



# **CORPORATE TAX FOR MANAGERS**



# MODULE 1

## ASSESSMENT OF COMPANIES

- Introduction of Indian Tax Structure:
- Types of Companies,
- Residential Status and Incidence of Tax
- Depreciation u/s 32
- Computation of Tax liability of companies
- Book Profits,
- Minimum Alternative Tax (Sec.115JB)
- Deductions u/s 80 for companies,
- Carry forward and set-off of losses.

# INTRODUCTION OF INDIAN TAX STRUCTURE

- Taxes are the largest source of income for the government. This money is deployed for various purposes and projects for the development of the nation.
- Taxes are determined by the Central and State Governments along with local authorities like municipal corporations. The government cannot impose any tax unless it is passed as a law.
- **Tax Collection Bodies:** The three bodies which collect the taxes in India have clearly defined the rules on what type of taxes they are permitted to collect.
  1. The Central Government: Income tax and Custom duties..
  2. The State Governments: Tax on agricultural income, professional tax, etc.
  3. Local Bodies: Property tax, water tax and other taxes.

- Taxes are classified under two categories

### Direct Taxes

### Indirect Taxes.

- Direct taxes are levied on individuals and corporate entities and are paid by the assessee and cannot be transferred to others. These include income tax, corporate tax and capital gains tax
- Indirect taxes are not directly paid by the assessee to the government authorities. These are imposed on goods and services on the basis of production, supply, sale or purchase of products or provision of services, in the form of goods and services tax (GST).
- **GST, rolled out on 1 July 2017. It replaced some 20 indirect taxes charged by the Centre and States, including CENVAT, VAT, Service Tax, Excise Duty, Octroi and various duties.**

# Difference between Direct and Indirect Tax

Particulars	Direct Tax	Indirect Tax
<b>Meaning</b>	Direct Taxes are the taxes in which the incidence and impact falls on the same person/assessee	Indirect Taxes are such type of taxes where incidence and impact fall on two different persons.
<b>Nature of tax</b>	Direct Tax is progressive in nature.	Indirect Taxes are regressive in nature.
<b>Taxable Event</b>	Taxable Income / Taxable Wealth of the Assessee.	Purchase / Sale / Manufacture of goods and /or rendering of services.
<b>Levy &amp; Collection</b>	Levied and collected from the Assessee.	Levied & collected from the consumer but paid / deposited to the Exchequer by the Assessee / Dealer.
<b>Shifting of Burden</b>	Tax Burden is directly borne by the Assessee. Hence, the burden cannot be shifted.	Tax burden is shifted to the subsequent / ultimate user.
<b>Tax Collection</b>	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.

# GOODS AND SERVICE TAX - GST

- The Central Government has introduced the Goods and Service Tax (GST).
- GST is a comprehensive indirect tax on manufacture, sale and consumption of goods and services throughout India and will subsume many indirect taxes levied by the Central and State Governments.
- It is a multi-stage destination-based tax. Multi-stage because it is levied on each stage of the supply chain right from purchase of raw material to the sale of the finished product to the end consumer whenever there is value addition and each transfer of ownership.
- Destination-based because the final purchase is the place whose government can collect GST. **For example:** If a fridge is manufactured in Delhi but sold in Mumbai, the Maharashtra government collects GST.
- A major benefit is the simplification of taxation in India for government bodies.

# COMPONENTS of GST:

- **SGST** : Stands for State Goods and Services Tax.  
The **state government** collects this tax **on - intra state supply** of goods or services.  
I.e. **with in state** (eg. Sales and services Within Karnataka)

SGST is one of the components of **GST** levied and collected by the respective state government on intra-state supplies.

- **CGST**: Stands for Central Goods and Services Tax.  
The **central government** collects this tax **on an intra state supply** of goods or services

Let us take an Example:

Mega Mart sold electrical appliances worth Rs. 10,000 which attracts 18% GST

The invoice will be

Value of Goods		Rs	10.000
Add GST 18%			
	CGST 9% - SGST 9%		
	Rs. 900	Rs.900	1.800
Total Mount Payable			Rs. 11.800

- **IGST:** Stands for Integrated Goods and Services Tax. The central government collects this **for inter- state sale** of goods or services. (Karnataka to Maharashtra)

**IGST** is collected together and distributed to the Central and State Governments.

- **UTGST:** Union Territories Goods and Services Tax (UTGST) is levied and collected by **Union Territories without State Legislatures** on supply of goods or services

Ex. Daman and diu, Andaman and Nicobar, Delhi..etc.

## REVENUE AUTHORITIES

- **CBDT - The Central Board of Direct Taxes** (CBDT) is a part of the Department of Revenue under the Ministry of Finance. This body provides inputs for policy and planning of direct taxes in India and is also responsible for administration of direct tax laws through the Income Tax Department.
- **CBIC - Central Board of Indirect Taxes and Customs** (CBIC) is Under the GST regime.
- **CBEC - The Central Board of Excise and Customs** has been renamed as the **Central Board of Indirect Taxes and Customs (CBIC)** by post legislative approval. GST has now replaced a number of indirect taxes including **excise duty**. technically, **excise duty** does not exist in **India** except on a few items such as liquor and petroleum.

# MEANING OF COMPANY

- According to the Companies Act, of 2013

Company means a body incorporated under the companies Act of 1956 or any other law prevailing in India.

- Company may be defined as “an incorporated association, which is an artificial person, having a separate legal entity, with a perpetual succession, a common seal, and a common capital comprised of transferable shares and limited liability.”
- The tax collected from companies as defined under the Income Tax Act, 1961 is called ‘Corporate tax’

# TYPES OF COMPANIES AS PER INCOME TAX ACT

1. Company as per section 2(17),
2. A Company in which the public are substantially interested  
Section 2(18)
3. Widely held company:
4. Closely held company:
5. Indian company [Section 2(26)]:
6. Domestic company [Section 2(22A)]
7. Foreign company [Section 2(23A)]:
8. Investment company:

## **Company As per section 2(17), Company means:**

- As per section 2 (17) any Indian company, or a body corporate, incorporated in India in accordance with relevant laws.
- Any association or body which was assessed as a company for any assessment year under the Income-tax Act, 1961 or before 1.4.1970, or
- Any institution, association or a body, whether incorporated or not and whether an Indian or foreign, But, which is declared by a general or special order of CBDT is to be a company.
- Any body or corporate incorporated by or under the laws of a country outside India, for the income tax purposes.

**2. A Company in which the public are substantially interested - Section 2(18) and includes :**

- i. A company owned by Government or Reserve Bank of India.
- ii. A company in which Government or RBI holds not less than 40% of the shares.
- iii. Companies registered under section 25 of the Indian Companies Act, 1956 for promoting commerce, art, science, sports, charity which do not have the profit motive.
- iv. A company having no share capital and is declared by the order of CBDT.
- v. Mutual benefit finance company, where principal business of the company is acceptance of deposits from its members and which has been declared by the Central Government to be a Nidhi or a Mutual Benefit Society.

vi. A company in which at least 50% or more equity shares have been held by one or more co-operative societies.

vii. A public limited company:

A company is deemed to be a public limited company if it is not a private company as defined by the Companies Act, 1956 and should fulfill either of the following two conditions:

a. Its equity shares were listed on a recognized stock exchange.

b. Its equity shares carrying at least 50% of the voting power (40% in industrial company) were beneficially held throughout the relevant previous year by Government, or a statutory corporation.

### **3. Widely held company:**

It is a company in which the public are substantially interested.

### **4. Closely held company:**

It is a company in which the public are not substantially interested.

### **5. Indian company [Section 2(26)]:**

'Indian Company' means a company formed and registered under the Companies Act, 1956.

### **6. Domestic company [Section 2(22A)]:**

A domestic company means an Indian company or any other company which in respect of its income, liable to pay tax under the Income-tax Act and declared to pay the dividend within India on its income.

### **7. Foreign company [Section 2(23A)]:**

Foreign company means a company which is not a domestic company.

### **8. Investment Company:**

Where the gross total income consists mainly income from house property, Capital gains and Income from other sources are Investment companies.

## **RESIDENTIAL STATUS OF A COMPANY [Section 6(3)]**

**Determination of total income of a company depends upon its residential status during the relevant previous year.**

**The residential status of the company is determined either**

- 1. On the basis of its incorporation (Registration ) ; or**
- 2. On the basis of the control and management of its affairs.**

**On the basis of Residential Status, companies can be classified in to two categories**

- 1. Resident Companies**
- 2. Non Resident Companies.**

**Residential status** is a term coined under Income Tax Act and has nothing to do with nationality or domicile of a person. An Indian, who is a citizen of India can be non-resident for Income-tax purposes, whereas an American who is a citizen of America can be resident of India for Income-tax purposes.

## **1. RESIDENT COMPANIES [Section 6(3)]**

A company is said to be resident in India in any previous year if:

- It is an Indian Company ; or
- During the relevant previous year the control and management of its affairs is situated wholly in India.
- An Indian company is always a resident company for income tax purposes even if the control and management of its affairs is saturated outside India.
- A non-Indian company or a foreign company will be treated as resident of India for any previous year only if the entire control and management of affairs of such company, is situated in India.

## **2. NON RESIDENT COMPANY [Section 2(30)]**

A Company will be a non-resident in any previous year if:

- It is not an Indian company and
- Its place of effective management, in that year, is not in India.

It means a foreign company whose control and management is situated wholly or partially outside India will be a non-resident company.

# INCIDENCE OF TAX - SCOPE OF TOTAL INCOME (Section 5)

The incidence of tax on tax payer depends on his residential status and also on the place and time of accrual or receipt of Income. There are two types of Income for any company:

## 1. Indian Income:

- Any income received or deemed to be received in India during the previous year which **accrues in India** during previous year
- Any income received or deemed to be received in India during the previous year which **accrues outside India** during previous year
- Any income received outside India during the previous year but which accrued in India during previous year

## 2. Foreign Income:

- Income is not received or not deemed to be received in India.
- Income does not accrue or arise in India.

Taxability	Co - Resident in India	Co - Non - Resident in India
<b>Indian Income</b>	Taxable in India	Taxable in India
<b>Foreign Income</b>	Taxable in India	Not - Taxable in India

# DEPRECIATION – SECTION 32

Depreciation means a decrease in the value of assets by wear and tear, caused by their use in the business over a period of time. Section 32

## 1. **Assets eligible for depreciation:**

- Tangible Assets – i. Building, ii. Machinery and Plant, iii. Furniture etc.
- Intangible Assets – i. Know-how, ii. Patents, iii. Copyrights, iv. Trademarks etc.

## 2. **Conditions for allowance of Depreciation:**

- Assets should be owned wholly or partly by the assessee. Mere possession will not attract depreciation. Assets must be used for the purpose of carrying business in relevant previous year.

### 3. **Block of Assets:**

- The term Block of Assets means a group of assets falling within a class of assets
- Tangible Assets – i. Building, ii. Machinery and Plant, iii. Furniture etc.
- Intangible Assets – i. Know-how, ii. Patents, iii. Copyrights, iv. Trademarks

### 4. **Actual Cost : Section 43(1)**

- Actual cost of an asset is the actual cost paid less that portion of the cost if any, has been met directly or indirectly by any other person or authority.

- Actual cost of the asset shall be determined as

Cost of Acquisition of assets	xxx
Less: Amount received as subsidy or met by other authority or tax credits	<u>xxx</u>
Add: Expenses incurred in acquiring assets	<u>xxx</u>
Actual cost	xxx

## 5. Written Down Value – Section 43(6)

Written Down Value means the 'actual cost' of a depreciable asset minus depreciation actually allowed by the assessing officer while computing taxable income under the provisions of the income-tax Act, 1961

Where the asset is acquired in the previous year, the actual cost of the asset shall be treated as WDV.

Where the asset is acquired in an earlier year, the WDV shall be equal to the actual cost incurred less depreciation actually allowed under the Act.

- **Written Down Value** of the asset shall be determined as

Opening value of the block or aggregate value of all assets in the block

at beginning of year

xxx

Add: Cost of new assets acquired during the year

xxx

Total

xxx

Less: Amount of assets sold, discarded, demolished or destroyed during year

xxx

**WDV for the purpose of depreciation**

**xxx**

Less: Depreciation at the prescribed percentage – actually allowed

xxx

**Closing value of the Block**

**xxx**

## Depreciation in the year in which asset is purchased

- Deprecation is allowed only if the asset is put to use in the year of purchase.
- Degree of utilization of assets will not be considered while determining whether the asset is put to use or not. For example if the asset is used for trial run then it is considered the asset is put to use.
- If asset is put to use for less than 180 days then amount equal to 50% of the amount of normal depreciating rates is allowed as depreciation.
- Deprecation will be allowed on the basis of block of asset method.

# Additional Depreciation Section 32(1) (ia)

- According to **Section 32(1) (ia)** Additional depreciation to be allowed at **20 % of actual cost of new plant and machinery.**
- To claim additional depreciation @ 20% of the actual cost of machinery, the asset should be used for minimum **180 days** during the relevant previous year.
- However, if an asset is acquired and put to use for less than 180 days during the previous year, 50% of **additional depreciation** shall be allowed in year of acquisition and balance 50% would be allowed in the next year.

## The following conditions to be fulfilled.

- The assessee is engaged in the business of manufacture or production of any article or thing or goods.
- The Plant and machinery should be new it has not been used earlier, it should not be in the nature of office equipment or road transport vehicles.
- It is allowed in addition to normal depreciation and shall be taken into consideration for calculation WDV.
- Additional Depreciation is not allowed on Ships and Aircraft, Old plant and Machinery, Office equipment's, Road transport vehicles.

# COMPUTATION OF TAX LIABILITY OF COMPANIES

There are ten steps involved in computation of companies tax, which are as follows:

## STEP ONE:

### ASCERTAIN THE CATEGORY OF 'PERSON' TO WHICH ASSESSEE BELONGS TO

- Indian Company.
- Domestic Company.
- Foreign Company.
- Company in which the public are substantially interested.
- Widely held company.
- Closely held company.
- Investment company.

## **STEP TWO: ASCERTAINING OF ASSESSMENT YEAR AND PREVIOUS YEAR**

- **ASSESSMENT YEAR – 2020-21**  
(1<sup>st</sup> April 2020 and ends on 31<sup>st</sup> March 2021)
- **PREVIOUS YEAR – 2019-20**  
(1<sup>st</sup> April 2019 and ends on 31<sup>st</sup> March 2020)

## STEP THREE : ASCERTAIN RESIDENTIAL STATUS

A company is said to be 'resident' in India if -

it is an Indian Company, or

the **place of effective control and management is in India,**

In case of a Foreign Company whose turnover or gross receipts during the previous year exceeds Rs. 50 Crores.

A company is said to be '**Non-resident**' in India if it is **not** an Indian Company i.e., a Foreign Company.

## STEP FOUR: IDENTIFYING THE INCOME THAT MUST BE CONSIDERED' IN COMPUTING TAXABLE INCOME

Income	Should the income be considered in computing taxable income, if the assessee is-		
	Resident	Non-resident	
Indian Incomes	YES	YES	
Foreign Incomes	YES	NO	
Income of earlier years (taxed or untaxed) brought into India during previous year	NO	NO	

## STEP FIVE:

### CLASSIFY THE INCOMES INTO REVENUE AND CAPITAL RECEIPTS

- **Revenue receipts** are money earned by a business through its day to day operational activities eg. **receipts** from sale of good and services, discount received from creditors or suppliers, interests earned, dividends received etc.
- **Capital receipts** refer to those **receipts** which either create a liability or cause a reduction in the assets. **They are** non-recurring and non-routine in nature. Eg. funds received from issue of shares or debentures, cash from sale of fixed assets, borrowings such as loans, insurance claims, etc.

## STEP SIX:

### ASCERTAINING TAXABLE 'INCOMES TO BE CONSIDERED'

The general rule under the Income tax Act is that,

- All revenue **receipt** are **taxable** unless a **receipt** is specifically exempted. and
- All **capital receipts** are exempt from **taxation** unless there is a provision to tax it.

# **STEP SEVEN: CLASSIFY THE TAXABLE INCOME UNDER 'HEADS OF INCOME'**

- Income from House Property
- Income from Business
- Capital Gains
- Income from Other Sources

# **STEP EIGHT: COMPUTE TAXABLE INCOME UNDER EACH 'HEADS OF INCOME'**

As above...

# COMPUTATION OF INCOME FROM BUSINESS

	Rs.	Rs.
Net Profits as per Profit and Loss Account		XXX
<u>Add:</u>		
Inadmissible Expenses debited to P & L A/c	XXX	
Business incomes not credited to P & L A/c	XXX	
Over-valuation of opening stock and under-valuation of closing stock	<del>XXX</del>	<del>XXX</del>
<u>Less:</u>		
Admissible expenses not debited to P & L A/c	XXX	XXX
Non-business and non-taxable incomes credited to P & L A/c	XXX	
Under-valuation of opening stock and over-valuation of closing stock	<del>XXX</del>	<del>XXX</del>
Income from Business		XXX

# SELECT IMPORTANT PROVISIONS IN COMPUTING INCOME FROM BUSINESS' OF COMPANIES

1. Depreciation [Section 32]
2. Deduction for deposit in Tea Development Account or Coffee Development Account or Rubber Development Account of NABARD [Sec. 33AB]
3. Deduction for deposit in Site Restoration Fund [Sec. 33ABA]
4. Expenditure on Scientific Research [Sec. 35]
5. Expenditure to obtain license to operate Telecommunication Services [Sec.35ABB]
6. Deduction in respect of capital expenditure of specified businesses [Sec. 35AD]
7. Amortization of Preliminary Expenses [Sec. 35D]
8. Securities Transaction Tax [Sec. 36(1)(xv)]
9. Commodities Transaction Tax [Sec. 36(1)(xvi)]
10. Expenses deductible on payment basis [Sec. 43B]

## STEP NINE: COMPUTATION OF TAXABLE INCOME

	<u>Rs.</u>	<u>Rs.</u>
Income from House Property		XXX
Income from Business and Profession		XXX
Short-term capital gains (other than short-term capital gains liable for security transaction tax)		XXX
Income from other sources (other than casual income)		<u>XXX</u>
<b>Gross Total Income</b>		XXX
<b><u>Less:</u> Deductions under sections 80G to 80JJAA</b>		<u>XXX</u>
<b>Taxable Income</b>		XXX
<b><u>Add:</u></b>		
Short-term Capital Gains liable for securities transaction tax	XXX	
Long-term capital gains liable for securities transaction tax	XXX	
Other Long –term capital gains	<u>XXX</u>	<u>XXX</u>
Casual Income		XXX
<b>Total Taxable Income</b>		

## LIST OF DEDUCTIONS AVAILABLE FOR COMPANY ASSESSE

SECTION	PURPOSE OF DEDUCTION
80G	For approved donations made by the assessee
80GGA	For contribution towards scientific research development and rural development programs.
80GGB	For contribution made by other notified assesses to political parties
80IA	For profits from infrastructure related businesses established between specified dates
80IAB	For profits derived by any undertaking from any business of developing special economic zone
80IAC	For profits derived from eligible start-ups.
80IB	For profits from other notified businesses established between specified dates
80IBA	For profits derived from the business of developing and building a housing project.
80IC	For profits from businesses established in Sikkim, Himachal Pradesh, Uttaranchal and North-eastern States between specified dates
80ID	For profits from the business of hotel located in a specified area and or from the business of building, owning and operating a convention Centre located in a specified area.
80IE	For profits from certain undertakings in any North-Eastern State.
80JJA	For profits from the business of collecting and processing bio-degradable waste
80JJAA	For employing additional employees

## STEP TEN: COMPUTATION OF TAX LIABILITY

	Rs.	Rs.
Tax on Total Taxable Income	XXX	
OR	XXX	
Minimum Alternate Tax u/s 115JB		XXX
Whichever is Higher		<u>XXX</u>
		XXX
<u>Less:</u> Adjustment of Tax Credit, if any		<u>XXX</u>
		XXX
<u>Add:</u> Dividend Distribution Tax 115-O		
Tax Liability		<u>XXX</u>
<u>Less:</u>		
Dividend Distribution Tax paid	XXX	
Advance Tax Paid	XXX	
	<u>XXX</u>	
Tax Deducted at Source		
<b>Net Tax Liability</b> (Balance Tax Payable or Refundable)		XXX

# TAX ON TOTAL TAXABLE INCOME

	<b>Rs.</b>
Tax on Casual income @ 30%	XXX
Tax on Long-term capital gain @ 20%	XXX
Tax on Short-term capital gain liable for STT @ 15%	XXX
Tax on Long-term capital gain on transactions liable for STT (in excess of Rs. 1,00,000) @ 10%	XXX
Tax on Other-taxable income (at the prescribed rates )	<u>XXX</u>
	<b>XXX</b>
<u>Add:</u> Surcharge (if applicable – at the prescribed rates )	<u>XXX</u>
	<b>XXX</b>
<u>Add:</u> Health and Education Cess @ 4%	<u>XXX</u>
	<b>XXX</b>
<b>Tax on Total Taxable Income</b>	

# TAX RATES ON OTHER TAXABLE INCOME

<u>Domestic Company</u> <ul style="list-style-type: none"><li>➤ Where the total turnover or gross receipts during the previous year 2019-20 does not exceed Rs. 400 Crores</li><li>➤ In case of other domestic companies</li></ul>	25% 30%
Foreign Companies – for royalty received from Government or an Indian concern in pursuance of an agreement made by it with the Indian concern after March 31, 1961 but before April 1, 1976 or fees for rendering technical services in pursuance of an agreement made by it after February 29, 1964 but before 1 <sup>st</sup> April, 1976 and where such agreement has in either case been approved by the Central Government	50%
Foreign Companies – for all other incomes (other than income mentioned above)	40%

# RATES OF SURCHARGE

If 'Total Taxable Income' of the company	Domestic Company	Foreign Company
Does not exceed Rs.1 Crore	Nil	Nil
Exceeds Rs. 1 Crore, but does not exceed Rs. 10 Crores	7%	2%
Exceeds Rs. 10 Crores	12%	5%

# MINIMUM ALTERNATIVE TAX

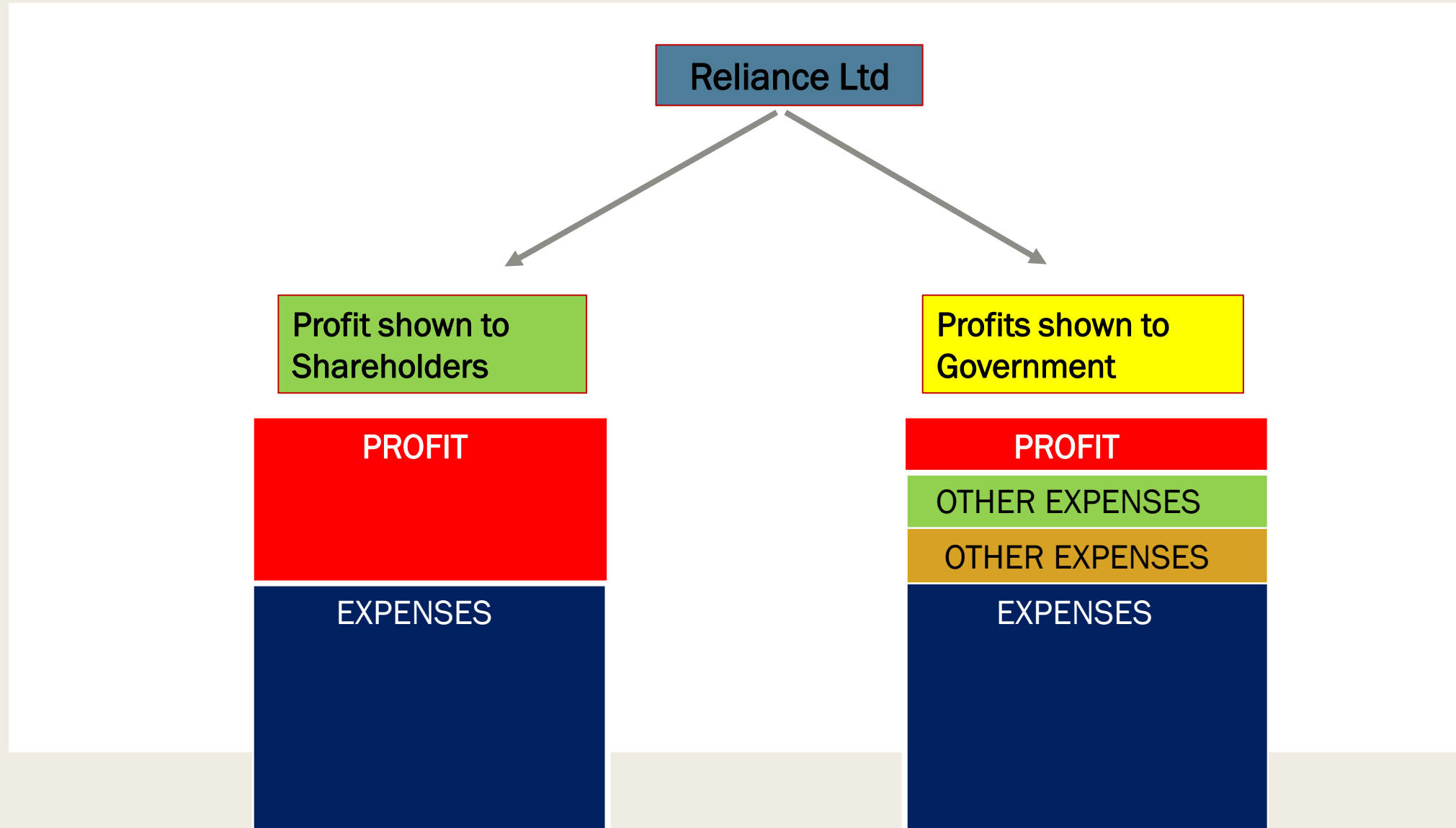
## HISTORY OF MAT

- Reliance Industries Limited was one of the main factor which led to introduction of MAT
- Introduced in the finance Act 1996 by then Finance Minister Mr. P Chidambaram
- MAT was introduced for the **Zero Tax Companies** and companies paying marginal tax
- It is a form of Income tax only
- It is levied on companies only. Ie on Private Limited and Limited companies.

## OBJECTIVES OF MAT

- The objective of introduction of MAT is to bring “zero tax companies” into the tax net.
- The companies in spite of having earned substantial book profits and having paid handsome dividends, do not pay any tax to the government due to various tax concessions and incentives provided under the Income-tax Law.

# Let us take an example of Reliance Company



**For Example:** ABC Ltd, has shown following profits during the AY 2020-21

Profit as per Profit and Loss Account	Rs.1,500 crores
Profit and gains on Business or Profession as per IT	Rs. 600 crores
Rate of Income Tax	30%
Rate of Minimum Alternative Tax MAT	17.47%

Now

Income Tax on Profits as per Income Tax computation would be

$$\text{Rs. 600 crores} \times 30\% = \text{Rs. 180 crores}$$

However, the Government was expecting tax on Rs1,500 crores of profit

Therefore, after implication of MAT, Company has to pay

Income Tax on Profit and Gains on Business or Profession i.e. Rs. 180 Crores

Or

MAT on Profits as per Profit/Loss Account, i.e. Rs 1,500 crores  $\times$  17.47% = 262.05 crores

Government will collect WHICH EVER IS HIGHER i.e. Rs. 262.05 crores

**For Example:** XYZ Ltd, has shown following profits during the AY 2020-21

Profit as per Profit and Loss Account	Rs.1,000 crores
Profit & gains on Business or Profession as per IT	Rs.1,500 crores
Rate of Income Tax	30%
Rate of Minimum Alternative Tax MAT	17.47%

Now

Income Tax on Profits as per Income Tax computation would be

Profit & Gains on Business/Profession Rs. 1,500 crores X 30% = **Rs. 450 crores**

MAT as per MAT Provisions Company has to pay

Profit as per Profit and Loss Account =  $1000 \times 17.47\%$  = **Rs 174.7 Crores**

Government will collect **WHICH EVER IS HIGHER** ie. **Rs.450 crores**

## **Section 115JB(1) – The charging section states that**

Notwithstanding anything contained in any other provisions of the Income tax act

Wherein the case of company

The Income tax payable on the total income as computed under the Income tax act

In respect of any previous year relevant to assessment year 2020-21 or subsequent assessment years.

Is less than 15.6 % of its book profits,

Such Book profits shall be deemed to be the total income of the assess.

And tax payable on such total income shall be the amount of Income Tax at the rate of 15.6 %

- **MAT is calculated on the Profit computed as per Profit and Loss Account prepared as per Schedule VI /Schedule III of Companies Act of 1956 or 2013 respectively.**

Step 1. Net profit as per Profit and Loss account as per companies Act		XXXX
Add: Additions as per section 115JB		<u>XXXX</u>
		XXXX
Less: Deductions as per 115JB		<u>XXXX</u>
<b>BOOK PROFIT</b>		<u>XXXX</u>
A . <b>Compute tax @ 15.6 % on Book Profit.</b>	<b>A</b>	<b>XXXX</b>
Step 2. Total Income as per Income Tax Provisions		
B. Compute tax on Total Income		
Net profit as per Profit and Loss Account		XXXX
Add: Corporate Tax - 30% in case of Domestic Company or 40% in case of Foreign Company		<u>XXXX</u>
	<b>B</b>	<b>XXXX</b>
Step 3. <b>C . Higher of A or B Shall be tax Payable under sec. 115JB</b>		<b>XXXX</b>
Add: Surcharge @ - 7% or 12% for Domestic Company 2% or 5% for Foreign Company ( if total income exceeds Rs. 1 crore )		XXXX
<b>D. Total</b>		<b>XXXX</b>
Add: Education Cess @ 4%   on D		<u>XXXX</u>
	<b>Total Tax Payable</b>	<b><u>XXXX</u></b>

When 'Book Profits' of the Company ( Asst. Year 2020-21 )	Domestic Company	Foreign Company
<u>Does not exceed Rs. 1 Crore</u>	15.00	15.00
Tax on Book-Profits	<u>Nil</u>	<u>Nil</u>
<u>Add: Surcharge - NIL</u>	15.00	15.00
<u>Add: Education Cess @ 4%</u>	<u>.60</u>	<u>.60</u>
Effective Rate of MAT	15.60	15.60
Exceeds Rs. 1 Crore but does not exceed Rs. 10 Crores.		
Tax on Book-Profits	15.000	15.000
<u>Add: Surcharge - 7% - Domestic Co. 2% - Foreign Co</u>	<u>1.050</u>	<u>.300</u>
<u>Add: Education Cess @ 4%</u>	16.050	15.300
	<u>.642</u>	<u>.612</u>
Effective Rate of MAT	16.692	15.912
Exceeds Rs. 10 Crores Tax on		
Book- Profits	15.000	15.000
<u>Add: Surcharge -12% - Domestic Co. 5% - Foreign Co</u>	<u>1.800</u>	<u>.750</u>
	16.800	15.750
<u>Add: Education Cess @ 4%</u>	<u>.672</u>	<u>.630</u>
	17.472	16.380

# TAX CREDIT

Where for any assessment year, 'Minimum Alternate Tax' exceeds 'Tax on Total Taxable Income', such excess amount is considered as 'Tax Credit' and carried forward.

The amount of 'tax credit' so carried forward can be set-off against tax liability for any year during which 'Tax on Total Taxable Income' exceeds 'Minimum Alternate Tax'.

The amount of credit that can be set-off is **least** of the following:

Excess of 'Tax on Total Taxable Income' over 'Minimum Alternate Tax', or

Balance of 'Tax Credit' available.

The 'tax credit' can be carried forward for a maximum period of **ten** years, from the assessment year in which it is created. No interest is payable on tax credit.

# DIVIDEND DISTRIBUTION TAX

According to **Section 115-0**, A **Domestic Company** is liable for an additional tax on any amount of dividend declared or distributed or paid by it.

The rate of Dividend Distribution Tax is 17.64706% (plus Surcharge and Education Cess).

So, the effective rate of **Dividend Distribution Tax is 20.555294%** [i.e., Tax @ 17.6471% + Surcharge @ 12% on Tax + Education Cess @ 4% on 'Tax and Surcharge'].

Dividend Tax **must be paid** within 14 days from the date of-

Declaration of any dividend, or

Distribution of any dividend, or

Payment of any dividend

Whichever is **earliest**.

- Where the dividend tax is not paid within the specified time limit, the company is liable for payment of **interest @ 1% per month or part thereof** on the **amount due** beyond the time limit, for the period of **delay** (i.e., from the last date for payment till the date of actual payment of dividend tax).
- Dividend Distribution Tax is applicable whether the dividend is **interim or final**.
- It is applicable whether the dividend is paid out of **current profits or accumulated profits**.
- Dividend Distribution Tax is **not applicable** in the following cases -
  - Dividends declared, distributed or paid during April 1, 2005 and May 31, 2011 by a developer or enterprise out of current income from a special economic zone, and the amount of dividend paid on or after April 1, 2009 to any person for, or on behalf of, the new pension system trust.

# SET OFF AND CARRY FORWARD OF LOSSES

- **SET OFF OF LOSSES** means adjusting the **losses** against the profit or income of that particular year. **Losses** that are not **set off** against income in the same year can be **carried forward** to the subsequent years for **set off** against income of those years. A **set-off** could be an intra-head **set-off** or an inter-head **set-off**.
- **Intra-head Set Off - Sec 70**
  - The losses from one source of income can be set off against income from another source under the same head of income.
  - Loss from speculation business is set off only against income from another speculation business but not against the income of non-speculation business.
  - Long term capital loss is set off only against long term capital gain but not against the short term capital gain.

However, short term capital loss can be set off against any capital gains ( i.e. either STCG or LTCG)

No Loss can be set off against the winnings from lotteries, crossword puzzles, races including horse races, card games, gambling or betting etc.

## ■ INTER - HEAD SET OFF - SEC 71

- After the intra-head adjustments, the taxpayers can set off remaining losses against income from other heads.
- Eg. Loss from house property can be set off against salary income.

## ■ CARRY FORWARD OF LOSSES - Sec 72

- After making the appropriate and permissible intra-head and inter-head adjustments, there could still be unadjusted losses. These unadjusted losses can be carried forward to future years for adjustments against income of these years.
- The rules regards carry forward differ slightly for different heads of income.

THANK YOU

# CORPORATE TAX FOR MANAGERS

## MODULE 2

# MODULE 2 - TAX PLANNING

- Tax planning, Tax avoidance and Tax evasion – Meaning and difference.
- Areas of tax planning –
- Tax planning with respect to Setting up New Business –  
Form of Organisation, Tax planning with respect to location and Nature of Business.
- Tax Planning with reference to Financial Managerial Decisions -  
Capital Structure Decision, Dividend Policy, Inter-Corporate Dividends and Bonus Shares,
- Specific Managerial Decisions - Purchase of asset, Lease, Instalment, Hire, Make or buy, Repair, replace, renewal or renovation,
- Tax planning for Distribution of Assets by Companies in liquidation, Amalgamation and Demerger.

# INTRODUCTION

- TAX is the compulsory payment made by the assessee to the government. Without expectation of the direct return or benefit to the taxpayer.
- Taxation is the process by which government gets its finance by imposing charges on citizens and corporate entities for their expenditure .
- Tax Planning involves planning in order to avail all exemptions, deductions and rebates provided in Act.
- Tax Management is the way of effectively managing the **income** and taxes, so that the **tax** liability arising on the assessee is minimum.

# MEANING, NATURE AND OBJECTIVES OF TAX

- Tax is a compulsory contribution from a person to the government to meet the expenses incurred in the common interest of all.
- **Nature of Tax**
  - It is compulsory contribution to the state by citizens
  - It is a personal obligation and responsibility of citizens
  - It is imposed by government only
  - It is for the common benefit of the society
  - It is a source of revenue to government to fulfill socio economic objectives.
- **Objectives of Tax**
  - Reduction of Inequalities in Income and wealth by means of progressive taxation
  - Raising Public Revenue
  - Promoting capital formation by way of savings
  - Regulation and control

# METHODS USED TO MINIMIZE TAX LIABILITY

## ■ TAX PLANNING

- It is the way to reduce tax liability by claiming deduction, exemptions, allowance and rebates as prescribed under IT Act.
- Ensuring all tax laws are fully complied within its framework.
- Having **No Intention** to deceive the legal spirit. Planning of tax must be correct both in form and substance. (procedure and materials)

## ■ TAX AVOIDANCE

- It is the way to reduce tax liability by finding loopholes in the law.
- It is the use of legal methods to minimize the amount of income **tax**.
- Tax avoidance is reducing tax liability in legally permissible ways and has legal sanction. Tax avoidance is sound law and certainly not bad morality.
- Anybody can arrange his affairs in such a way that the burden of taxation is the minimum. This can be done within the legal framework even by taking help of loopholes in the law.

## ■ TAX EVASION

- It is the way to reduce or avoid tax liability **in dishonest or illegal manner.**
- It may involve – preparing untrue statement knowingly
- Submitting misleading document
- Suppression of facts
- Not maintaining proper accounts of income earned
- Omission of material facts on assessment
  
- Tax evasion occurs when a person or business illegally avoids paying their tax liability, which is a criminal charge that's subject to penalties and fines

# TAX PLANNING

- Tax planning can be defend as an arrangement of one's financial and business affairs by taking legitimately in full benefit of all
  - deductions,
  - exemptions,
  - allowances and rebates,
  - so that tax liability reduces to minimum.
- It is a plan to reduce tax liability by meeting all legal obligations and fully complying tax laws.
- For Example – Section 80 IB of the IT Act provides deduction from Gross Total Income in respect of profits from newly established industrial undertakings in industrially backward districts. (Tax Holiday – 7 years)
- Here tax relief is provided to encourage savings and investment for economic development of the country. If an assessee takes this advantage of rebate, he not only reduces tax burden but also helps in achieving the social objectives of Government.

## KEY POINTS IN TAX PLANNING:

- It is not avoidance to payment of tax.
- Tax planning should not be done with an intention to defraud the Government.
- All transactions with respect to tax planning should be correct.
- Tax planning works within the framework of law and its not illegal.

## IMPORTANCE OF TAX PLANNING :

Tax planning should be an integral part of business. Business loses if it doesn't make use of the available deductions and exemptions to save on taxes.

Paying taxes is a way of contributing to the nation's development, but when the government is providing certain options to save taxes, it is wise to do so.

**Hence, Tax planning** strategies are typically employed in all business in order to achieve their financial and business goals. It helps in lowering the amount of taxable income and reducing the **tax** burden and encourages savings and investment.

- helps to deal with the burden of direct and indirect taxation during inflations.
- Helps in proper expenses planning, capital budget planning, sales promotion planning etc.

# OBJECTIVES OF TAX PLANNING

## ■ REDUCTION IN TAX LIABILITY

The main requisite of tax planning is to reduce tax liability, so that surplus out of profit may be utilized for future investments. The savings will be possible only by availing deductions, exemptions, and rebates.

## ■ PRODUCTIVITY

Tax planning can be used to ensure that funds from taxable sources are diverted to income-generating plans. By using most beneficial tax savings options money can be diverted to most productive investment planning.

## ■ MINIMAL LITIGATION

Business usually never face legal litigations in attempting reduction of tax burden. Because Tax planning ensures to take all precautions to avoid possibility of litigation afterwards.

## ■ GROWTH WITH THE ECONOMY

A business can grow with the economy. The tax planner should make the effort to ensure that one's money invested, takes the right direction for circulation and development of economy.

## ■ ECONOMIC STABILITY

The economic stability of a nation benefits everyone, including the taxpayer. Tax planning ensures that all legally-due taxes are paid on time. This is how a productive economy is created.

# ESSENTIALS OF TAX PLANNING

- Up to date knowledge of tax laws and awareness of judgments made through various decisions of the courts.
- The disclosure of all material information and furnishing the same to the department.
- Tax planning should not just comply legal provisions as stated but should be within the framework of law.

## TYPES OF TAX PLANNING

- Purposive tax planning.
- Permissive tax planning.
- Long range tax planning.
- Short range tax planning

## ■ **PURPOSIVE TAX PLANNING**

- It means making plans with specific purpose.

To ensure the availability of maximum benefits to the assessee

- through correct selection of investment
- making suitable programme for replacement of assets
- diversifying business activities and income etc.

## ■ **PERMISSIVE TAX PLANNING**

- It means making plans which are permissible under different provisions of the law
- **Planning** to earn income covered by Section 10,
- **planning** of take advantage of various deductions under sec 80 C ,
- Planning to get incentives and benefit as per different sections of Income tax.

## ■ SHORT TERM TAX PLANNING

- It is the planning which is executed at the end of the income year to reduce taxable income in a legal way.
- Example: If an assessee intends to reduce the tax burden assessee can deposit the money in tax savings instruments such as life insurance premium or contribution to provident fund, He will get tax rebate to the extent of 15 to 20 % as per **section 80c**.

## ■ LONG TERM TAX PLANNING

- It means a plan charted out, at the beginning of the income year, to be followed around the year.
- Example: If an assessee transfers shares held by him to his minor son or spouse, the income from such transferred shares will be clubbed with his income under section 64, if the income is invested by the son or spouse, then the income from such investment will be treated as income of the son or spouse.

# TAX MANAGEMENT

**Tax management** means, the **management** of finances, for the purpose of paying **tax**. This involves in complying with the provisions of Income **Tax** Law and its allied rules. It deals with filing of Return in time, getting the accounts audited, deducting **tax** at source etc.

**Difference between Tax Planning and Tax Management** is that tax planning is an optional exercise for tax aversion while tax management is a general term used to describe the practice of timely payment of taxes as per the allied norms.

Parameter of Comparison	Tax Planning	Tax Management
<b>Objective</b>	<b>Tax planning is done to minimize liability.</b>	<b>Tax management is to comply with ordinance of Income-tax Law and Allied rules.</b>
<b>Relationship</b>	<b>Tax Planning includes tax management.</b>	<b>Includes auditing accounts, filing tax return etc.</b>
<b>Time</b>	<b>it is done for the future.</b>	<b>It can be done for past, present and future.</b>
<b>Usage</b>	<b>It enables minimizing tax liability for both short term and long term.</b>	<b>If done well, one can avoid penalties and interests.</b>
<b>Relevance</b>	<b>It is an optional exercise.</b>	<b>It is essential.</b>

# TAX AVOIDANCE

Tax avoidance is an act to minimize tax liability through legal methods. It is the legal usage of the tax law to reduce the tax amount.

- It is the art of avoiding tax burden without breaking the law.
- Tax avoidance is not bad morality for anybody. It is only arranging the financial affairs in such a way that the burden of taxation is the minimum
- This can be done within the legal framework even by taking help of loopholes in the law

# TAX EVASION

Tax evasion is the illegal evasion of taxes by individuals and corporations. It is deliberately misrepresenting the true state of affairs to the tax authorities to reduce their tax liability and includes dishonest tax reporting, such as declaring less income than actually earned, or overstating deductions.

# TAX EVASION

All methods by which tax liability is illegally avoided are termed as tax evasion.

It involves :

- Producing untrue statement knowingly
- Submitting misleading documents
- suppression of facts
- Not maintaining proper accounts of income earned as required under law
- Omission of material facts on assessment
- Evasion of custom duty by smuggling
- Submission of false return.
- Submission of false certificates to get deductions.
- Charging personal expenses as revenue expense.
- Including dummy salary entries etc.

## LIMITATION OF INDIAN TAX STRUCTURE WHICH RESULT IN TAX EVASION:

- **HIGH RATE OF TAXATION:** High rate of taxation causes burden on people. So they avoid tax.
- **FAILURE TO CURB BRIBERY:** There should be adequate system to curb corruption. Because these people help taxpayers to avoid tax by taking a portion of the amount evaded.
- **LACK OF SIMPLIFIED PROCEDURE:** Tax structure in India is complex and people find it difficult to go to different department for a single matter.
- **FREQUENT CHANGE IN GOVT. AND POLITICAL INSTABILITY:** Different govt. makes different policy and it becomes difficult to follow.

## Difference between Tax Avoidance and Tax Evasion

<b>Tax Avoidance</b>	<b>Tax Evasion</b>
Any planning of tax which aims at reducing tax liability in legally recognised permissible ways, can be termed as an instance of tax avoidance.	All methods by which tax liability is illegally avoided is termed as tax evasion.
Tax avoidance takes into account the loopholes of law.	Tax evasion is an attempt to evade tax liability with the help of unfair means/ methods.
Tax avoidance is tax hedging within the framework of law.	Tax evasion is tax omission.
Tax avoidance has legal sanction.	Tax evasion is unlawful and an assessee guilty of tax evasion may be punished under the relevant laws.

# TAX PLANNING WITH REFERENCE TO SETTING UP OF A NEW BUSINESS - BASED ON LOCATION OF NEW BUSINESS

## ■ BASED ON LOCATION OF NEW BUSINESS

Location of Business forms an integral part for Tax Planning. There are certain locations which are given some special tax treatment.

### ■ Establishment of Industrial undertaking in Free Trade Zones (sec 10A)

**Sec. [ 10A ] :** Tax Holiday for newly established undertaking in Free Trade Zone:

First 5 Years – 100 % of profits and gains is allowed as deduction

Next 2 Years : 50% of such Profit and Gains is deductible for further 2 asst. years.

### ■ Establishment of 100 per cent Export Oriented Undertaking (sec 10B)

**Sec. [ 10B ] :** Tax Holiday for newly established undertaking in export oriented undertaking

First 5 Years – 100 % of profits and gains is allowed as deduction

Next 5 Years : 50% of such Profit and Gains is deductible for further 5 asst. years.

## ■ Establishment of Power Generation or Transmission Plants (sec 80IA)

- **Sec [80IA]** - setting up of any power generation and distribution plant, laying a network of new transmission or distribution lines, undertaking substantial renovation and modernization of the existing plant in any part of India,

Deductions allowed is 30% to 100% of profits from such eligible business

## ■ Establishment of Industrial undertaking in an industrially backward state or district (sec 80IB)

- **Sec [ 80IB ]** - Deduction allowed is either 100% or 30% for 10 years depending upon case to case.

## ■ Establishment or expansion of Industrial undertaking in specified states. (sec 80IC)

- **Sec. [ 80IC ]** : Profits from Industrial Undertaking located in the specified States, of Jammu & Kashmir, Himachala Pradesh, Uttaranchal and North Eastern States.

Deduction allowed is 100% of such profit.

# TAX PLANNING WITH REFERENCE TO SETTING UP OF A NEW BUSINESS - NATURE OF THE NEW BUSINESS

## ■ BASED ON NATURE OF NEW BUSINESS

Nature of Business forms an integral part for Tax Planning. There are certain business which are given some special tax treatment.

### ■ **Sec. [ 10(1) ] :**      **Agricultural Income** – 100% tax exempted.

- Where an assessee derives an income in any agricultural forming or any type of business in nature of agriculture will be totally exempted.

### ■ **Sec. [ 35 D ] :** **Amortization of Certain Preliminary Expenses : 1/10 of expenditure**

- Where an assessee, incurs any expenditure either before the commencement of his business, or after the commencement of his business, in connection with the extension of his industrial undertaking or setting up a new industrial unit, the assessee shall be allowed a deduction to the extent of - one-tenth (1/10 ) of such expenditure

- **Sec. [ 35 E ] : Profits from Prospecting Certain Minerals** : 1/10 of the amount of such expenditure
  - Where an assessee is engaged in any operations relating to prospecting for, or extraction or production of, any mineral and incurs, any expenditure - a deduction of an amount equal to one-tenth (1/10) of the amount of such expenditure deducted from income, if the income is less than that then it will be carried forward to next year.
- **Sec. [ 44 AD ] : Special provision for computing profits and gains of business of civil construction, etc.** : 6% or 8% of gross receipt as income
  - where an assessee is engaged in the business of civil construction or supply of labour for civil construction then, the total income is considered as:
  - 6% - If payment received digitally by businesses or 8% - If payment received in cash is considered as gross receipts or turnover, shall be chargeable to tax under the head "Profits and gains of business or profession"

- **Sec. [ 44 AE ] : Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages :**
  - If an assessee engaged in the business of plying, hiring or leasing goods carriages and who owns not more than 10 goods carriages and, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, computed as follows :
    - (i) An amount equal to Rs.3,500 for every month or part of a month for a heavy goods vehicle.
    - (ii) An amount equal to Rs.3,150 for every month or part of a month for other than a heavy goods vehicle.
- **Sec. [ 44 AF ] : Special provisions for computing profits and gains of retail business :** If an assessee engaged in retail trade in any goods or merchandise, a sum equal to 5% of the total turnover shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

# Tax Planning with reference to Financial Managerial Decisions

## CAPITAL STRUCTURE DECISION

- A company's **capital structure** is the particular combination of Debt and **Equity** used by a company to **finance** its overall operations and growth –

Capital structure involves various sources of funding or a mix of a company's long - term debt, short - term debt, common equity and preferred equity.

- Two options for capital are debt and equity.

Debt receives a tax break but increases the financial risk of a company

**Equity** is funds paid into a business by investors in exchange for common or preferred stock.

# The effect of combination of DEBT and EQUITY in the capital structure:

## 1. Capital structure with - High debt financing and no equity financing.

- High Interest - Earnings before tax-low, - Tax low

## 2. Capital structure with - Optimum mixture of debt and equity financing:

- Interest high, - Earnings before tax-low, - Tax low, - Dividend to be paid - Earning per share is high

## 3. Capital structure with- Low debt financing and high equity financing:

- Interest low, - Earnings Before Tax is high, - Tax is high, - Earnings After Tax is high, - Earnings Per Share is low, - Return on capital is high

## 4. Capital structure with- No debt financing and high equity financing:

- Interest is nil, - Dividend is high, - Earnings Before Tax is high, - Tax is high, - Earnings After Tax is high.

Tax treatment of interest for debt financing – Interest on loans or debentures is 100% tax deductible while calculating business income.

# MAKE OR BUY DECISIONS

- In an assembly industry like automobiles different components are assembled to make a product. Decision regarding the manufacturing of these components is to be taken based on the cost of making such components as compared with the purchase price prevailing in the market.

Main Factors to be considered while make or buy decisions

- Cost , Present Utilization capacity, Availability of Raw Material
- Availability of the Product in Market , Latest technology
- Variable cost of manufacturing, Dependence on suppliers
- Where the manufacturing of the product requires additional fixed cost.
- Where the manufacturing of the product requires establishment of a new unit.
  - Though there is cash outflow in establishing the new unit check the tax incentives available

# TAX CONSIDERATIONS IN OWN OR LEASE THE EQUIPMENT

Main Factors to be considered while make or buy decisions

- Purchasing cost or capital outlay,  Obsolesces risk ( scrap value)
- Depreciable asset,  Non Depreciable asset
- Special Tax Benefits,  Gestation period ( recollection of Investment or fund)
- Repairs and renewal,  Fund Position,  Technical obsolescence
- Residual value,  Future returns

# TAX CONSIDERATIONS WEATHER TO RETAIN OR REPLACE THE ASSETS.

## Factors

- Inflation
- Maintenance policies
- Technology policy
- Outflow of cash
- Special Tax
- Depreciation
- Risk

# DIVIDEND DISTRIBUTION TAX

According to **Section 115-O**, a **Domestic Company** is liable for an additional tax on any amount of dividend declared or distributed or paid by it.

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Dividend Tax **must be paid** within 14 days from the date of -

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Distribution of any dividend, or

Payment of any dividend

Whichever is **earliest**.

Where the dividend tax is not paid within the specified time limit, the company is liable for the payment of **interest @ 1% per month or part thereof** on the **amount due** beyond the time limit, for the period of **delay** (i.e., from the last date for payment till the date of actual payment of dividend tax).

Dividend Distribution Tax is applicable whether the dividend is **interim or final**.

It is applicable whether the dividend is paid out of **current profits or accumulated profits**.

Dividend Distribution Tax is **not applicable** in the following cases -

Dividends declared, distributed or paid during April 1, 2005 and May 31, 2011 by a developer / enterprise out of current income from a special economic zone, and

The amount of dividend paid on or after April 1, 2009 to any person for, or on behalf of, the new pension system trust.

# TAX PLANNING THROUGH ISSUE OF BONUS SHARES

- When Bonus Shares are issued to the **EQUITY SHARE HOLDERS**, the value of the shares is not taxed as dividend distributed.
- When **Redeemable Preference Shares** are issued as Bonus shares,
  - the amount shall be taxed as dividend distributed on their redemption.
- Where Bonus Shares are issued to the **Preference Shareholders**,  
It is liable for dividend tax.
  - Any Expenses on issue of Bonus Shares is not allowed as deduction since capital expenditure.

# TAX PLANNING IN CASE OF AMALGAMATION

- Meaning of Amalgamation under the Income Tax Act [Sec 2(1B)]
- An **amalgamation** is a combination of two or more companies into a new entity.
- **Amalgamation** is distinct from a merger because neither company involved survives as a legal entity. Instead, a completely new entity is formed to house the combined assets and liabilities of both companies.

Tax concessions are available if an amalgamation satisfies the conditions of Section 2(1B) and the amalgamated company is an Indian company:

- Non-chargeability of capital gain on the transfer of a capital asset including shares held by a shareholder at the time of amalgamation
- Eligibility of amalgamated company for the deduction in respect of any asset representing expenditure of a capital nature on scientific research
- Eligibility of the amalgamated company for the deduction in respect of acquisitions of patent rights or copy rights
- Deduction in respect of expenditure on know-how as provided in – Amortization of expenditure for obtaining telecom license fees
- Amortization of certain preliminary expenses – Amortization of expenditure on amalgamation – Amortization of expenditure on prospecting etc. for certain minerals – Writing off bad debts

**Thank u**

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# CUSTOMS DUTY

# MODULE 3

## CUSTOMS DUTY

- Import and Export procedure
- Valuation rules for customs duty,
- Computation of assessable value and calculation of customs duty.
- Baggage,
- Postal articles and stores rules.

# STEPS INVOLVED IN IMPORT OF GOODS

## 1. OBTAIN IEC ( Importer - Exporter Code )

Every business must first obtain an Import - Export Code (IEC) number from the regional joint DGFT. ( Directorate General of Foreign Trade)

The Importer - Exporter Code (IEC) is a key business identification number which is mandatory for Imports and Exports. No person shall make any import or export except under an IEC Number granted by the DGFT.

## 2. ENSURE LEGAL COMPLIANCE UNDER DIFFERENT TRADE LAWS

Once an IEC is allotted, businesses may import goods based on the Foreign Trade Policy.

However, certain items – which are restricted, or prohibited, as declared and notified by the government – require additional permission and licenses from the DGFT and the federal government.

### 3. PROCURE IMPORT LICENSES

To determine whether a license is needed to import a particular commercial product or service.

Indian Trade Classification or Indian Tariff Code - ITC (HS) is India's chief method of classifying items for trade and import-export operations.

The ITC-HS code, issued by the DGFT, is an 8-digit alphanumeric code representing a certain class or category of goods, which allows the importer to follow regulations concerned with those goods.

An import license may be either a general license or specific license. Under a general license, goods can be imported from any country, whereas a specific or individual license authorizes import only from specific countries.

## 4. FILE BILL OF ENTRY AND OTHER DOCUMENTS TO COMPLETE CUSTOMS CLEARING FORMALITIES

After obtaining import licenses, importers are required to furnish import declaration in the prescribed Bill of Entry along with PAN.

A Bill of Entry gives information on the exact nature, precise quantity, and value of goods that have landed or entered into the country.

The importer is required to submit supporting documents that include certificate of origin, certificate of inspection, bill of exchange, commercial invoice cum packing list, etc.

Once the goods are shipped, the customs officials examine and assess the information furnished in the bill of entry and match it with the imported items.

If there are no irregularities, the officials issue a 'pass out order'.

## 5. DETERMINE IMPORT DUTY RATE FOR CLEARANCE OF GOODS

India levies basic customs duty on imported goods, as specified in the first schedule of the **Customs tariff Act, 1975**, along with goods-specific duties such as anti-dumping duty, safeguard duty, and social welfare surcharge.

In addition to these, the government levies an **Integrated Goods and Services Tax (IGST)** under the new GST system. IGST rates depend on the classification of imported goods as specified in Schedules notified under Section 5 of the IGST Act (2017).

# IMPORT PROCEDURE

- Trade enquiry
- Procurement of import license
- Obtaining foreign exchange
- Placing the indent
- Dispatching a letter of credit
- Obtaining necessary documents
- Customs formalities and clearing of goods
- Making the payment

## **1. TRADE ENQUIRY:**

An enquiry is a written request from the intending buyer to seek the information regarding the price and terms on which the exporter will be able to supply goods.

## **2. PROCUREMENT OF IMPORT LICENCE**

A person should have a valid import license. An import license may be either general license or specific license. Under general license goods can be imported from any country. Special License require permission from DGFT.

## **3. OBTAINING FOREIGN EXCHANGE:**

Importer has to make payment for imports in the currency of exporting country. The foreign exchange reserves of any country are controlled by Government and are released through its central bank. In India, the exchange control department of Reserves Bank of India deals with the foreign exchange.

## **4.PLACING ORDER**

Purchase order contains the instructions from the importer so as to the specification of goods, quantity, quality and the price and the terms of payment and methods of forwarding them.

## **5.DISPATCHING A LETTER OF CREDIT**

Exporter wants to be sure that there is no risk of non - payment. Usually importer asks to send a letter of credit to him.

## 6.OBTAINING NECESSARY DOCUMENTS

On the receipt of letter of credit the exporter arrange to ship the goods and sends an advice to the importer regarding shipment of goods.

The exporter then draws a bill of exchange on the importer for the invoice value of goods.

The shipping documents such as the bill of lading, invoice, insurance policy, certificate of origin, customer invoice etc. also attached to the bill of exchange.

Such bill of exchange with all these attached documents is called documentary bill. Documentary bill of exchange is forwarded to the importer through a foreign exchange bank which has a branch or an agent in the importers country for collecting payments of the bill.

## **7.CUSTOM FORMALITIES AND CLEARING OF GOODS**

After receiving documents of title of the goods, the importers only concern is to take the delivery of goods when the ship arrive at the port and to bring them to his own place of business.

## **8.MAKING THE PAYMENT**

The mode and time of making the payment is determined according to the terms and conditions as agreed to earlier between the importer and exporter. Usually the documents through Bank.

## **9.CLOSING THE TRANSACTION**

Last step in import procedure is closing the transaction. But if he is not satisfied with the quality of goods he will write to the exporter and settle the matters. In case the goods have been damaged in transit the insurance company will pay him the compensation under an advice to the exporters.

# EXPORT PROCEDURES

- Just as for imports, a company planning to engage in export activities is required to obtain an IEC number from the regional joint DGFT. After obtaining the IEC, the exporter needs to ensure that all the legal compliances are met under different trade laws.
- Further, the exporter must check if an export license is required, and accordingly apply for the license to the DGFT.
- An exporter is also required to register with the Indian Chamber of Commerce (ICC), which issues the Non-Preferential Certificates of Origin certifying that the exported goods are originated in India.

# MEANING OF CUSTOMS DUTY

- **Customs duty** refers to the tax or duty levied on goods **imported into** or **exported out of India**.
- **Customs Duty** is a **tariff** or **tax** imposed on goods when transported across international borders.
- The purpose of **Customs Duty** is to protect each country's economy, industry, jobs, environment, etc., by controlling the flow of goods, especially restrictive and prohibited goods, into and out of the country.
- **Custom duty** is a **type** of indirect tax that is levied on all the goods that are imported to the country as well as some goods exported from the country. ...

# SOURCES OF CUSTOMS LAW

**Basic Customs Act, 1962** : It contains the **PROVISIONS** covering the duty's imposed on import and export of goods.

**Customs Tariff Act, 1975**: It contains the provisions relating to various **TYPES OF CUSTOM DUTIES PAYABLE** and gives the classification of imported and export goods.

**Export Manifest Regulations, 1976**: It contains the provisions relating **TO A GENERAL DECLARATION, A PASSENGER MANIFEST, A CARGO MANIFEST** and a list of private property in the possession of the Captain of the aircraft and other members of the crew.

**Customs Valuations Rules, 2007**: It contains provisions relating to **DETERMINATION OF VALUE OF EXPORT GOODS.**

**Baggage Rules, 1998** : It contains provisions relating to **DUTIABLE GOODS IMPORTED BY A PASSENGER OR A MEMBER OF CREW AS HIS BAGGAGE.**

# TYPES OF CUSTOMS DUTY

- Basic Customs Duty
- National Calamity Contingent Duty
- Anti-dumping Duty / Safeguard Duty
- Integrated Goods and Services Tax
- GST Compensation Cess
- Social Welfare Surcharge

## BASIC CUSTOMS DUTY

This duty is levied or imposed on the value of goods imported at a specific rates prescribed under the First Schedule to the Customs Tariff Act, 1975.

The rates are either **standard rates** or at **preferential rates** in the case of imports from certain specified countries.

The Central Government, however, holds the rights to exempt specific goods from this duty.

## NATIONAL CALAMITY CONTINGENT DUTY

NATIONAL CALAMITY CONTINGENT DUTY of customs has been imposed vide section 129 Finance Act 2001.

This duty is imposed on pan masala, chewing tobacco and cigarettes.

It varies from 10% to 45%

NCCD is imposed on imported crude oil @ Rs. 50/- per MT, and @ 1% on polyester filament yarn, two-wheelers, motor cars and multi-utility vehicles. etc.

# ANTI - DUMPING / SAFEGUARD DUTY

- Anti dumping duty or Safeguard duty is imposed on import of specified goods with a view to **protecting domestic industry** from unfair injury or a measure to rectify the situation arising out of the **dumping** of goods from other country.
- An **anti-dumping duty** is a protective tariff that a domestic government imposes on foreign imports. The goods are usually priced below fair market value.
- Anti dumping duty will not be applicable to goods imported by a 100% Export Oriented Units (EOU) and units in Free Trade Zone (FTZ) and Special Economic Zone (SEZ).
- **Safeguard Duty** is a **Temporary Relief** provided when imports of a product increases unexpectedly to a point where they threaten domestic manufactures of similar products.

# INTEGRATED GOODS AND SERVICES TAX

- Import of goods has been defined in IGST Act 2017-
- **All imports shall be deemed as Inter-State supplies and accordingly Integrated Goods and Service Tax shall be levied in addition to the applicable Custom duties.**
- The IGST Act, 2017 provides that the goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975.
- The Integrated Goods and Service Tax on goods shall **be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act.**
- The **Value of the goods** for the purpose of levying **Integrated Goods And Service Tax** shall be, **Assessable Value plus Basic Customs Duty** levied under the Act.
- Accordingly, goods which are imported into India shall, **in addition to the Basic Customs duty, is liable for integrated goods and service tax and the compensation cess** at such rate prescribed under the IGST Act, 2017 on a similar article on its supply in India.

# GST COMPENSATION CESS

Under the GST regime, in addition to IGST, a **GST Compensation Cess**, is also levied on certain **luxury and demerit goods** under the Goods and Services Tax (Compensation to States) Cess Act, 2017.

The Customs Tariff Act, 1975 has accordingly been amended to provide for levy of integrated tax and the compensation cess on imported goods.

The value of the imported article for the purpose of levying cess shall be, **ASSESSABLE VALUE PLUS BASIC CUSTOMS DUTY** levied under the Act,

**The Integrated Goods and Services Tax paid shall not be added to the value for the purpose of calculating cess.**

The cess will be (i) 135% for pan masala, (ii) Rs 400 per tonne for coal, (iii) Rs 4,170 + 290% per 1,000 sticks of tobacco, and (iv) 15% for all other goods and services including motor cars and aerated water.

# SOCIAL WELFARE SURCHARGE

- Finance Bill, 2018 while abolishing the Education Cess and Secondary and Higher Education Cess on imported goods w.e.f. 02-02-2018, imposed a **Social Welfare Surcharge at the rate of 10% of the aggregate duties of Customs**, on imported goods, to provide for social welfare schemes of the Government.
- Goods which were hitherto exempted from Education Cess are exempted from this Surcharge also. In addition, certain specified goods, attract the surcharge at the rate of 3% of the aggregate duties of customs only.

## AD VALOREM DUTY

- Ad valorem duty – It is customs duty levied **in proportion to the estimated value** or assessed value of the goods or transaction concerned. That means it is based on the transaction value.
- It is usually calculated according to the price of the product or service rather than at a fixed rate.
- Companies receive subsidies in the form of simple ad valorem payments based on the size of their import or export.

# VALUATION RULES FOR CUSTOMS DUTY

Section 14 of Customs Tariff Act, 1975

**States that the value of the imported goods shall be the transaction value of goods, i.e. price actually paid or payable.**

The price actually paid or payable for the goods when sold to India for delivery at the time and place of importation.

For export from India for delivery at the time and place of exportation,

**Where the buyer and seller of the goods are not related and price is the sole consideration for the sale.**

**Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf.**

The price shall be calculated with reference to the **Rate of Exchange** as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

# METHOD OF CALCULATION OF ASSESSABLE VALUE

The transaction value in case of import will be the **price actually paid** or payable for the goods when it is delivered at the time and place of importation in India.

## **Purchase value of goods on FOB basis.**

In addition to price or value of goods the following amounts if any shall be included.

Engineering and design work

Royalties and license fees

Cost of transportation to the place of importation

Insurance

Loading, unloading and handling charges at importation

The value in foreign currency is converted in to Indian currency at the exchange rate given by **Central Board of Indirect Taxes and Customs** ( CBIC) and the rate shall be the date of bill of entry has been filed under section 46.

## Rule 10 (2) (a)

### Loading, unloading and handling charges in case of CIF value:

By virtue of the amendment carried out in 2007, the loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation, **shall no longer be added to the CIF value of the goods.**

### Loading, unloading and handling charges in case of FOB value:

The cost of transport of the imported goods to the port or place of importation.

only charges incurred for delivery of goods “to” the place of importation such as the **loading and handling charges incurred at the load port** shall now be includible in the transaction value.

- FOB -Free On Board, is a term used in shipping terms where the seller quotes a price which includes only the cost of delivering goods **to the nearest port.** ...
- **FOB** is a price that the buyer pays for the product excluding costs of Loading. Insurance. Freight.
- In FOB the buyer assumes the title of the goods at the point of origin and take all responsibility of the goods the moment they leave the seller's hands.
  
- **CIF** - Cost, Insurance, Freight - A pricing term indicating that the cost of goods, insurance, and freight are included in the quoted **price.** Duty is calculated by adding all costs together.
- In CIF Seller is responsible for risk and insurance costs until the goods reach the point of destination with the buyer.

## ASSESSABLE VALUE

Step 1	Transaction Value ( It will be in FOB with few adjustments)	Xxx
Step 2	Add cost of transport (including demurrage) associated with the delivery of imported goods to the place of importation	Xxx
Step 3	Add Cost of insurance cover to the place of importation ( If cost of insurance cover is not ascertainable then, it will be 1.125% of FOB )	Xxx
Step 4	Add Commission and brokerage, Engineering and design work, Royalties and license fees, loading and unloading if any during import	Xxx
Step 5	Total of ( STEP 1 + STEP 2 +STEP 3 +STEP 4 ) - It may be termed as (ASSESSABLE VALUE)	Xxxx

# Calculation of Cost of Transportation and Insurance

Where cost of Transportation is not ascertainable	Then Transport cost shall be 20% of the FOB value
When Good are Imported by Air	Transport cost shall not exceed 20% of FOB of goods.
Goods imported by Other Mode	If transport cost is ascertainable then such cost otherwise cost is 20 % of FOB
If FOB is not ascertainable but sum of FOB and cost of insurance is known	Transport Cost is @20 % of such sum i.e., 20% of (FOB + cost of Insurance)
If cost of insurance is not ascertainable	Cost of Insurance shall be 1.125 % of FOB

## CALCULATION OF CUSTOMS DUTY PAYABLE

Seq.	Duty Description	Duty %	Amount	Total Customs Duty
A	Assessable Value In Rupees.		10,000	
B	Basic Customs Duty @ 10% on Assessable Value	10%	1,000	1,000
C	Social Welfare Surcharge on Basic Customs Duty 10%	10%	100	100
D	Sub-Total for IGST ie A+B+C		11,100	
E	IGST on sub-total C as per IGST rate 18%	18%	1,998	1,998
	<b>Total Value of Imported Goods</b>		<b>13,098</b>	
F	<b>Total Customs Duty</b>			<b>3,098</b>
G	Total Duty rounded off to Rupees			3,100

**Note: Basic Customs Duty @ 10% of assessable value with effect from 2.2.2018. IGST rate is taken as 18% on Assessable value + Basic customs duty Social Welfare Surcharge is taken @10% on Basic Customs Duty.**

## **BAGGAGE – Section 2(3)**

The term has not been defined. However, it includes the following :

(a) Baggage means all dutiable articles, imported by passenger or a member of a crew in his baggage

(b) Un accompanied baggage, if dispatched previously or subsequently within prescribed period is also covered as baggage

(c) Baggage does not include motor vehicles, alcoholic drinks and goods imported through courier

(d) Baggage does not include articles imported under an import license for his own use or on behalf of others.

### **Bona fide Baggage Exempt from duty –**

Bona fide baggage accompanying passenger is exempt from duty. It includes wearing apparel, toilet requisites and other personal effects.

## **General Prohibitions - Following are generally prohibited or restricted**

- (a) Foreign and Indian currency can be taken out or brought in only as per restrictions of RBI under FEMA.
- (b) Possession of narcotic drugs are strictly prohibited.
- (c) Domestic pets like dogs, cats, birds etc. can be brought as per strict health certificate regulations.
- (d) Taking out birds, wind orchids and wild life is strictly prohibited.
- (e) Endangered species or articles made from flora and fauna such as Ivory, Tusk, reptile skins, furs, or antiques are prohibited.

## **IMPORT AUTHORIZATION FOR BAGGAGE**

- a) Bona fide house hold goods and personal effects can be imported as baggage as per Baggage Rules by Ministry of Finance.
- (b) Samples can be brought as baggage when they are freely importable.
- (c) Exporters coming from abroad can import drawings, patterns, labels, etc. as baggage.

### **Declaration by owner of baggage**

Section 77 of Customs Act provides that owner of any baggage has to make declaration of its contents to customs Officer. Rate of duty and tariff shall be the rate in force on the date of declaration.

Foreign Nationals have to submit arrival card.

### **The following are the categories of Baggage**

- Personal effects - Household articles – Jewelry - Professional equipment's
- Gifts - Other articles

## Declaration by Owner of Baggage [Section 77].

The owner of any baggage has to make declaration of its contents to customs officer for the purpose of clearing it, which is known as Baggage Declaration. The Customs Department provides two channels:

**Green Channel:** Green channel is for those travelers who do not carry any dutiable goods.

**Red Channel:** If a person carries dutiable goods he should pass through Red channel.

# UNACCOMPANIED BAGGAGE

Bona fide unaccompanied baggage is also allowed under baggage rules and subject to certain restrictions, if it was in his possession.

- Goods dispatched within 1 month of arrival of passenger in India. This limit can be increased by custom officers if sufficient reason for delay is shown.
- If dispatched before he start from abroad - unaccompanied baggage may arrive up to two months prior to his arrival. This limit can be increased for sufficient reasons but not exceeding the period of 1 year.

## **GENERAL FREE ALLOWANCE – GFA**

Passengers coming from out of India are allowed to bring certain goods without payment of customs duty. It is termed as 'Free Allowance'

General Free Allowance to Indian resident or tourist of Indian origin arriving from country other than Nepal, Bhutan or Myanmar.

He is allowed clearance free of duty articles in his bona fide baggage

up to the value of **Rs.50,000** wef. 1-4-2016 [Rule 3 of Baggage Rules wef. 1-4-2016]

For infant, only used personal effects shall be allowed duty free.

In case of other tourist duty free allowance is **Rs 15.000**

The free allowance cannot be allowed to be pooled with the free allowance of any other passenger.

### **GENERAL FREE ALLOWANCE For Jewelry**

A passenger residing abroad for more than one year, on return to India shall be allowed clearance free of duty in his bona fide baggage -

Jewelry up to weight of **20 grams** with a value cap of **Rs.50,000** brought by a man passenger,

Jewelry up to weight **40 grams** with a value cap of **Rs.1,00,000** brought by a lady passenger

## **RATE OF DUTY ON BAGGAGE IS AS FOLLOWS:**

**General Rate on Baggage** - Baggage is classified in Customs Tariff –HS Code 9803.

Irrespective of actual classification as per Customs Tariff. The entry reads as -  
All dutiable articles, imported by passenger or member of crew in his baggage.

**Tariff rate is 100 %.**

However, **Effective Rate as specified by a notification is 35 %**

**Plus - Social Welfare Surcharge of 10 % is payable.**

Thus, **Total Customs Duty On Baggage is 38.50%** w.e.f. 2-2-2018

Baggage does not include motor vehicles, liquor and firearms (gun) the rate is obviously not applicable for those goods.

One Laptop, computer (notebook computer), cell phone brought as baggage by person is fully exempt from customs duty

## **BAGGAGE FULLY EXEMPT OR AT CONCESSIONAL RATE OF DUTY**

Following baggage is fully exempt from customs duty as per Notification No. 49/1996

- (a) Personal property re-imported (brought back)
- (b) Free replacement under warranty of articles which are personal property of passenger
- (c) Foodstuff up to Rs.50,000
- (d) Free gifts and donations to Red Cross, Government of India for relief and rehabilitation
- (e) Samples, price lists, prototypes, commercial samples etc.
- (f) Goods brought for display, exhibition, fair etc., subject to various conditions.
- (g) Agricultural products or goods manufactured or produced in Nepal.
- (h) Newspapers, drawing and designs and other goods as specified.

### **Exemption to minimum amounts of customs duty –**

Customs duty is not payable if amount of duty is Equal to or less than Rs. 100. [section 25(6)].

# CUSTOMS PROCEDURES FOR COURIER

Imports and export through couriers are treated as imports or exports as any other mode.

It is treated as '**BAGGAGE**'

There is no restriction on value of goods that can be brought through courier and the maximum weight allowed is 70 kgs per package.

The duty payable is normal duty as applicable to all other goods normally imported by ship or air transport.

Duty concessions, if any, are also permissible.

Goods covered by negative list is not allowed through courier,

The articles like life savings drugs, free gifts up to Rs.10,000, Gems and Jewellery upto 25 lakhs etc.

## CLEARANCE BY POST

- The facility for import of goods by Post Parcels has been provided by the Postal Department at its **Foreign Post Offices and sub - Foreign Post Offices**.
- Customs facilities for examination, assessment, clearance etc. are available at these Post Offices.
- Export of parcels can also be effected at the facilities provided at Foreign Post Offices and sub-Foreign Post Offices. Limited facility for export clearances are also available at Export Extension Counters opened by the Postal Department where parcels for export are accepted and cleared by the Customs.
- Goods imported or exported by post are governed by sections 82, 83 & 84 of the Customs Act, 1962.

## **PROCEDURE FOR CLEARING SUCH GOODS:**

- Postmaster prepares a list of parcels on their receipt.
- He hands over the parcel along with declaration of exporter parcel bills to principal appraiser of customs.
- Post bags opened under supervision and control of principal appraiser customs
- Packages containing dutiable goods are presented to customs appraiser
- Customs appraiser assesses the duty payable, and handovers the article to postmaster.
- Post masters packs and handover the parcel to the addressee after receipt of customs duty.
- Gifts upto Rs. 10,000 can be imported without payment of duty.
- Post parcels with customs duty less than Rs. 100 are exempted from customs duty.

## PROVISIONS RELATING TO STORES

The term “stores” u/s 2(38) means, “ Goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipments, whether or not for immediate fitting.”

Stores required during voyage:

- Basic necessities of passengers and crew
- Stock of fuel and other parts for repair and maintenance

Regarding import of such stores in a vessel, a stores list has to be filed in prescribed form with the import general manifest or export general manifest as the case may be.

**Section 86(1)** provides that any stores imported in a vessel or aircraft may remain on board without payment of duty while it is in India.

**Section 87:** any stores imported by a vessel or aircraft may be consumed without payment of duty while it is in India.

**Thank u**

## Chapter-1

### Introduction to GST

#### Meaning of Tax

Tax refers to compulsory contribution made by citizens of a country to the Government, for the benefits obtained from the Government.

The Government of any country levies various taxes on its citizens and all such taxes are broadly classified into two types. Viz., Direct taxes and Indirect taxes

#### Meaning of Direct tax

Direct tax refers to the type of tax the incidence (i.e., liability for payment of tax) and impact (i.e., actual payment of tax) of which is on the same person. It is a form of tax which can be traced to the payer and it flows directly from the tax-payer to the Government.

#### Meaning of Indirect tax

Indirect tax refers to the type of tax the incidence and impact of which are on different persons. It is a form of tax which cannot be traced to the payer and it flows from the payer to the government indirectly i.e., through others

The following table gives details of various authorities authorized to levy tax in India by the Indian constitution and examples of such taxes levied:

<b>Authority</b>	<b>Direct Taxes</b>	<b>Indirect Taxes</b>
The Union government	Income tax (other than on agricultural income)	Excise duty (other than liquor) customs duty service tax
The State Government	Tax on Agricultural income professional or employment tax etc.,	central sales tax Excise duty on liquor entertainment tax luxury tax VAT
Local authority	Municipal taxes on property, water tax etc.,	octroi tax

#### Meaning of GST

GST stands for goods and services tax which is concurrent levy of taxes on 'Supply' of goods and services. GST in India will be dual system. Where the central and state together will levy tax on supply of goods and /or services, within the state (intra-state) and interstate.

## **DEFINITION OF GST**

According to ***Goods and Services Tax (CGST) Act, 2017***, “GST is a tax on goods and services with value addition at each stage having comprehensive and continuous chain of set of benefits from the producer’s / service provider’s point up to the retailer’s level where only the final consumer should bear the tax.”

## **Objectives of GST**

1. To concentrate and conform one country-one tax
2. To ensure consumption based tax instead of manufacturing
3. To ensure uniform GST registration, payment and Input tax credit
4. To eliminate the cascading effect of Indirect taxes on single transaction
5. To ensure the subsume all indirect taxes at centre and state level under GST
6. To reduce tax evasion and corruption
7. To increase productivity
8. To increase tax on GDP ratio and revenue surplus
9. To increase compliance
10. To reduce economic distortions
11. To allow cross utilization of taxes between states (under IGST)

## **Salient features of Goods and Services tax**

1. GST would be applicable on supply of goods and services as against the present concept of tax on the manufacture of goods or on sale of goods or on provision of services.
2. GST would be a destination based tax as against the present concept of origin based tax.
3. It would be a dual GST with the centre and the states simultaneously levying it on a common base.
  - A. The GST to be levied by the centre would be called Central GST(CGST)
  - B. The GST to be levied by the states would be called State GST(SGST)
4. An Integrated GST (IGST) would be levied on interstate supply of goods or services. This would be collected by the centre so that the credit chain is not disrupted.
5. Import of goods and services would be treated as inter state supplies and would be subject to IGST in addition to the applicable custom duties.
6. CGST, SGST, and IGST would be levied at the rates to be mutually agreed upon by the centre and the states under the aegis of the GST council.
7. GST would replace the following taxes currently levied and collected by the Centre:
  - a) Central Excise Duty;
  - b) Duties of Excise (Medicinal and Toilet Preparations);
  - c) Additional Duties of Excise (Goods of Special Importance);
  - d) Additional Duties of Excise (Textiles and Textile Products);

- e) Additional Duties of Customs (commonly known as CVD);
  - f) Special Additional Duty of Customs (SAD);
  - g) Service Tax;
  - h) Cesses and surcharges insofar as they relate to supply of goods or services.
8. State taxes that would be subsumed within the GST are:
- a) State VAT;
  - b) Central Sales Tax;
  - c) Purchase Tax;
  - d) Luxury Tax;
  - e) Entry Tax (All forms);
  - f) Entertainment Tax (except those levied by the local bodies);
  - g) Taxes on advertisements;
  - h) Taxes on lotteries, betting and gambling;
  - i) State cesses and surcharges insofar as they relate to supply of goods or services.
9. GST would apply to all goods and services except Alcohol for human consumption.
10. GST on five specified petroleum products (Crude, Petrol, Diesel, ATF & Natural gas) would be applicable from a date to be recommended by the GSTC.
11. Tobacco and tobacco products would be subject to GST. In addition, the Centre would continue to levy Central Excise duty.
12. A common threshold exemption would apply to both CGST and SGST. Taxpayers with an annual turnover of Rs. 20 lakh (Rs. 10 lakh for special category States as specified in article 279A of the Constitution) would be exempt from GST.
- A compounding option (i.e. to pay tax at a flat rate without credits) would be available to small taxpayers (including to specified category of manufacturers and service providers) having an annual turnover of up to Rs. 50 lakh. The threshold exemption and compounding scheme would be optional.
13. The list of exempted goods and services would be kept to a minimum and it would be harmonized for the Centre and the States as well as across States as far as possible.
14. Exports would be zero-rated.
15. Credit of CGST paid on inputs may be used only for paying CGST on the output and the credit of SGST/UTGST paid on inputs may be used only for paying SGST/UTGST. In other words, the two streams of input tax credit (ITC) cannot be cross utilized, except in specified circumstances of inter-State supplies for payment of IGST. The credit would be permitted to be utilized in the following manner:
- a) ITC of CGST allowed for payment of CGST & IGST in that order;
  - b) ITC of SGST allowed for payment of SGST & IGST in that order;
  - c) ITC of UTGST allowed for payment of UTGST & IGST in that order;

- d) ITC of IGST allowed for payment of IGST, CGST & SGST/UTGST in that order. ITC of CGST cannot be used for payment of SGST/UTGST and vice versa.
- 16. Various modes of payment of tax available to the taxpayer including internet banking, debit/ credit card and National Electronic Funds Transfer (NEFT) / Real Time Gross Settlement (RTGS).
- 17. Obligation on certain persons including government departments, local authorities and government agencies, who are recipients of supply, to deduct tax at the rate of 1% from the payment made or credited to the supplier where total value of supply, under a contract, exceeds two lakh and fifty thousand rupees.
- 18. Obligation on electronic commerce operators to collect 'tax at source', at such rate not exceeding two per cent. (2%) of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals.
- 19. The officers would have restrictive powers of inspection, search, seizure and arrest.

## **SUBSUMING OF TAXES**

### **(A) SUBSUMING OF CENTRAL TAXES**

It is provided that GST shall subsume various Central indirect taxes and levies such as

- a) Central Excise Duty;
- b) Duties of Excise (Medicinal and Toilet Preparations);
- c) Additional Duties of Excise (Goods of Special Importance);
- d) Additional Duties of Excise (Textiles and Textile Products);
- e) Additional Duties of Customs (commonly known as CVD);
- f) Special Additional Duty of Customs (SAD);
- g) Service Tax;
- h) Cesses and surcharges insofar as they relate to supply of goods or services.

### **(B) SUBSUMING OF STATE AND OTHER TAXES It**

is provided that GST shall also subsume Taxes such as

- a) State VAT;
- b) Central Sales Tax;
- c) Purchase Tax;
- d) Luxury Tax;
- e) Entry Tax (All forms);
- f) Entertainment Tax (except those levied by the local bodies);
- g) Taxes on advertisements;

- h) Taxes on lotteries, betting and gambling;
- i) State cesses and surcharges insofar as they relate to supply of goods or services.

### **Taxes which are not to be subsumed**

***GST may not subsume the following taxes within its ambit:***

1. ***Basic Customs Duty:*** These are protective duties levied at the time of Import of goods into India.
2. ***Exports Duty:*** This duty is imposed at the time of export of certain goods which are not available in India in abundance.
3. ***Road & Passenger Tax:*** These are in the nature of fees and not in the nature of taxes on goods and services.
4. ***Toll Tax:*** These are in the nature of user fees and not in the nature of taxes on goods and services.

### **BENEFITS OF IMPLEMENTING GST**

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

#### **For Business and Industry**

- (i) ***Easy compliance:*** All tax payer services such as registrations, returns, payments, etc. would be available to the taxpayers online, which would make compliance easy and transparent.
- (ii) ***Uniformity of tax rates and structures:*** GST will ensure that indirect tax rates and structures are common across the country, thereby increasing certainty and ease of doing business.
- (iii) ***Removal of cascading:*** A system of seamless tax-credits throughout the value-chain and across boundaries of States, would ensure that there is minimal cascading of taxes.
- (iv) ***Improved competitiveness:*** Reduction in transaction costs of doing business would eventually lead to an improved competitiveness for the trade and industry.
- (v) ***Gain to manufacturers and exporters:*** The subsuming of major Central and State taxes in GST, would reduce the cost of locally manufactured goods and services. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

#### **For Centre and State Government**

- (i) ***Simple and easy to administer:*** GST would be simpler and easier to administer than all other indirect taxes of the Centre and State levied so far.
- (ii) ***Better controls on leakage:*** Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an inbuilt mechanism in the design of GST that would incentivize tax compliance by traders.

**(iii) Higher revenue efficiency:** GST is expected to decrease the cost of collection of tax revenues of the Government, and will therefore, lead to higher revenue efficiency.

#### **For consumer**

- (i) Single and transparent tax proportionate to the value of goods and services.**  
Under GST, there would be only one tax from the manufacturer to the consumer, leading to transparency of taxes paid to the final consumer.
- (ii) Relief in overall tax burden:** Because of efficiency gains and prevention of leakages, the overall tax burden on most commodities will come down, which will benefit consumers.
- (iii) Reduction in prices of goods and services due to elimination of cascading.**
- (iv) Uniform prices throughout the country.**

#### **For Trader**

1. Reduction in multiplicity of taxes.
2. Mitigation of cascading/ double taxation.
3. More efficient neutralization of taxes especially for exports.
4. Development of common national market.
5. Simpler tax regime -
  - a) Fewer rates and exemptions.
  - b) Distinction between Goods and Services no longer required.

### **CONSTITUTIONAL AMENDMENTS OF GST**

There are several articles in the constitution of India which define the financial relations between Union and States. Since GST bills involve a huge interest of the state governments, such a historical tax reform cannot take place without making suitable changes into the constitution. For this purpose, 101st amendment of the constitution was passed. This act received the assent of the President of India on 8th September, 2016. The important changes made in constitution (new articles / amended articles) via this law are as follows:

#### **Article 246 (A)**

- (i) Both Union and States in India now have “concurrent powers” to make law with respect to goods & services
- (ii) The intra-state trade now comes under the jurisdiction of both centre and state; while inter-state trade and commerce is “exclusively” under central government jurisdiction.

#### **Article 269A**

This article says that in case of the inter-state trade, the tax will be levied and collected by the Government of India and shared between the Union and States as per recommendation of the GST Council.

The article also makes it clear that the proceeds such collected will not be credited to the consolidated fund of India or state but respective share shall be assigned to that state or centre.

### **Article 279 A**

This article provides for constitution of a GST council by president within sixty days from this act coming into force. The GST council will constitute the following members:

Union Finance Minister as chairman of the council

Union Minister of State in charge of Revenue or Finance

One nominated member from each state who is in charge of finance or taxation

The GST council will be empowered to take decisions on the following:

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;

Model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply;

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;

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

Any other matter relating to the goods and services tax, as the Council may decide.

All decisions taken at the GST council will be taken based on voting. Process of voting is clearly articulated in detail in the constitutional amendment bill.

### **Changes in the 7th Schedule**

*This amendment has made following changes in 7th schedule of the constitution:*

#### **1. Union List:**

The entry 84 of Union List earlier comprised the duties on tobacco, alcoholic liquors, opium, Indian hemp, narcotic drugs and narcotics, medical and toilet preparations. After this amendment, it will comprise of Petroleum crude, high speed diesel, motor spirit (petrol), natural gas, and aviation turbine fuel, tobacco and tobacco products. Thus, these are now out of ambit of GST and subject to Union jurisdiction.

A. Entry 92 (newspapers and on advertisements published therein) has been deleted thus, they are now under GST.

B. Entry 92-C (Service Tax) has been now deleted from union list.

## 2. State List:

Under State list, entry 52 (entry tax for sale in state) has been deleted.

- A. Entry 55 (advertisement taxes) have been deleted.
- B. Entry 62 (Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling) has been replaced by these taxes only to be levied by local governments (panchayats, municipality, regional council or district council.
- C. Parliament will have powers to make necessary laws with respect to GST in national interest.
- D. Article 250 has been amended so that parliament will have powers to make laws related to GST during emergency period.
- E. Article 268 has been amended so that excise duty on medicinal and toilet preparation will be omitted from the state list and will be subsumed in GST.
- F. Article 268A has been repealed so now service tax is subsumed in GST.
- G. Article 269 would empower the parliament to make GST related laws for inter-state trade / commerce.

## **STRUCTURE OF GST (DUAL MODEL)**

### **INTRODUCTION**

The Goods and Services Tax (GST) is a comprehensive value added tax (VAT) on the supply of goods or services. France was the first country to introduce this value added tax system in 1954 devised by a public servant. In India, due to non consensus between central and state government, the proposal is to introduce a Dual GST regime i.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.

### **Benefits of Dual GST**

**1. Simple and transparent tax:** 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 effective tax 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 tax payers, dual GST will bring about simplified tax compliance.

**5. Increase in the amount of tax collection:** Better compliance and a wider tax 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.

**7. Easily attainable:** The dual GST system is easy to attain in the current structure, given that India is following an indirect taxation system. Certain amendments may be required, but on the whole, the transition will be easier.

**8. Good balance:** The dual GST will strike a good balance between need for harmonization and fiscal autonomy of centre and states. Both levels of government will be able to apply taxes to goods and services at various points in the supply chain.

**9. Least changes, most benefits:** Dual GST will provide a competitive atmosphere for companies to work on an international scale.

**10. Better for business:** Single GST will mean that businesses will have to comply with different task laws for different states and this will affect business stability.

### **THE CENTRAL GOODS AND SERVICES TAX BILL, 2017**

The Central Goods and Services Tax Bill, 2017 was introduced in Lok Sabha on March 27, 2017. The Bill provides for the levy of the Central Goods and Services Tax (CGST).

***Levy of CGST:*** The centre will levy CGST on the supply of goods and services within the boundary of a state. Supply includes sale, transfer and lease made for a consideration to further a business.

***Tax rates:*** The tax rates of CGST will be recommended by the GST Council. This rate will not exceed 20%. In addition, the Bill allows certain taxpayers whose turnover is less than Rs 50 lakh to pay GST at a flat rate on turnover (known as composition levy), instead on the value of supply of goods and services. This rate will be capped at 2.5%.

***Exemptions from CGST:*** The centre may exempt certain goods and services from the purview of GST through a notification. This will be based on the recommendations of the GST Council.

**Liability to pay CGST:** The liability to pay CGST in relation to supply of goods and services will arise on the date of: (i) issue of invoice, (ii) receipt of payment, whichever is the earliest.

**Taxable amount (value of supply):** CGST will be levied on the supply of goods and services, whose value includes: (i) price paid on the supply; (ii) taxes and duties levied under a different tax law; (iii) interest, late fee, penalties for delayed payments, among others.

**Input tax credit:** Every taxpayer while paying taxes on outputs, may take credit equivalent to taxes paid on inputs. However, this will not be applicable on supplies related to: (i) personal consumption, (ii) supply of food, outdoor catering, health services etc.

**Registration:** Every person who makes supply of goods and services and whose turnover exceeds Rs. 20 lakh will have to register in every state where he conducts business. The turnover threshold is Rs. 10 lakh for special category states.

**Returns:** Every taxpayer would have to self-assess and file tax returns on a monthly basis by submitting: (i) details of supplies provided, (ii) details of supplies received and (iii) payment of tax. In addition to the monthly returns, an annual return will have to be filed by each taxpayer.

**Refunds and welfare fund:** Any taxpayer may apply for refund of taxes in cases including: (i) payment of taxes in excess or (ii) unutilized input tax credit. Upon such application, the refund may be credited to the taxpayer or to a Consumer Welfare Fund. The Fund will be used for the purpose of consumer welfare.

**Prosecution and appeals:** For offences such as mis-reporting of: (i) goods and services supplied or (ii) details furnished in invoices, a person may be fined, imprisoned or both by the CGST Commissioner. Such orders can be appealed before the Goods and Services Tax Appellate Tribunal and further before the High Court.

**Transition to the new regime:** Taxpayers with unutilized input tax credit obtained under the current laws such as CENVAT may utilize it under GST. In addition, businesses may also avail input tax credit on stock purchased before the start of implementation of GST.

**Anti-profiteering measure:** The central government may by law set up an authority or designate an existing authority to examine if reduction in tax rate has resulted in commensurate reduction in prices of goods and services. The powers of the authority will be prescribed by the government.

**Compliance rating:** Every taxpayer shall be assigned a GST compliance rating score based on his record of compliance with the provisions of this Bill. The compliance rating score will be updated at periodic intervals and be placed in the public domain.

## **STATE GST**

SGST means State Goods and Service Tax, 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 2016.

For easy understanding, 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.

### **List of States Passed State GST Act 2017**

Telangana become the first State to pass the GST Bill while other States passing the Bill includes Bihar, Rajasthan, Jharkhand, Chhattisgarh, Uttarakhand, Madhya Pradesh, Haryana, Goa, Gujarat, Maharashtra and Arunachal Pradesh. The possibility of implementation of GST from 1st July, 2017 seems to be a reality since Twelve States have already passed the State Goods and Services Tax (SGST) Act in their respective State Assembly in less than a month's time. The remaining States/UTs (with Legislative Assembly) will also pass the State GST Bill shortly.

- 1st – Telangana on April 9, 2017
- 2nd – Bihar on April 24, 2017
- 3rd – Rajasthan on April 26, 2017
- 4th – Jharkhand on April 27, 2017
- 5th – Chhattisgarh on April 28, 2017
- 6th – Uttarakhand on May 2, 2017
- 7th – Madhya Pradesh on May 3, 2017
- 8th – Haryana on May 4, 2017
- 9th – Gujarat May 9, 2017
- 10th – Goa on May 9, 2017
- 11th – Odisha May 11, 2017
- 12th – Assam May 11, 2017
- 13th – Arunachal Pradesh May 12, 2017
- 14th – Uttar Pradesh on 16th May 2017
- 15th – Andhra Pradesh on 16th May 2017
- 16th – Puducherry on 17th May 2017
- 17th – Maharashtra 22 May 2017
- 18th – Tripura 24 May 2017
- 19th – Sikkim on 25th May 2017
- 20th – Mizoram on 26th May 2017
- 21st – Nagaland on 27th May 2017
- 22nd – Himachal Pradesh on 27th May 2017
- 23rd – Delhi on 31st May 2017
- 24th – Manipur on 5th June 2017
- 25th – Meghalaya on 12th June 2017
- 26th – Karnataka on 16th June 2017

27th – Punjab on 19th June 2017  
28th – Tamil Nadu on 19th June 2017  
29th – West Bengal take ordinance route for GST on 15th June  
2017 30th – Kerala take ordinance route for GST on 21st June 2017

### **THE UNION TERRITORY GOODS AND SERVICES TAX BILL, 2017**

The Union Territory Goods and Services Tax Bill, 2017 was introduced in Lok Sabha on March 27, 2017. The Bill provides for the levy of the Union Territory Goods and Services Tax (UTGST).

**Levy of UTGST:** The centre will levy UTGST on the supply of goods and services within the boundary of a union territory.

**Tax rates:** The tax rates of UTGST will be recommended by the GST Council. This rate will not exceed 20%.

**Exemptions from UTGST:** The centre may exempt certain goods and services from the purview of UTGST through a notification. This will be based on the recommendations of the GST Council.

**Assistance to search, seizure and arrest:** All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, and officers of central tax will assist the tax administrative officers in the implementation of this Act.

**Applicability of provisions of Central Goods and Services Tax Act, 2017:** Several provisions of the Central Goods and Services Tax Act, 2017 apply to this Act. Such provisions include (i) time and value of supply, (ii) composition levy, (iii) registration, (iv) returns, (v) payment of tax, (vi) assessment, (vii) refunds, (viii) inspection, (ix) search and seizure, (x) advance ruling, (xi) appeals, and offences.

**Transition to the new regime:** Taxpayers with unutilised input tax credit obtained under the current laws may utilise it under GST.

### **INTEGRATED GST**

According to section 2(c), “Integrated Goods and Services Tax” (IGST) means tax levied under this Act on the supply of any goods and/or services in the course of inter-State trade or commerce.

**Explanation 1:** A supply of goods and/or services in the course of import into the territory of India shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

**Explanation 2:** An export of goods and/or services shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

## **THE INTEGRATED GOODS AND SERVICES TAX BILL, 2017**

The Integrated Goods and Services Tax Bill was introduced in Lok Sabha on March 27, 2017. The Bill provides for the levy of the Integrated Goods and Services Tax (IGST) by the centre on inter-state supply of goods and services.

1. **Levy of IGST:** The centre will levy IGST in the case of (i) inter-state supply of goods and services, (ii) imports and exports, and (iii) supplies to and from special economic zones. Supply includes sale, transfer, exchange and lease made for a consideration to further a business. In addition, IGST will be levied on any supply which will not fall under the purview of the Central and State GST Acts.
2. **Tax rates:** IGST will be levied at a rate recommended by the GST Council. The tax rate will be capped at 40%.
3. **Exemptions from IGST:** The centre may exempt certain goods and services from the purview of IGST through a notification. This will be based on the recommendations of the GST Council.
4. **Apportionment of IGST revenue:** The IGST revenue collected by the centre will be apportioned between the centre and to the state where the supply of goods or services was received. The collected revenue will be apportioned to the centre at tax rate specified in the CGST Act. The rest will be apportioned to the state.
5. **Place of supply of goods:** The Bill provides separate rules for goods and services to determine the place (state) of their supply. In cases where a good has been physically moved, the place of supply will be the final destination of the good. In other cases, the place of supply will be where the good is received by the recipient.
6. **Place of supply of services:** Provisions with respect to determining the place of supply of services vary depending upon the nature of services. *For example*, place of supply for immovable property (such as architects designing a building), will be the location of the immovable property. Specific provisions have also been made for supply of services such as catering, sporting events, transportation of goods, advertisement, telecommunications, among others.
7. **Input tax credit:** Every taxpayer while paying taxes on output may take credit for taxes paid earlier by the supplier on inputs. However, this will not be applicable on supplies related to:  
(i) motor vehicles when used for personal consumption, (ii) supply of food, health services, etc. unless they are further used to make a supply.
8. **Application of provisions of CGST:** The provisions of the CGST Act with respect to registration, valuation, time of supply of goods and services, returns, refunds, prosecution, appeals will be applicable to the IGST Act.

## **LIST OF ALL SECTIONS OF IGST ACT 2017**

<b>Section No</b>	<b>Section Name</b>
Section 1	Short title, extent and commencement.
Section 2	Definitions
Section 3	Appointment of officers
Section 4	Authorization of officers of State tax or Union territory tax as proper officer in certain circumstances
Section 5	Levy and collection
Section 6	Power to grant exemption from tax.
Section 7	Inter-State supply.
Section 8	Intra-State supply
Section 9	Supplies in territorial waters.
Section 10	Place of supply of goods other than supply of goods imported into, or exported from India.
Section 11	Place of supply of goods imported into, or exported from India.
Section 12	Place of supply of services where location of supplier and recipient is in India.
Section 13	Place of supply of services where location of supplier or location of recipient is outside India.
Section 14	Special provision for payment of tax by a supplier of online information and database access or retrieval services.
Section 15	Refund of integrated tax paid on supply of goods to tourist leaving India.
Section 16	Zero rated supply
Section 17	Apportionment of tax and settlement of funds.
Section 18	Transfer of input tax credit.
Section 19	Tax wrongfully collected and paid to Central Government or State Government
Section 20	Application of provisions of Central Goods and Services Tax Act.
Section 21	Import of services made on or after the appointed day
Section 22	Power to make rules.
Section 23	Power to make regulations.
Section 24	Laying of rules, regulations and notifications
Section 25	Removal of difficulties

## **GST Council**

In order to implement GST, Constitutional (122nd Amendment) Bill (CAB for short) was introduced in the Parliament and passed by Rajya Sabha on 03rd August, 2016 and Lok Sabha on 08th August, 2016. The CAB was passed by more than 15 states and thereafter Hon'ble President gave assent to "The Constitution (One Hundred And First Amendment) Act, 2016" on 8th of September, 2016. Since then the GST council and been notified bringing into existence the Constitutional body to decide issues relating to GST

The Union Cabinet under the Chairmanship of Prime Minister Shri Narendra Modi approved setting up of GST Council on 12th September, 2016 and also setting up its Secretariat as per the following details:

- a) Creation of the GST Council as per Article 279A of the amended Constitution;
- b) Creation of the GST Council Secretariat, with its office at New Delhi;
- (c) Appointment of the Secretary (Revenue) as the Ex-officio Secretary to the GST Council;
- (d) Inclusion of the Chairperson, Central Board of Excise and Customs (CBEC), as a permanent invitee (non-voting) to all proceedings of the GST Council;
- (e) Create one post of Additional Secretary to the GST Council in the GST Council Secretariat (at the level of Additional Secretary to the Government of India), and four posts of Commissioner in the GST Council Secretariat (at the level of Joint Secretary to the Government of India).

The Cabinet also decided to provide for adequate funds for meeting the recurring and non-recurring expenses of the GST Council Secretariat, the entire cost for which shall be borne by the Central Government. The GST Council Secretariat shall be manned by officers taken on deputation from both the Central and State Governments.

### **STURCTURE/REGULATORY FRAMEWORK OF GST**

A new set up by Government of India named as 'GST Council'. GST Council constituted w.e.f. 12.09.2016

The GST Council consists of:

- (a) The Union Finance Minister (as Chairman),
- (b) The Union Minister of State in charge of Revenue or Finance, and
- (c) The Minister in charge of Finance or Taxation or any other Minister, nominated by each state government.

All decisions of the GST Council will be made by three fourth majority of the votes cast; the centre shall have one-third of the votes cast, and the states together shall have two-third of the votes cast.

Threshold limit for exemption to be Rs. 20 lakh (Rs. 10 lakh for special category States)

Compounding threshold limit to be Rs. 50 lakh – not available to inter-State suppliers, service providers (except restaurant service) & specified category of manufacturers

Government may convert existing area based exemption schemes into reimbursement based scheme

## **POWERS OF GST COUNCIL**

### **1. Appointment of GST officers**

Section 5 of Model GST Act, 2016 ('Act' for short) provides for appointment of officers under the CGST. The Board may appoint such persons as it may think fit to be officers under the Act. The Board may authorize a Principal Chief Commissioner/Chief Commissioner of CGST or a Principal Commissioner/Commissioner of CGST or an Additional/Joint or Deputy/Assistant Commissioner of CGST to appoint officers of CGST below the rank of Assistant Commissioner of CGST.

### **2. Powers of CGST officers**

Section 6 of the Act provides that subject to such conditions and limitations as the Board may impose, a GST officer may exercise the powers and discharge the duties conferred or imposed on him under the Act.

### **3. Power of inspection, search and seizure**

Section 79 of the Act gives powers to the GST officer, Joint Commissioner to inspect, search and seizure such as goods, documents, books or things.

### **4. Power to Arrest**

Section 81 gives powers to Commissioner to arrest any person. Section 81(1) provides that if the Commissioner has reason to believe that any person has committed an offence as detailed below:

- Supplies any goods and/or services without issue of any invoice

- Issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act,

- Collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of 3 months from the date on which such payment becomes due;

- Collects any tax in contravention of the provisions of this Act

- Takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or rules made there under.

## **5. Power to summon persons to give evidence and produce documents**

Section 82 provides that any CGST officer, duly authorized by the competent authority in this behalf, shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act.

## **6. Access to business premises**

Commissioner of CGST shall have access to any place of business of a registered taxable person to inspect books of account, documents, computers, computer programs, computer software, , for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

## **7. Revisional Powers**

Section 99 gives revisional powers to Chief Commissioner or Commissioner who may on his own motion, or upon information received by him or on request from the Commissioner, call for and examine the record of any proceeding and if he considers that any decision or order passed under this Act

## **8. Power to collect statistics**

Section 141 of the Act provides that the Commissioner, if it considers that for the purposes of the better administration of the Act, it is necessary so to do, may by notification, direct that statistics be collected relating to any matter dealt with, by or in connection with the Act.

## **9. General power to make regulation**

Section 155 provides that the Commissioner may make regulations consistent with the Act and rules, generally to carry out the purposes of this Act.

## **FUNCTIONS OF GST**

- (i) Taxes, cesses, and surcharges levied by the centre, states and local bodies which may be subsumed in the GST;
- (ii) Goods and services which may be subjected to or exempted from GST;
- (iii) Model GST laws, principles of levy, apportionment of IGST and principles that govern the place of supply;
- (iv) The threshold limit of turnover below which goods and services may be exempted from GST;
- (v) Rates including floor rates with bands of GST;
- (vi) Special rates to raise additional resources during any natural calamity;
- (vii) Special provision with respect to Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
- (viii) Any other matters.

## **PROVISIONS FOR AMENDMENTS OF GST**

***Insertion of New Article 246A:*** The Article 246 gives power to Union and State government to make the law relating to matter covered under List I (Union List), List II (State List) and List III (concurrent List). The Article 246A(1) gives right to parliament and the legislator of every state can make the law in respect of goods and service tax to be imposed by central or state government. This amendment would subsume the taxes like Excise duty, Service tax, Central Sales tax at Central level and VAT, Entry tax, Entertainment tax etc. at State level.

***The Article no 246A(2):*** Covers the provision of Interstate supply of goods or services or both ,in such circumstances only parliament ( i.e. Central Government) can make the Law. However the provision of article 246A, in case of Petroleum crude, high speed, petrol, natural gas and aviation turbine fuel shall take effect from the date recommended by GST council as constituted under Article 279A.

***Amendment of Article 248(1) (residuary Power of legislation):*** Under Article 248(1) Parliament has exclusive power in to make any law in respect of any item not covered under State List and Concurrent List subject to provision Article 246A

***Amendment of Article 249 (1) (Power of Parliament to legislate with respect to a matter in the State List in the national interest):*** Parliament under article 249(1) can make the law in respect of any item specified in the state list in the national interest, if the Council of States has declared by resolution and supported by 2/3rd of member present and vote. Now this also includes goods and service tax under article 246A i.e. Parliament of India can make the GST law for the whole or any part of India subject to approval 2/3rd members of each state.

***Amendment of Article 250(1) (Proclamation of Emergency):*** In the event of announcement of emergency, Parliament of India has power to make the laws in respect of any item covered under state list for the whole India or part of the India under article 250(1). Goods and service tax under article 246A i.e. Parliament of India can make the GST law in case of emergency.

***Amendment of Article 268 (1) (Duties levied by the union but collected by the States):***

Now, the duties of excise on medicinal and toilet preparation has been omitted and same is been amalgamated in GST.

***Amendment of Article 268A (Service tax levied by union government and collected and appropriated by Union & States):*** Article 268A provides power to government of India to levy the service tax and collected and apportioned by government of India and State. Now, this article has been omitted.

***Amendment of Article 269 and Insertion of New Article 269A (Inter State Sale and Purchase):***

Article 269 (1) facilities the levy and collection of tax on sale of goods or consignment of goods

in the course of Interstate trade or Commerce. Now, the provision of this clause is subject to new article 269A

**Amendment of Article 271 (Surcharge on taxes by union):** Parliament has exclusive right to charge the surcharge on any tax and such surcharge will form the part of consolidated fund. But the GST is exception to above article. In other word parliament cannot charge any tax by way of surcharge on GST.

**Amendment of Article 286 (Restriction on Imposition of tax):**

Now, Supply of goods or service or both will be covered by this clause. This clause will restrict the states from imposition of Interstate GST and same will be levied by union government under Article 269A as mentioned earlier.

**Amendment in Entry No 52, 54, 55 and 62 to State List:** Entry no 52 gives power to levy the entry tax. Now, the entry has been omitted. It means now local bodies can't levy and collect the entry taxes like octroi, LBT etc.

In addition to above now Panchayat, Municipalities, Regional or District council can levy and collect taxes on entrainment and amusement under entry 62.

**Compensation to States for Revenue Loss:** Parliament may by law and with the recommendation of GST council provide compensation to state on account of implementation of GST. The period of compensation is restricted upto 5 years.

**Power of president to remove the difficulty:** If any difficulty arises after commencement of these act, the president may by order remove such difficulty. Provided that no such order is made after the expiry of three years from commencement of these act.

## RATE STRUCTURE OF GST

### *GST Rates Structure*

<b><i>Tax Rates</i></b>	<b><i>Products</i></b>
5%	Edible oil, sugar, spices, tea, coffee (except instant) Coal (instead of current 11.69%) Mishti/Mithai (Indian Sweets) Life-saving drugs
12%	Computers, Processed food
18%	Hair oil, toothpaste and soaps (currently at 28%) Capital goods and industrial intermediaries (big boost to local industries)
28%	Small cars (+1% or 3% cess) Consumer durables such as AC and fridge Luxury & sin items like BMWs, cigarettes and aerated drinks (+15% cess) High-end motorcycles (+15% cess) Beedis are NOT included here

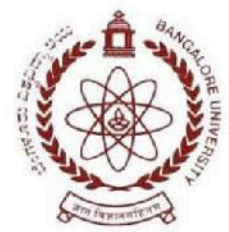
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## WHAT IS GST.....

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- Largest tax reform in the Indirect Taxation regime.
- PAN Based Registration
- Levied on supply of goods or services. Supply includes Stock Transfer.
- “**Supply**” being the Taxable Event, the concept of Manufacture or Trade is irrelevant.
- All transactions and processes only through electronic mode
- Registration only if turnover more than Rs. 20 lacs (Rs. 10 Lacs for N - E States incl. Sikkim)
- Seamless flow of Input Tax Credit (ITC), across the Supply chain and State borders
- Special procedures for job work

## WHY GST.....

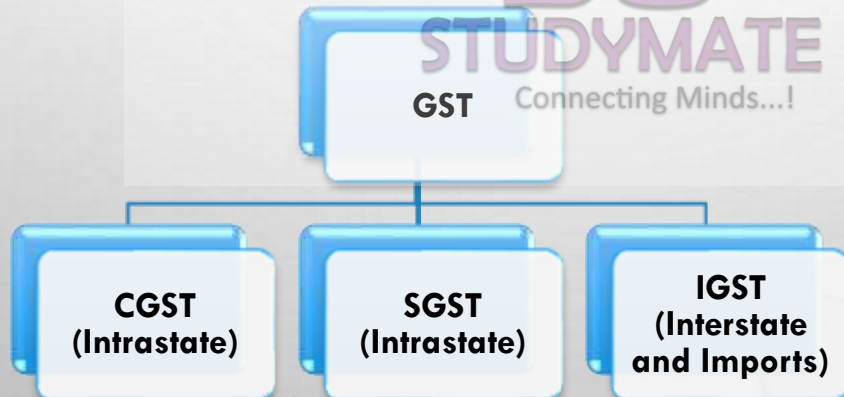
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- Overall reduction in Prices for consumers
- Reduction in multiplicity of taxes, Cascading and Double Taxation
- Uniform rate of Tax and Common National Market
- Broader Tax Base and decrease in “Black” Transactions
- Free Flow of Goods and Services – No Checkpoints
- Non-Intrusive Electronic Tax Compliance System
- Compliance Rating on the portal of GST



## COMPONENTS OF GST

- Two components of GST namely : **CGST** – Central GST to be levied by Centre and **SGST** – State GST to be levied by State.
- When goods are transported from one state to another state then it is to be treated as Inter – State Supplies for which we have to charge **IGST** i.e., Integrated GST
- During **Import** of goods and services, we have to charge IGST as it would be treated as Inter-State Supplies in addition to applicable Custom Duties.



## APPLICABILITY OF GST

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**GST** would apply to all Goods and Services which are covered under Excise, VAT & CST (for Goods) and Service Tax (for services).

Although, Government has kept some goods and services outside the purview of GST Regime which are as under :

- Alcohol** for Human Consumption
- Electricity**
- Petroleum Products** like crude, high speed diesel, motor spirit, natural gas, aviation turbine fuel



## SUBSUME OF INDIRECT TAXES

### Central

- Central Excise Duty
- Additional duties of excise
- Excise duty levied under Medical & Toiletries Preparation Act +
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharge and Cesses

### State

- State VAT/ Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies) +
- Luxury Tax
- Entry Tax (All forms)
- Taxes on Lottery, betting & gambling
- Surcharge and Cesses



Constitution amended to provide concurrent powers to both Centre and States to levy GST (Centre to tax on sale of goods and States to tax provision of services)

## NON - SUBSUME OF INDIRECT TAXES

---

The following taxes has not been subsumed under GST, which are as follows :

- ✓ Basic Custom Duty
- ✓ Exports Duty
- ✓ Road and Passenger Tax
- ✓ Toll Tax
- ✓ Property Tax
- ✓ Stamp Duty
- ✓ Electricity Duty



## COMPOSITE AND MIXED SUPPLY

### COMPOSITE SUPPLY

Composite Supply means a supply is comprising two or more goods/ services, which are naturally bundled and supplied in with each other in the ordinary course of business, one of which is a principal supply. The items cannot be supplied separately.

**CONDITIONS:-** Fulfills **BOTH** the following criteria

1. Supply of 2 or more goods or services together; **AND**
2. It is a natural bundle, i.e., goods or services are **usually provided together in normal course of business**. They cannot be separated

**Illustration :** Where goods are packed, and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply. Insurance, transport cannot be done separately if there are no goods to supply. Thus, the supply of goods is the principal supply.

## COMPOSITE AND MIXED SUPPLY

### MIXED SUPPLY

Mixed supply means **two or more individual** supplies of goods or services, or any combination, made **together** with each other by a taxable person **for a single price**. **Each of these items** can be **supplied separately** and is not **dependent** on any other.

For tax under GST, a **mixed supply** comprising two or more supplies shall be treated as supply of that item which has **the highest rate of tax**.

**Illustration** : A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. All can be sold separately. Assuming aerated drinks have the highest GST rate, aerated drinks will be treated as principal supply.

## COMPOSITE AND MIXED SUPPLY (ILLUSTRATION)

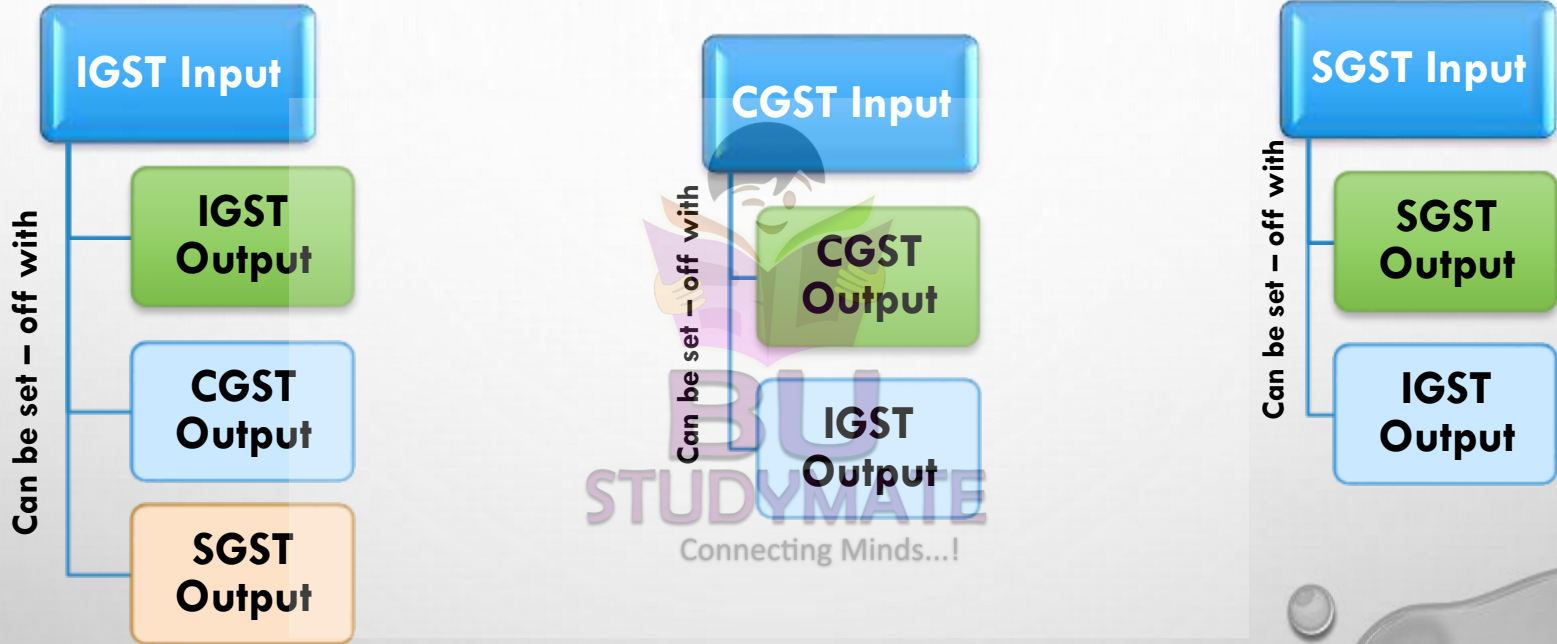
You are booking a **Rajdhani train ticket which includes meal**. It is a **bundle of supplies**. It is a **composite supply** where the products **cannot be sold** separately. You will not buy just the train meal and not the train ticket. The transportation of passenger is, therefore, the principal supply.

**Rate of tax** applicable to the **principal** supply will be charged to the **whole composite bundle**. Therefore, rate of GST applicable to transportation of passengers by rail will be charged by IRCTC on the booking of Rajdhani ticket.

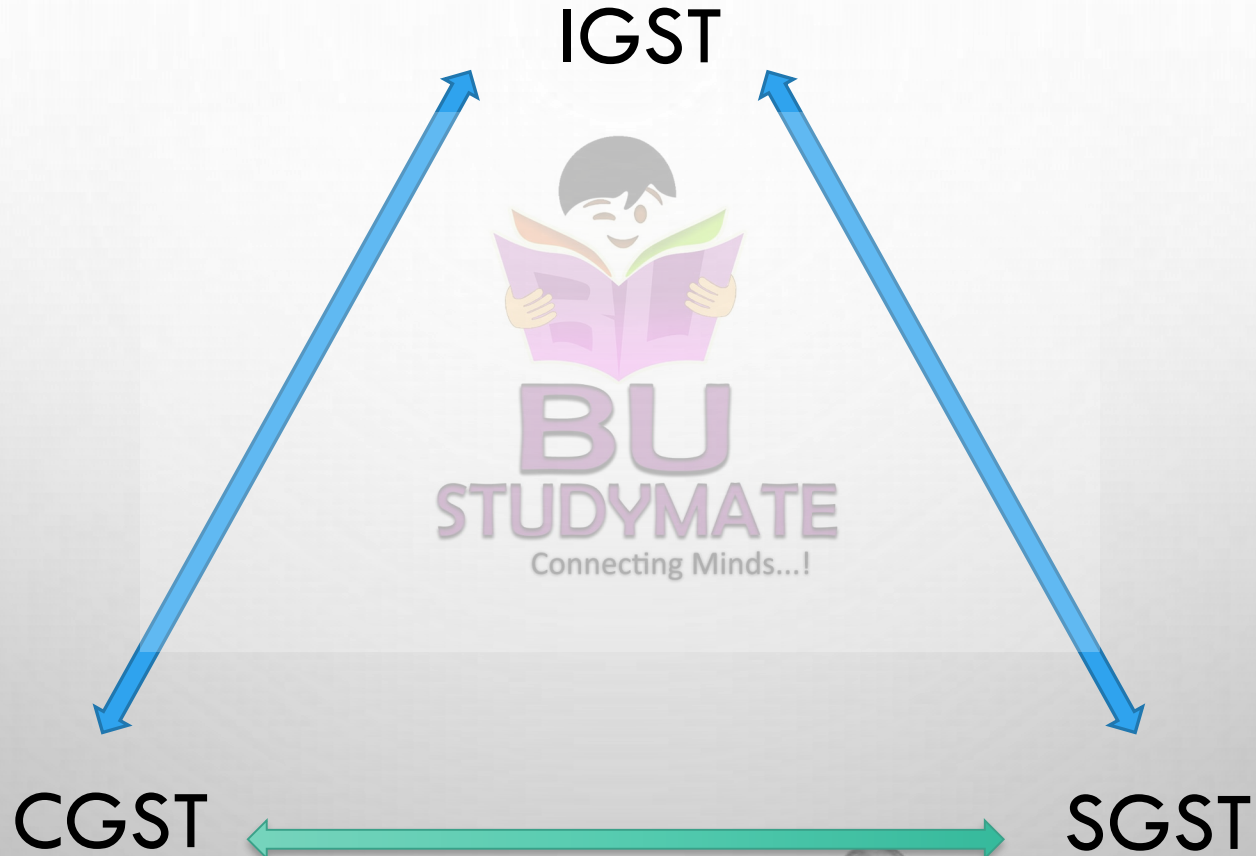


Many shops **offer** a **free** bucket with detergent purchased. This is a **mixed supply** as it does **not satisfy the 2nd condition**, i.e., it **can be sold separately**. You can buy either just a bucket or just detergent. The **highest rate** of GST will then apply. Assuming that **plastic buckets** have the **higher** rate, this rate will apply on the **whole mixed bundle**.

## FLOW OF ITC CREDIT



Note : Above Input are available in order of preference



## RESTRICTION ON AVAILMENT OF INPUT TAX CREDIT

---

Input tax credit **shall not** be available in respect of the following, namely:-

- Motor vehicles and other conveyances expenses, except -
  - ✓ further supply of such vehicles or conveyances, or
  - ✓ transportation of passengers, or
  - ✓ training on driving, flying, navigating such vehicles or conveyances
  - ✓ for transportation of goods
  
- Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, except-
  - ✓ When inward supply of a particular category is used for making an outward supply of the same category, or
  - ✓ Used as an element of a taxable composite or mixed supply;
  
- Membership of a club, health and fitness centre
  
- Rent-a-cab, life insurance and health insurance except where -
  - ✓ Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force, or
  - ✓ When inward supply of a particular category is used for making an outward supply of the same category, or
  - ✓ Used as an element of a taxable composite or mixed supply;

## RESTRICTION ON AVAILMENT OF INPUT TAX CREDIT

---

- ❑ Travel benefits extended to employees on vacation such as leave or home travel concession
- ❑ Works contract services when supplied for construction of an immovable property (other than plant and machinery) except –
  - ✓ where it is an input service for further supply of works contract service
- ❑ In Respect of Goods or services
  - ✓ Received by a taxable person for construction of an Immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.
  - ✓ Tax has been paid under Composition Scheme.
  - ✓ Received by a Non-resident taxable person except on goods imported by him.
  - ✓ Used for personal consumption.
  - ✓ Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples

## RATE OF TAXES

Tax Rates	Particulars
0 %	Consumed items for necessities in life
3 %	Gems & Jewelry
5 %	Essential Goods and Services under basic importance
12 %	Standard Goods and Service fall under 1 <sup>st</sup> Slab
18 %	Standard Goods and Service fall under 2 <sup>nd</sup> Slab
28 %	Special Category including luxury items

## HOW TO CHARGE GST?



## REGISTRATION PROCESS

- Every assessee who is liable to get registered under **Schedule III** of the GST Act
- As per GST Act, **Schedule III** specifies the Following :
  - Existing VAT/ Central Excise/ Service Tax/ Entry Tax/ Luxury Tax/ Entertainment Tax Registered Assessee
  - If his Aggregate turnover in a F.Y. exceeds the threshold limit of **Rs. 20 Lakhs (Rs. 10 Lakhs for N-E State incl. Sikkim)**
- For each state, assessee has to take separate registration
- Registration will be a 15 digit PAN based

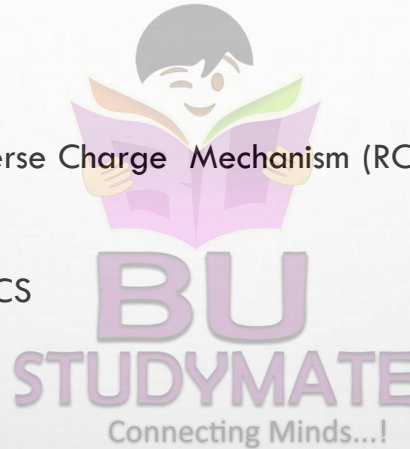
### FORMAT OF GSTIN



## REGISTRATION PROCESS

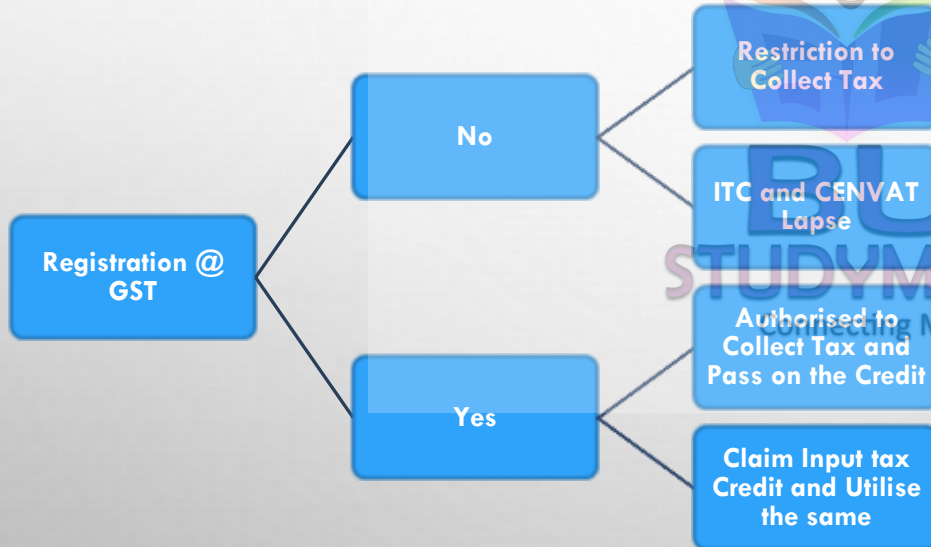
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- For each vertical business, assessee may apply for separate registration though in the same state
- Following assessee are required to get registered irrespective of the threshold limit :
  - ✓ Inter – State Taxable Supply
  - ✓ Casual Taxable Person
  - ✓ Liable to pay tax under Reverse Charge Mechanism (RCM)
  - ✓ Non – Resident Person
  - ✓ Assessee who deduct TDS/ TCS
  - ✓ Input Service Distributor
  - ✓ E – Commerce Operator



## REGISTRATION PROCESS

Aggregate Turnover Means :



### Cancellation of Registration

- Non-filing of returns continuously for Six / Three months
- Contravention of provisions of Act
- Non-commencement of business within 6 months in case of voluntary registration

## COMPOSITION SCHEME

### Conditions for availing composition levy

Turnover Less  
than 50 lacs



PAN Linked



No Tax  
Collection



No Input Tax  
Credit



Only Intra-  
state sales

- Composition Scheme is Optional
- Composition Scheme not applicable to the reverse charge segment
- Minimum prescribed rate of tax under Composition Scheme (% of turnover in a state during the year)

**Manufacturer 1%**

**Trader 0.5%**

**Restaurants 2.5%**

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# INVOICING UNDER GST

## Copies of Invoice



**Note: A Supplier of Exempted Goods or Registered under Composite Scheme will have to issue Bill of Supply instead of Invoice**

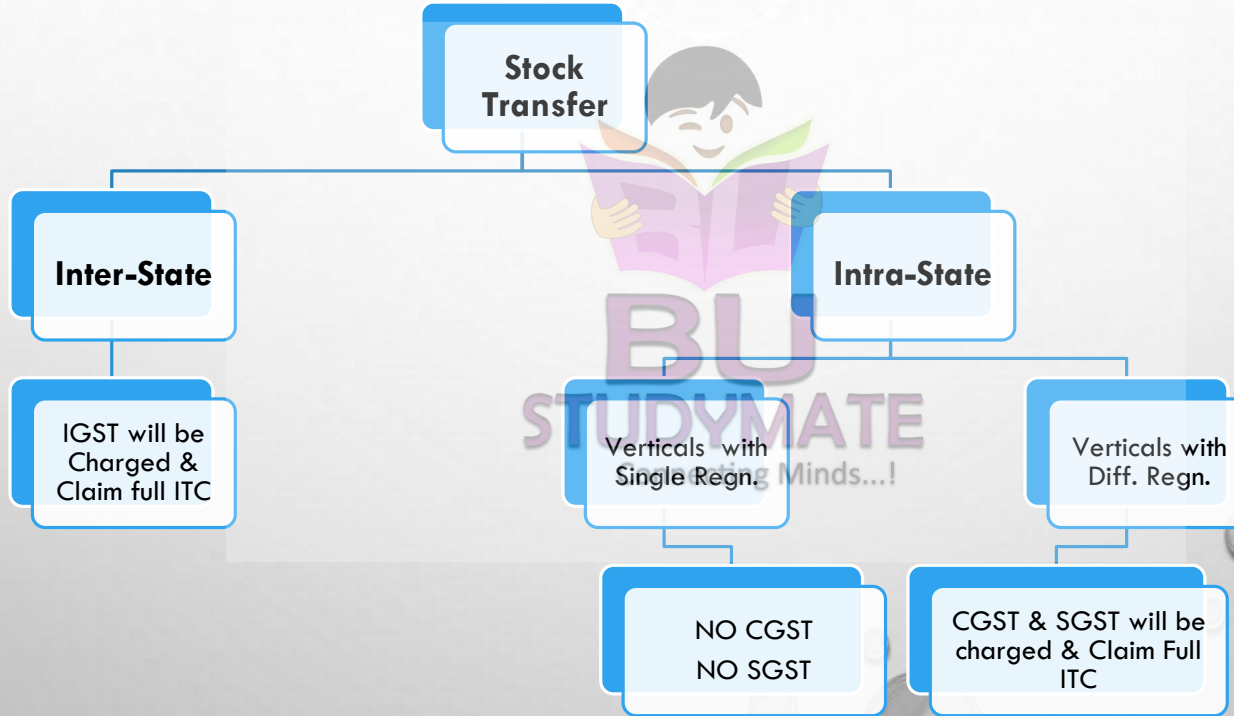
## GST TAX LEDGER

In GST, following ledgers of an assessee will be maintained in GSTN:-

- ❑ **e-Tax Ledger:-** Similar to 26AS in Income Tax which shows the tax credit of an assessee, in GST, e-Tax Ledger is prescribed to be maintained containing information on tax paid, tax credit, and tax liability
- ❑ **e-Cash Ledger:-** In GST Regime, Deposit of Tax, Interest & Penalty can be made by the following modes:-
  - ✓ Net Banking
  - ✓ Credit / Debit Cards
  - ✓ NEFT
  - ✓ RTGS
- ❑ **e-Credit Ledger:-** Input Tax Credit on Purchases shall be credited to e-Cash Ledger as per GST Return filed by the Assessee. The e-Credit Ledger includes:
  - ✓ ITC on Inward purchases from registered assessee
  - ✓ ITC on Closing Stock as on 31<sup>st</sup> March 2017
- ❑ **e-Liability Ledger:-** This Ledger is required to be maintained electronically for all GST Liabilities viz:
  - ✓ Liability based on self assessment of GST returns
  - ✓ Liability out of demand notice from GST Authorities
  - ✓ Credit utilised against the available amounts in the e-cash ledger.

# STOCK TRANSFER

## Taxability of Stock Transfer



## TIME OF SUPPLY OF GOODS (UNDER NORMAL MECHANISM)

---

The **liability to pay tax** on goods arises at the Time of Supply. Time of Supply will be **earliest** of the followings:

- ✓ Date of Issue of Invoice
- ✓ Date on which payment is received.

### Note :

- ✓ The Invoice is required to be prepared before or at the time of performing activity of either **Removal or Delivery or Making Available** of the goods to the recipient.
- ✓ **Date of Payment** : The date on which the payment is entered in the **books of Accounts** or date on which the payment is **credited to bank**.



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## TIME OF SUPPLY OF SERVICES (UNDER NORMAL MECHANISM)

---

The **liability to pay tax** on service arises at the Time of Supply. Time of Supply will be **earliest** of the followings:

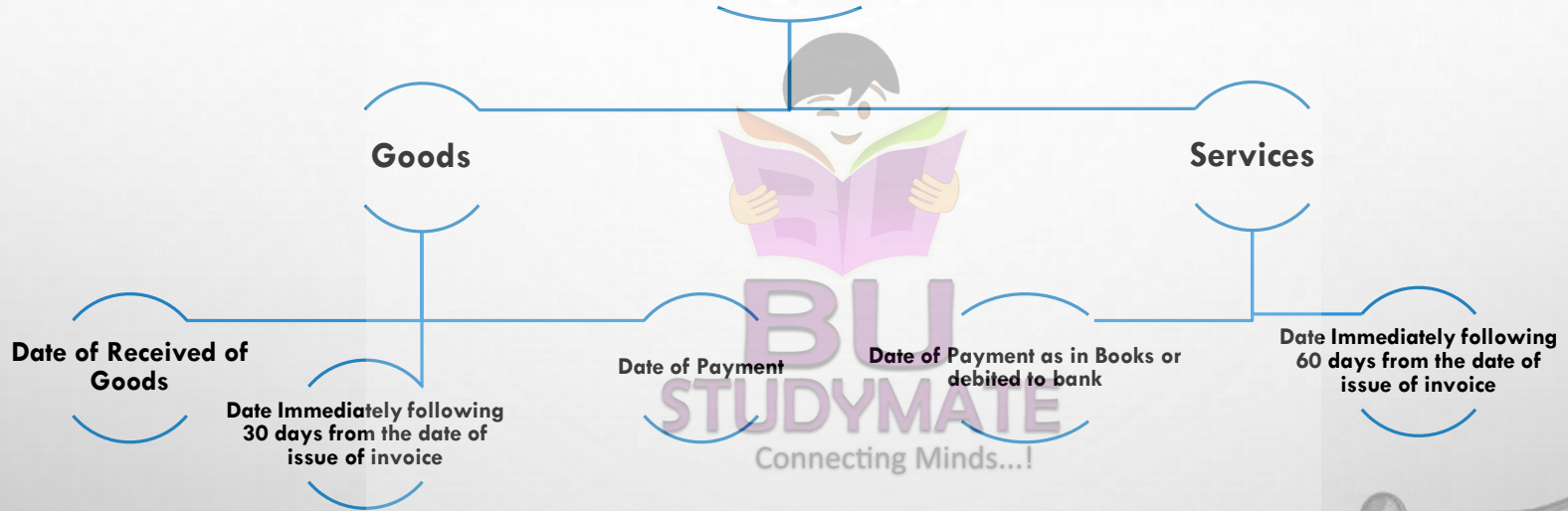
- ✓ Date of Issue of Invoice, if the invoice is issued within 30 days from the date of supply of service **OR** Date on which payment is received.
- ✓ Date of provision of services if the invoice is not issued within 30 Days or the date receipt of payment which ever is earlier.

**Note :**

- ✓ Date on which recipient show the receipt of services in his books of account , in case the above two provision shall not apply.
- ✓ **Date of Payment :** The date on which the payment is entered in the **books of Accounts** or date on which the payment is **credited to bank**.

## TIME OF SUPPLY (UNDER RCM)

### Reverse Charge Mechanism



**Note:** In case , if time of supply (Goods or Services Both) is not determined as above , then Date of entry in the Books will be considered.

## TIME LIMIT OF ISSUING OF INVOICE (GOODS)

Particulars	Situation	Time Limit
Supply of Goods	Supply involve movement of Goods	Before or at the time of removal of goods for supply to the recipient
	Other cases	Before or at the time of delivery of goods or making available thereof to the recipient
Continuous Supply of Goods	Having successive statements of accounts	Before or at the time of each such statement is issued
	Successive payments	Before or at the time of each such payment is received

## TIME LIMIT OF ISSUING OF INVOICE (SERVICES)

Particulars	Situation	Time Limit
Supply of Services	Normal Cases	Before or within 30 days from date of supply of service
	Supply between Distinct Persons	When such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.
Continuous Supply of Services	Due date of payment is ascertainable	On or before the due date of Payment
	Due date of payment is not Ascertainable	On or before such time when the supplier of service receives the payment
	Payment is linked to the completion of an event	On or before completion of that event

## TIME OF SUPPLY IN CASE OF CHANGE OF RATE

Invoice	Payment	Supply Before Change of Rate	Supply After Change of Rate
After	After	Earlier of following two: Date of invoice or Receipt of payment	NA
Prior	After	Date of issue of invoice	Date of receipt of payment
After	Prior	Date of receipt of Payment	Date of issue of invoice
Prior	Prior	NA	Earlier of following two: Date of invoice or Receipt of payment

Notes : Date of receipt of payment will be date on which entry credited to bank account if such credit in the bank account is after 4 working days from the date of change in the rate of tax

## VALUE OF TAXABLE SUPPLY SECTION -15 OF CGST ACT 2017

---

- ✓ Tax will be charged on the '**transaction value**'.
- ✓ Transaction value is the
  - a) **price actually paid or payable** for the supply of goods/services.
  - b) **Supplier and the recipient of the supplier is not related**
  - c) **price is the sole consideration.**

The value of supply under GST shall include :

- Any **taxes, duties, cess, fees and charges** levied under any act, **except GST(CGST,SGST,IGST,UTGST). GST Compensation Cess** will be **excluded if charged separately** by the supplier.
- Any amount that the **supplier is liable to pay** which has been **incurred by the recipient** and is not included in the price.
- The value will include all **incidental expenses** in relation to sale such as packing, commission etc.
- Subsidies linked to supply, except Government subsidies will be included.
- **Interest/late fee/penalty** for **delayed payment** of consideration will be included.

# FORMAT FOR COMPUTATION OF TRANSACTION VALUE(SECTION-15) CGST& SGST ACT

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PARTICULARS	AMOUNT	AMOUNT
Selling price/Gross sales		√√√
ADD: If not included in the sale price		
Materials procured/purchased(exclusive of GST)	√√√	
Taxes,duties,fees,cess and charges except CGST,SGST,IGST	√√√	
Amount paid by the recipient on behalf of the supplier	√√√	
Interest,late fees or penalty for delayed demand	√√√	
Subsidies directly linked to the price	√√√	
Incidental charges .ex packing charges,insurance freight,advertising,loading unloading	<u>√√√</u>	<u>√√√</u>

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# FORMAT FOR COMPUTATION OF TRANSACTION VALUE(SECTION-15) CGST&

PARTICULARS	AMOUNT	AMOUNT
LESS: If not included		
Cash discount/Trade discount (if it is allowed before or at the time of supply)	√√√	
Cost of Durable and Returnable packing included in the sale price.	√√√	√√√
TRANSACTION VALUE OF GOODS /SERVICES SUPPLIED		√√√



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## PLACE OF SUPPLY

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- ✓ **'Place of Supply'** defines whether the transaction will be counted as Intra or Inter State.
- ✓ Accordingly the chargeability of tax i.e., SGST, CGST and IGST will be determined.
- ✓ **Location of Supplier** : Registered place of business of the supplier
- ✓ **Place of Supply** : Registered place of business of the recipient.

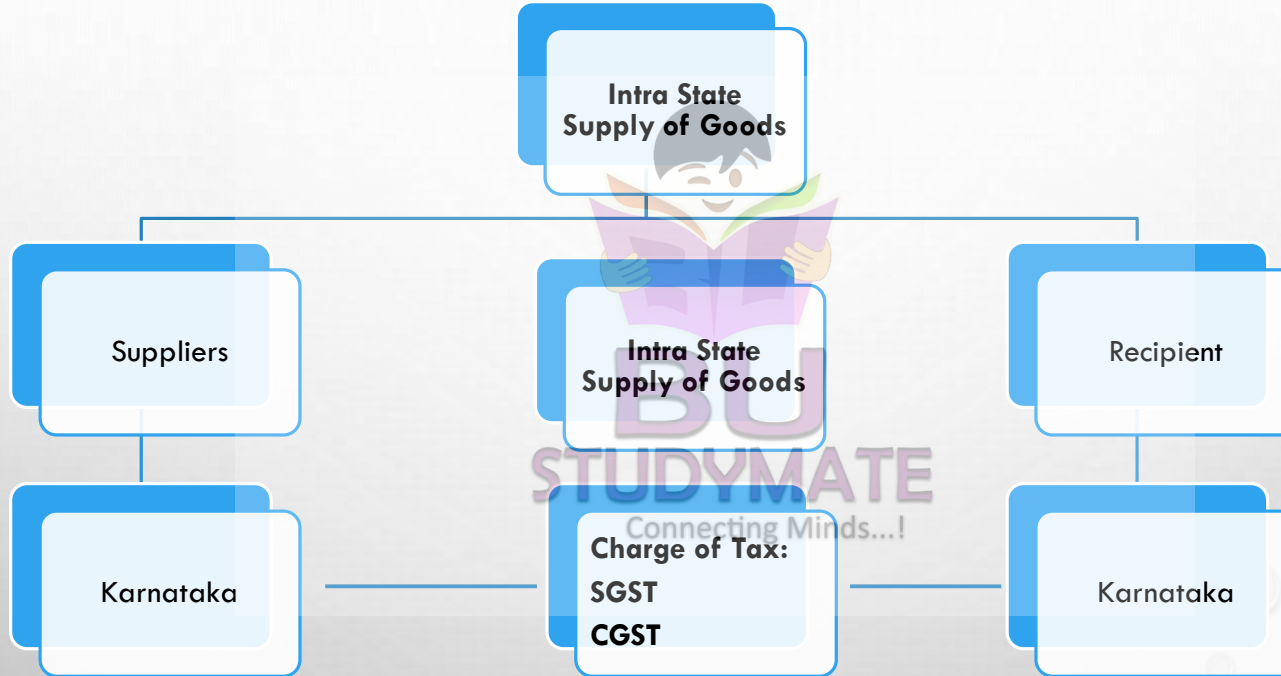
**There are specific provisions for determination of place of supply of goods such as:**

The place of supply of goods: where the supply involves movement of goods

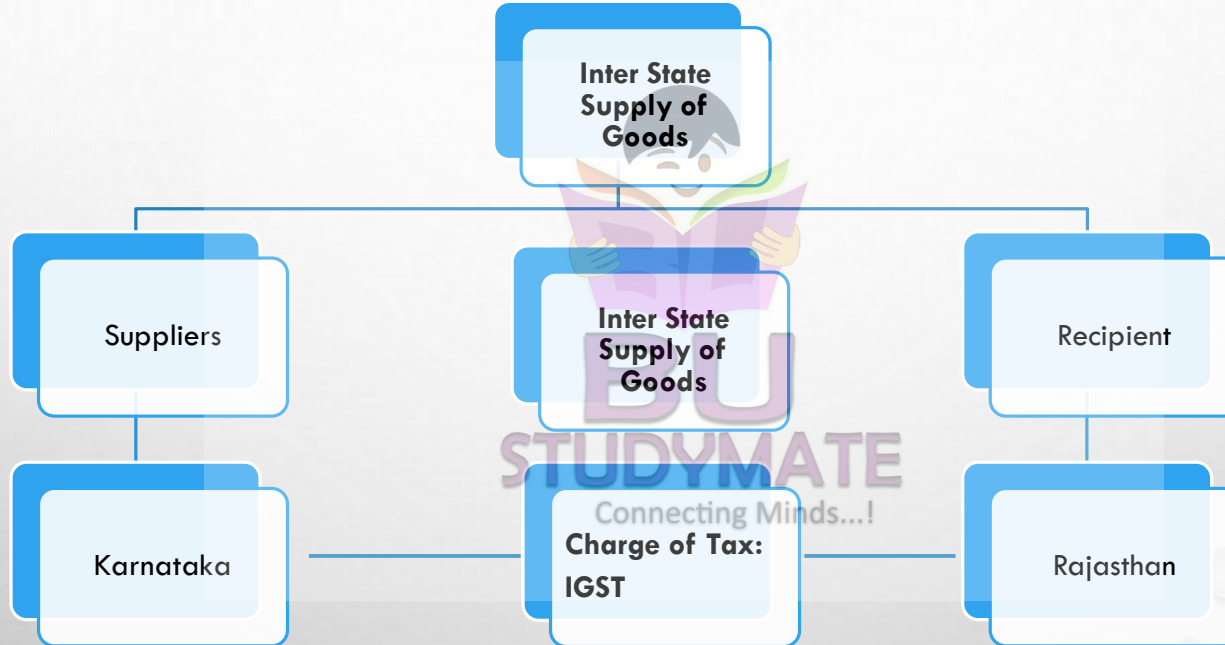
The place of supply of goods: where the supply involves no movement of goods

The place of supply of goods: in case of export & import of goods.

## DETERMINING PLACE OF SUPPLY FOR INTRA-STATE SUPPLY OF GOODS



## DETERMINING PLACE OF SUPPLY FOR INTER-STATE SUPPLY OF GOODS



## IMPORT OF GOODS

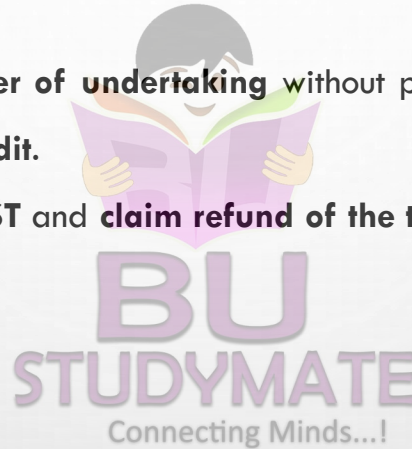
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- **Import of services** for a consideration whether or not in the **course or furtherance of business** is deemed to be **supply**
- As per the IGST Act, **supply of services** in the **course of import** into the **territory of India**, shall be deemed as **supply of services** in the course of **Inter State trade or commerce**.
- IGST would be payable in **Import of services** by the **recipient under RCM**.
- Supplies of goods and services to or by **Special Economic Zone (SEZ) units or SEZ developers** will be **treated as Inter-State supplies**.
- **Supplies of goods and/or services** to SEZ units or SEZ developers are to be **treated as “zero rated supplies”** and the SEZ developer or SEZ unit **receiving** such **zero rated supplies** will be given similar **treatment as exports**.

## EXPORT OF GOODS

---

- As per the provisions of IGST Act, **export of goods and/or services** are to be treated as “**zero rated supplies**” and **registered taxable person exporting goods or services** shall be **eligible to claim refund** under one of the following **two options**:
  - i. **Export under bond or letter of undertaking** without payment of Integrated Tax and **claim refund of unutilized input tax credit**.
  - ii. **Export on payment of IGST** and **claim refund of the tax so paid** on goods and services **exported**.



## INPUT SERVICE DISTRIBUTOR UNDER GST

Input Service Distributor includes -

- an office of the supplier of goods and / or services which
- receives tax invoices issued by supplier towards receipt of input services and/or goods and
- issues a prescribed document for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above

### Registration and Returns

- **Migration of existing registration would not apply to ISD, hence it is required to apply afresh for registration.**
- In case being registered as an **ISD return** is to be filed by **13th day of the succeeding month** whereas for being registered as **Supplier of Service** return is to be **filed by 20th day of the succeeding month.**

## DISTRIBUTION OF CREDIT

CGST as

- CGST
- IGST

IGST as

- IGST
- CGST

SGST as

- SGST
- IGST

### Conditions for distribution of Credit

- Prescribed documents must be issued to the receipts of credit containing prescribed details
- Amount of credit distributed must not exceed amount available to distribution
- Credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;
- Credit of tax paid on input services attributable to all or more than one recipient of credit shall be distributed only amongst such or all recipient(s) to whom the input service is attributable and such distribution shall be pro rata on the following basis
- turnover in a State of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;
- if some or all recipients of the credit do not have any turnover in their States in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed



# An Overview of GST

## THINK BEFORE YOU READ

This chapter shall cover the following questions/concepts that the student shall read first before studying the chapter. These are those questions that should strike the mind of the reader while studying the chapter.

- (1) What is GST ?
- (2) What is the need or purpose of implementing GST ?
- (3) What are the problems in the present taxation structure in India ?
- (4) What will be the consequences/implications of GST ?

*After reading the chapter you should be clear about the following concepts :*

- (1) **Problems in Present Indirect Tax structure in India**
- (2) **Meaning of GST**
- (3) **Purpose of GST**
- (4) **Scope of GST**
- (5) **Implications of GST**

## CONCEPTUAL BACKGROUND

India follows federal structure of tax system that comprises of two categories; Direct Tax and Indirect Tax. Direct Tax is a tax, the burden of which cannot be shifted to anybody else and thus it is levied on the assessee and has to be borne by the assessee himself. On the other hand, indirect tax is a tax which is levied on one person, but the burden of tax keeps shifting to another person in the production/supply chain and is finally borne by the ultimate consumer. In other words, **in the indirect tax, the tax payer is not the tax bearer but in direct tax, the tax payer is the tax bearer.**

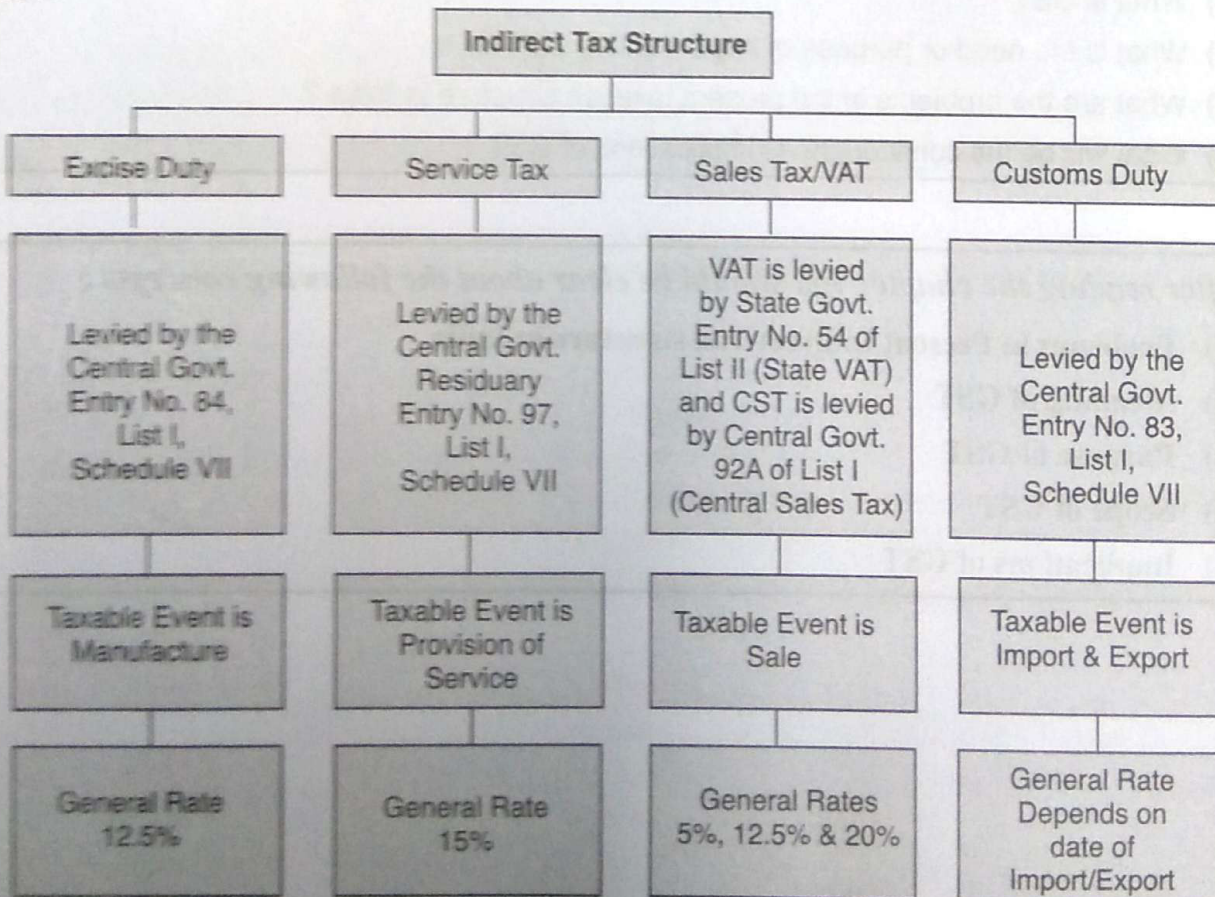
### Present Scenario: Indirect Taxes

India's taxation powers are shared between the Union Government (Central Government) and the State Governments. Both the Central Government and the State Governments are empowered to levy respective taxes as per the Constitution of India. Presently, indirect taxes treat goods and services differently.

#### Goods attract

- (a) Excise duty at the manufacturing stage,
- (b) VAT at the time of sales within the same state
- (c) CST at the time of sales from one state to the another state
- (d) Import/Export Duty at the time of imports into or exports from India.

Services attract only one levy *i.e.* Service Tax on the provision of taxable services in India.



## Other Indirect Taxes

- (1) **Octroi** Is a local tax charged and collected on various goods (brought into a state for consumption) by the State Government when the product enters into the state territory.
- (2) **Entry Tax** is a local tax imposed by the State Government. It is levied on the movement of goods from one state to another and is levied by the recipient state.
- (3) **Luxury Tax** is a tax on luxury goods (goods which are not considered essential goods)
- (4) **Stamp Duty** is a tax levied on legal documents such as cheques, receipts, land transactions; etc.
- (5) **Property Tax** is a tax on property that the owner has to pay. It is levied by the governing authority of the jurisdiction in which the property is located. It may be taxed by the Central Govt., State Govt. or even a municipality.
- (6) **Road Tax** is a tax paid on motor vehicles before using it on a public road.
- (7) **Entertainment Tax** is a tax charged by the local and regional governments on the services which are designed to provide leisure activities to the consumer.
- (8) **Taxes on lottery, betting and gambling**

India moved, hesitatingly, to VAT in a small although **notable way in 1986, with Modified VAT (Modvat)** on production at the Centre. The plan was to do away with tax-on-tax and cascading input taxes so that tax is only levied on the value added and set-offs available for taxes already paid.

Modvat has since been labelled **Central VAT (Cenvat)** and the tax base widened. In 2005, the states switched to **VAT on consumption**. So, we now have a dual VAT system at the Centre and the state. But there is much scope to further reform the indirect tax regime and make available tax set-offs right across the output and delivery value chain, both at the Centre and the state. Before understanding how this system can be reformed, let us understand the problems existing in the present indirect tax regime.

### Problems in Indirect tax structure

- (a) The present **indirect Tax structure is very complex** as both Centre and State Government levy taxes, leading to double taxation.
- (b) **State Governments are not empowered** to levy taxes on provision of services.
- (c) As the State Governments cannot levy service tax, hence it **negatively effects their state tax revenues**, precisely because Service Tax contributes majorly to the tax revenues.
- (d) Dual tax system leads to **cascading effect**. Once after the levy of excise duty by the Central Government on goods (at the manufacturing stage), the goods are again levied with sales tax (CST by the Central Government and VAT by the State Governments at the sales stage). In simple language, taxed goods are again taxed, which is called as cascading effect. (This has been illustrated in Table No.1, explained later)

- (e) **Tax administration** both at the central and state levels is complex.
- (f) **Low level of automation** of administrative procedures is another deficiency. Many of the administrative processes are still manual.
- (g) **Return filing** in India is a complex task.
- (h) Assessee paying both central and state taxes have to **separately maintain accounts and submit returns** to both Central and State Governments.
- (i) **Multiplicity of taxes** makes the system more difficult.
- (j) **Distinction between goods and Services** has become more blurred, making it difficult to identify whether it is a good or service and hence whether to levy taxes on goods or service tax. For instance leasing of equipment without transfer of control to the lessee, would be taxable as a service or as a deemed sale of goods.

**Table No.1 : IMPACT OF CASCADING EFFECT**

Let us pick up an example, say a car manufacturer in Punjab sold a car to a car dealer in Punjab, which the dealer sold to consumer in Punjab. Let us understand the consequences of cascading effect in the transaction.

**When manufacturer sells to the dealer**

	As per the Present System (₹)
Cost of Manufacturer	5,00,000
Add: Assumed Profit Margin of Manufacturer	50,000
	<hr/>
	5,50,000
Add: Excise Duty say @ 12.5% on 5,50,000	68,750
	<hr/>
	6,18,750
Add: VAT say @ 10% on 6,18,750	61,875
	<hr/>
Selling Price of Manufacturer to Dealer	6,80,625

**Note:** Excise duty is levied on manufacturing of goods and VAT is levied when goods are sold within same state

**When dealer sells to the consumer**

	As per the Present System (₹)
Cost of Dealer [5,50,000 + 68,750]	6,18,750
Add: Assumed Profit Margin of Dealer	50,000
	<hr/>
	6,68,750
Add: VAT Say @ 10% on 6,68,750	66,875
	<hr/>
Selling Price of Dealer to Consumer	7,35,625

### (I) First Impact of the Present System : VAT is levied after adding excise duty in the cost of goods

As you see in the table No.1, when the manufacturer sold car to the dealer, then VAT is to be levied (because car was sold in the state of Punjab). But VAT is levied on value that includes Excise Duty Worth ₹ 68,750.

This means VAT is levied on the portion of Excise Duty also. This is what we call as tax on tax or cascading effect, which increases the cost of car. And then when the dealer sold car to the consumer, this excise duty portion and VAT on excise both get added to the cost of car, which has to be ultimately paid by the consumer.

### (II) Second Impact : Non availability of credit of excise duty while levying VAT

Again referring to Table No.1, the dealer paid two taxes to his manufacturer, while purchasing car

- Excise Duty ₹ 68,750
- VAT on purchases ₹ 61,875

Now when dealer sold this car to his consumer :

- Dealer has to pay VAT on sales worth ₹ 66,875. Out of this, he shall be given a credit of VAT already paid while purchasing car

$\text{VAT on sales} - \text{Credit of VAT on purchases} = \text{Net VAT payable}$ $66,875 - 61,875 = 5,000$
--

Hence, dealer shall only pay 5,000 and will avail the Input Tax credit of VAT paid on purchases.

**But, dealer does not get any credit of Excise Duty that he paid while purchasing car from the manufacturer.** This means, the excise duty is added to cost of car and the dealer does not get any credit on it.

### (III) Third Impact : Total cascading effect which increases the cost of car for consumer

- |                                   |               |
|-----------------------------------|---------------|
| • Excise Duty                     | ₹ 68,750      |
| • VAT @ 10% levied on Excise Duty | ₹ 6,875       |
| <b>Total cascading effect</b>     | <b>75,625</b> |

In simple words, the consumer bears ₹ 75,625 on account of cascading effect.

### (IV) Fourth Impact : Cascading effect due to CST

Let us now see the cascading effect caused due to CST, as it exists in the present system. If in the same example discussed earlier, the manufacturer sold car from Punjab to the dealer who is in Haryana. Then in place of VAT, CST will be levied.

Table No.2 : CASCADING EFFECT OF CST

	(₹)
Cost of Manufacturer	5,00,000
Add: Assumed Profit Margin of Manufacturer	50,000
	<hr/>
	5,50,000
Add: Excise Duty say @ 12.5% on 5,50,000	68,750
	<hr/>
	6,18,750
Add: CST @ 2% on 6,18,750	12,375
	<hr/>
Selling Price of Manufacturer to Dealer	<u>6,31,125</u>

**Note:** CST is levied when goods are sold from one state to other state.

Now, this CST is to be collected by the state from where goods (*i.e.* car) moved, hence to Punjab. But the flaw is that when the dealer sells car to his customer he shall pay VAT on his sale. But **the dealer is not allowed to claim any credit of CST which he already paid to his manufacturer.** Hence, the CST will be added in the price of car and thus the consumer will bear it.

## MEANING OF GST

After understanding in detail the deficiencies existing in the present system of Indirect taxes, now we can comprehend that how GST (Goods and Services Tax) can become one of the most crucial indirect tax reform in India.

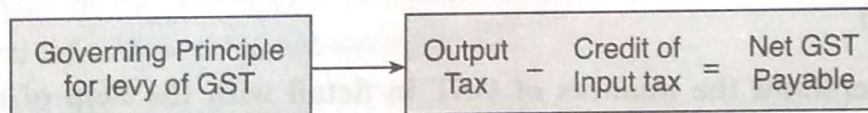
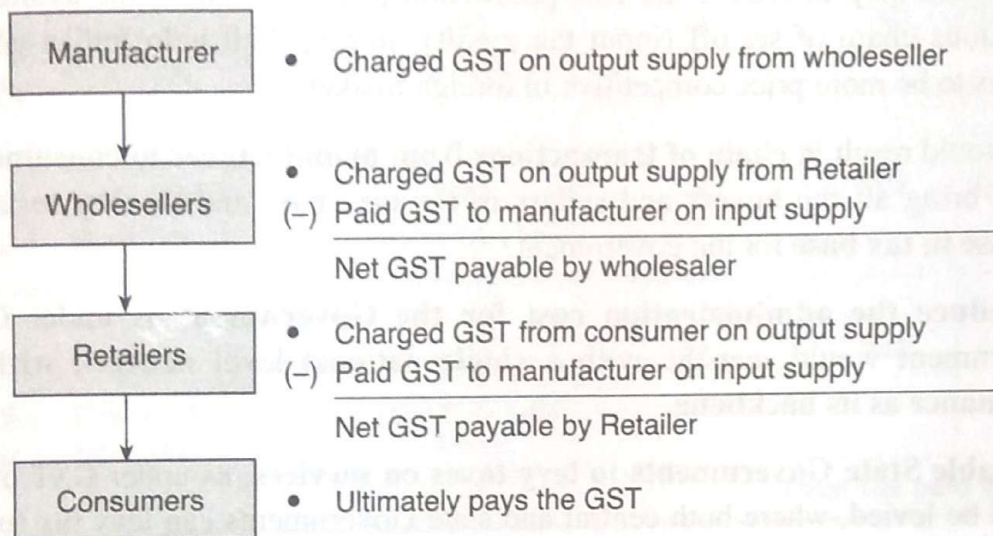
GST is nothing new, but a well designed value added tax that covers both goods and services. GST is a tax that is levied on the value added to a purchased supply (whether goods or a service) before it is sold again. Under **the GST regime, tax would be levied on the value addition done at each stage of production and distribution.** In the present tax regime, separate taxes are levied on manufacturing (Excise Duty), on sale within state (VAT), on inter state 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 shall be levied on 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.

**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 is available only in case of VAT under the present tax system). In other words, GST is paid by the final consumer while all the preceding parties (the intermediaries such as wholeseller, dealer, retailer etc.) involved in the supply chain are allowed to take credit benefit of the tax paid while purchasing goods or services.

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

### SUPPLY CHAIN COMPONENTS



### PURPOSE OF GST

The main objective behind GST is :

- (1) To **reform and overhaul** the indirect tax regime.
- (2) To **provide set offs** (Input tax credit) across the production and delivery value chain.
- (3) To provide for a **comprehensive tax regime** which applies to both goods and services, so that both goods and services are treated at par for taxing purposes.
- (4) To provide a **dual indirect tax structure** where in both Central Government and State Governments have the power to levy tax
- (5) To **integrate the Indian market** into a single common market as GST would remove the interstate barriers by abolishing CST.
- (6) To **remove the major flaw of cascading effect** of indirect taxes.
- (7) To **replace myriad central and state level** indirect taxes.

- (8) To **boost economic growth** and also cure **black money problem**.
- (9) To **reduce compliance cost** for the assessee as under GST the assessee has to comply with a single tax structure.
- (10) To **ensure seamless flow of credit**.
- (11) To **promote transparency**.
- (12) To make **Indian goods and services more competitive** at the international level. As GST would help to reduce the cost production primarily due to the availability of continuous chain of set off (input tax credit), so this shall help Indian goods and services to be more price competitive in foreign markets.
- (13) GST would result in **chain of transactions from manufacturer to consumer** which would bring all the buyers and sellers in the tax chain and thereby result in the **increase in tax base** for the government.
- (14) To **reduce the administration cost for the Government** as under GST the Government would manage with a single national level network with the **e-governance as its backbone**.
- (15) To **enable State Governments to levy taxes on services**, as under GST dual GST would be levied, where both central and state Governments can levy tax (under the present system, only Central Government is empowered to levy tax on provision of services)

• **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.

- **Stage I Supplier** – deals with collection of lac (lac is the scarlet resinous secretion of lac insects) from the forest.
- **Stage II Supplier** – Purchases lac from Supplier I, further processes it, adds value to it and sells it to the Supplier III.
- **Stage III Supplier** – Purchases processed lac from Supplier II, further processes it, adds further value to it and sells it to the retailer.
- **Stage IV Retailer** – 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 of cascading effect, double taxation and ensure transparency. We also assume that the combined GST rate. [*i.e.* Central GST (CGST) and State GST (SGST)] is 10%.

Table No. 3. GST Integrated Value Added Tax Regime

	Input 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)
<b>A</b> State I Supplier	—	100	100	10	110	10
<b>B</b> Stage II Supplier	110 (100 + 10 Input Tax)	50	150 (100 + 50)	15	165	OT 15 Less : ITC 10 <u>05</u>
<b>C</b> Stage II Supplier	165 (150 + 15 Input Tax)	40	190 (100 + 50 + 40)	19	209	OT 19 Less : ITC 15 <u>04</u>
<b>D</b> Retailer/ Stage IV Supplier	209 (190 + 19 Input Tax)	30	220 (100 + 50 + 40 + 30)	22	242	OT 22 Less : ITC 19 <u>03</u>
<b>Total Tax paid to the Govt.</b>						<b>22</b>

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

**Here, OT is output Tax and ITC is Input Tax credit.**

Table No.3 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 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.**

## COVERAGE/SCOPE OF GST

### (1) GST is a consumption based tax

As already explained in detail under the Topic-Meaning of GST, GST is a consumption based tax *i.e.* tax will be payable in the state in which goods and services are finally consumed.

### (2) Concurrent Dual GST

Under this model, both central 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.

At present, the central Government has the constitutional power to tax goods only up to manufacturing stage and further has the power to tax services. States have the power to tax goods up to the stage of sales but do not have the power to tax Services. Hence, constitutional amendment is required to give power to the central Government to tax goods up to the stage of sale and further to give power to states to tax services for implementation of concurrent dual GST.

### (3) GST Taxation Structure

Under the proposed concurrent dual GST model for India, the following taxes shall be levied on the supply of goods and services.

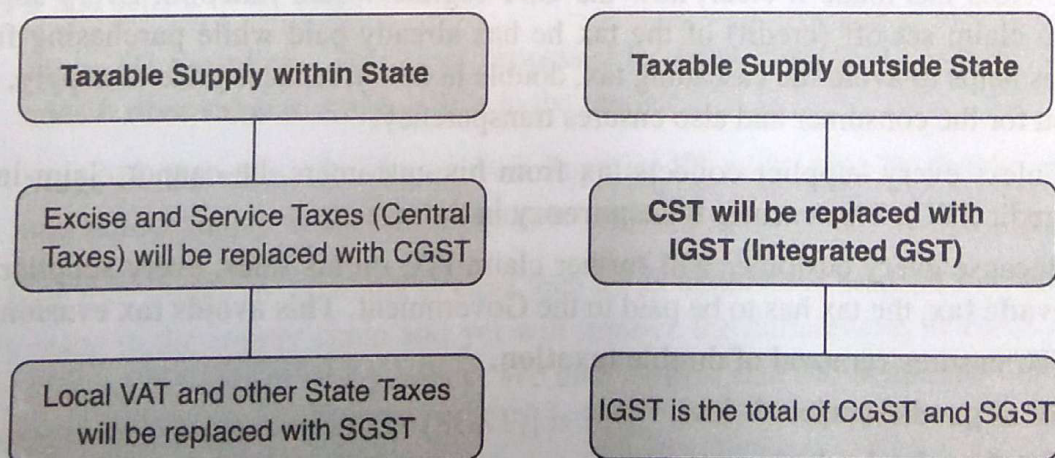
CGST – Central Goods and Service Tax

SGST – State Goods and Service Tax

IGST – Integrated Goods and Service Tax/ (CGST + SGST)

Additional Tax (upto 1%) to be levied in case of inter-state supply of goods, which is a non-vatable item. Hence, no input credit available on such.

#### Proposed indirect structure



#### (4) Taxes to be subsumed under GST Structure

Post implementation, the following Central and State indirect taxes would be subsumed in GST and existing indirect taxes takes the form of CGST, SGST and IGST as per above proposed model.

##### Central taxes to be subsumed in GST

- Central Excise Duty
- Additional Excise Duties,
- Excise Duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act 1955.
- Service Tax,
- Additional Customs Duty (Countervailing Duty)
- Special Additional Duty of Customs – 4% (SAD)
- Central Surcharges and Cesses in the nature of taxes on goods/services like cess on rubber, tea, coffee, national calamity contingent duty etc.

##### State taxes to be subsumed in GST

- State VAT/Sales Tax,
- Entertainment tax (unless it is levied by the local bodies),
- Luxury Tax,
- Taxes on lottery, Betting and gambling
- Tax on advertisements,
- State Cesses and Surcharges in the nature of taxes on goods/services
- Octroi and Entry Tax
- Purchase tax

Some of the taxes that would be continued under GST regime are Basic customs duty, property tax, stamp duty, vehicle tax etc.

#### (5) IGST for interstate transactions

In case of Inter State supply of goods and services, there will be integrated GST (IGST) imposed by Government of India [proposed Article 269A(1) of Constitution of India]

**Equivalent IGST (CVD)** will also be imposed on imports.

The IGST Rate is expected to be equal to SGST plus CGST rate. IGST rate will be same all over India, will not vary state to state.

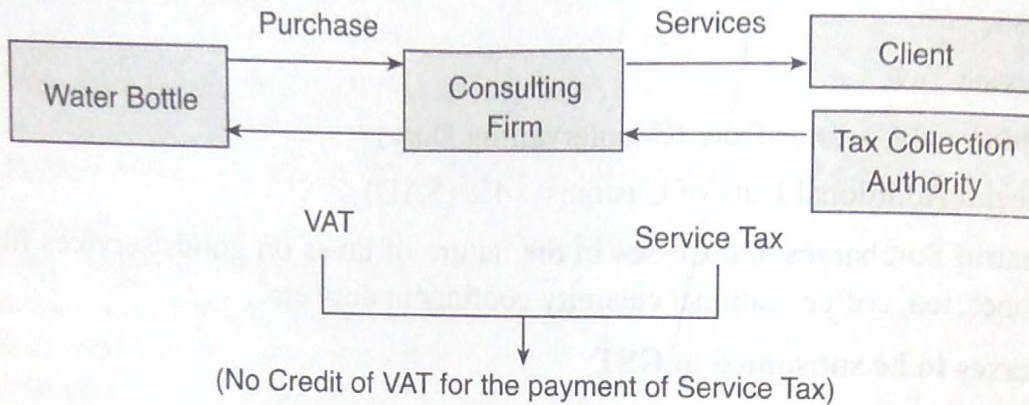
#### (6) Input tax credit chain

The tax paid at each stage will be available as ITC for the other stage and hence will help in reducing the cost of goods and services for the final consumers.

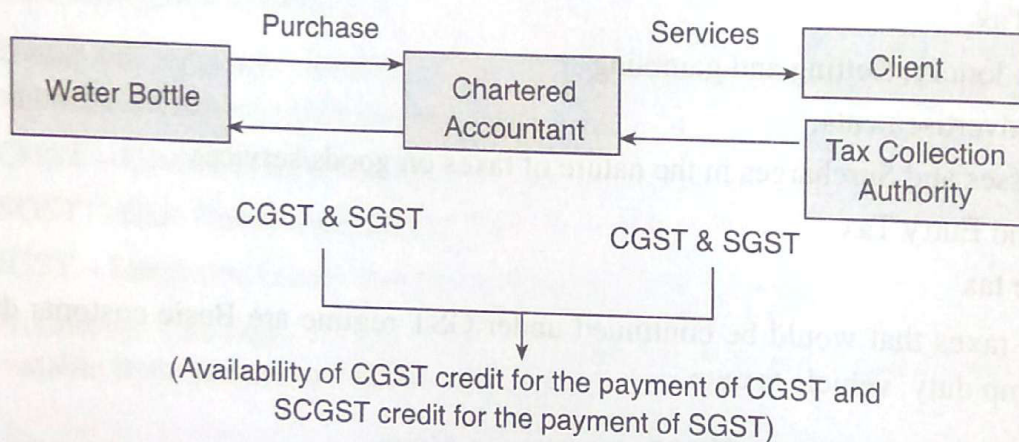
**Illustration**

M/s. ABC a Consulting firm right now charges 14.5% service tax on its services but if he purchases a bottle of water on which he paid VAT then, in present scenario he cannot claim Input Tax Credit (ITC) for the same against its service tax liability but in GST in the same condition the M/s ABC will pay CGST and SGST on purchase of water bottle and will claim Input Tax Credit (ITC) for the same against its CGST and SGST liability on its output services.

**Present Situation:**



**Post GST:**



This chain will help in reducing the tax burden for the M/s. ABC in this illustration.

**(7) Utilisation of Credit of Input Tax**

Credit available of	Order of utilisation on preferential basis		
	1st Preference	2nd Preference	3rd Preference
IGST	IGST	CGST	SGST
CGST	CGST	IGST	-
SGST	SGST	IGST	-

The table given above explains that :

- Credit of IGST can be utilised to first pay IGST, then CGST, if balance still exists then to pay SGST.
- Credit of CGST can be utilised to first pay CGST, then pay IGST.
- Credit of SGST can be utilised to first pay SGST, then pay IGST.

**Note:** The input tax credit on account of CGST shall not be available for payment of SGST, and vice-versa.

### (8) Taxable event in GST

The taxable event in GST is the supply of goods or services or both. Note that the word used is 'supply' and not 'sale'. Consideration is not required for supply. Thus, stock transfers, branch transfers will also get covered under GST net. Even free samples will be 'supply of goods'. Luckily, goods sent for job work will not be liable to pay GST.

### (9) Meaning of Supply as per GST law

Clause 3 of Model GST Law, 2016, reads as follow:

(1) Supply includes

- (a) all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
- (b) importation of service, whether or not for a consideration and whether or not in the course or furtherance of business, and
- (c) a supply specified in Schedule I, made or agreed to be made without a consideration.

(2) Schedule II, in respect of matters mentioned therein, shall apply for determining what is, or is to be treated as a supply of goods or a supply of services. (This includes deemed supply of goods and services).

(2A) Where a person acting as an agent who, for an agreed commission or brokerage, either supplies or receives any goods and/or services on behalf of any principal, the transaction between such principal and agent shall be deemed to be a supply.

(3) Subject to sub-section (2), the Central or a State Government may, upon recommendation of the Council, specify, by notification, the transactions that are to be treated as—(i) a supply of goods and not as a supply of services; or (ii) a supply of services and not as a supply of goods; or (iii) neither a supply of goods nor a supply of services.

(4) Notwithstanding anything contained in sub-section (1), the supply of any branded service by an aggregator, as defined in section 43B, under a brand name or trade name owned by him shall be deemed to be a supply of the said service by the said aggregator.

### (10) Proposed Tax Rates in GST

The GST council has proposed a four slab multi rate structure in a GST. The proposed four rates are 6%, 12%, 18% and 28% with lower rates for essential goods and higher rates for luxury goods. [Source – Economic Times, dated 27th October, 2016]

## IMPLICATIONS OF GST

### (1) Logistic sector

**The biggest beneficiary of GST will be the logistic sector** that will undergo a huge change. It will bring more efficiency in the real estate sector and pave the way for setting up of large logistic parks. One country one tax model **will attract lot of investments from foreign private equity** investors who invest in logistics.

Various taxes and disparity in levies across states were holding back the seamless distribution of goods apart from the absence of a tax regime that allowed set-off of tax paid on availing logistics and other related supply chain services.

Warehouse parks can now be developed in tax-neutral environment and their setting up will be governed by land costs and connectivity only. Under GST, logistics and supply chain expense will be considered as **value added** and thus the manufacturers will get tax credit for such services availed.

### (2) FMCG Sector

At present each state has its own tax regime and, to comply with that, companies need to have warehouses in almost all the states. However, under GST all states will follow a uniform taxation, and **hence it would not be necessary to have warehouses everywhere.**

Most companies making fast moving consumer goods (FMCG) are looking at switching to larger warehouse hubs instead of several smaller hubs spread across the country, which will facilitate better management of logistics and faster movement of goods. The big unlock will be the warehouse consolidation since that will shift from a distributed, state driven model to consolidated large warehouses and the investments in IT and modernisation will enable this.

The implementation of GST will shift the focus of FMCG companies towards more efficient transportation systems with better transit times. This would facilitate reduction in inventory levels and hence the associate costs while allowing flexible demand fulfilment strategies.

### (3) Organised sector expected to gain more

The ease of evading a sizeable portion of direct and indirect taxes makes the unorganised sector offer goods and services at cheaper prices compared with their organised counterpart. After the implementation of GST, the price advantage of the unorganised sector is expected to wane (diminish) as integration of the government's departments will make tax evasion difficult. As a result of this, buyers may find prices of products of mid-sized companies of the organised sector with established brands and dominant market share more attractive.

Total indirect taxes paid by companies in organised space is in the range of 23-24%. If GST rate of 18% is assumed, total indirect taxes paid by companies organised sector would be lower by 4-5%. This may prompt companies to pass on some or all of the benefit to consumers, which may support demand.

#### (4) Boost to the MAKE-IN-INDIA initiative

The idea of a single tax that subsumes most other central and state-level taxes has tremendous appeal. The goods and services tax (GST) is expected to provide a boost to the Make in India initiative, also benefitting local enterprise by correcting existing distortions in the tax structure—**including doing away with exemptions** that favour imports over domestic production. Greater efficiency and reduced costs are expected.

As GST would make the tax base **more buoyant and evasion difficult**, tax collections are also set to increase. Overall, this should ignite a virtuous cycle of higher consumption and investments, creating a multiplier effect on growth.

#### (5) E-commerce

GST will help create a single unified market across India and allow free movement and supply of goods in every part of the country. It will also eliminate the cascading effect of taxes on customers which will bring efficiency in product costs.

But the negative impact is that the tax collection at the source (TCS) guidelines in the GST regime will increase administration, documentation workload for e-commerce firms and push up costs.

#### (6) Telecom

- Handset price likely to come down/even out across states. Manufacturers are also likely to pass on to consumers cost benefits they will get from consolidating their warehouses and efficiently managing inventory.
- **For Handset** makers, GST will bring in ease of doing business as they may no longer need to set up state specific entities and transfer stocks to them and invest heavily into logistics of creating warehouse in each state across the country.
- **However, the call charges**, data rates will go up if tax rate in the GST regime exceeds 15%.
- **Tower Firms** won't be able to set off their input duty liabilities if petro-products continue to be stay outside GST framework.

#### (7) Automobiles

- On-Road price of vehicles could drop by 8%, as per a report by Motilal Oswal securities.
- Lower prices can be construed as indirect stimulus to boost volumes.
- Key Beneficiaries: Maruti Suzuki, M&M; Eicher Motor's margins may expand.

#### (8) Media

- DTH, Film producers and multiplex players-are levied service tax as well as entertainment tax, GST will bring major change and uniformity in businesses. Taxes could go down by 2-4 per cent.

- Multiplex chains will save on revenues as there will be a more uniform tax, unlike current high rate of entertainment tax levied by different states. It may lower the average ticket price, and increase the footfalls in multiplexes.
- GST will be a big boon to film producers and/or studios, who currently pay service tax on most of their cost, but cannot charge input credit on creative services (payments to artists etc.) as they fall under the negative list. Under GST, they will be able to claim credit of these services also, which will help in lowering the overall cost.
- Key beneficiaries; Dish TV, PVR

### (9) Insurance

Insurance policies-life, health and motor will begin to cost more from April 2017 as taxes will go up by up to 300 basis points.

### (10) Airlines

Flying to become expensive, as service tax will be replaced by GST, Service tax on fares currently range between 6% and 9% (depending on the class of travel). With GST, the rate will surpass 15%, if not 18% effectively doubling the tax rate.

### (11) Cement

- The effective rate of tax for cement companies is now 25%. If GST rates are fixed at 18-20% then the overall tax incidence will be lower.
- GST is expected to lead to saving in transportation cost, which currently comprises up to 20-25% of total revenue.
- One common market will bring down the number of depots in the country.
- Key beneficiaries : Pan India players such as Ultratech, ACC, Ambuja and Shree cement.

### (12) Up gradation in the IT infrastructure

The roll out of GST requires immediate upgradation of IT infrastructure. The CCEA (Cabinet Committee on Economic Affairs) has already approved a ₹ 2256 crore project to improve IT capabilities of the indirect tax administration.

The **new indirect tax network** of the Central Board of Excise and Customs (CBEC) will support larger number of taxpayers. Introduction of GST will result in a several-fold increase in the number of taxpayers and resultant document load on the system. CBEC's current IT system was set up in 2008. It cannot cater to the increased load under GST without an immediate upgrade of its IT infrastructure, the government said in a statement.

One of the crucial requirement is to integrate CBEC's IT systems with the Goods & Services Tax Network (GSTN) for processing of registration, payment and returns data sent by this system that will be the face of the new tax.

### (13) Impact on Luxury car companies

At this time of the year (Festival season of November-December) when sales usually peak, these companies are dealing with a large number of prospective customers who are postponing their buying decision. The reason; continuing uncertainty over the rate of goods and services tax. Many industry executives are now pruning their sales estimates, which widely were for double-digit expansion this year.

Discussions on fixing the tax rates remain inconclusive with the GST Council set to meet again in the first half of November. The expectation is that the GST would be set at 26% for the auto sector which in theory should reduce the prices of luxury cars that at present attract as much as 52% in taxes under various heads. But the uniform rate is likely to come with a caveat; there are proposals to impose a cess on luxury goods to the extent that the new indirect tax system doesn't hurt government revenue—that would mean no change in the price that the buyer pays.

## QUESTIONS

### SHORT QUESTIONS

1. Write a brief note on the conceptual background of GST.
2. What are various indirect taxes imposed in India?
3. Discuss the problems in the present indirect tax structure.
4. Write a short note on cascading effect of taxes.
5. Is GST a consumption based tax?
6. Define Input Tax Credit benefit in GST?
7. What is the taxable event in GST?

### LONG QUESTIONS

1. Define GST what is the basic purpose of GST?
2. Discuss the scope of GST in detail.
3. Discuss in detail the implications of GST on the Indian industries.

