HAND OUT. GST. (GOODS AND SERVICES TAX)

GST was introduced to replace multiple indirect taxes levied by State and Central Governments in order to simplify the indirect tax system. GST, which was rolled out on July 1, 2017, had subsumed 17 taxes and 13 cesses into a 5-tier structure, thereby simplifying the tax regime. The turnover threshold for registration rose to Rs 40 lakh for goods and Rs 20 lakh for services (from Rs 5 lakh on average under VAT). GST also reduced 495 different submissions (challan, forms, declarations, etc) across states to just 12.

Advantages:

- **Removing cascading tax effect**
- **Higher threshold for registration**
- **Composition scheme for small businesses**
- **Online simpler procedure under GST**
- **Lesser compliances**
- **Defined treatment for e-commerce**
- **Increased efficiency in logistics**
- **Regulating the unorganized sector**

GST Council:

- Composition of GST Council is as per the 101st Constitutional Amendment Act.
- A constitutional body for making recommendations to the Union and State Government on issues related to Goods and Service Tax
- GST Council is a joint forum of the Centre and the States and it consist of the following members: -
  - ✓ the Union Finance Minister (Chairperson)
  - ✓ the Union Minister of State in charge of Revenue or Finance (Member)

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

- Goods and Services Tax Council shall make recommendations to the Union and the States on:
  - ✓ The taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax
  - ✓ The goods and services that may be subjected to, or exempted from the goods and services tax
  - ✓ The rates and slabs of goods and services tax
  - ✓ Half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings
  - ✓ Every decision of the GST Council shall be taken by $3/4^{th}$ majority of the weighted votes of the members present and voting (central govt-$1/3^{rd}$ weightage and all state govts together-$2/3^{rd}$ weightage)

GST Network (GSTN) • GSTN, a not-for-profit company, was created to provide the IT backbone for the GST system, including taxpayer registration, return filing, and tax payments. • GSTC has approved the conversion of GSTN into a Government Company; hence, 100% of the shareholding is held by Government (50% with Union Government and 50% jointly with State Governments & UTs) in GSTN.

Successes of GST

• Tax Compliance: ○ In the pre-GST period, traders had to comply with rules & regulations of various tax departments & laws. Now, **tax compliance has been easier** for traders with **single set of norms**.

○ GST has been **successful in increasing compliance** among small traders through **Composition Scheme**. At present, small dealers up to a turnover of Rs 1.5 cr can opt for composition scheme and pay only 1% , 5%,6%tax, **facing a lesser compliance burden**.

- **Reverse Charge Mechanism** • The GST has to be typically paid by the supplier of goods and services. But in some cases, the liability to pay the tax falls on the buyer. This is called reverse charge.
- This is only applicable in certain instances e.g. when a business buys goods or services from a supplier who is not registered to pay GST or in cases of import.

○ There is now a single online system from filings to returns that has made transactions more transparent.

○ Self-policing mechanism of GST helps to check tax evasion and expand the tax net when all the suppliers of a business pay GST. So each business will make sure that its suppliers have paid the GST, so that they can take input tax credit.

• **Revenue Base:** GST has helped the Government to **expand the revenue base** by about 85% in the past three years from 65 lakhs to 1.2 crore.

• **Revenue Collections and Buoyancy:** The relative buoyancy of GST revenue compared to the pre-GST period is a result of two factors. 1) the design of GST that integrated the entire value chain from raw material to retail for the purpose of indirect taxation. 2) The tax incidence on services increasing from 14% pre-GST to 18% post-GST. ○ The average monthly GST collection in the financial year 2023-24 jumped to Rs 1.68 lakh crore against the previous year's average of Rs 1.5 lakh crore. GST revenue net of refunds for financial year 2023-24 stood at Rs 18.01 lakh crore, registering a year-on-year growth of 13.4 per cent. Without GST, states' revenue from subsumed taxes from FY19 to FY24 would have been Rs 37.5 lakh crore. With GST, states' actual revenue amounted to Rs 46.56 lakh crore

○ A **buoyancy ratio of over 1** shows the progressiveness in the revenue growth and opens the prospect of rising tax-to-GDP ratio in future.

• Rationalization of taxes: ○ Currently, **around 97.5% articles are covered by 18% or lower GST slab**, a significant reduction from tax rates under the VAT regime where standard VAT rate was 14.5% and excise duty was 12.5% (topped by additional sales tax & cess in many cases).

○ **A good fiscal system should not tax the production of intermediate goods**. That is the logic underlying all value-added taxes such as GST that intend to eliminate taxes on production & distribution. It is the destination tax that is collected at the point of final consumption.

GST has removed the **cascading effect.** Tax is calculated only on the value-addition at each stage of the transfer of ownership. **GST council** has emerged as a successful example of cooperative federalism and its functioning has been free from political biases**.**

Multistage means: An item goes through multiple change-of-hands along its supply chain: these stages include: 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. Current GST is levied on all these stages.
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 tax: 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.

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

1. CGST: It is the tax collected by the Central Government on an intra-state sale (e.g., a transaction happening within Maharashtra)
2. SGST: It is the tax collected by the state government on an intra-state sale (e.g., a transaction happening within Maharashtra)
3. IGST: It is a tax collected by the Central Government for an inter-state sale (e.g., Maharashtra to Tamil Nadu)

What is the GST compensation?

The Constitution (One Hundred and First Amendment) Act, 2016, was the law which created the mechanism for levying a nationwide GST. Written into this law was a provision to compensate the States for loss of revenue arising out of implementation of the GST. The adoption of the GST was made possible by the States ceding almost all their powers to impose local-level indirect taxes and agreeing to let the prevailing multiplicity of imposts be subsumed under the GST. While the States and UTs with assemblies would receive the SGST (State GST) component of the GST, and a share of the IGST (Integrated GST), it was agreed that revenue shortfalls arising from the transition to the new indirect taxes regime would be made good from a pooled GST Compensation Fund for a period of five years that is set to end in 2022. This corpus in turn is funded through a compensation cess that is levied on so-called 'demerit' goods. (Luxury and sin goods)The computation of the shortfall — the mechanism for which is spelt out in Section 7 of the GST (Compensation to States) Act, 2017 — is done annually by projecting a revenue assumption based on 14% compounded growth from the base year's (2015-2016) revenue and calculating the difference between that figure and the actual GST collections in that year. For the 2020-21 fiscal year, the revenue shortfall has been anticipated at ₹3 lakh crore, with the Compensation Fund expected to have only about ₹65,000 crore through cess accruals and balance to pay the compensation to the States.

Lack of Revenue Neutrality: A change in tax structure can be said to be revenue neutral if the modified tax is able to realize revenue comparable to the original tax regime. In this sense, the much-needed revenue neutrality of GST stands compromised. The Share of

General Government's revenue from taxes subsumed under GST was 6.3% of GDP in 2016-17. However, the collections under GST was 5.7% of GDP in 2018-19 and 5.6% in 2019-20.
Shortfall in GST Compensation Cess: Almost 21 states still depend upon Centre for the GST compensation.
Severe fiscal strain is expected when the 14% compensation comes to an end as the median growth rate of subsumed taxes is only 11%, and in many States between 5% to 10%. The median subsumed tax buoyancy is below unity. This means with 1% growth, there will be a 0.75% growth of tax. **Hence, to make GST revenue neutral, the National Institute of Public Finance and Policy (NIPFP) has called for rationalization of GST rates.**
Present Status: The GST was introduced to simplify the tax structure and improve the tax compliance. However, the existing GST regime has multiple rates: 0% (nil-rated), 5% , 12% , 18% , & 28% Media reports have indicated that the effective tax rate under GST gone down from the original revenue neutral rate of 15.5 per cent to 11.6 per cent on account of multiple rate cuts since introduction of GST in July 2017.

"GST has improved tax buoyancy from 0.72 (pre-GST) to 1.22 (2018-23). Despite compensation ending, state revenues remain buoyant at 1.15. Without GST, states' revenue from subsumed taxes from FY19 to FY24 would have been Rs 37.5 lakh crore. With GST, states' actual revenue amounted to Rs 46.56 lakh crore,"

"Reflecting a pro-poor approach, the effective weighted average GST rate has consistently fallen since 2017. The Revenue Neutral Rate was suggested to be 15.3 per cent but was lower at 14.4 per cent in 2017, and it has come down to 11.6 per cent in 2019,"

Share of GST in Total Tax collection: GST accounts for the highest share followed by Income Tax and Corporate Tax.
Amongst different components, IGST accounts for highest share.
Improvement in Tax base: Increase in number of registered taxpayers from 1.08 crore to 1.23 crore. More number of informal entities have come under the tax bracket.

The average monthly GST collection in the financial year 2023-24 jumped to Rs 1.68 lakh crore against the previous year's average of Rs 1.5 lakh crore. GST revenue net of refunds for financial year 2023-24 stood at Rs 18.01 lakh crore, registering a year-on-year growth of 13.4 per cent.

e-way bill:

e-way bill is a document required to be carried by a person in charge of the conveyance carrying any consignment of goods of value exceeding 50,000 rupees as mandated by the Government in terms of Section 68 of the Goods and Services Tax Act read with Rule 138 of the rules framed thereunder. ewaybillgst.gov.in is the official government portal or website to generate, manage, and cancel EWBs. This is a common web portal to be used across India by all taxpayers and transporters who want to generate EWBs. For certain specified Goods, the eway bill needs to be generated mandatorily even if the value of the consignment of Goods is less than Rs. 50,000:

1. Inter-State movement of Goods by the Principal to the Job-worker by Principal/ registered Job-worker
2. Inter-State Transport of Handicraft goods by a dealer exempted from GST registration

Status of GST Compensation dues

GST Compensation Cess:
Cess levied to compensate states for revenue losses on account of switching to GST for the first five years of GST implementation. According to the GST Act, States and UTs with Assemblies are guaranteed compensation if the GST revenue growth is less than 14 per cent. This amount is paid bi-monthly.

Financial year 2020-21: Covid-19à Lower GST Collectionà Shortfall in the GST Compensation (Rs 2.35 Lakh Crores)
Options given to States: Borrow money from market or the RBI based upon Central Government Guarantee. Borrowed money to be repaid by extending GST beyond 5 years.
Argument of the States: Centre should compensate the states by borrowing money.
How was the issue resolved? Centre borrowed money from RBIà Gave loans to the Statesà Loan to be repaid by extending GST Compensation Cess beyond 5 years.
Recent Controversy:

1. **Demand of the States:** States are assured of compensation in their revenue shortfall for a period of 5 years i.e., until end of 2022. However, Some of the State Governments wanted that this assured compensation should extend even beyond 2022. That means, if the states' revenues do not increase by 14% year-on-year beyond 2022, they need to be compensated.

Response of the Centre: The Centre has rejected the demands of the States and has said that the compensation mechanism would be applicable only for a period of 5 years. So, as of now, the states will get compensation for the shortfall in their revenue only between the years 2017-2022 and not beyond 2022. However, to meet this shortfall for 5 years, the Centre has already borrowed money. Hence, GST compensation cess would have to be extended up to the end of 2026 to meet the shortfall.

2. SC held that Union and state legislatures have equal, simultaneous and Unique powers to make laws on GST.

Earlier a petition was filed in Gujarat HC that centre should not charge IGST on ocean freight from Indian importers.

Observations of Supreme court:

- importance of "cooperative federalism" for the well-being of democracy
- GST orders are recommendatory in nature. They only have a persuasive value.
- Union and the States are conferred equal power to legislate on GST.
- Article 246A (which gives the States power to make laws with respect to GST) was repeated by the court.
- Article 279A, in constituting the GST Council, envisions that neither the Centre nor the States are actually dependent on the other.

Quote: constituent units of a federal polity checks the exercise of powers of one another to prevent one group from exercising dominant power

Article 246 A

- The Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

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

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

Note: This Article was introduced by the Constitution (One Hundred and First Amendment) Act, 2016, with effect from 16th September 2016.

Article 279A

As per Article 279A of the amended Constitution, the GST Council which will be a joint forum of the Centre and the States, shall consist of the following members: -

- Union Finance Minister - Chairperson
- b) The Union Minister of State, in-charge of Revenue of finance – Member.
- c) The Minister In-charge of finance or taxation or any other Minister nominated by each State Government – Members

As per Article 279A (4), the Council will make recommendations to the Union and the States on important issues related to GST, like the goods and services that may be subjected or exempted from GST, model GST Laws, principles that govern Place of Supply, threshold limits, GST rates including the floor rates with bands, special rates for raising additional resources during natural calamities/disasters, special provisions for certain States, etc.

Other implications

- If GST council functions under common consensus than how can states take their own course of action.
- If recommendations of GST council is not adhered to, it might create wrong precedence on cooperative federalism.
- This decision might create issue of cascading effect where states may not abide by the decisions of GST council.
- It can create long-term hurdle to bring Petroleum and alcohol under GST ambit.

Challenges and Concerns:
The 15th Finance Commission had highlighted some challenges with the implementation of the Goods and Services Tax(GST). These include:
(i) large shortfall in collections as compared to original forecast, (ii) high volatility in collections, (iii) accumulation of large integrated GST credit, (iv) glitches in invoice and input tax matching, and (v) delay in refunds. The Commission observed that the continuing dependence of states on compensation from the central government (21 states out of 29 states in 2018-19) for making up for the shortfall in revenue is a concern. It suggested that the structural implications of GST for low consumption states need to be considered. Monthly GST collections crossed Rs 1 lakh crore in April 2018 and since then remained stagnant.

Inverted Duty Structure: The term 'Inverted duty Structure' refers to a situation where the rate of tax on inputs purchased (i.e. GST Rate paid on inputs) is more than the GST rate on finished goods. The inverted duty structure leads to higher input tax credits and hence lower tax collection for the Government.
Coverage: Petroleum crude, petrol, high speed diesel, natural gas etc. are still outside GST.
Issues in Refunds: Delays in GST refunds, recent unearthing of fake invoices and fraudulent practices to corner input tax credit.
Anti-profiteering framework: Need to evolve clear guidelines on antiprofiteering mechanism.
GST has been structured in a way that essential services and food items are placed in the lower tax brackets, while luxury services and products have been placed in the higher tax bracket.

Key Highlights of the 53rd GST Council Meeting(held in June 2024:

- **Monetary Limits set for GST Appeals:** The recommended monetary limits for filing appeals by the department before these legal fora are Rs.20 lakh for **GST Appellate Tribunal**, Rs.1 crore for HC and Rs.2 crore for SC.

- **Amending Sections 107 and 112:** The maximum amount for pre-deposit for filing appeal before appellate authorities shall be reduced from Rs.25 crore under CGST and Rs.25 crore under SGST to Rs.20 crore respectively. Moreover, the amount of pre-deposit for appeal before the GST Appellate Tribunal has been reduced from 20% with a maximum amount of Rs.50 crores under CGST and Rs.50 crores under SGST to 10% with a maximum of Rs.20 crores under CGST and Rs.20 crores under SGST.

- **Time limit to file appeals before the GSTAT:** The GST Council recommended modifying Section 112 to provide a 3 months time for filing appeals before the GST Appellate Tribunal. It will start from a date yet to be notified by the Government, most likely to be announced by 5th August 2024 as this is the last date.

NON GST:

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.
vii. Agriculture
viii. Fruits,vegetables, milk,cheese ,seeds etc

16.09.2023:

Context

- In light of the ongoing need to address a rising number of disputes between taxpayers and the Revenue Department, the Finance Ministry has taken a significant step by establishing 31 Appellate Tribunals covering 28 States and eight Union Territories for the Goods and Services Tax (GST).

About GSTAT

- These Appellate Tribunals, collectively known as the Goods and Services Tax Appellate Tribunal (GSTAT), are a crucial component of the dispute resolution mechanism outlined in Chapter XVIII of the CGST Act.
- Section 109 of this chapter grants the Central Government the authority to establish the GSTAT, based on recommendations from the Council. This tribunal serves as the second level of appeal in GST matters and represents the primary platform for resolving disputes between the Center and States.
- Under the GST framework, appeals against decisions made by Appellate Authorities operating under the Central and State GST Acts are directed to the GSTAT, which functions as a common forum for both. This common platform ensures consistency in addressing GST-related disputes across the nation. The GSTAT will have its principal bench in New Delhi, with additional benches or boards in states as per each state's discretion, subject to approval from the council.
- The process of dispute resolution under GST involves multiple levels, starting with challenges to claims raised by the department at various stages. Taxpayers can contest these claims, beginning with the Adjudicating Officer and progressing through to the Supreme Court. The GSTAT comes into play when taxpayers receive unfavourable decisions from the Adjudicating Officer, as the decisions of the Appellate Authority are appealable in this tribunal. This new framework aims to expedite the resolution of GST-related disputes, which previously could take over a year to reach a conclusion without such a tribunal in place.

Composition

- Regarding the composition of the GSTAT, the principal bench will focus on cases related to inter-state supply and place of supply, while separate benches will handle matters concerning state-specific issues such as tax rates, exemptions, valuation, and input tax credit related to intra-state affairs.
- Each principal bench and state board will consist of two technical and two judicial members, with equal representation from the Center and states.

Benefits

- This initiative is expected to bring several benefits. It will enhance the ease of doing business, particularly for enterprises dealing with goods and services subject to GST.

- By providing clarity in GST law through interpretation and adjudication, the tribunals aim to reduce the potential for future litigation.
- Moreover, the formation of the GSTAT is anticipated to lower the number of GST-related writ petitions in high courts across the country, as the tribunal's decisions will serve as precedents, reducing ambiguity and legal disputes.
- The presence of GSTAT benches in every state is poised to alleviate case backlog and expedite the resolution of cases, providing a cost-effective avenue for taxpayers to address their grievances.
- Additionally, the establishment of a centralised Principal Bench in New Delhi is expected to reconcile differing opinions on similar issues that may arise in various state tribunals.

Conclusion

- In summary, the creation of Goods and Services Tax Appellate Tribunals represents a significant step forward in streamlining the resolution of GST-related disputes, reducing litigation, providing clarity in the GST law, and promoting ease of doing business for taxpayers. This initiative is expected to have a positive impact on the Indian tax landscape.

About GST

- The Goods and Services Tax (GST) is a comprehensive tax framework that was introduced on July 1, 2017, replacing numerous indirect taxes previously imposed by both the Central and State Governments.
- This GST system operates under a dual structure, encompassing Central GST (CGST) and State GST (SGST), simultaneously administered by the Central and State governments, respectively. Additionally, there exists an Integrated GST (IGST), which is levied on interstate transactions and imports. Although the Central Government collects IGST, it is subsequently distributed to the respective destination states.
- The GST Council (GSTC), a collaborative forum established under Article 279A of the Indian Constitution, consists of the Union Finance Minister serving as the Chairperson, along with representatives from all States and Union

Territories. The primary role of this Council is to make crucial decisions pertaining to GST, including setting tax rates, determining exemptions, and allocating revenue between the Central and State Governments.

The implementation of GST has had several notable impacts

- Firstly, it has fostered cooperative federalism, where the Central and State authorities engage in deliberations and timely decision-making, particularly on intricate matters related to taxation.
- Moreover, GST has led to reduced taxes on many common-use items, simplification of online tax processes, enhanced management of Input Tax Credits, and expedited refund procedures.
- Furthermore, it has eased the compliance burden for Micro, Small, and Medium Enterprises (MSMEs) through measures such as the **composition scheme and quarterly returns** with monthly payments.
- Significantly, GST has exhibited a consistent rise in revenue collection over the past six years, attributable to increased economic activity and improved compliance. This trend is evident in the fact The average monthly GST collection in the financial year 2023-24 jumped to Rs 1.68 lakh crore against the previous year's average of Rs 1.5 lakh crore. GST revenue net of refunds for financial year 2023-24 stood at Rs 18.01 lakh crore, registering a year-on-year growth of 13.4 per cent.
- Additionally, GST revenue buoyancy for states has improved from 0.72 to 1.22 since the implementation of GST.

- Despite these successes, several challenges have arisen during the effective implementation of GST. Notably, technical glitches have been encountered with the GST portal and the e-way billing system, impeding their maturity to the desired level.
- The complexity of tax slabs and frequent transitions between them have caused confusion within the compliance system, leading to occasional unethical profiteering practices.
- Moreover, the erosion of taxpayers' trust has manifested in petitions filed against arbitrary GST registration cancellations and disproportionate denial of input credits by high courts across the country.
- Tax evasion and fraudulent claims have also been identified, with GST officers uncovering 304 syndicates involving 9,000 fake GSTINs and fraudulent input tax credit claims totaling Rs. 25,000 crore.

- Expanding the scope of GST remains a contentious issue, with certain commodities, such as fuel and alcohol, remaining outside its purview. The disagreement between the Central and State governments over revenue collections has hindered the inclusion of these items in the GST framework. The reliance on excise duties on petroleum products to bolster revenues further complicates matters, as approximately 30% of state revenue is derived from these sources.

Efforts are underway to enhance the GST system.

- Amendments to the Prevention of Money Laundering Act now permit the Enforcement Directorate to share information with the GST Network.
- Increased utilisation of digital tools by field officers, such as ITC Verification and E-way Bill verification, aims to improve GST compliance.
- The introduction of ADVAIT (Advanced Analytics in Indirect Taxes), launched in 2021 by the Central Board of Indirect Taxes and Customs (CBIC), utilises Big Data and Artificial Intelligence to boost Indirect Tax revenue, expand the taxpayer base, and support data-driven tax policies.

Future improvements in the GST system are anticipated to include rationalising tax rates for easier compliance and streamlined refund processes, as well as implementing legal and administrative changes to reduce leakages and simplify tax filing. Enhanced technology-based monitoring systems, including e-returns, e-invoices, e-way bills, and Aadhaar authentication, are expected to be integral to this process. Furthermore, standard operating procedures will be established for audits, assessments, and investigations.

In conclusion, while GST has made significant strides in transforming India's taxation landscape, challenges persist, and ongoing efforts are aimed at refining and expanding the GST framework to further enhance its effectiveness and inclusivity.

REVNUE NEUTRAL RATE:

- RNR is the rate at which tax revenue remains the same despite giving credit of duty paid on inputs and other factors.
- It is the rate of tax that allows the Government to receive the same amount of money despite changes in the tax laws.
- In the GST regime the revenue of the government would not be same in comparison with the present tax structure due to tax credit mechanism, removal of cascading effect , or otherwise.
    - Therefore an adjusted in tax rate is required to avoid reduction in revenue of the government. This adjusted Rate is termed as Revenue Neutral Rate (RNR).
- RNR is the good indicator of future requirement in calculating the adequate compensation to both state as well as central government.

TAX BUOYANCY :

Tax buoyancy refers to the relationship between changes in a country's tax revenue and the changes in its Gross Domestic Product (GDP). It is a measure of how responsive the growth of tax revenue is to the changes in GDP. When a tax system collects more revenue without any changes in the tax rate, it is considered to be buoyant. The buoyancy of a tax system is influenced by several factors such as the size of the tax base, the efficiency of the tax authorities, and the clarity and reasonableness of the tax rates.

In case of any doubt, suggestion or clarification , please feel free to contact BUSHAN LAL JALALI @ cell no: 9419186088, email: nancyfoundations2015@gmail.com, bushanlaljalali@gmail.com, www.nancfoundation.in without any fee or charges. Voice or Text messages welcomed. Economy is a dynamic subject so prone to frequent changes. One must be abreast of day to changes in the World and update notes accordingly.