

Chapter 1: Fundamentals of GST

SYNOPSIS

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1.0 Introduction

Constitution (122nd Amendment) Bill, 2014 received the assent of the President of India on 8th September, 2016 and became Constitution (101st Amendment) Act, 2016, which paved the way for introduction of GST in India.

1.1 Constitution (101st Amendment) Act, 2016

Constitution (101st Amendment) Act, 2016 was enacted on 8th September, 2016, with following significant amendments:

- (a) Concurrent powers on Parliament and State Legislatures to make laws governing goods and services. It means there will be dual control of State and Central authorities for all assesses.
- (b) As per Article 246A the power to levy GST has been given to the Parliament as well as to Legislature of every State.
 - (a) CGST – enacted by Central Government of India.
 - (b) IGST – enacted by Central Government of India.
 - (c) SGST – enacted by respective State Governments.
 - (d) UTGST – enacted by Central Government of India.

Article 265 of Constitution of India reads
"No tax shall be levied or collected
except by the authority of law."

- (c) IGST will be apportioned between Centre and the States in the manner provided by Parliament by Law as per the recommendation of the GST Council.
- (d) GST will be levied on all supply of goods and services except alcoholic liquor for human consumption.
- (e) The explanation to Article 269A of Constitution of India provides that the import of goods or services will be deemed as supply of goods or services or both in the course of inter-State trade or commerce. In case of import of goods IGST will be levied along with the Basic Customs duty. It means IGST is levied in replacement of CVD + Spl. CVD. In case of import of services only IGST will be levied.
- (f) Principles for determining the place of supply and when a supply takes place in the course of inter-State trade or commerce shall be decided by the Parliament.
- (g) The power to levy Central Excise duty on goods manufactured or produced in India is available in respect of the following products:
 - (a) Petroleum crude;
 - (b) High speed diesel;
 - (c) Motor spirit (commonly known as petrol);
 - (d) Natural gas;
 - (e) Aviation turbine fuel; and

However, once GST is imposed there will be no duty on manufacture of these goods.

- (h) The power to impose tax on sale of the following products is still provided to the State Governments:
 - (a) Petroleum crude;
 - (b) High speed diesel;
 - (c) Motor spirit (commonly known as petrol);
 - (d) Natural gas;
 - (e) Aviation turbine fuel; and
 - (f) Alcoholic liquor for human consumption.

However, once GST Council is recommending the date from which GST is imposed on these products (except alcoholic liquor for human consumption), and no sales tax will be imposed on these products.

As per definition given in article 366(12A) GST covers all the goods except alcoholic liquor for human consumption. It means no GST can be levied on Alcoholic liquor for human consumption. Present system of State Excise duty and sales tax on Alcoholic liquor for human consumption will continue.



As a result, the following bills became an Act on 12th April, 2017:

- ❖ Central Goods and Services Tax Bill, 2017
- ❖ Integrated Goods and Services Tax Bill, 2017
- ❖ Union Territory Goods and Services Tax Bill, 2017
- ❖ Goods and Services Tax (Compensation to States) Bill, 2017

The Central Government notified 1st July 2017 as the date from which the much awaited indirect tax reform in India, i.e. Goods and Services Tax (GST) will be implemented.

Accordingly, Goods and Services Tax (GST) has been implemented in India w.e.f. 1st July 2017.



1.2 Difference between Direct Taxes and Indirect Taxes – illustrative list

Direct Taxes	Indirect Taxes
1. Payer of tax and sufferer of tax one and same (i.e. impact and incidence on the same person)	1. Payer of tax not sufferer of tax whereas sufferer of tax is not paying directly to the Government (i.e. impact on one head and incidence on other head)
2. Income based taxes	2. Supply based taxes
3. Rate of taxes are different from person to person	3. Rate of duties are not differing from person to person
4. Entire revenue goes to Central Government of India	4. Revenue source to Central Government of India as well as State Governments (i.e. CGST and SGST)
5. P.Y. income assessed in the A.Y.	5. There is no P.Y. and A.Y concept
6. Central Board of Direct Taxes (CBDT) is an important part of Department of Revenue.	6. The Central Board of Indirect Taxes & Customs (CBIC).
7. Progressive nature.	6. Regressive nature.