GST JURISPRUDENCE: VALIDITY, CHALLENGES AND THE ROAD AHEAD

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Abstract

One of India's most significant fiscal changes is the Goods and Services Tax, which aims to streamline indirect taxes and encourage economic integration. However, there has been a lot of discussion over its constitutionality and legal issues since it was passed. This article looks at the history of GST jurisprudence, following it as it developed from the fragmented indirect tax system in India to the unified GST. In the part on historical development, it is explained how the tax system worked before GST. It had many central and state levies, which caused taxes to rise and cause the need for major change. This article explores constitutional amendments mostly about the 101st Constitutional Amendment Act 2016, which added Articles 269A and 279A. These changes completely changed India's federal tax system by giving the centre and the states the power to tax at the same time. The article discusses the current challenges in the new GST and further the article concludes by recommending the ways in which it can be exterminated.

Keywords – ***GST, Constitutional Validity, Legal Challenges, Federalism, Tax***

Introduction

Through a dynamic interplay between statutes, administration, and the courts, GST jurisprudence has developed in India, creating a body of law that challenges the Goods and Services Tax's practical functioning and constitutional underpinnings. The goal of the new indirect tax architecture was to combine several state and federal levies into a single destination-based tax. However, disagreements over legislative authority, the constitutionality of certain clauses, the extent of supply, and the interaction between the federal government, the states, and the GST council have led to ongoing litigation and doctrinal development. Early and recurring controversies encompass challenges to provisions regarding input tax credit, transitional credits, classifications of services and goods, and the procedural powers of tax authorities. Each of these issues raises significant questions concerning statutory interpretations, the separation of powers, and due process.[1]

The term Tax originates from the Latin "Taxare", which translates "To Estimate." A tax, often known as a toll, is not a gift or voluntary payment but rather an imposed contribution that the government collects from its citizens in accordance with the power of the legislature[2]. tribute, impost, duty, custom, excise, subsidy, aid, supply, or any other designation. Taxation was first instituted in ancient Egypt during the period spanning from 3000 to 2800 B.C., under the auspices of the first dynasty of the Old Kingdom. Historical records indicate that the Pharaoh undertook journeys across the nation biennially to gather tax revenues from the populace.[3]

[1] Tax Corp AI, *March 2026 GST Case Law Round-Up: 14 Key Judicial Decisions Shaping Compliance and Litigation Strategy*, available at https://thetaxcorp.in/article/march-2026-gst-case-law-round-up-14-key-judicial-decisions-shaping-compliance
[2] Income Tax Department, Ministry of Finance, Government of India, available at https://www.incometaxindia.gov.in/history-of-direct-taxation
[3] *Id*.

Historical Evolution

India's taxation system is steeped in a rich historical context, tracing its origins to ancient revenue collection practices. Texts like Kautilya's Arthashastra elucidate the significance of land revenue, tolls, customs duties, and various levies as fundamental components of state financing.[4] Over the years, the evolution of taxation following independence has been significantly shaped by the Income Tax Act of 1922 and subsequently the Income Tax Act of 1961, which established the groundwork for the current direct tax system.[5] This evolution signifies a transition from fragmented and predominantly revenue-driven exactions to a more organized framework designed to enhance administration, welfare, and economic governance.

In India, the history of the GST is somewhat more recent but no less important. It was the result of long-term attempts to replace many indirect taxes with a single tax framework. [6]GST was eventually adopted by the Constitution One Hundred and initially Amendment Act 2016 and put into effect on July 1, 2017, even though the concept was initially debated in the late 1990s and evolved through committees like the Kelkar Committee. By establishing a destination-based tax on the supply of goods and services with the goals of streamlining compliance, lowering cascading taxes, and bolstering the national market, it represented a significant change.

Pre GST Structure

The tax structure prior to the implementation of GST was marked by a disjointed framework of various central and state taxes, which resulted in significant economic inefficiencies. The central government has imposed taxes such as Central Excise Duty on manufacturing, Service Tax, and Central Sales Tax, while states independently levied VAT, Entry Tax/Octroi, Luxury Tax, and Entertainment Tax.[7] This has led to a disordered dual taxation system. The most pressing issue was the cascading effect of taxes, characterized by the lack of a seamless flow of input tax credits between central and state taxes.[8]

State VAT and service could not be deducted from central excise paid on manufacture. Because the taxable value for VAT included the tax paid on services, final prices increased by 25–30% because of taxes being charged on previously paid taxes[9]. Due to the numerous checkpoints at state borders, which caused goods to wait 15 to 30 hours for tax clearance, and the enormous compliance burdens that resulted from businesses having to register separately in each state, file multiple returns, and maintain separate records for different taxes, this fragmentation created a divided national market with different tax rates across states. Additionally, the system generated administrative inefficiencies that supported the overall reform via the 101st constitutional amendment and GST, encouraged corruption at checkpoints, and hampered the "Make in India" program by raising the cost of Indian products.

The Constitutional Amendment

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[4] Darshan Bora & Teesta Banerjee, *GST at Eight: Evolution, Challenges, and the Way Forward – A Legal Perspective*, Bar & Bench, available at https://www.barandbench.com/view-point/gst-at-eight-evolution-challenges-and-the-way-forward-a-legal-perspective

[5] Income Tax Department, Ministry of Finance, Government of India, available at https://www.incometaxindia.gov.in/history-of-direct-taxation

[6] Indian Institute of Legal Studies, available at https://www.iilsindia.com/blogs/history-of-gst/

[7] Impact of GST Tac Cascading, available at https://www.scribd.com/presentation/408992767/cascading-effect-pre-and-post-gst

[8] *Id.*

[9] Features of 101 amendment of the constitution Amendment Act, available at https://nja.gov.in/Concluded_Programmes/2018-19/P-1124_PPTs/1.GST%20%20Constitutional%20Provisions%20and%20Features%20of%20Constitution%20(101st%20Amendment)%20Act,%202016.pdf

Following the announcement made by the Union Finance Minister during the Budget Speech of 2006 regarding India's intention to implement GST, the Empowered Committee of State Finance Ministers, which included representatives from the Central Government, was assigned the responsibility of developing a GST framework that would be acceptable to both the Centre and the States. The European Commission has put forth a recommendation regarding the Dual GST framework. This required a constitutional amendment in India to enable both the Centre and the States to impose and gather GST according to the proposed framework.[10]

In August 2016, after years of talks between the federal government and the states, the Bill to modify the constitution was passed by both houses of parliament. An essential aspect of the Constitution. The Hundred and First Amendment Act of 2016 established the GST Council, which is to be chaired by the Union Finance Minister. The Council shall comprise the Finance Ministers from each of the States.[11] The Council is set to provide recommendations to the legislatures concerning matters associated with the policy and implementation of GST, which encompasses tax rates and exemptions. The Council has convened on nine occasions thus far and is progressing towards guiding the implementation of GST. The roll-out date has been officially announced as July 1, 2017.[12]

The recent reforms in the Goods and Services Tax, encapsulated in the 2025 restructuring of tax slabs and set to take effect on 22 September 2025, signify a noteworthy advancement in the pursuit of simplification and the rationalisation of rates aimed at stimulating consumption. The fundamental action is to consolidate the previous four-tier framework (5%, 12%, 18%, 28%) into essentially two functional categories[13]. There is a 5% tax rate applied to essential and daily use goods, while a higher rate of 18% is imposed on many other goods and services. Additionally, a significant 40% tax slab is designated for sin and luxury items, which includes tobacco, pan masala, certain luxury vehicles, and other demerit goods.[14] This has clearly diminished the quantity of items within the 28% category, lowered rates on various consumer-facing products such as hair oil, ice cream, televisions, and packaged foods, while also exempting or applying a zero rate to specific health related items and life insurance premiums. thus, alleviating the substantial tax obligations faced by numerous households.

Critically, however, the reform does not fully address the enduring systemic issues inherent in the GST architecture. The dual GST model persists in challenging the equilibrium of federalism, as the overlapping powers of Union and State GST lead to occasional rate discrimination and administrative friction among states.[15] Furthermore, the introduction of the new 40% slab, while justifiable for sin goods, poses a risk of being exploited as a revenue generation mechanism for certain luxury categories rather than serving as a truly corrective tax.[16] Issues surrounding compliance, including intricate refund delays, discrepancies in input tax credits, and a lack of procedural clarity, continue to be only partially resolved by initiatives such as pre-filled returns and increased thresholds. This situation leaves MSMEs and informal sector participants exposed to escalating tax liabilities and potential disputes. In conclusion, the existing GST package exhibits a progressive rate structure design; however, it remains insufficient without enhanced federal

[10] Sumit Dutt Majumder, *GST and E-Commerce*, 28 NAT'L L. SCH. INDIA REV. 123 (2016).
[11] *Id.*
[12] *Supra* at 7
[13] Annapoorna, *GST Reforms in India: New Rates, Slabs and Key Changes in 2025*, available at https://cleartax.in/s/next-generation-gst-reforms
[14] *Id*.
[15] All you need to know about new tax rates for items- TIMES OF INDIA, Sep 4,2025, available at https://timesofindia.indiatimes.com/business/india-business/gst-rate-cuts-from-september-22-all-you-need-to-know-about-new-tax-rates-for-items-75-faqs-answered/articleshow/123682611.cms
[16] Ajay & Chithirai Selvan, *GST And Constitutional Federalism in India: A Critical Analysis of Article 246A's Impact on Centre-State Fiscal Relations*, SIJSS Vol 23(3) 2025.

harmonisation, increased transparency, and stronger safeguards for small taxpayers against retrospective amendments and stringent enforcement measures.

The Constitutional Authority to Tax

Article 246 of the Constitution[17] delineates three distinct lists and allocates legislative powers, including taxation, between the Indian Parliament and the State Legislatures. It presents the subjects that may be governed exclusively by State Legislatures, solely by Parliament, or by both entities concurrently. Parliament and State Legislatures operate concurrently. Consequently, the Centre and the states possess distinct tax-levying powers as delineated by the Indian Constitution.[18] The central government comprises three essential components to execute its legislative functions. Central excise refers to the taxes levied on citizens to produce goods within the nation, such as tobacco. Customs duty is applicable to goods sold in India that have been produced in another country. The central government levies a service tax on the intrastate transportation of goods and services.[19]

While pertaining to the state government we have VAT. It refers to a tax levied on goods and services, applied as a consumption charge at each stage of the supply chain where value is enhanced, starting from the manufacturing phase and continuing through to the final sale. Every dealer is mandated to remit tax on all sales of products, excluding electrical energy, conducted throughout the year in the realm of interstate trade or commerce.[20] The transaction involving sale or purchase incurs tax liability under the following conditions: There are instances when items are transported between states.

Taxation on goods and services is imposed by distinct legislative bodies. In instances involving two or more states under the central sales tax framework, the central authority possesses the power to impose the tax, while the actual collection is carried out by the respective state authorities. Furthermore, prior to the amendment of Section 101 of the Constitution Act, the implementation of VAT was regarded as a noteworthy advancement in the realm of indirect taxation. The implementation of VAT proved to be largely effective; however, its organizational design exhibited several shortcomings. Several levies were imposed, which contributed to the deficiencies in the products and services, including entertainment tax, luxury tax, and others.

Moreover, various additional taxes were levied on production, manufacturing, and distribution by both the federal and state governments, and these taxes did not permit input tax credits as a means of offsetting costs. The escalation of these taxes led to a proliferation of additional levies, resulting in a cascading effect of taxation, or a tax on tax. The prior system of indirect taxation proved inadequate in mitigating this impact. The imposition of taxes on goods and services by both state and central governments, operating under concurrent jurisdiction, necessitated a constitutional amendment to effectuate this change. In 2016, there were a total of 101 amendments made to the constitution.

The GST was established in India by the historic 101st Constitutional Amendment Act, 2016, which completely changed the indirect tax structure in the nation. This amendment added Article 269A[21] to the constitution, giving the federal government and the states the authority to impose and collect GST on goods and services. Article 269A [22]specifies that although the Centre levies and collects GST on interstate goods via IGST and distributes the earnings to the states, the Central

[17] Art 246 of the Indian Constitution 1950.
[18] Varun S. Hagargi, *A Critical Analysis of GST in India*, 5 INDIAN J.L. & LEGAL RSCH. 1 (2023).
[19] *Supra* at 18
[20] *Supra* at 18
[21] Art 269 A of the Indian Constitution 1950.

[22] Art 279 A of the Indian Constitution 1950.

government levies GST on intrastate supply through both CGST and state GST.[23] This clause signalled a paradigm change from the previous exclusive division of taxing powers to a concurrent taxation model, which allows both levels of government to tax the same transaction at the same time, removing the strict barrier that had previously prohibited the federal government from taxing sales and the states from taxing manufacturing.[24]

The amendment further introduced Article 279A[25], which established the GST Council as a constitutional entity tasked with providing recommendations on tax rates, input tax credit mechanisms, the implementation of GST, and other significant issues. [26]The council is composed of the Union Finance Minister alongside the State Finance Ministers, with decisions necessitating a 3/4th majority. In this structure, the Centre holds a voting weight of 1/3rd, while the states collectively possess 2/3rd of the voting power. Furthermore, the amendment revised Article 246 [27]by incorporating clause (5), which empowers both Parliament and State Legislatures to legislate on GST, notwithstanding the division outlined in the 7th Schedule. This restructuring fundamentally transformed India's federal fiscal framework, transitioning from a dual federalism model to a cooperative federalism approach, wherein the central and state governments collaborate through the GST Council. Nonetheless, the Supreme Court’s 2022 decision in ***Union of India v Mohit Minerals*** [28]elucidated that the recommendations of the GST Council are not obligatory, thereby reaffirming the legislative autonomy of states within this newly established concurrent framework.

Challenges Of The GST

While the Goods and Services Tax transformed India’s taxation framework by establishing a cohesive national market, it encounters considerable obstacles, including issues related to federalism, complexities in compliance, discrepancies in input tax credits, and delays in state compensation. These matters persist in challenging the equilibrium between the powers of the Centre and the States, as well as the operational efficacy of the system.[29]

Intricate Frameworks of Rate Structures and Contentious Classification Disagreements

One of the significant challenges within India’s GST framework is the existence of multiple tax slabs and special rates, which renders the system cumbersome and susceptible to legal disputes.[30] The Goods and Services Tax framework comprises four principal rates 5%, 12%, 18%, and 2% in addition to various special rates and numerous cess slabs. This complexity compels businesses to strategically categorize their products within the lower tax brackets, while regulatory authorities frequently advocate for the application of higher rates. This ambiguity generates ongoing conflicts regarding head classification, leading to heightened compliance costs and diminishing the certainty that a uniform tax system is intended to offer.[31]

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[23] Kartik Chauhan, Arun Kumar Singh, *Post-GST Fiscal Federalism in India: Between Constitutional Aspiration and Institutional Reality: A Structural Critique and Reform Agenda*, VIII IJLLR ,8851-8877 (2026).
[24] Sristi Agarwal, I*mpact of Goods and Services Tax on the Indian Economy: A Comprehensive Constitutional Analysis*, Journal of Constitutional Law and Jurisprudence, 9(1). https://doi.org/10.37591/jclj.v9i1.1989 (2026)
[25] Art 269 A of the Indian Constitution 1950.
[26] Dr. Rajeev Kumar Singh, Harsh Jaiswal, *The GST Council as a Quasi-Federal Institution: Constitutional Design and Judicial Interpretation*, VII IJLLR, 4211-4235(2026).
[27] Art 246 of the Indian Constitution 1950.

[28] 2022 SCC OnLine SC 545.
[29] The Challenges of the Goods and Service Tax (GST) implementation in India, available at https://documents1.worldbank.org/curated/en/846611542608567754/pdf/The-Challenges-of-the-Goods-and-Service-Tax-GST-implementation-in-India.pdf
[30] Ebiz Filing available at https://ebizfiling.com/blog/challenges-in-gst-implementation-in-india/
[313131] Rau's IAS Study Circle, Challenges in GST Implementation, available at https://compass.rauias.com/current-affairs/challenges-gst-implementation/

Concerns Regarding The Revenue Neutral Rate and Revenue Sharing Have Been Raised

The initial projections indicated a revenue-neutral rate in the vicinity of 15-15.5%. However, subsequent reductions in rates have resulted in the effective GST rate approaching approximately 12%, thereby constricting the tax base. This situation has placed significant pressure on both the central government and the states, particularly those that are less robust and depend more substantially on GST compensation and shared revenue. Consequently, the GST Council faces ongoing challenges in reconciling the need for rate rationalization with the imperative of fiscal sustainability. This dynamic creates a tension between implementing growth-stimulating reductions and ensuring sufficient resource allocation for federal partners.

Inverted Duty Structure and Working Capital Pressure

The inverted duty structure, characterized by a higher GST rate on inputs compared to outputs, continues to pose significant challenges in various sectors, including textiles, fertilizers, and specific food processing industries. Enterprises operating within these sectors often find themselves with substantial, unutilized input tax credits that cannot be adequately offset against outputs that are either minimally rated or exempt from taxation. This situation ties up working capital and serves as a deterrent to potential investment. The system subsequently relies significantly on slower refund mechanisms, which further constrict liquidity for MSMEs and informal sector units that are vulnerable to the GST compliance chain.

Exemptions, Inputs Tax Credit Gaps, and Inefficiency

The GST framework continues to depend significantly on exemptions for specific goods and services, leading to distortions in the tax base and hindering the smooth flow of credit. When an item is exempt, businesses pay GST on inputs but do not receive full credit since the final product is not taxed.[32] This results in a cost that becomes embedded in the price. The partial tax credit treatment generates inefficiencies, fosters lobbying for exemptions, and presents avenues for manipulation, thereby compromising the fundamental principle of GST as a tax on value addition with nearly complete credit flow.[33]

Adjudication Delays, Tribunal Inefficiencies, and The Burden of Compliance.

The current state of the third-tier dispute resolution framework, which includes the suggested GST Appellate Tribunal, is marked by delays and limited functionality. As a result, taxpayers find themselves compelled to seek recourse through High Courts via writ petitions. This has led to an expanding backlog of cases related to GST, resulting in delayed resolutions and heightened uncertainty for businesses.[34]Simultaneously, the continual alterations in notifications, return filing formats, and compliance portals, coupled with rigorous anti evasion measures, contribute to an increased administrative and legal burden, particularly for smaller enterprises that do not possess dedicated tax departments.

Conclusions and Recommendations

In conclusion, the GST regime in India has effectively unified a previously fragmented indirect tax system and improved transparency within the value chain. However, its practical implementation remains hindered by various structural and administrative weaknesses. Ongoing challenges,

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[32] Challenges of GST, available at https://documents1.worldbank.org/curated/en/846611542608567754/txt/The-Challenges-of-the-Goods-and-Service-Tax-GST-implementation-in-India.txt

[33] *Id.*

[34] *Id.*

including a convoluted rate structure, inverted duty scenarios, limited input tax credit flow, tensions in revenue sharing, and an obstructed dispute resolution system, collectively undermine the efficiency and equity of the GST framework, especially impacting MSMEs and fiscally disadvantaged states.

To enhance the GST framework, it is imperative for policymakers to first streamline the slab structure, aspiring towards a model with minimal rates, clearly delineated categories, and a diminished potential for classification disputes. Second inverted duty situations require systematic attention through the alignment of rates or the expansion of refund mechanisms to alleviate working capital pressures. Third, the GST Appellate Tribunal ought to be fully operationalized to alleviate the burden on the judiciary and guarantee prompt resolution of cases. The exemption list ought to be refined and supplemented with comprehensive input credit access wherever feasible, to reinstate a design centred on clear value addition. Ultimately, ongoing investment in taxpayer education, the simplification of digital interfaces, and the establishment of predictable rule-making will be crucial in evolving the Goods and Services Tax from a compliance-focused framework into a genuinely growth-oriented and equitable indirect tax system.

Furthermore, enhanced collaboration among federal entities and the establishment of institutional credibility are essential for maintaining public and business trust in the GST system. The GST council should transcend temporary rate cut negotiations and instead establish a comprehensive medium-term strategy that harmonizes revenue requirements, equity considerations, and economic growth, while also ensuring that state-level concerns are addressed with transparency. Enhancing data-driven analysis, conducting regular impact assessments, and engaging in stakeholder consultations particularly with micro, small, and medium enterprises, informal sectors, and regional industries will facilitate the customization of reforms to align with real-world conditions. This approach has the potential to transform the Goods and Services Tax from a point of contention into a stabilizing pillar of India's indirect tax framework.