets 5) Newspaper printing 6) Tailoring 7) Transport services via AC cabs andradio taxi 8) Restaurants: • Both AC and Non-AC standalone ones • Those with a turnover of Rs.50 lakhs • Those in hotels with a sub-Rs.7500 room tariff 9) Print media advertisement space 10) Tour operator services

4) Life-saving medicines and drugs 5) Accessories for specially-abled individuals like: • Walking sticks • Braille paper • Hearing aids • Braille watches 6) Incense sticks or Agarbatti 7) Footwear and apparels under Rs.1000 8) Handmade items like: • Carpets • Gabba/Namda • Braids • Ornaments 9) Natural cork 10) Fly-ash blocks 11) Numismatic coins 12) Ice and snow 13) Kites 14) Marble rubble	

14.9.2 List of Items under The 12% of GST Slab Rate

The GST rate list for secondary necessities, mostly comprising processed food, cooking utensils, and other such items has been summarised below.

Goods	Services
1) Processed food: • Frozen meat • Sausage • Fruit juices • Sauces (except salad dressing items) • Ketchup • Cakes • Pickles • Boiled sugar confectionery **2) Dairy products:** • Butter • Cheese • Ghee **3) Dry fruits and nuts like almonds** **4) Packaged products:** • Drinking water • Coconut water **5) Cooking utensils:** • Forks • Spoons • Fish knives	1) Business class flight tickets 2) Movie tickets worth less than Rs.100 3) Hotel stay with daily cost less than Rs.7500 4) Room tariff above Rs.1000 and below Rs.2500 per day 5) Mining and drilling of natural gas 6) Real estate construction for sale IP rights on a temporary basis 7) Foremen-led chit fund services 8) Railway coaches, wagons, or rolling stock sans refund of ITC 9) Eating and drinking at outlets without a liquor license or AC 10) Goods Transportation in containers via rail not under the Indian Railways

• Tongs • Ladles • Cake servers **6)** Sewing machines 7) Flint buttons 8) Corrective spectacles and glasses 9) Exercise books and notebooks 10) Walkie-talkies or two-way radios 11) Handmade matches 12) Fixed speed diesel engines 13) Ornamental framed mirrors 14) Containers: • Purses • Pouches • Handbags • Jewellery box 15) Photographs 16) Diagnostic kits 17) Plastic beads 18) Man-made yarn	

14.9.3 List of items under the 18% GST slab rate

The 18% GST rate covers quite a number of relatively essential items. If you have been wondering what percent of GST is applicable against some of your most sought-after products/services, here might be your answer since this section includes a majority of items compared to the other slabs.

Goods	Services
1) Eatables: • Mineral water • Pasta • Biscuits • Pastries • Cornflakes • Soups • Curry paste • Preserved vegetables • Instant food mixes • Food supplements • Mixed condiments • Flavoured refined sugar • Cocoa butter • Ice cream • Chocolate • Chewing gum 2) Capital goods: • Plastic tarpaulin • Salt-glazed stoneware pipes • Jute, artificial plastic	1) Movie tickets worth more than Rs.100 2) Hotel accommodation bill equal to or above Rs.7500 3) Daily room tariff ranging between Rs.2500 and Rs.5000 4) Eating at restaurants located in hotels with above Rs.7500 daily tariff 5) Telecom and IT services 6) Outdoor catering 7) Performance arts: • Theatre • Indian classical and folk arts • Circus 8) Party arrangement 9) Eating and drinking at outlets with a liquor license, AC and heating arrangement.

• Aluminium foil • Optical fibre • Winding wires • Coaxial cables • Ball bearing • Roller bearing • Helmets and helmet parts • Electrical boards • Diesel engine parts • Parts of pumps • Precast concrete pipes • Tyres and tyre tubes • Retreaded second-hand rubber tyres • Wheel rims and axles • Paints 3) Household products: • Hair oil • Shampoo • Toothpaste • Detergent	
• Room deodorisers • Shaving and after-shave products • Mattress • Furniture (including those made of bamboo) 4) Perfume 5) Cosmetic preparations 6) Make-up and beauty products 7) Weight-measuring devices 8) Installations: • Doors and windows • Sanitaryware • Aluminium frames 9) Electrical and electronic appliances • Refrigerators • Water heaters • Washing machines • Televisions (up to 32 inches) • Computer monitors (below 17 inches) • Camera • Vacuum cleaners • Hair shavers • Hair curlers • Hair dryers • Fans • Lights • Pumps	

• Compressors • Set-top box for TVs • Discharge lamps • Power banks with Lithium-ion batteries • Printers and cartridges 10) Containers • Suitcase • Vanity case • Briefcase • Cotton handbags • Shopping bags • Polythene and Polypropylene packets and bags • Non-leather school bags 11) Dental wax 12) Kajal pencils 13) Electrical transformer 14) Measuring devices like callipers, tapes, etc. 15) Leather clothing 16) Wrist watches	
17) Cooking items: • Stoves, Cutlery, Cookers 18) Telescope 19) Razor and razor blades 20) Goggles 21) Binoculars 22) Stationary: • Pencil-sharpeners • Clips • Staplers 23) Carriages for specially-abled individuals and babies 24) Sports goods 25) Video game consoles 26) Other products with HSN code 9504	

14.9.4 List of Items under The 28% GST Slab Rate

The GST percentage for most luxury items is set at 28%, which is the highest standard rate. However, some of these items again come with an additional charge on top of the GST slab rates. This is called Cess, and it is a compensation charge to make up for the lack of revenue due to GST implementation. Have a look at the following table to understand which services and products belong to each of these categories.

Goods	Goods	Services
Without Cess **1) Eatables**	**With Cess** 1) Caffeinated beverages	

• Aerated water (with or without sugar) • Instant coffee • Chocolates (without cocoa) • Coffee concentrates • Custard powder • Protein concentrates • Sugar syrups • Molasses 2) ATM vending machine 3) Air conditioners 4) Dishwashers 5) Yachts 6) Aircrafts 7) State-owned and state-authorised lotteries 8) Accessories • Eyelashes,Wigs, Felt hats, False beards 9) Fax machines 10) TV monitors over 32 inches	2) Tobacco and tobacco products 3) Pan masala and Gutkha 4) Fuel: • Petrol, LPG, CNG 5) Motorised vehicles (except motorcycles) Services 1) Hotel stay with over Rs.7500 bill 2) 5-star hotel services 3) Gambling 4) Go-karting 5) Ballet 6) Racing club services 7) Casinos 8) Entertainment services, 9) Theme parks, amusement parks, and joy rides 10) Sports events	
11) Stoves (excluding LPG and kerosene ones) 12) Powder		

14.9.5 List Of Items Which Are Not Fall Under GST

The items that do not fall under any of the GST slab rates have been listed in the following table.

Goods	Services
1) Eatables • Raw fruits and vegetables • Milk • Buttermilk • Curd • Flour • Bread • Salt • Natural honey • Jaggery • Fresh meat • Hulled cereal grains • Eggs • Besan 2) Sanitary napkins 3) Bindi 4) Sindhoor 5) Bangles 6) Handloom	1) Hotel stay with room tariff less than Rs.1000 2) Bank charges on savings account

7) Jute 8) Saal leaves 9) Items of paper • Printed books • Newspapers • Judicial papers 10) Stamp 11) Rakhis not studded with precious metals and stones 12) Idols made of wood, stone, or marble	

In addition to the GST rates for the various items mentioned above, there are different rates for certain special items as well. Some of these are as follows.

- Gold jewellery: 3% GST is applied on the final bill.
- Real estate purchase: 1% on affordable and 5% on non-affordable under-construction properties. Fully constructed properties are exempted from this tax.

Now that you have quite a clear idea of the different GST rates in India and the inclusions under each of these slab rates, cross-checking those payment receipts would not be confusing anymore. We hope this detailed analysis of the various products has helped you!

14.10 SUMMARY

Taxation is a process which not only includes the implementation but also properly pointed out on the tax payer. Time of implementation, place implementation and the value how much should be considered for tax purpose is also important. Under GST Act each point has clearly and specifically mentioned under various sections. Each point has discussed in both the goods and services. It is observed that when the explanations are required the Act itself provide examples for better understanding of the Act.

14.11 KEY WORDS

Point of time
Reverse charges
Bill to ship

14.12 SELF – ASSESSMENT QUESTIONS

1. How to consider the time of supply under GST Act?
2. Writhe a note on voucher with illustration.
3. Explain the concept of place of supply under GST Act.
4. What is movement of goods other than imports and exports?
5. Brief the value of supply under GST Act.
6. Brief the rate structure under GST

14.13 FURTHER READINGS

1. GST Bill 2012
2. GST Acts with Rules & Forms – Taxman
3. Goods and Services Tax (G.S.T) - by Dr. H.C. Mehrotra
4. GST for Layman - A Book for Non-tax Professionals - by CA Pankaj Jain

Dr. K. SIVAJI

LESION – 15
INPUT CREDIT AND ITS DISTRIBUTION, RECORDS, UTILISATION AND RECOVERY

LEARNING OBJECTIVES

To understand the concept of input credit
To know the procedure and records of the input credit
To know the recovery procedure of the input credit
To understand the concept of tax invoice

STRUCTURE

15.1 INTORDUCTION

'Input Tax Credit' or 'ITC' means the Goods and Services Tax (GST) paid by a taxable person on any purchase of goods and/or services that are used or will be used for business. ITC value can be reduced from the GST payable on the sales by the taxable person only after fulfilling some conditions. These conditions given under the GST law are more or less in line with the pre-GST regime, except for a few additional ones such as GSTR-2B. These rules are direct and maybe stringent in nature.

15.2 MEANING OF INPUT TAX CREDIT (ITC)

Input Tax Credit (ITC) is the core concept of GST. ITC avoids cascading effect of taxes and ensures that tax is collected in the State in which goods or services or both are consumed. As per the - section 2(56) of CGST Act “Input tax credit” means credit of ‘input tax’. Where any person claims that he is eligible for input tax credit under this Act. the burden of proving such claim shall lie on such person.

Input Tax Section 2(62) of CGST Act defines ‘input tax’ as follows

“Input tax” in relation to a registered person, means the Central tax (CGST), State tax (SGST), Integrated tax (IGST) or Union territory tax (UTGST) charged on any supply of goods or services or both made to him and includes—

(a) The integrated goods and services tax charged on import of goods

(b) The tax payable under the provisions of sub-sections (3) and (4) of section 9 [reverse charge of CGST]

(c) The tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act [reverse charge of IGST]

(d) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act [reverse charge of SGST] or

(e) the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act [reverse charge of UTGST], but does not include the tax paid under the composition levy. Input Tax Credit is eligible only when it is credited to electronic credit ledger of taxable person.

15.3 FEATURES OF INPUT TAX CREDIT

1. The Scheme is designed to avoid cascading effect of taxes and make GST a destination – based tax.
2. ITC is available in all input goods and services and capital goods used for purposes of business of a taxable person. However, the ITC is not available on ‘blocked credit’ items.
3. ITC is used for payment of tax on taxable output supply to avoid cascading effect of taxes.
4. GST law does not require ‘one to one’ co -relation between inputs goods/services and final products/services. Any eligible ITC can be used for payment of tax on any taxable output supply.
5. IGST is another core aspect of GST. It is a transitory tax to enable transfer of ITC when goods are services move from one State to another.
6. Since ITC can be availed for payment of tax on taxable output supply, as natural corollary, ITC is not available when tax is not payable on output supply. i.e. on exempt supply.

7. The exception to the above principle is ‘Zero rated supply’, i.e. exports or supplies to a special economic zone developer or units, where ITC is available even if no tax is payable on output supply. Such ITC can be used either of payment of tax on supplies made with tax or refund of the same can be obtained.
8. If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of input goods and services used exclusively for taxable supply and no credit at all for inputs, input services and capital goods used exclusively for exempt supply.
9. If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available. The common ITC is apportioned in the ration of value of taxable supply and exempt supply.
10. ITC can be availed on inputs and capital goods sent for job work. ITC is available even if the inputs and capital goods are sent directly to the job worker without being first brought to the place of business of the supplier.
11. Input services received at head office or branch offices are ultimately indirectly used for supplies made from manufacturing or trading or business premises. ITC of such input services can be availed through mechanism of ‘Input service distributor’.

15.4 DOCUMENTS AND FORMS REQUIRED TO CLAIM INPUT TAX CREDIT

Each applicant will require the following documents to claim Input Tax Credit under GST:

1. Supplier issued invoice for supplying the services and goods or both according to GST law.
2. A debit note issued by the supplier to the recipient in case of tax payable or taxable value as specified in the invoice is less than the tax payable or taxable value on such supplies.
3. Bill of entry.
4. A credit notes or invoice which is to be issued by the ISD (Input Service Distributor) according to the GST invoice rules.
5. An invoice issued like the bill of supply under certain situations instead of the tax invoice. If the amount is lesser than INR 200 or in conditions where the reverse charges are applicable according to the GST law.
6. A supplier issued a bill of supply for goods and services or both as per the GST invoice rules.

The above documents prepared as per the GST invoice rules should be furnished while filing the GSTR-2 form. Failure to present these forms can lead to either rejection or resubmission of the request. Claiming Input Tax Credit Against Inputs Sent for Job Work As a registered taxable person you can also claim ITC on inputs sent to gob-workers if the following conditions are satisfied:

1. You should receive such input back within 1 year.
2. If the inputs involved are capital goods, then you should get such inputs back within 3 years.
3. If you fail to receive inputs within the above stated time period, then you will have to pay an amount equal to ITC claimed along with interest.
4. However, you are still allowed to reclaim ITC if inputs or capital goods are received back from the place of business.

15.5 INPUT TAX CREDIT ON SUPPLY OF CAPITAL GOODS

1. A registered taxable person is liable to pay tax on such a supply of capital goods on which ITC has already been claimed.
2. This amount should be equal to ITC claimed after reducing it by prescribed percentage points or the tax applicable on the transaction value of such capital goods, whichever is higher.

15.6 ITC IS NOT AVAILABLE TO BE CLAIMED IN THE FOLLOWING CASES, U/S17 (5)

1. Motor Vehicles and other conveyances are not eligible for ITC except in some cases;
2. You cannot claim ITC for goods & service for beauty treatment, health mainly used for personal purposes.
3. If you have acquired goods & services under a contract which results in construction of immovable property other than plant & machinery
4. If you have paid tax on goods & services under GST composition scheme.
5. If goods & services have been used to build immovable property other than plant & machinery & such property is not transferred.
6. Works Contract Services when supplied for construction of an immovable property, (other than plant & machinery) is not eligible, except where it is an input service for further supply of works contract service
7. If depreciation has been claimed on the cost of capital goods, then they are not eligible for Input Tax credit.
8. Goods or services or both received by a non-resident taxable person are not eligible for input tax credit, except on goods imported by him;
9. Goods or services or both used for personal consumption are not eligible for ITC;
10. Goods lost, stolen, destroyed, written off or disposed off by way of gift or free samples are not eligible for ITC;
11. No ITC will be allowed if depreciation have been claimed on Tax component of capital goods.

15.7 REVERSAL OF INPUT TAX CREDIT

1. Proportionate amount of ITC will be reversed if goods or services are used for business or non-business purposes.
2. Where the recipient fails to pay the amount of value of supply along with the tax payable thereon within a period of 180 days from the date of invoice by the supplier, an amount equal to ITC availed by the recipient;
3. Reversal of ITC if goods or services become wholly exempt or GST registration cancelled;
4. Reversal of ITC if taxable person switches to composition Scheme.

15.8 ITC PROVIDED BY INPUT SERVICE DISTRIBUTOR (ISD)

An input service distributor (ISD) can be the head office (mostly) or a branch office or registered office of the registered person under GST. ISD collects the input tax credit on all the purchases made and distribute it to all the recipients (branches) under different heads like CGST, SGST/UTGST, IGST or cess.

15.8.1 Matching Mechanism for ITC Monitoring

1. A matching mechanism has been developed to make sure there is no duplication in claiming ITC.
2. It ensures that inward supplies return filed by receiver matches outward supplies returns filed by supplier.
3. Matching mechanism also helps in matching ITC claims with customs paid where goods are imported by registered taxable person.
4. Any discrepancy which arises post verification is intimated to both parties so that they can make necessary corrections within the prescribed time frame.

15.9 PRE-REQUISITES TO CLAIM INPUT TAX CREDIT

The following conditions have to be met to be entitled to Input Tax Credit under the GST scheme:

1. One must be a registered taxable person.
2. One can claim Input Tax Credit only if the goods and services received is used for business purposes.
3. Input Tax Credit can be claimed on exports/zero rated supplies and are taxable.
4. For a registered taxable person, if the constitution changes due to merger, sale or transfer of business, then the Input Tax Credit which is unused shall be transferred to the merged, sold or transferred business.
5. One can credit the Input Tax Credit in his Electronic Credit Ledger in a provisional manner on the common portal as prescribed in model GST law.
6. Supporting documents – debit note, tax invoice, supplementary invoice, are needed to claim the Input Tax Credit.
7. If there is an actual receipt of goods and services, an Input Tax Credit can be claimed.
8. The Input Tax should be paid through Electronic Credit/Cash ledger.
9. Person claiming the ITC has to furnish the returns.
10. Full Credit on capital goods will be allowed in the year of purchase itself.

15.9.1 Tax Invoice

A tax invoice is one of those commercial documents that play a vital role in the trading process. Typically, tax invoices serve as a reminder of outstanding payment and are considered as bills under normal circumstances. Businesses need to become familiar with the importance and prospect of the document to use it in their favour.

It is a legal document sent by a GST registered dealer to another. This invoice states the amount of tax to be paid and helps purchasers claim the Input Tax Credit. Typically, it is issued when goods are sold with the objective of resale, and the buyer is GST registered.

A tax invoice serves as a summary that proves useful while reporting GST monthly, quarterly or on an annual basis. At the end of a fiscal year, tax invoices are sent to relevant tax authorities.

The importance of tax invoices varies from one country to another as it is used for several purposes. It must be noted that tax invoices are different from tax receipts and prove useful under different circumstances.

15.9.2 When to Create an Invoice?

Invoice can be created once the supply of goods / service is made or advance for supply of goods / service is received. In case of continuous supply of goods or service, invoice can be raised within a prescribed period from the date of completion of a milestone or as per agreement. It is best to create an invoice as early as possible to ensure timely payment is made by the buyer. However, it is important to note that once an invoice is created, a tax liability is also created. Hence, it is recommended that invoice be raised only for those good/services for which payment is likely or has already been made.

15.9.3 Invoicing Best Practices

Invoices can be raised in triplicate with an original provided to the buyer, duplicate for transporter, triplicate for supplier and an extra copy, if required.All invoices must be supported by purchase order of the buyer, packing list (if applicable) and delivery challan. Invoice should be authenticated by an authorised signatory of the supplier.

15.9.4 The Format of a Tax Invoice?

Though there may not be a standard **tax invoice format**, a legitimate invoice comprises these following information –

- Unique **tax invoice** number
- The supplier’s name, address and GSTIN
- Date of issuance
- The recipient’s name, address and GSTIN (in case the recipient is registered)
- HSN code of goods or services
- Number and unit of goods
- The total value of goods or services
- Description of the goods or services
- Taxable value after discount adjustment
- Applicable GST rate
- Amount of tax stating the breakup of applicable taxes and cess
- Name of the place and destination of sold goods
- Delivery address in case it is not the same as the place of supply
- If GST will be paid on reverse charge basis
- Signature of the supplier
- HSN code if the turnover is over Rs. 1.5 Crore

In case the recipient is unregistered, and the bill in question is over Rs. 50,000 then the taxinvoice must state –

- The recipient’s name and address
- Delivery address
- State name and code

15.9.5 Importance of Tax Invoices

Typically, a tax invoice is considered vital for the efficient functioning of the GST system. The following emphasises the importance of tax invoices under the same context:

1. They back up a GST registered person's input tax credit claim made on standard-rated purchases.
2. Helps to determine the supplies that should be included in a given taxable period.
3. The document is compulsory to avail input tax credit.
4. Allows determining when the vendor can claim the input tax as per the tax invoice received from his/her supplier.
5. The invoice date helps to ascertain when GST will be taken into account by a registered individual on the supply of goods.

15.10 DISTRIBUTION OF CREDIT

One of the fundamental features of GST is the seamless flow of input credit across the chain (from the manufacture of goods till it is consumed) and across the country. In this article, we will understand the ITC rules for input service distributors.

The concept of Input Service Distributer (ISD) under GST is a legacy carried over from the service tax regime. It is an office meant to receive tax invoices towards receipt of input services and further distribute the credit of CGST, SGST/UTGST or IGST to supplier units (having the same PAN) proportionately.

The CGST Rules, 2017 prescribes the procedural conditions to be complied with by ISD, the Manner and Quantum of Input tax credit (ITC) to be distributed by Input Service Distributor to the eligible recipients, the invoice to be issued, return to be filed by ISD and how to deal with ITC on the credit and debit notes issued to the ISD.

According to section 2(61), Input Service Distributor means: -

1. An office who supplies goods or services or both, and
2. Receives input services with a valid invoice as per section 31, and
3. Issues a prescribed document for the purpose of distribution of credit of IGST, CGST, SGST or UTGST on the said services to a taxable supplier of goods or services or both having the same Permanent Account Number (PAN) of that of the said office.

15.11 CONDITIONS FOR DISTRIBUTION OF INPUT TAX CREDIT BY AN ISD

The following are the conditions applicable for distribution of input credit by an ISD:

1. An ISD invoice clearly indicating 'issued only for distribution of input tax credit', should be issued by the distributor to the recipient of credit. The unit to which the input tax credit is distributed is referred as the 'Recipient of credit'. The tax invoice should contain the following details;

    - Name, address, and GSTIN of the Input Service Distributor
    - A consecutive serial number containing only alphabets and/or numerals, unique for a financial year
    - Date of its issue
    - Name, address, and GSTIN of the supplier of services, the credit in respect of which is being distributed, and the serial number and date of invoice issued by such supplier

- Name, address, and GSTIN of the recipient to whom the credit is being distributed
- The amount of credit distributed, and

2. Signature or digital signature of the supplier or his authorized representative The amount of credit distributed shall not exceed the amount of credit available for distribution.
3. The input tax credit available for distribution in a month shall be distributed in the same month, and the details of the same shall be furnished in Form GSTR -6.
4. The input tax credit should be distributed only to that branch which has consumed the input services. Let us understand this with an example:

Top-In-Town Home Appliances Ltd, is located in Bangalore, Karnataka. They also have branches located in Mysore (Karnataka), Chennai (Tamil Nadu), and Mumbai (Maharashtra). The unit in Bangalore is the Head office and they procure common services in bulk which are used by the other branches too.

Top-In-Town Home Appliances Ltd (HO) receives an invoice of Rs.1,00,000 + GST of Rs.18,000 towards advertisement services provided exclusively to the Mysore branch.
The total credit of Rs.18,000 will be distributed only to the Mysore branch.

The credit of tax paid on input services, availed by more than one recipient of credit or all, should be distributed only amongst such recipients or all recipients.

15.12 PROCEDURE FOR DISTRIBUTION OF INPUT TAX CREDIT BY INPUT SERVICE DISTRIBUTOR

1. An Input Service Distributor shall distribute input tax credit in the manner and subject to the conditions specified below-
   a The input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in FORM GSTR-6 in accordance with the provisions of Chapter ---- (Return Rules);
   b The Input Service Distributor shall, in accordance with the provisions of clause (d), separately distribute the amount of ineligible input tax credit (ineligible under the provisions of sub-section (5) of section 17 or otherwise) and the amount of eligible input tax credit;
   c The input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);
   d The input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of sub-section (2) of section 20 to one of the recipients ‘R1’, whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, “C1”, to be calculated by applying the following formula:-
   $C1 = (t1 \div T) \times C$

where,
"C"=is the amount of credit to be distributed,
"t1" =is the turnover, as referred to in section 20, of person R1 during the relevant period, and
"T" = is the aggregate of the turnover, during the relevant period, of all recipients to whom the input service is attributable in accordance with the provisions of section 20,;

e. The input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient; The input tax credit on account of central tax and State tax or Union territory tax shall,
   1. in respect of a recipient located in the same State or Union territory in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax or Union territory tax respectively;
   2. in respect of a recipient located in a State or Union territory other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax or Union territory tax that qualifies for distribution to such recipient in accordance with clause (d);

f. The Input Service Distributor shall issue an ISD invoice, as prescribed in sub-rule (1) of rule invoice-7, clearly indicating in such invoice that it is issued only for distribution of input tax credit.
g. The Input Service Distributor shall issue an ISD credit note, as prescribed in subrule (1) of rule Invoice-7, for reduction of credit in case the input tax credit already distributed gets reduced for any reason.
h. Any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (f) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) above and such credit shall be distributed in the month in which the debit note is included in the return in FORM GSTR-6.
i. Any input tax credit required to be reduced on account of issuance of a credit note to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which input tax credit contained in the original invoice was distributed in terms of clause (d) above, and the amount so apportioned shall be,-
   1. reduced from the amount to be distributed in the month in which the credit note is included in the return in FORM GSTR-6; or
   2. added to the output tax liability of the recipient where the amount so apportioned is in the negative by virtue of the amount of credit under distribution being less than the amount to be adjusted.

1. If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process prescribed in clause (j) of sub-rule (1) shall apply, mutatis mutandis, for reduction of credit.
2. Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the ISD credit note specified in clause (h) of sub-rule (1), issue an ISD Invoice to the recipient entitled to such credit and include the ISD credit note and the ISD Invoice in the return in FORM GSTR-6 for the month in which such credit note and invoice was issued.

15.13 RECOVERY PROCEDURE FOR WRONGFUL DISTRIBUTION OF CREDIT BY ISD

GST Act provides that the following shall be deemed to be an inappropriate distribution of tax credit by Input Service Distributor:

1. Credit distributed to all or any recipient in excess of the amount available for distribution. Distributed in an inappropriate ratio to all or any recipient.
2. Distributed in excess to what a supplier is entitled to and shall be recovered from such recipient(s) along with interest and the provisions of ‘Demand and Recovery’ shall apply for effecting such recovery.

15.14 SUMMARY

Creation of an Act is somewhat easy than the implementation or execution of the Act. Even it is so simple though of collection of tax in the form of GST but understanding and execution is very difficult. Tax Credit Input is a concept which understand easily and not implementation easy task. Various records procedures are required for it. Claiming of this one is very complex. It has included supply, value and time of supply etc. Some pre requisition are also required to claim the input tax credit.

15.15 KEY WORDS

Input service distributor
GSTIN

15.16 SELF-ASSESSMENT QUESTIONS

1. What are the features of input tax credit?
2. What are the documents required to claim input tax credit?
3. Which are not available for ITC?
4. What are the pre – requisites for ITC?
5. What is importance of tax invoice?
6. What are the Conditions for distribution of input tax credit by an ISD?
7. What is the procedure for distribution of ITC by ISD?
8. What is the Recovery procedure for wrongful distribution of credit by ISD?

15.17 FURTHER READINGS

1. GST Input Tax Credit - V.S. Datey
2. A Practitioner's Guide to Input Tax Credit under GST - Alok Pareek
3. Input tax credit under GST law and practice - AVADHESH OJHA

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LESSON – 16
LEVYI AND COLLECTION, LIABILITY, RESERVE CHARGE

LEARNING OBJECTIVES

To understand the structure of the collection of GST
To get familiarity on procedure of collection of tax
To understand the liability of the tax payment
To able to know the reserve charge concept in GST

STRUCTURE

16.1 INTRODUCTION

Goods and Services Tax (GST) has been identified as one of the most important tax reforms in post-independence. GST is a path breaking indirect tax reform which will create a common national market by removing inter-state trade barriers.GST has subsumed (absorbed or include) multiple indirect taxes imposed by central and state governments. Power to levy any tax is derived from the Constitution of India. As per article 265 of The Constitution of India no tax shall be imposed or collected except by the authority of any Law. The charging section is the must in any Taxing Law for levy(impose) and collection (payment) of taxes. The very basic for the charge of tax in any taxing statute is taxable event, i.e., the point of time when tax will be imposed. Under pre-GST regime, each indirect taxes have separate taxable event (such as manufacture in case of Excise Duty, provision of services in case of Service Tax, sale of goods in case of VAT/ CST, etc.) Under the GST regime, the taxable event is supply of goods or services or both.

16.2 TYPES OF GST

<table>
<tr><th>Intra – State supply</th><th>Inter-state supply</th></tr>
<tr><td>(Supply within state)
Basis of charge as per CGST Act, 2017
Basis of charge as per respective SGST Act, 2017/ UTGST Act, 2017
Note: Most of the provisions are same as CGST Act, 2017</td><td>(Supply from one state to another state)
Basis of charge as per IGST Act, 2017 PLUS</td></tr>
</table>

16.3 LEVY AND COLLECTION AS PER CGST ACT, 2017

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(3) The Government may, on the recommendations of the Council, by notification,[5] specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(4) The Government may, on the recommendations of the Council, by notification,[7] specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

(5) The Government may, on the recommendations of the Council, by notification,[3] specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:Provided that where an electronic commerce operator does not have a

physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

16.4 COMPOSITION LEVY

The composition levy is an alternative method of levy of tax designed for small taxpayers. The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Moreover, it is optional and the eligible person opting to pay tax under this scheme can pay tax at a prescribed percentage of his turnover every quarter, instead of paying tax at normal rate. However, to qualify for this scheme, he has to fulfil the mandatory conditions prescribed under the law, one of which is the limit of annual turnover.

1. Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose 5 aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding:
   - a One per cent. of the turnover in State or turnover in Union territory in case of a manufacturer,
   - b Two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and
   - c Half per cent. of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed:
   - d Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, as may be recommended by the Council.
2. The registered person shall be eligible to opt under sub-section (1), if:—
   - a he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;
   - b he is not engaged in making any supply of goods which are not leviable to tax under this Act;
   - c he is not engaged in making any inter-State outward supplies of goods;
   - d he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
   - e he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

1. The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).
2. A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
3. If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

Note:

1. The Composition scheme is not available to supplier of services except restaurant service.
2. Taxable person whose all supplies of goods and services are within the state only are eligible. Taxable person who opts for this scheme will not be allowed to charge GST in their invoice. They will issue a bill of supply instead of Tax invoice. They are also not entitled to take input tax credit.
3. The scheme lapses on the day his aggregate turnover exceeds the specified aggregate turnover limit.
4. A registered taxable person having same PAN and multiple registrations in different states have to opt for the composition scheme for all states.

16.5 POWER TO GRANT EXEMPTION FROM TAX

1. Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

2. Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

3. The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

   Explanation: For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

16.6 WHO IS LIABLE TO PAY GST?

As per the provisions of the Act, the supplier of goods or services is liable to pay GST. However, in specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. Further, in some notified cases of intra-state supply of services, the liability to pay GST may be cast on e-commerce operators through which such services are supplied. Also Government Departments making payments to vendors above a specified limit [2.5 lakh under one contract as per S.51(1)(d)] are required to deduct tax (TDS) and E-commerce operators are required to collect tax (TCS) on the net value [i.e. aggregate value of taxable supplies of goods and/or services but excluding such value of services on which the operator is made liable to pay GST under Section 9(5) of the CGST Act, 2017] of supplies made through them and deposit it with the Government.

16.6.1 When does liability to pay GST arises?

Liability to pay arises at the time of supply of Goods as explained in Section 12 and at the time of supply of services as explained in Section13.The time is generally the earliest of one of the three events, namely receiving payment, issuance of invoice or completion of supply. Different situations envisaged and different tax points have been explained in the aforesaid sections.

16.7 THE FEATURES OF GST PAYMENT PROCESS

The payment processes under GST Act(s) have the following features:

1. Electronically generated challan from GSTN Common Portal in all modes of payment and no use of manually prepared challan.
2. Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax.
3. Convenience of making payment online.
4. Logical tax collection data in electronic format.
5. Faster remittance of tax revenue to the Government Account.
6. Paperless transactions.
7. Speedy Accounting and reporting.
8. Electronic reconciliation of all receipts.
9. Simplified procedure for banks.
10. Warehousing of Digital Challan.

16.7.1 How Can Payment Be Done?

Payment can be done by the following methods:

- Through debit of Credit Ledger of the tax payer maintained on the Common Portal – ONLY Tax can be paid. Interest, Penalty and Fees cannot be paid by debit in the credit ledger. Tax payers shall be allowed to take credit of taxes paid on inputs (input tax credit) and utilize the same for payment of output tax. However, no input tax credit on account of CGST shall be utilized towards payment of SGST and vice versa. The credit of IGST would be permitted to be utilized for payment of IGST, CGST and SGST in that order.

- In cash by debit in the Cash Ledger of the tax payer maintained on the Common Portal. Money can be deposited in the Cash Ledger by different modes, namely, E-Payment (Internet Banking, Credit Card, Debit Card); Real Time Gross Settlement (RTGS)/ National Electronic Fund Transfer (NEFT); Over the Counter Payment in branches of Banks Authorized to accept deposit of GST.

16.7.2 When Is Payment Of Taxes To Be Made By The Supplier?

Payment of taxes by the normal tax payer is to be done on monthly basis by the 20th of the succeeding month. Cash payments will be first deposited in the Cash Ledger and the tax payer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return. As mentioned earlier, payment can also be debited from the Credit Ledger. Payment of taxes for the month of March shall be paid by the 20th of April. Composition tax payers will need to pay tax on quarterly basis.

16.7.3 Extension of Time Limit

No, this is not permitted in case of self-assessed liability. In other cases, competent authority has been empowered to extend the time period or allow payment in instalments. (Section 80 of the CGST/SGST Act).

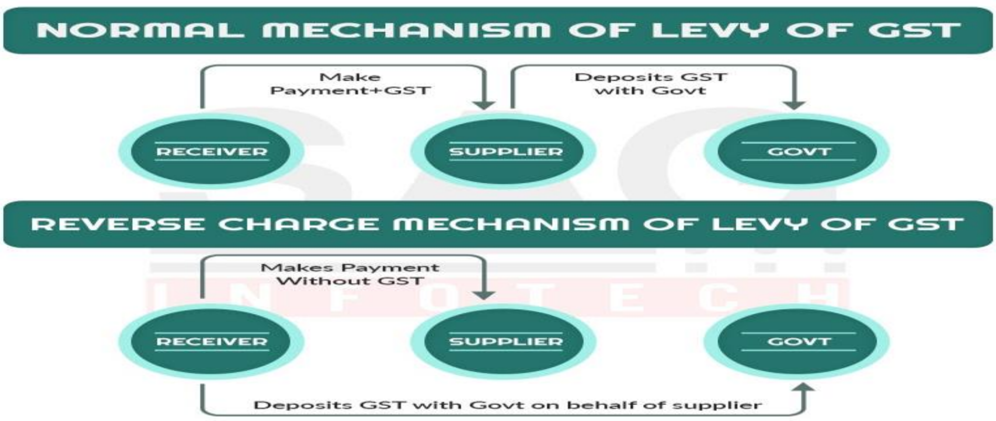
16.7.4 Consequences, If a Person Files the Return But Does Not Make Payment Of Tax

In such cases, the return is not considered as a valid return. Section 2(117) defines a valid return to mean a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

16.8 RESERVE CHARGE

the supplier of goods or services pays the tax on supply. Under the reverse charge mechanism, the recipient of goods or services becomes liable to pay the tax, i.e., the chargeability gets reversed.The objective of shifting the burden of GST payments to the recipient is to widen the scope of levy of tax on various unorganized sectors, to exempt specific classes of suppliers, and to tax the import of services (since the supplier is based outside India).

Note: Only certain types of business entities are subject to the reverse charge mechanism. Find out the business constitution of any GST number using the GST search tool.



16.8.1 When Is Reverse Charge Applicable?

Section 9(3), 9(4) and 9(5) of Central GST and State GST Acts govern the reverse charge scenarios for intrastate transactions. Also, sections 5(3), 5(4) and 5(5) of the Integrated GST Act govern the reverse charge scenarios for inter-state transactions. Let’s have a detailed discussion regarding these scenarios:

16.8.2 Supply of Certain Goods and Services Specified By the CBIC

As per the powers conferred in section 9(3) of CGST Acts, the CBIC has issued a list of goods and services on which reverse charge is applicable. The following are list of goods and services under reverse charge:

16.9 LIST OF GOODS UNDER RCM IN GST

S.No.	Description of supply of Goods	Supplier of Goods	Recipient of Goods
1	Cashew nuts (not shelled or peeled)	Agriculturist	Any registered person
2	Bidi Wrapper Leaves (tendu), Tobacco Leaves	Agriculturist	Any registered person
3	Silk Yarn	Manufacturer of silk yarn from raw silk or silk worm cocoons	Any registered person
4	Lottery	State Government, Union Territory or local authority	Lottery distributor or selling agent
5	Raw Cotton	Agriculturist	Any registered person
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union Territory or local authority	Any registered person
7	Purchase of priority sector lending certificate	Registered person	Any registered person

16.9.1 List of Services under RCM In GST

S. No	Description of supply of services	Supplier of services	Recipient of services	GST Rates
1	Goods Transport Agency (GTA) services by road	Goods Transport Agency	Any factory, society, cooperative society, registered person under GST, body corporate, partnership	5%

<table>
<tr><td></td><td></td><td></td><td>firm including AOP, casual taxable person located in the taxable territory</td><td></td></tr>
<tr><td colspan="5">Note:
<u>Notification No. 22/2017- CT (Rate) w.e.f. 22.08.2017</u> - If GTA opts to charge GST in his invoice and pays GST @ 12%, the recipient is not liable to pay GST under RCM.
<u>Notification No. 32/2017- CT (Rate) dated 13.10.2017</u>:- Services provided by GTA <u>to an unregistered person</u> (other than factory, society, co-operative society, body corporate, partnership firm, registered casual taxable person) shall be exempt from GST.
If a department of central/ state government/ union territory or local authority etc. (who has obtained registration under GST as TDS deductor) receives services of transportation by road from GTA, no GST is payable thereon.</td></tr>
<tr><td>2</td><td>Legal services provided directly or indirectly, by advocate including a senior advocate or firm of advocates</td><td>An individual advocate including a senior advocate or firm of advocates</td><td><u>Any business entity</u> located in the taxable territory shall be liable under reverse charge @ 18%.</td><td>18%</td></tr>
<tr><td colspan="5">Note: -
Meaning of Legal services: - ‘Legal services’ means any service provided in relation to advice, consultancy or assistance in any manner and includes representational services before any court, tribunal or authority.
<u>Notification No. 12/2017- CT (Rate) dated 28-06-2017</u>: - Legal services provided to a person other than business entity is fully exempted from GST. Further, Legal services provided to a business entity with turnover up to Rs. 20 Lakhs (Rs. 10 Lakhs in special category states) in preceding financial years shall also be exempted.
Services provided by senior advocate to any other advocate or firm of advocates are not exempt and are liable for GST under forward charge mechanism.
Firm of Advocates includes LLP registered under LLP Act, 2008.</td></tr>
<tr><td>3</td><td>Services provided by an arbitral tribunal to a business entity</td><td>An Arbitral Tribunal</td><td>Any business entity located in taxable territory.</td><td>18%</td></tr>
<tr><td colspan="5">Services provided by arbitral tribunal to a person other than business entity or to a business entity with aggregate turnover of up to Rs. 20</td></tr>
</table>

Lakhs (Rs. 10 Lakhs in special category states), shall be exempt from GST.				
4	Sponsorship services provided to any Body corporate or partnership firm	Any person	Any Body Corporate or partnership firm located in taxable territory.	18%
5	Services supplied by the Central Government, State Government, Union Territory or local authority to **<u>a business entity</u>** ***excluding:*** • Renting of immovable property • Services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government • Services in relation to an aircraft or vessel, inside or outside the precincts of a port or airport • Transport of goods or passengers	Central or State Government, Union Territory, Local Authority	Any Business Entity located in the taxable territory.	18%
5A	Renting of immovable property services by Central Government, State Government, Union Territory or Local	Central or State Government, Union Territory, Local Authority	Any person registered under GST	18%

	Authority to a person registered under GST			
5B	Transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project	Any Person	Promoter	
Note: **<u>Notification No. 6/2019- CT (Rate) w.e.f. 01-04-2019</u>: -** GST on development rights/ FSI to be paid by promoter w.e.f. 01-04-2019 under reverse charge.				
5C	Long Term Lease (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/ or periodic rent for construction of a project by a promoter.			18%
Note: **<u>Notification No. 6/2019- CT (Rate) w.e.f. 01-04-2019</u>: -** GST on long term lease by any person for construction project by a promoter shall be payable under reverse charge w.e.f. 01-04-2019 @18%.				
6	Services supplied by a director of a company or a body corporate to the said company or body corporate	A director	The company or body corporate located in the taxable territory.	18%
7	Services by an insurance agent to any person carrying on insurance business	Insurance Agent	Any person carrying on insurance business	18%
8	Recovery Agent Services to a bank or financial institution or NBFC	Recovery Agent	Bank or Financial Institution or NBFC	18%
9	Copyright services by a music composer,	Music Composer, Photographer, artist or the like	Music Company, producer or the like located in the taxable	12%

	photographer, artist or like relating to original dramatic, musical or artistic works to a music company, producer or the like		territory	
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under the Copyright Act, 1957 relating to original literary works to a publisher	Author of original literary work	Publisher located in the taxable territory.	12%

Note: -

- If the author is registered under CGST Act, he can exercise the option to pay tax under forward charge. For this, he will have to file a declaration in form at Annexure-I that he exercises the option to pay tax under forward charge and that he shall not withdraw the option within a period of 1 year from the date of exercising such option. Further, the author will have to make declaration in the invoice issued by him in Form Inv-1 to the publisher.
- This entry has been inserted w.e.f. 01-10-2019. This means that till 01-10-2019, the above service was only covered under reverse charge mechanism. However, For F.Y. 2019-20, the option to pay tax under forward charge shall be exercised by filing declaration upto 31.10.2019 for the remaining part of the year (1-11-2019 to 31-03-2020).

10	Supply of services by the members of Overseeing committee to RBI	Members of Overseeing Committee constituted by RBI	Reserve Bank of India	18%
11	Supply of services by individual Direct Selling Agents (DSA) **other than** a body corporate, partnership or LLP to a bank or NBFC	Individual DSA other than a body corporate, partnership or LLP to a bank or NBFC	Banking company or NBFC located in taxable territory	18%
12	Services provided by a business facilitator to a banking company	Business Facilitator	Banking company located in taxable territory	18%
13	Services provided by an agent of business correspondent to business	An agent of business correspondent	Business Correspondent located in taxable territory	18%

	correspondent			
14	Security services (by way of supply of security personnel)	Any person other than body corporate	Registered Person	18%
Note: Nothing contained in this entry shall apply to: - • A department or establishment of Central/ State Government or Union Territory or local authority or Government agencies, who have taken registration as 'Tax Deductor' u/s 51 of CGST Act and not for supply of goods or services and • Registered person registered under Composition Scheme u/s 10 of CGST Act.				
15	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient	Any person other than body corporate, who supplies the service to a body corporate and does not issue an invoice charging CGST @ 6% plus SGST to the service recipient	Anybody corporate located in the taxable territory	5%
16	Services of lending of securities under Securities Lending Scheme, 1997 of SEBI	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme of SEBI	Borrower i.e. a person who borrows the securities under the scheme through an approved intermediary of SEBI	18%

16.9.2 Supply from an Unregistered Dealer to a Registered Dealer

Section 9(4) of the CGST Act states that if a vendor is not registered under GST supplies goods to a person registered under GST, then reverse charge would apply. This means that the GST will have to be paid directly by the receiver instead of the supplier. The registered buyer who has to pay GST under reverse charge has to do self-invoicing for the purchases made.

In intra-state purchases, CGST and SGST have to be paid under reverse charge mechanism (RCM) by the purchaser. Also, in the case of inter-state purchases, the buyer has to pay the

IGST. The government notifies the list of goods or services on which this provision gets attracted from time to time.

In the real estate sector, the government notified that the promoter should buy inward supplies to the extent of 80% from registered suppliers only. Suppose the purchases from registered dealers' shortfall 80%, then the promoter should GST at 18% on the reverse charge to the extent short of 80% of inward supplies. However, if the promoter purchases cement from an unregistered supplier, he must pay tax at 28%. This calculation is to be done irrespective of the 80% calculation.

The promoter is liable to pay GST on reverse charge basis on TDR or floor space index (FSI) supplied on or after 1st April 2019. Even if a landowner is not engaged in a regular business of land-related activities, transfer of development rights by such an individual to the promoter is liable to GST as it is considered as supply of service under section 7 of CGST Act. Also, in case of outward supply of TDR by one developer to another, GST is applicable at 18% on reverse charge.

16.9.3 Supply of Services through an E-Commerce Operator

All types of businesses can use e-commerce operators as an aggregator to sell products or provide services. Section 9(5) of the CGST Act states that if a service provider uses an e-commerce operator to provide specified services, the reverse charge will apply to the e-commerce operator and he will be liable to pay GST. This section covers the services such as:

- Transportation services to passengers by a radio-taxi, motor cab, maxi cab and motorcycle. For example – Ola, Uber.
- Providing accommodation services in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration due to turnover exceeding the threshold limit. For example – Oyo and MakeMyTrip.
- Housekeeping services, such as plumbing and carpentering, except where the person supplying such services through electronic commerce operators are liable for registration due to turnover beyond the threshold limit. For example, Urban Company provides the services of plumbers, electricians, teachers, beauticians etc. In this case, Urban Company is liable to pay GST and collect it from the customers instead of the registered service providers.

Also, suppose the e-commerce operator does not have a physical presence in the taxable territory. In that case, a person representing such an electronic commerce operator will be liable to pay tax for any purpose. If there is no representative, the operator will appoint a representative who will be held liable to pay GST.

16.10 TIME OF SUPPLY UNDER RCM

A. In case of reverse charge, the time of supply for goods shall be the earliest of the following dates:
    1. the date of receipt of goods.
    2. the date of payment.
    3. the date immediately after 30 days from the date of issue of an invoice by the supplier

If it is not possible to determine the time of supply, the time of supply shall be the date of entry in the books of account of the recipient.

Illustration:

Date of receipt of goods 15th May 2022
Date of invoice 1st June 2022
Date of entry in books of receiver 18th May 2022
The time of supply of service, in this case, will be 15th May 2022.

B. Time of supply in case of services

In case of reverse charge, the time of supply shall be the earliest of the following dates:

- The date of payment.
- The date immediately after 60 days from the date of issue of invoice by the supplier.

If it is not possible to determine the time of supply, the time of supply shall be the date of entry in the books of account of the recipient.

Illustration:

- Date of payment 15th July 2021
- Date immediately after **60** days from the date of **issue of the invoice** (Suppose the date of the invoice is 15th May 2021, then 60 days from this date will be 14th July 2021)
- Date of entry in books of receiver 18th July 2021

The time of supply of service, in this case, will be 14th July 2021

16.11 REGISTRATION RULES UNDER RCM

Section 24 of the CGST Act, 2017 states that a person liable to pay GST under the reverse charge mechanism have to compulsorily register under GST. The threshold limits of Rs.20 lakh or Rs.40 lakh, as the case may be, will not apply to them.

16.12 WHO SHOULD PAY GST UNDER RCM?

The recipient of goods/services should pay GST under RCM. However, as per the provisions of GST law, the person supplying the goods must mention in the tax invoice whether tax is payable under RCM.

The following points should be kept in mind while making GST payments under RCM:

- The recipient of goods or services can avail of the ITC on the tax amount paid under RCM only if such goods or services are used for business or furtherance of business.
- A composition dealer should pay tax at the normal rates and not the composition rates while discharging liability under RCM. Also, they are ineligible to claim any input tax credit of tax paid.
- GST compensation cess can apply to the tax payable or paid under the RCM.

16.13 INPUT TAX CREDIT (ITC) UNDER RCM

A supplier cannot take the GST paid under the RCM as ITC. The recipient can avail of ITC on GST amount paid under RCM on receipt of goods or services, only if such goods or services are used or will be used for business purposes.

The recipient cannot use the ITC to pay output GST on goods or services under reverse charge and should be paid in cash only.

16.14. SUMMARY

Goods and Services Tax (GST) is one of the most important tax reforms in post-independence. GST is a path breaking indirect tax reform which will create a common national market by removing inter-state trade barriers.GST has multiple indirect taxes imposed by central and state governments. Power to levy any tax is derived from the Constitution of India i.e. article 265 of The Constitution. The charging section is the must in any Taxing Law for levy(impose) and collection (payment) of taxes. The very basic for the charge of tax in any taxing statute is taxable event, i.e., the point of time when tax will be imposed.

16. 15. KEY WORDS

Intra – state supply
Inter – state supply
Composition levy
Common portal

16.16. SELF – ASSESSMENT QUESTIONS

1. What are the features of GST payment process?
2. When the GST made by the supplier?
3. What is reserve charge? When it is applicable?
4. Who Should Pay GST Under RCM?
5. What are the powers of grant exemption from GST?

16.17. FURTHER READINGS

1. Clear tax GST – by Annapoona
2. GST Tariff of India – by Jain
3. GST Waybill – by V.S. Datty

Dr. K. SHIVAJI

LESSON – 17
COMPOSITE AND MIXED SUPPLIES
&
NON – TAXABLE SUPPLIES

LEARNING OBJECTIVES

To understand the supply concepts under GST Act
To able to grade the composite and mixed supplies
To know the different exemptions under GST Act
To understand the various lists of exemptions

STRUCTURE

17.1 INTRODUCTION

GST is payable on supply of goods/ services at a rate notified by the government. In case of supply of single goods/ services poses no problem for determination of applicable GST rate, if they are clearly identifiable. However, some of the supplies are a combination of goods/combination of services/ combination of services and goods wherein each individual component of such supply attracts a different rate of tax. In such cases, determination of applicable rate of tax to be levied on such supplies may be a challenge. To address this issue, the GST law categorises such supplies into composite supplies and mixed supplies.

Composite Supply U/s 2(30) of CGST Act, 2017 Composite supply means a supply –

- Made by a taxable person
- to a recipient

- consisting of two or more taxable supplies of goods or services or both, or any combination thereof,
- which are naturally bundled, and
- supplied in conjunction with each other in ordinary course of business,
- and out of all supplies, one of which is principal supply. (Principal supply means predominant element of composite supply for which other supplies forming part of composite supply play an ancillary role)

Examples

1. Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is the principal supply.
2. When a customer purchases a car and he also gets warranty and a maintenance contract with the car, it is a composite supply. In this example, supply of car is the principal supply, whereas warranty and maintenance services are ancillary.
3. An air travel ticket from Delhi to Chennai costing Rs. 12,000 may include carriage of luggage, providing food on board and free insurance. In this case, the transport of passenger, constitutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.
4. When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance service are ancillary.
5. A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation is the principal supply and shall, therefore, be treated as supply of providing hotel accommodation.

As per section 8(a) of CGST Act, the taxability in case of composite supply shall be determined on the basis of rate applicable to the principal supply. It may be noted that the following composite supplies shall be treated as a supply of services:—

(a) Works contract as defined in section 2(119);

(b)Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

17.2 DETERMINATION OF A COMPOSITE SUPPLY

A supply of goods and/or services will be treated as composite supply if it fulfills the following criteria:

1. Supply of 2 or more goods or services together;
2. It is a natural bundle, i.e., goods or services are usually provided together in the normal course of business.
3. They cannot be separated.
4. One of the supplies must be principal supply.

17.3 TAX LIABILITY FOR COMPOSITE SUPPLY

As per Sec. 8 of CGST Act, 2017 a Composite Supply, comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.

Accordingly, the tax rate applicable for the goods or services which is treated as principal supply is the rate of tax for Composite Supply.

17.4 MIXED SUPPLY

As per Sec. 2(74) mixed supply means –

1. Two or more individual supplies of goods or services or any combination thereof,
2. Made in conjunction with each other
3. By a taxable person
4. For a single price
5. Where such supply does not constitute a composite supply.

17.4.1 Condition for Mixed Supply

Any supply of goods or services will be treated as mixed supply if it satisfies the following conditions simultaneously:

1. Supply of two or more individual supply.
2. It is not naturally bundled i.e., goods or services are usually not provided together in normal course of business. They can be separated.
3. None of the supplies is principal supply.

17.5 GUIDING PRINCIPLES FOR DETERMINE A SUPPLY AS COMPOSITE SUPPLY OR MIXED SUPPLY

Following guiding principles could be adopted to determine whether it would be a Composite Supply or Mixed Supply.

Description	Composite supply	Mixed supply
Naturally bundled	Yes	No
Supplied together	Yes	Yes
Can be supplied separately	No	Yes
One is predominant supply for recipient	Yes	No
Each supply priced separately	No	No

17.6 CRITERIA FOR DETERMINING NATURAL BUNDLE

1. Perception of customer about the supply.
2. Market trend i.e. how other supplier supplies.
3. Nature of ingredient of supply.

Illustration Problem 1:

R is selling hampers consisting of canned foods, sweets, chocolates, cakes and dry fruits on diwali and other festivals. What is the kind of supply and at which rate will GST be payable by R?

Solution: The supply of hamper consisting of canned foods, sweets, chocolates, cakes and dry fruits if sold for a single price shall be a mixed supply and the GST rate shall be rate of any of these items which attracts the highest rate of tax. However, if each of the items is supplied separately and is not dependant on any other item, it shall not be mixed supply and GST rate applicable shall be the rate applicable for each supply.

Illustration Problem 2:

R dispatched chocolates to G from Delhi to Punjab after getting it packed and paying insurance charges of such goods. What is the kind of such supply of chocolates and what rate will GST be applicable?

Solution : Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is the principal supply. GST rate applicable in this case shall be the GST rate of chocolates.

Illustration Problem 3:

R purchases air travel ticket of Air India from Delhi to Bangalore for Rs. 9,000 which includes free food on board and free insurance. What is the kind of such supply and what rate will GST be applicable?

Solution: Air travel ticket from Delhi to Bangalore costing Rs. 9,000 includes free food on board and free insurance. Therefore, it is a case of composite supply. In this case, the transport of passenger, institutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary. Hence, GST rate applicable in this case shall be the GST rate of transportation of passenger by air.

Illustration Problem 4:

Mr. Guna being a dealer in laptops, sold laptop to a customer in Laptop Bag, for Rs. 55,000. CGST and SGST for laptop @ 18% and for laptop bag @ 28%. What would be the rate of tax leviable? Also find the GST liability.

Solution: If the laptop bag is supplied along with the laptop in the ordinary course of business, the principal supply is that of the laptop and the bag is an ancillary. Therefore, it is a composite supply and the rate of tax would that as applicable to the laptop. Hence, applicable rate of GST 18% on Rs.55,000. CGST is Rs.4,950 and SGST is Rs. 4,950.

17.7 EXEMPTED GOODS UNDER GST

Under GST, there are various types of supplies which creates confusion for the end user. While the end result of all these supplies is the same, i.e., GST is not applicable on the supply, but it is important to know the difference especially for the purpose of filing correct GST returns and accurate claim of ITC.

17.7.1 Zero Rated Supply

As per Section 16 of Integrated Goods and Service Tax Act, zero-rated supplies mean: –

- Export of goods or services or both; or
- Supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Example: export of mobile phones to Australia, providing bookkeeping services to a company located in New York.

By zero rating it is meant that the entire supply chain of a particular zero-rated supply is tax-free i.e. there is no burden of tax either on the input tax side or on the output side. This is in contrast with exempted supplies, where only output is exempted from tax but tax is levied on the input side. The essence of zero rating is to make Indian goods and services competitive in the international market by ensuring that taxes do not get added to the cost of exports.

No list of goods and/or services supplied is prescribed under zero-rated supply as these are goods and/or services which are generally taxed when sold within the country.

As per sub section (3) of Section 16 of Integrated Goods and Service Tax Act, a registered person making zero-rated supply shall be eligible to claim a refund under either of the following option, namely: –

- he may supply goods or services or both under bond or Letter of Undertaking (LOU), subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax (IGST) and claim refund of unutilised input tax credit of Central tax (CGST), State tax (SGST) / Union territory tax (UTGST) and integrated tax (IGST); or
- he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim a refund of such tax paid on goods or services or both supplied.

GST law allows the flexibility to the exporter (which will include the supplier making supplies to SEZ) to claim refund upfront as integrated tax (by making supplies on payment of tax using ITC) or export without payment of tax by executing a Bond/LUT and claim refund of related ITC of taxes paid on inputs and input services used in making zero-rated supplies.

Note: – As per sub section (2) of Section 16 of Integrated Goods and Service Tax Act, a registered person shall be eligible to claim a refund for zero-rated supplies even such supply is non-taxable or even exempt supply.

17.7.2 Nil-Rated Supply

Supply of goods or services or both on which nil or 0% GST rate is applicable are called NIL rated supply. Schedules I of the GST act contains the goods which are nil-rated supply. For example, cereals, fresh fruits, and vegetables, salt, natural honey, milk, human blood etc.

No input tax credit of inputs and/or input services used in providing nil rated supply is available. In other words, if any GST is paid on the goods or services or both used in providing nil rated supply then such GST credit is not available to the registered dealer.

17.7.3 Non-GST Supply or Non-Taxable Supply

Supply of goods or services or both which are outside the purview of GST Act. In other words, they are not taxable under the GST Act and may be chargeable to tax under any local sales tax law or any other act.

Currently, the only goods falling under this category include petroleum products and alcohol for human consumption.

17.7.4 Exempted Supply

Exempted supply means the supply of goods or services or both which attracts nil rate of tax or which are specifically exempt from GST through government notification and includes non-taxable supply. Thus, it is the supply of goods or services or both that do not attract GST. For example, live animals (except horses), cereals, puja samagri etc.

No input tax credit can be claimed with respect to inputs and/or input services used for making exempt supplies.

Comparative table for Zero – rated, Nil – rated and Non – GST supplies:

Particulars	Zero-Rated Supplies	Nil-Rated Supply	Non-GST Supply	Exempt Supply
Meaning	Supply which is meant for Export orto Special Economic Zone developer or a Special Economic Zone unit.	Supply which attracts 0% GST rate.	Supply which is outside the purview of GST Act.	Supply which attracts nil rate of tax or which are specifically exempt from GST through government notification and includes non-taxable supply.
GST Applicability	(i) Supply good or services without payment of GST using LOU and claim a refund of unutilised GST. (ii) Supply good or services by paying IGST and claim a refund of such IGST paid.	GST is not applicable on supply.	GST is not applicable on supply.	GST is not applicable on supply.
Input Tax Credit Availability	Input tax credit can be claimed.	No input tax credit is available.	No input tax credit is	No input tax credit is available.
			available.	
Cover under GST Ambit	Yes	Yes	No	Yes (for nil rated and exempt supply)No (for non-taxable supply)

17.8 EXEMPTIONS OF SUPPLY UNDER GST

There are three types of supplies that can enjoy exemption under GST. They are as follows:

- Supplies taxable at 0% tax or nil tax rate.
- Whole or partial exemption of supplies under CGST or SGST.
- Supplies under Section 2(78).

Note: One cannot utilise the input tax credit applicable to these supplies.In addition to this, one must follow the list mentioned below to understand the differences between nil-rated, zero-rated, exempt and non-GST supplies.

17.8.1 Types of Exemption in GST

Given below are the three types of exemptions in GST:

- **Absolute:** Exemptions without any conditions are an absolute exemption. For example, services by the RBI.
- **Conditional:** Certain conditions are applicable to some exemptions. Services by hotels, clubs, etc., with a statement of accommodation unit less than Rs.1000 per day, fall under a conditional exemption.
- **Partial:** Unregistered persons supplying goods within states (intrastate) to a registered individual can enjoy tax exemption under reverse charge only if the aggregate value of a supply does not exceed Rs.5000 per day.

17.9 LIST OF GST EXEMPTION

Goods, services, supplies, businesses, and individuals must register for GST provided they fulfil certain conditions. However, there are few exceptions to this. In the following section, you will find a list mentioning all the items, businesses, and taxpayers who can avail of tax exemption under the Goods and Services Tax regime.

17.9.1 GST Exemption from Registration

The following category of taxpayers need not register for GST:

- Individuals belonging to the threshold exemption limit.
- Exempt suppliers of goods and services.
- A person supplying non-GST goods and services.
- Taxpayers engaging in activities other than the supply of goods or services.
- Agriculturists.
- Ones supplying goods covered under reverse charge.

Therefore, if you belong to the above list, you can enjoy a full GST exemption.

17.9.2 GST Exemption for Start-Ups and Small Businesses

Individuals aspiring to start a business can benefit greatly from the latest regulations of the GST scheme. Here are a few pointers to keep in mind regarding GST exemption for start-ups:

- Any business with a turnover of less than Rs.40 lakhs is recognised as a GST-exempt business.
- Businesses that have a lower annual aggregate turnover than Rs.1.5 crores can avail of a composition scheme under GST. The scheme allows individuals to pay

taxes at a fixed rate depending on the turnover amount. The rate may vary between 1-6%.

- Also, small businesses are exempted from e-invoicing under GST. However, businesses with a turnover of more than Rs.50 crores have to apply for e-invoicing mandatorily.
- Small businesses with an income below Rs.5 crores can opt for a quarterly filing system.

Hence, it is evident that small businesses can accrue several benefits under this new tax scheme.

17.10 EXEMPTED GOODS UNDER GST

In the following section, you will find a list of the GST exempted goods in India:

- Fresh and dry vegetables like potatoes, onions, and other leguminous vegetables.
- Non-GST goods include fish, egg, fresh milk, etc.
- Grapes, melons, ginger, garlic, unroasted coffee beans, green tea leaves that are not processed, and more.
- Food items that are not put into branded containers like rice, hulled cereal grains, wheat, corn, etc.
- Components like human blood.
- Unspun jute fibres, raw silk, khadi fibre, etc.
- Hearing aid manufacturing parts, chalks, slates, handloom, etc.

Note: Certain non-GST items, once processed, will attract a GST.

17.11 EXEMPTED SERVICES UNDER GST

A very detailed notification has been issued under GST law providing exemptions on supply of various services. Here we discuss few of them.

Health care Sector

(a) Health care services by a clinical establishment / an authorised medical practitioner.
(b) Services provided by way of transportation of patient in an ambulance.
(c) Services by a veterinary clinic for the health of animals or birds.
(d) Services provided by blood banks

Amusement/ Entertainment Sector

(a) Services provided by an artists by way of a performance [not brand ambassador] in the folk or classical art form of music, dance or theatre and consideration charged doesn't exceeds Rs. 1,50,000 per event.
(b) Services by way of admission to a museum, national park, zoo etc.
(c) Service by way of right to admission to the following event
  (i) circus, dance, drama or ballet.
  (ii) award function, concert, musical performance
  (iii) sporting event —where consideration doesn't exceed Rs. 250 per person.

Transportation of Passenger

(a) Services of transportation of passanger by railways [other than first class or AC Coach]

(b) Services of transportation of passanger through
- (i) Metro
- (ii) Monorail
- (iii) tram
- (iv) Inland waterways.
- (v) Public transport
- (vi) Metered Cab or auto rickshaws [other than Radio Taxi]
- (vii) Stage carriage other than AC stage carriage.
- (viii) Non-AC contract carriage

Transportation of Goods

(a) Services of transportation of goods by way of road [except the services of Goods Transportation Agency (GTA) or courier Agency] or by way of Inland water ways.

- Agricultural services, including harvesting, packaging, warehouse, cultivation, supply, leasing of machinery, are essentially GST exempt services. An exception to these exempted services includes the rearing of horses.
- Public transportation services, auto-rickshaws, metered cabs, metro, etc.
- Transportation of agricultural products and goods outside of India.
- Labour supply for farms.
- Goods transportation where the charges are less than Rs.1500.
- Services like retail packing, pre-conditioning, waxing, etc.
- Foreign diplomatic and government services.
- Healthcare and educational services like mid-day meal catering, VET clinics, paramedics, etc. Ambulance and charity services also qualify for exemption under GST.
- Services offered by RBI, IRDAI, Central and State Government, NPS and more.
- Banking services like Basic Saving Bank Deposit (BSBD) account operable under the Pradhan Mantri Jan-Dhan Yojana (PMJDY).

In addition to this, services related to religious ceremonies, sports organisation, tour guides, and libraries are exempted under GST. One should know about the reasons for exemption as well. The government decides on exempting goods from registering under GST in the following cases:

- In case the GST council recommends the exemption.
- The government might find certain exemptions from GST registration to be beneficial for the public.
- Under exceptional or unforeseen situations, the government might grant exemption by special order.
- Upon providing official notification, one can supply specific goods under a full exemption.

Services provided by the government and diplomatic missionaries

- Services by any foreign diplomatic mission located in India.
- Services provided by the Reserve Bank of India.
- Services by the Government or any local authority **except** the following services:
    - Services by the Department of Posts via speed post, express parcel post, life insurance, and agency services provided to any individual other than the government.

  - Services related to an aircraft/vessel within or beyond the boundaries of a port or airport.
  - Transportation of goods or passengers.
  - Any other service, except those that come under (a) and (b), that is provided to business entities.
- Services provided to diplomats, including the United Nations.
- Life insurance services provided under the National Pension System; life insurance provided by the Army, Naval and Air Force Groups.

Judicial services

- Services provided by an arbitral tribunal (i.e., services provided by the court or a judge) to any individual other than a business entity or to a business entity with a turnover up to Rs. 20 lakhs (Rs. 10 lakhs for special category states) in the preceding financial year.
- Services provided by a partnership firm of advocate(s) to: an advocate or partnership firm of advocates, any individual that is not a business entity, or a business entity with a turnover up to Rs. 20 lakhs (Rs. 10 lakhs for special category states) in the preceding financial year.
- Services provided by a senior advocate (legal services) to any individual other than a business entity or to a business entity with a turnover up to Rs. 20 lakhs (Rs. 10 lakhs for special category states) in the preceding financial year.

Educational services

- Transportation of students and faculty, mid-day meal catering services, admission, examination services, and security and housekeeping services.
- Services provided by Indian Institutes of Management (except the Executive Development Programme).
- Coaching services provided by institutions and NGOs under the central sector scheme of 'Scholarships for students with Disabilities'.

Miscellaneous services

- Transmission or distribution of electricity by authorized personnel.
- Services provided by recognized sports bodies.
- Services provided by journalists, Press Trust of India, or United News of India. This includes the collection and provision of news.
- Services provided by slaughterhouses.
- Services provided by libraries.
- Services provided for public conveniences, such as washrooms, lavatories, urinals, and toilets.
- Renting out vehicles by State Transport Undertakings and Local Authorities.
- Overloading charges at a toll plaza.
- Services provided for conducting religious ceremonies, including renting the premises of any religious place.

17.12 SUMMARY

A composite supply is two or more goods or services that are only sold as a set and cannot be sold individually.Every composite supply has a principal supply, which is the main product or service that the buyer primarily wants. The rest of the supply is made up of supporting elements that add value to the principal supply.

A mixed supply is two or more independent products or services which are offered together as a bundle but can also be sold separately.In a mixed supply, the item or service with the highest GST rate is treated as the principal supply (whether or not it is the main part of the bundle). The mixed supply is taxed at the GST rate of the principal supply.

17.13 KEY WORDS

Composite supply
Mixed supply
Zero rated supply
Special Economic Zone
Nil Rate

17.14 SELF – ASSESSMENT QUESTIONS

1. Write a note on guiding principles of composite and mixed supply.
2. What are the exempted goods under GST?
3. What are the exempted services under GST?

17.15 FURTHER READINGS

1. Commercial Guide to GST- by RAKESH GARG & SANDEEP GARG
2. GST Tariff with GST Rate Reckoner - by taxmann
3. GST LAW SIMPLIFIED - by PK Goel (Author), Kishori Lal (Author), & 1 More

Dr. SHIVAJI

MODEL QUESTION PAPER

GOODS & SERVICES TAX – I

Max. Marks: 70 **Time: 3 hrs.**

SECTION A (Total: 5x3=15 Marks)

(Answer the following questions. Each answer carries 3 marks)

1. a) Old Tax System	(OR)	b) GST Concepts
2. a) GST Structure	(OR)	b) Advantages of GST
3. a) Taxes and Duties	(OR)	b) Administration of Tax on Alcohol
4. a) IGST Model	(OR)	b) Intra- State Transactions
5. a) Place of Supply	(OR)	b) Tax Liability

SECTION B (Total: 5x8 = 40 Marks)

(Answer the following questions. Each answer carries 8 marks)

6. a) Explain about an over view of Goods and Services Tax.
   . (or)
   b) Discuss briefly about Constitutional Amendments.

7. a) What is GST Model? Explain the Kelkar-shah GST Model.
   (or)
   b) Discuss about Advantages and Drawbacks of GST in India

8. a) What is Taxes duties? Explain the Transactions Taxes covered under GST
   (or)
   b) Discuss about the Computation administration of Tax on different Items

9. a) Explain briefly about the IGST Model with examples.
   (or)
   b) Briefly explain about Intra– State Transactions under GST

10. a) Distribution of Credit for Recovery of Input Tax Credits- Discuss.
    (or)
    b) Briefly discussed about time of supply of Goods and Services.

SECTION C (Total: 1x15 =15 Marks)

11. a) Discuss about Territorial Jurisdiction & Multiple Rates of GST.
    (or)
    b) What is the importance of time of supply of Goods & Services?