

- ⇒ Tax : A tax is defined as a "pecuniary burden laid upon individuals or property owners to support the government, a payment exacted by legislative authority"
- It is not a voluntary payment or donation but an enforced contribution.

Tax

Indirect tax (consumption tax) ← → Direct tax

↳ which is imposed directly on taxpayer and paid directly to govt. by whom it is imposed.
eg income tax

taxpayer is just a conduit and at every stage the tax is passed on till it reaches consumer, who really bears it
eg GST

⇒ Genesis of GST :

- The idea of country-wide GST was first mooted ^(came) by ~~Kelkar~~ ^{Kelkar} Tax force in 2004 (countrywide-national basis)
- subsequently, the union minister (Finance) Dr. P. Chidambaram, while presenting the union budget for FY 2007-08 announced GST will be implemented from April 2010 but does not implement missed several deadline.
- The talks of ushering in GST gained momentum in 2014, when the NDA govt tabled the constitution (122nd amendment) Bill 2014 on GST in parliament on 19th Dec 2014. The Lok Sabha passed upon Bill on 6th May 2015 and Rajya Sabha on 3rd August 2016.
- Once the Bill was ratified by more than 50% of states, the constitution (122nd amendment) Bill received the assent of president on 7th December & 8th September 2016 and became Constitution (101st Amendment) Act 2016.

⇒ GST (Article 366 (12A))

"Any tax on supply of goods or services or both except taxes on supply of the alcoholic liquor for human consumption"

⇒ Pre GST regime

- excise duty: Tax on manufacture of goods
- service tax: Tax on provision of services
- custom tax: Tax on export/import of goods
- state level VAT: Tax on intra-state sale of goods
- central sales Tax: Tax on inter-state sale of goods

→ refer finance sir notes RPT-3

⇒ deficiencies in value added taxation

- certain transactions were subject to double taxation and were taxed as both goods and services e.g: Restaurant
- CENVAT did not include set off of taxes at intra state level. Result in cascading effect
- luxury tax, entertainment tax are not subsumed under GST VAT.
- VAT on goods was not integrated with tax on services at state level to remove cascading effect of service tax.

⇒ legislative Framework (There are 35 GST ACT)

- The central goods and services tax, 2017 = 1 (CGST)
- State goods and services tax, 2017 = 31 (SGST)
- The union territory Goods & services tax, 2017 = 1 (UTGST)
- The integrated goods & services tax, 2017 = 1 (IGST)
- The goods and services tax (compensation to states) Act, 2017 = 1 (GST compensation cess)

→ It include state legislature (Delhi, Jammu & Kashmir, Puducherry)

⇒ order of utilization of credit

- First, we have to set off input tax credit of IGST
- minimum outflow of cash

Input IGST	Input SGST	Input CGST
IGST (out)	output SGST	output CGST
SGST	IGST	IGST
CGST		

⇒ GST Common Portal

- Integrating IT infrastructure and system for GST implementation was complex since it required integrating the entire indirect tax ecosystem, to same level of IT maturity and uniform formats for taxpayer and various stakeholders.
- A common portal was needed which could act as a clearing house and verify claims and inform the respective govt. to transfer their funds.
- Resultantly, common GST electronic portal - www.gst.gov.in - a website managed by goods and service network (GSTN) [a wholly owned govt. company] is set up by govt.
- This provides linkage to all states / UT commercial tax departments, central tax authorities, taxpayers, banks and other stakeholders.
- Function of GSTN include
 - * Facilitating Registration
 - * Forwarding Returns to central and state authority
 - * Computation and settlement of IGST.
 - * Matching of tax payments details with banking network
 - * Provide analysis of taxpayer's profile
- Invoice Registration Portal (IRP) is the website for uploading/exporting of e-invoices by the notified person. It is managed by the National Information centre, ministry of electronics & information technology

⇒ compensation cess

- The goods and services tax (compensation to states) Act, 2017 provides for a mechanism to compensate states for a period of 5 years on account of revenue which may arise due to implementation to GST.
- They are imposed on specified luxury item
 - 1) Pan masala
 - 2) Aerated water
 - 3) Tobacco and Tobacco products
 - 4) Motor vehicles
 - 5) Coal etc.
- FY 2015-16 shall be taken as the base year and 14% p.a. shall be taken as the growth rate of revenue for the purpose of calculating compensation amount to the states.
- They thought that everything will be go well; they decided 50% of the remaining amount utilized in the fund end of 5th year will be transferred to the centre and 50% would be distributed amongst the state and union territory in ratio of total revenue from SGST/UTGST of 5th year.
- IT was levied for a period of 5 years upto 30th June 2022. However its levy and collection has been extended till 31st March 2026.

⇒ Goods on which tax is not levied and goods on which multiple tax levied:

Goods	Before GST	After GST
1. Alcoholic liquors for human consumption	State Excise duty + State VAT/CST	State Excise duty + State VAT/CST
2. Petroleum, Aviation turbine fuel, Diesel, Petroleum crude, natural gas	Central Excise duty + State CST/VAT	State Excise duty + State CST/VAT

3° Tobacco

central excise duty
+
CST/VAT

central excise duty
+
GST

4° opium, Indian hemp
and other narcotic drugs
and narcotics :

state excise duty
+
CST/VAT

state excise duty
+
GST

Note : GST will not be levied on sale/purchase of immovable property

⇒ Benefits of GST, creation of unified national market

- Economy : 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 national level.
- Boost to 'Make in India' initiative : GST will 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 will make India a manufacturing hub.
- Boost to investments and employment : The subsuming of major central and state taxes in GST complete and comprehending set-off of input tax on goods and services and phasing out of CST reduces the cost of locally manufactured goods and services and increase the competitiveness of Indian goods/services in the international markets and thus, give boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment will be generated and GDP will increase.

- simplified tax structure
- * ease of doing business: simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity tax structure. The uniformity in laws, procedures and tax rates across the country makes doing business easier.
- * 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 ensures certainty in tax administration across India.
- easy tax compliance
- * Automated procedures with greater use of information technology: There are simplified and automated procedures for various process such as registration, returns, refunds, tax payments. All interactions is primary through the common GSTN Portal, therefore, less public interface between the taxpayer and the tax administration.
- * easier tax compliance: Harmonization of laws, procedures and rates of tax has made compliance easier and simple. There are common definitions, common forms / formats, common interface through common Portal (GSTN) resulting in efficiencies and synergies across the board. All this has also helped in reduction in compliance costs.
- Advantage for trade and industry
- * Benefits to industry: Average tax burden on trade and industry has come down, which has resulted in reduction in prices of goods and services. This has resulted in more consumption, which in turn means more production and thereby boosting the growth of the industries.

- Mitigation of ill effects of cascading: By subsuming most of the central and state taxes into a single tax ~~and by allowing a set off of prior stage taxes for~~ for the transactions across the entire value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of business.
- Benefits to small traders and entrepreneurs: GST has increased the threshold for GST registration for small business. Further, single registration is needed in one state. Small business have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with national investment.

⇒ Constitutional provision

- Article 265: Article 265 of the constitution of India states "no tax shall be levied or collected except by authority of law" & prohibits arbitrary collection of tax.
- Article 245:
 - * Subject to the provision of this constitution, Parliament may make laws for the whole or any part of the territory of India, and the legislature of a state make laws for whole or any part of state.
 - * No law made by parliament shall be deemed to be invalid on the ground that it would have extra territorial operation.

⇒ GST Council : Article 279A

* Article 279A of the constitution empowers the president to constitute a joint forum of the centre and state namely, goods & services Tax council

* Provision for GST Council (Force) = 12 Sept 2016

constitute = 15 Sept 2016

* The GST Council consist of following members, namely -

(a) The Union Finance Minister is the chairperson.

(b) The Union Minister of state in charge of Revenue or Finance

(c) The Minister in charge of finance or Taxation or any other minister nominated by each state govt. are the members.

* The GST Council ^{can} make recommendations in following:

* The taxes, cesses and surcharges levied by union, the states and local bodies which may be subsumed in good & service tax.

* The goods and services that may be subjected to, or exempted.

* The threshold limit of turnover below which goods and services may be exempted from goods and services tax.

* The rates including floor rates with bands of goods and services tax.

* Any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster.

* Any other matter relating to goods and service tax.

* The GST Council shall recommend the date on which goods and services be levied on temporary exempted (exempted) goods

* One-half of the total number of members of the GST Council shall constitute the Quorum at its meeting.

- * One half of the total number of members of the GST council shall constitute the quorum at its meetings.
- * Every decision of the GST council shall be taken by majority of not less than three-fourths of weighted votes of present members.
- * The vote of the central govt shall have a weightage of one-third of total votes cast.
- * The votes of the all state governments ~~or~~ ~~it~~ shall contribute of two-thirds of total votes cast.
- * No act or proceeding of the goods and services tax council shall be invalid merely by reason of -
 - any vacancy in, or any defect in, the constitution of the council; or
 - any defect in the appointment of person as a manager of the council.
 - any procedural irregularity of the council not affecting the merit of case.
- * The goods and services tax council shall establish a mechanism to adjudicate any dispute -
 - between the govt. of India and one or more states
 - between the govt. of India and more any state or states on one side, and one or more states on other.
 - between two or more states, arising out of the recommendations of council and implementation thereof.