INTRODUCTION & OVERVIEW OF GOODS AND SERVICES TAX (GST)

I. Introduction

In the earlier regimes, there were a large number of indirect taxes. For example, on manufacture, there was excise duty. On sale, there were taxes, like Value Added Tax, Central Sales Tax, Purchase Tax, Entertainment Tax, Tax on Lottery, Betting and Gambling, Luxury Tax, Tax on advertisment and even Entry Tax in certain cases. Further, on services, there was Services Tax. This made the life of businessmen very difficult, as they had to deal with so many taxes, at the same time. These were the various problems or shortfalls or deficiencies in old Indirect tax laws such as Multiple taxable event, Cascading effect, Double Tax and so on. That is why, to remove these weaknesses in the old Indirect tax laws, Government introduced GST Laws in India w.e.f. 01/07/2017.

PITCURE AFTER GST LAWS

OLD INDIRECT TAX REGIMES	NEW INDIRECT TAX REGIMES
Multiple Taxes (17 Indirect Taxes)	Only Goods and Services Tax (GST)
Multiple Taxable Event (e.g. Manufacturing, Sale, and Import/Export)	Supply
Assessee (Manufacture, Dealer, Trader, Seller)	Supplier or Taxable Person
Intra State Inter State International Trade	Intra State and Inter State Only (International Trade subsumed in Inter State)
Double Tax	No Double Tax (Classify what is Supply of Goods and what is Supply of Service)
Cascading Effect	No Cascading Effect (as there is seamless flow of credit)
No Uniformity (Multiple State there are Multiple VAT Laws)	One Nation One Tax (5%, 12%, 18%, 28%) 3% or 0.25% applicable only on goods on precious metals like gold, rough diamond etc.

GST was first levied by France in the year 1954. Within 62 years of its introduction about 160 countries across the world have adopted GST. Last Country to adopt GST in Malaysia.

It is based on the principle of **destination-based consumption taxation** (i.e. the Country/State where goods are consumed or destines will get tax instead of origin State/ Country).

India has the highest GST Rate in the world wide i.e. 28% next highest rate is Argentina i.e. 27%. .

GST is a **Value Added Tax** on activity of Supply of Goods or Services.

Generally GST is popular for single model but Canada and Brazil also have dual model of GST. **India has adopted a dual GST (Canadian) model** which will be imposed concurrently by centre and states.

II. Genesis of GST

In Indian perspective, it has now been more than a decade since the idea of GST was evolved in 2004 by Kelkar task force. The journey of GST in India from its origin in 2004 up to its enactment and implementation in 2017 has gone through many ups and downs. There are political hurdles in the path of GST implementation. These developments can be consolidated in chronological order as follows:-

Kelkar Task Force (2004)	The idea of GST was emerged in India from the recommendation of Kelkar Task Force.
Budget Speech (2007-2008)	The then Union Finance Minister, Shri P. Chidambaram, while presenting the Central Budget 2007-2008 announced the introduction of GST from April 1, 2010.
Suspension Period of GST	Many hurdles and problems were come and GST could not be implemented. It kept missing several deadlines but finally gained momentum once again in 2014.

Constitution Amendment Bill- Revival of GST (2014)	NDA Government tabled in Lok Sabha the 122nd Amendment Bill, 2014 on GST
Constitution Amendment Act (2016)	It got assent of the president on 8th September, 2016 and became Constitutional (101st Amendment) Act, 2016 which paved the path of GST in India.
Central GST Act (2017)	On March, 2017 Four bills introduced in Lok Sabha CGST Bill, 2017; IGST Bill, 2017; UTGST Bill, 2017; GST(Compensation to States) Bill, 2017. The above four central legislation were passed in Lok Sabha. On April, 2017 the above four Central legislation received President assent & **Bills turned into following Acts.** - CGST Act, 2017 - IGST Act, 2017 - UTGST Act, 2017 - GST (Compensation to States) Act, 2017
State GST Act	The enactment of the Central GST Acts was followed by the enactment of the State GST laws by all State Legislative and 3 Union territories (Delhi , Puducherry & Jammu and Kashmir) having their own legislature.
Implementation of GST (1st July, 2017)	GST has implemented across India excluding Jammu and Kashmir w.e.f. 1st July, 2017. But the same came into force in Jammu and Kashmir w.e.f. 8th July, 2017.

III. Constitutional Provisions on GST

The power to levy Goods and Services Tax has not been conferred by any Union list, State list or Concurrent list but it was introduced by the Constitution (101st Amendment) Act, 2016 by inserting Article 246A of the Constitution. The following are the significant provisions introduced in Constitution in relation to GST:

a) Article 246A

By overruling Article 246 and Article 254 of the Constitution.

Article 246A(1) deals with Intra State supply where the laws making power with respect to GST is with Parliament and State Assembly (e.g. CGST+ SGST/UTGST) and

Article 246A(2) deals with Inter State supply where the Parliament has the exclusive power to make laws with respect to GST (e.g. IGST).

But, As per Section 9(2) of CGST Act, 2017 above GST not applicable on following **goods (5 Petroleum Product)** are:-

- Petroleum Crude
- High Speed Diesel
- Motor Spirit
- Natural Gas
- Aviation Turbine Fuel

GST on the above goods will be applicable when recommend by **GST Council.**

b) Article 269A

It is related with the levy and collection of GST on inter-State supply (IGST). Article 269A states that IGST shall be levy and collected by Central Government and it shall be apportioned between the Union & the State in manner as may be provided by Parliament by law as the recommendation of GST Council.

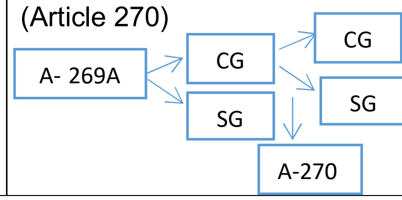
In Nutshell, IGST is sum total of CGST(+) SGST.

c) Article 270

All of the taxes and duties referred in Union List shall be levied and collected by Government of India and shall be distributed between Union and State.

But the problem is that how to distribute CGST and IGST because it has not arise from any List. So Government amend the Article after introducing GST and state CGST levied on Intra State Supply shall also distributed among Central Government and State Government and IGST component apportionment to the Union shall also be distributed.

So,

TAX	PAID	APPORTIONMENT (DISTRIBUTED)
Income Tax	Central Government	State Government
CGST	Central Government	Central Government & State Government
SGST	State Government	No Apportionment
UTGST	Central Government	No Apportionment
IGST	Central Government	Central Government & State Government (Article 269A) and Central Government portion is further distributed between Central Government & State Government (Article 270) 

d) Article 366 (12A)

Goods and Services Tax means any tax on supply of goods or services or both except taxes on the supply of the alcholic liquor for human consumption.

Note:- - No GST shall be applicable on Alcholic Liquour for Human Consumption as it is excluded from the ambit of Article 366(12A) that defined GST.

- But GST on 5 Petroleum Product will be applicable when GST Council Recommend.

e) Article 279A

This Article empowers the president of India to constitute GST Council. Accordingly, the GST Council has 33 members in total. Out of 33 members there are :

- 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 (Member)
- The vice-Chairperson of GST Council is elected by GST Council from among its members.

Quorum required for passing resolution:- Minimum 50% (I.e. 50% of 33 = 17 Members). Thus, the presence of 17 members constitutes a valid meeting of the council.

Minimum voting in Favour:- 3/4 (I.e. 75%) [CG Share 1/3 (I.e.33.33%) and SG Share 2/3 (I.e.66.67%)]

IV. Concept of GST

The Goods and Services Tax (GST) means a tax on supply of goods or services or both except taxes on supply of alcoholic liquor for human consumption. It is a comprehensive tax structure where the indirect tax is levied on supply of goods and supply of services. There are total 35 Acts covered under GST. The GST has been introduced simultaneously at both the Central and State level.

The following are the salient features of GST:-

i. **Applicability:-** GST extends to Whole of India

ii. **Dual GST:-** The GST in India has been imposed concurrently by the Centre and States.

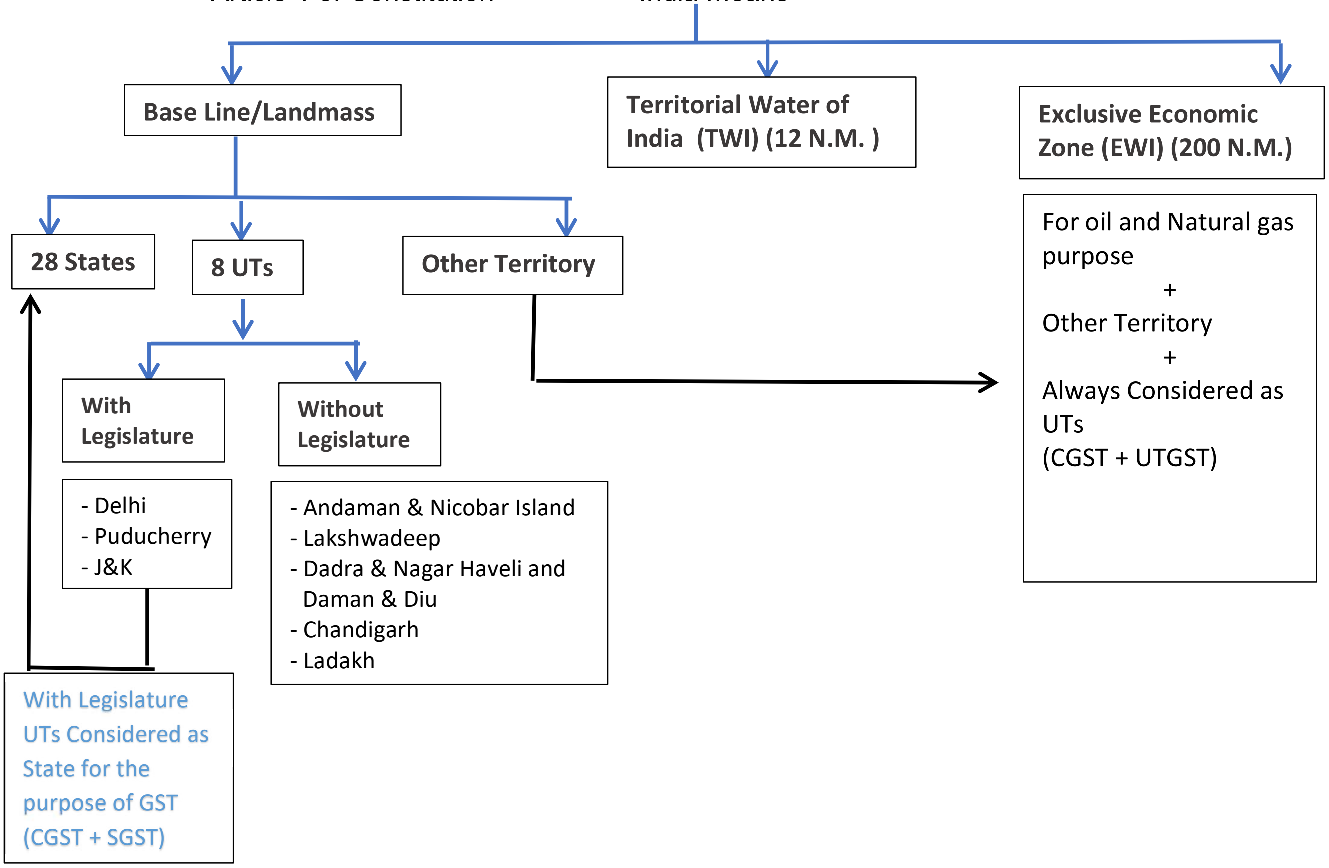
iii. **Destination based tax:-** The GST is a destination based tax which is payable in the state where goods or services are finally consumed.

iv. **Intra - State Supplies (CGST +SGST/UTGST):-** Section 8 of IGST Act, 2017 state where the **location of supplier** and **place of supply** is in same State or same Union Territory. In case of Intra-State supply of goods or services both CGST as well as SGST are levied. In case of Union territories, which do not have their own legislature, UTGST is levied in place of SGST.

v. **Inter-State Supplies (IGST):-** Section 7 of IGST Act, 2017 state where the **location of supplier** and **place of supply** is in two different State or Union Territory or Country or One State One Union Territory or Supply to SEZ or Supply by SEZ. In case of Inter-State Supplies, Integrated Goods and Services Tax (IGST) is levied by Centre Government.

vi. **Legislation governing GST:-**

Article 1 of Constitution = India means



vii. Tabbaco and Tabbaco related products would subject to GST. In addition, the Centre would have the power to levy Central Excise Duty.

V. Rationale for GST

The rationale of introducing GST to overcome the issues. All the stakeholders are being benefited including industry, Government and even the consumer. The following are the major benefits which justify the rationale for introducing GST.

I) Benefits to the Government:-

- GST aims to make India a common market with common tax rates and procedures it will boost foreign Investment and "Make in India" campaign.
- The uniform SGST and IGST rates reduce the tax evasion

- GST is forecast to help the Government revenue by widening the tax base and improve country’s ranking as the ‘Ease of Doing Business Index’ is concerned and also enhanced the Country’s GDP.

II) Benefits to Trade and Industry:-

- The multiplicity of indirect taxes has been reduced
- Reduce the cascading effect
- Due to uniformity in tax rates, the common national market has been developed
- The export has been classified as Zero Rated Supply. It will boost the exports.

III) Benefits to Customer:-.

- Easy to understand and transparent taxation system
- Due to mitigation of cascading effect, there is a reduction in price of goods and services
- Pricing structure is uniform through the country.

VI. Goods And Service Tax Network (GSTN) Vs Goods And Service Tax Identification Number (GSTIN)

The **Goods and Services Tax Network (GSTN)** is a Section 8 Company under Companies Act, 2013 I.e. a non-government, non -profit organisation. It has been formed with the sole purpose of providing the IT backbone to Government pertaining to GST Laws.This portal will be used by the government to track every financial transaction and provide tax payers all service from registration to filing taxes and maintaining all tax details.GSTN connected Infosys in 2015 to build,run the network and system for GST. It create a common and shared IT infrastructure between the Centre and States.

The **Goods and Services Tax Identification Number (GSTIN)** is the unique number each taxpayer will receive once they have registered on the common portal. It is a 15 digit PAN based number and codes denoting the State it is registered in entity number in that particular state.

VII. New Compliances Under GST

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

e-Way Bills:- GST introduced a centralised system of waybills by the introduction of “E-way bills”. Under two conditions it is mandatory to issue e-way bill. First, there should be movement in goods and Secondly, the value of goods/consignment is more than Rs. 50,000 . 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 these system reduced the time in check post and reduced the tax evasion.

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 P.F.Y. Further, from 1st January 2021, this system was extended to those with an annual aggregate turnover of more than Rs. 100 crore. e-Invoicing is a system in which B2B invoices are authenticated electronically by GSTN for further use on common GST portal.The portal verifies the correctness and genuineness of invoice. Under these, an identification number will be issued against every invoice by the Invoice Registeration Portal (IRP) to managed by the GST Network (GSTN).

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