Chapter 3: One Nation-One Tax

SYNOPSIS

3.0 One Nation-One Tax

GST will extend to whole of India including the State of Jammu and Kashmir.

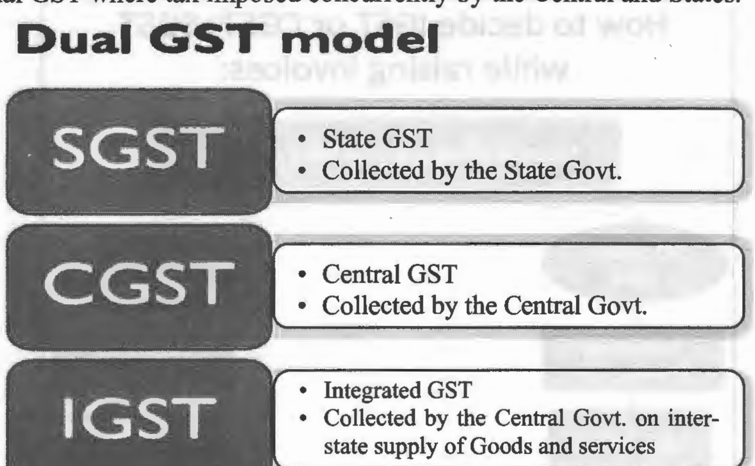
On 7th July, 2017, the Jammu and Kashmir Goods and Services Tax Bill, 2017 was passed by the State Legislature, empowering the State to levy State GST on intra-state supplies with effect from 8th July, 2017.

Concomitantly, the President of India has promulgated two ordinances, namely, the Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 and the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 extending the domain of Central GST Act and the Integrated GST Act to the State of Jammu and Kashmir, with effect from 8th July, 2017.

With this, the State of Jammu and Kashmir has become part of the GST regime, making GST truly a "one nation, one tax" regime.

3.1 Dual GST Model

3.1.1 India adopted a dual GST where tax imposed concurrently by the Central and States.



3.1.1a Central Goods and Services Tax Act, 2017 (CGST)

CGST levied and collected by Central Government. It is a revenue source to the Central Government of India, on intra-State supplies of taxable goods or services or both.

3.1.1b State Goods and Services Tax Act, 2017 (SGST)

SGST levied and collected by State Governments/Union Territories with State Legislatures (namely Delhi and Pondicherry) on intra-State supplies of taxable goods or services or both.

It is a revenue source of the respective State Government.

3.1.1b.i Union Territory Goods and Services Tax (UTGST):

UTGST levied and collected by Union Territories without State Legislatures, on intra-State supplies of taxable goods or services or both.

Note: India is a Union of States. The territory of India comprises of the territories of the States and the Union territories. Currently, there are 28 States and 8 Union territories; of which, three (Delhi, Pondicherry and Jammu & Kashmir) are having Legislature.

3.1.1b.ii GST – in Union territories without Legislature:

Supplies within such Union territory, Central GST will apply to whole of India and hence, it would be applicable to all Union territories, with or without Legislature.

To replicate the law similar to State GST to Union territories without Legislature, the Parliament has the powers under Article 246(4) to make such laws. Alternatively, the President of India may use his general powers to formulate such laws.

Hence, law same as like State GST can be formulated for Union territory without Legislature, by the Parliament.

The following are Union Territories without Legislature:

1. Lakshadweep
2. Daman and Diu and Dadra and Nagar Haveli
3. Andaman and Nicobar Islands
4. Ladakh
5. Chandigarh

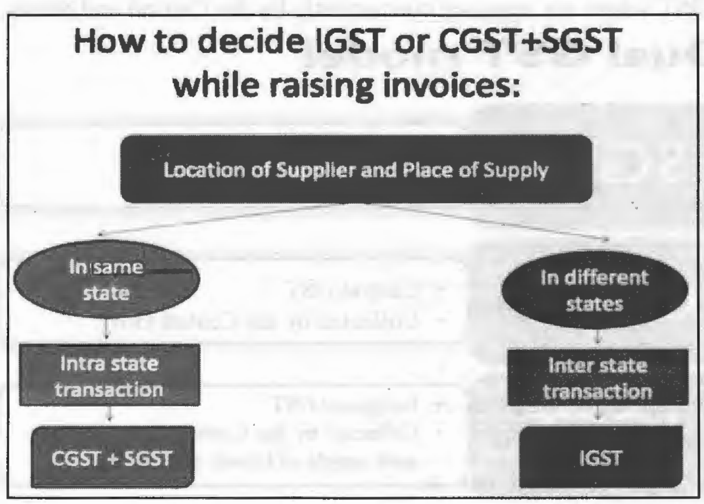
Definition of Union Territory has been amended w.e.f. 30.6.2020 (Section 2(114) of CGST Act, 2017):

Union Territory of Dadra Nagar Haveli and Union Territory of Daman and Diu have been merged in one single Union Territory w.e.f. 26-1-2020. Ladakh has been made Union Territory w.e.f. 31.10.2019.

3.1.1c Integrated Goods and Services Tax Act, 2017 (IGST)

IGST is a mechanism to monitor the inter-State trade of goods and services and ensure that the SGST component accrues to the Consumer State. It would maintain the integrity of ITC chain in inter-State supplies. The IGST rate would broadly be equal to CGST rate plus SGST rate. IGST would be levied and collected by the Central Government on all inter-State transactions of taxable goods or services.

The revenue of inter-State sales will not accrue to the exporting State and the exporting State will be required to transfer to the Centre the credit of SGST/UTGST used in payment of IGST.



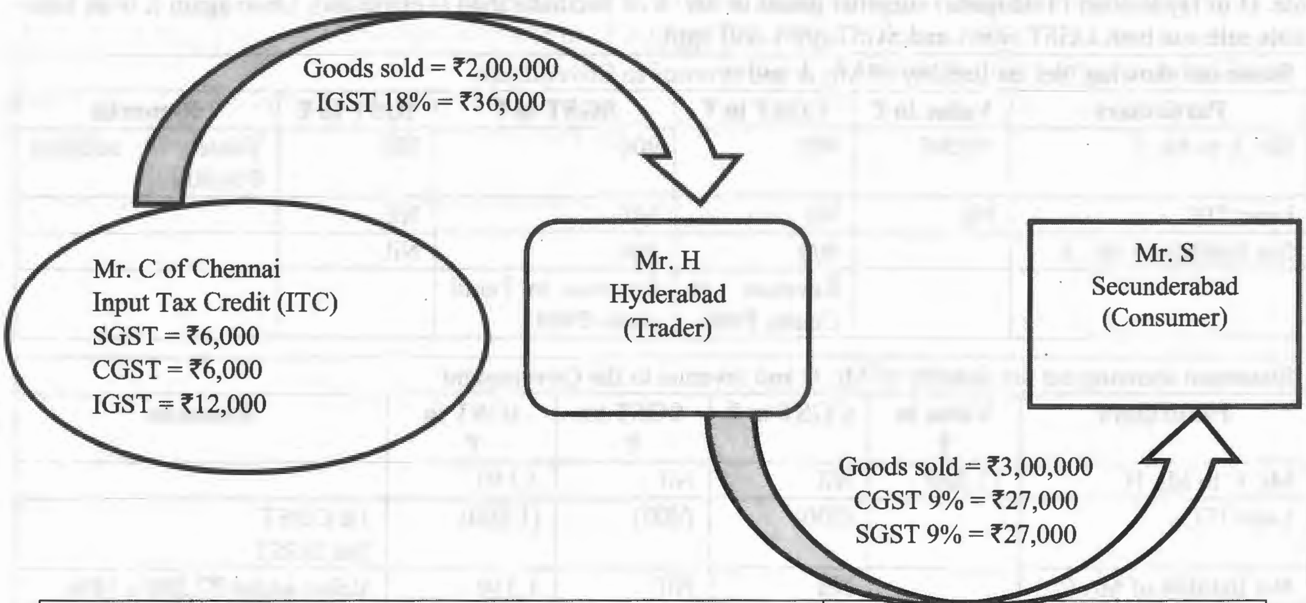
Example 1: Mr. L of Ladakh being a registered person under GST supplied taxable goods to Mr. P of Ladakh for ₹2,00,000. Applicable rate of GST 18%. Find the GST liability of Mr. L?

Answer:

Value of Taxable Supply of Goods	= ₹2,00,000/-
Add: UTGST 9% of ₹2,00,000	= ₹ 18,000/-
Add: CGST 9% of ₹2,00,000	= ₹ 18,000/-
Total GST liability	= ₹ 36,000/-

Example 2: Mr. C of Chennai purchased goods at intra state as well as at inter state level by paying SGST ₹6,000, CGST ₹6,000 and IGST ₹12,000. Subsequently Mr. C sold these goods to Mr. H of Hyderabad (Trader) for ₹2,00,000 (IGST applicable @18%). Thereafter Mr. H of Hyderabad sold these goods to Mr. S of Secunderabad (Consumer) for ₹3,00,000 (CGST & SGST @18%). Find the Net GST liability of Mr. C and Mr. H. Also find net revenue to the State and Central Government.

Answer:



Particulars of Mr. C of Chennai	Value in ₹	ITC ALLOWED
Output tax IGST	36,000	
Less: Input Tax Credit (ITC)		
IGST	(12,000)	1st IGST
CGST	(6,000)	2nd CGST
SGST	(6,000)	3rd SGST
Net tax paid to Central Government by Mr. C	**12,000**	

Since, dealer has used SGST of Tamil Nadu to the extent of ₹6,000/- in payment of IGST, Tamil Nadu State (i.e. exporting State) has to transfer ₹6,000/- to the credit of the Centre.

IGST of ₹36,000/- is availed as credit by Telangana buyer (i.e. Mr. H of Hyderabad).

Particulars of Mr. H of Hyderabad	CGST ₹	SGST ₹	ITC ALLOWED
Output tax	27,000	27,000	
Less: Input Tax Credit (ITC)			
W.e.f. 1-4-2019 section 49A of CGST Act, 2017 read with Rule 88A of CGST Rules, 2017: IGST credit can be adjusted equally between CGST and SGST or any other proportion at the option of the assessee.	(27,000)	(9,000)	
Net tax paid to State Government by Mr. H	**Nil**	**18,000**	

Since, dealer has used IGST of ₹9,000/- to pay the SGST of Telangana State, the Centre has to transfer ₹9,000/- to the Telangana State (i.e. importing State).

Revenue to the Centre = ₹36,000 – 9,000 = ₹27,000 (i.e. 9%)
Revenue to the State = ₹18,000 + 9,000 = ₹27,000 (i.e. 9%)
Total Revenue to the Government = 18% (One Nation-One Tax)

Example 3:

Mr. A registered person under GST located in Tamil Nadu, sold goods worth ₹10,000 after manufacture to Mr. C of Chennai. Subsequently, Mr. C sold these goods to Mr. H of Hyderabad for ₹17,500. Mr. H being a trader finally sold these goods to customer Mr. S of Secunderabad for ₹30,000.

Applicable rates of CGST = 9%, SGST = 9% and IGST = 18%.

Find the net tax liability of each supplier of goods and revenue to the government.

Answer:

Since, Mr. A supplied goods to Mr. C in Tamil Nadu itself, it is an intra-state sale and both CGST @9% and SGST@9% will apply.

Mr. C of Chennai supplied goods to Mr. H of Hyderabad. Since, it is an interstate sale, IGST@18% will apply.

Mr. H of Hyderabad (Telangana) supplied goods to Mr. S of Secunderabad (Telangana). Once again it is an intra-state sale and both CGST @9% and SGST@9% will apply.

Statement showing Net tax liability of Mr. A and revenue to Government:

Particulars	Value in ₹	CGST in ₹	SGST in ₹	IGST in ₹	Remarks
Mr. A to Mr. C	10,000	900	900	Nil	Value addition ₹10,000
Less: ITC	Nil	Nil	Nil	Nil	
Net liability of Mr. A		900	900	Nil	
		Revenue to Centre ₹900	Revenue to Tamil Nadu ₹900		

Statement showing net tax liability of Mr. C and revenue to the Government

Particulars	Value in ₹	CGST in ₹	SGST in ₹	IGST in ₹	Remarks
Mr. C to Mr. H	17,500	Nil	Nil	3,150	
Less: ITC		(900)	(900)	(1,800)	1st CGST 2nd SGST
Net liability of Mr. C		Nil	Nil	1,350	Value added ₹7,500 x 18%

Since, Mr. C a dealer has used SGST of Tamil Nadu to the extent of ₹900/- in payment of IGST, Tamil Nadu State (i.e. exporting State) has to transfer ₹900/- to the credit of the Centre.
Tamil Nadu (exporting state) revenue = ₹0 (i.e. 900 -900)
Total revenue to the Centre = ₹3,150
(i.e. ₹1,350 + 900 received from TN + 900 CGST already collected from Mr. A in 1st Intra-State supply)

Statement showing net tax liability of Mr. H and revenue to the Government

Particulars	Value in ₹	CGST in ₹	SGST in ₹	IGST in ₹	Remarks
Mr. H to Mr. S	30,000	2,700	2,700	Nil	
Less: ITC		(2,700)	(450)	(3,150)	W.e.f. 1-4-2019 section 49A of CGST Act, 2017 read with Rule 88A of CGST Rules, 2017: IGST credit can be adjusted equally between CGST and SGST or any other proportion at the option of the assessee after payment of IGST.
Particulars	**Value in ₹**	**CGST in ₹**	**SGST in ₹**	**IGST in ₹**	**Remarks**
Net liability of Mr. H		Nil	2,250	Nil	

Since, Mr. H a dealer has used IGST of ₹450/- to pay the SGST of Telangana State, the Centre has to transfer ₹450/- to the Telangana State (i.e. importing State).

Net revenue to the Telangana State = ₹2,700 (i.e. 2,250 + 450)

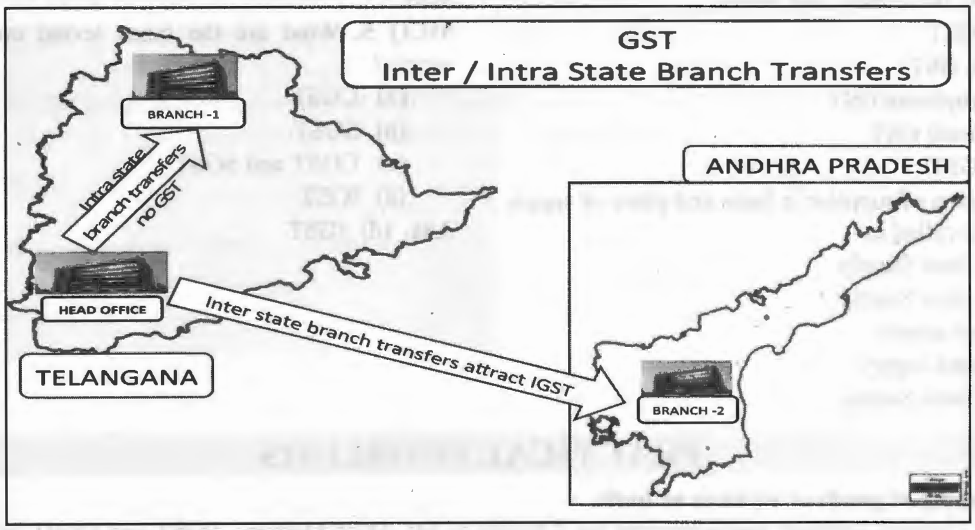
Net Revenue to the Centre = ₹2,700 (i.e. 3,150 – 450)

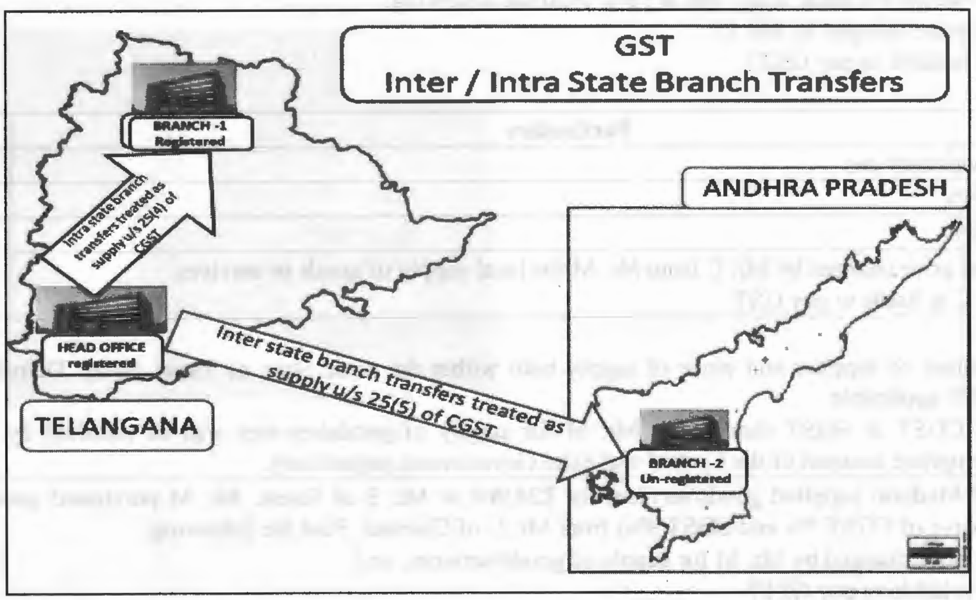
Total revenue to the Government = ₹5,400 (i.e. 30,000 x 18%)

This is called as one nation one tax.

3.1.1d Inter-State vs Intra-State Stock transfers

Intra-State stock transfer is taxable only when entity has more than one registration in one state. For example, Factory located in Tamil Nadu and warehouse is also located in the same state (i.e. Tamil Nadu) however, registered separately under GST, transfers between them treated as supply. Hence, CGST plus SGST will be levied. Inter-State stock transfer is taxable. It means IGST will be levied.





Example: Ganesh Trading has head office in Telangana and two branches (i.e. Branch office-I in Telangana and Branch Office-II in Andhra Pradesh). Stock transfers between Head office and Branch office within the same State where no separate registrations, GST is not levied. Whereas stock transfers between Head office and Branch office at inter state level, IGST will be levied.

Conclusion:

From the above it is evident that revenue of inter-State sale will not accrue to the exporting State and the exporting State will be required to transfer to the Centre the credit of SGST/UTGST used in payment of IGST.

The Centre will transfer to the importing State the credit of IGST used in payment of SGST/UTGST.

The inter-state adjustment will be made by central clearing agency, hence assesses will not be concerned with such adjustment at all.