



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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An Appraisal of the Journey of the Reform in the Indirect Tax Regime of India

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Received 25 June 2022; Accepted 19 July 2022; Published 21 July 2022

The Goods and Services tax has been brought into force on 1st July 2017. It is considered to be the watershed moment in the history of India, wherein the entire indirect tax structure was revamped after years of deliberation and efforts. The report of the task force in 2003, under the leadership of Shri Vijay Kelkar, laid the foundation of the vision for transforming the indirect tax in India. The Indian Indirect tax regime had been plagued with the cascading effect. Looking at the share of the pie from the indirect taxes, it was important to revamp the same for better efficiency and to plug in the loopholes for the evasion of the taxes. The businesses had to face difficulties in terms of compliance with different indirect taxes prevalent during the previous regime. The GST regime is a promising one from the point of efficiency. It is targeted to remove the cascading effect, which can help in lowering the prices for the end consumers. The incentive in the form of the input tax credit is enabling in increasing the tax base of this indirect tax. The complexity of the tax system has been resolved by providing uniformity, with respect to tax rates across the country. The reduction in the number of indirect taxes has the potential to reduce the operating cost of the indirect tax regime in the country. The research has attempted to present an overview of the GST structure and has done an empirical study to understand the perception of the masses regarding the impact of GST, through the questionnaire.

Keywords: *gst, cascading effect, input tax credit, indirect tax, tax base.*

INTRODUCTION

After independence, GST is one of the disruptive indirect tax reforms in India. The Excise duty, Octroi, Value added Tax entertainment tax, Service tax, and other indirect taxes have been subsumed under GST. The GST has been instrumental in weeding out the cascading effect to a large extent. The Goods and Services Tax has been designed as the destination-based tax which is levied on different stages from manufacturing to consumption. The GST is levied both for the transactions within the state and the supply of goods and services across the states. The design of the tax distribution is such that in the case of inter-state supply, the state of origin of the goods has to part with the revenue, as per the internal revenue restructuring between the state and central governments.

Though the new indirect tax has covered goods and services to a great extent, some items have been kept out of the ambit of GST. The imposition of indirect tax on liquor for human consumption, Petroleum Products, and electricity, is still in the pattern of the previous regime¹. The definition of GST, as defined under Article 366(12A)² of the Constitution of India, specifically excludes alcohol. The consensus of bringing in the GST reform involved the exclusions of the Petroleum products out of the ambit of GST, so as not to disturb the revenue of the states from the levying of VAT on the sale of these commodities and also to keep the power of Centre intact in levying the excise duty on the petroleum products.

HISTORICAL TIMELINE OF THE IMPLEMENTATION OF GST

Policies pertaining to tax have been instrumental in impacting the efficiency of the economy and ensuring equity. The structuring of any tax system requires an understanding of the income distribution in the jurisdiction and the revenue sources of the government in that country. The governments intend to maximize the revenue from the tax structure by increasing the tax base. Cascading of tax has varied impacts on businesses in the economy as in that way businesses are not getting a complete input tax credit. This phenomenon can be

¹ 'List of Items kept outside the purview of GST' (*The Times of India*, 21 April 2020) <<https://timesofindia.indiatimes.com/business/faqs/gst-faqs/list-of-items-kept-outside-the-purview-of-gst/articleshow/60191839.cms>> accessed 31 August 2021

² Constitution of India, 1950, art.336(12A)

extended internationally as it adversely affects sectors across the economy. Such national and international factors result in the inefficient allocation of resources. This leads to a loss in income and welfare of the nationals as well as economy is adversely affected. For a country like India, which is expected to become more efficient in its resource allocation and usage, it is important that government strives for those taxation policies that would raise the efficiency level of its economy and promote international trade.

The idea of GST was first mooted by the Vajpayee government, in the year 2000, by the formation of the Empowered Committee, which was headed by Asim Das Gupta. Thereafter, the concept of national GST was mooted, in the year 2004, by the task force headed by the Vijay L. Kelkar committee³. The then finance minister, P.Chidambaram, discussed the idea of GST in the budget of 2005-2006 and proposed the implementation of Goods and Services Tax from the 1st April 2010⁴. The Minister, in order to merge the rates of Service tax and CENVAT, existing that time, raised the rate of service tax from 10% to 12%. In the journey of implementation of GST, different milestones are crossed, in order to have the final version of GST. In furtherance of the consultation with the stakeholders, the empowered committee consisting of the finance ministers of the states, prepared the report, through a joint working group, which was formed from the members within the committee. The committee released the discussion paper for the wider consultation in the year 2009. In the year 2010, the implementation of the GST was set for the 1st April 2011 by the then finance minister.

Thereafter, the 115th constitutional amendment bill was introduced in the parliament, wherein certain specified goods are to be out of the ambit of the GST. The bill was referred to the parliamentary standing committee. The major challenge in the implementation of GST was to bring all the states on board, for the consensus on this revolutionary indirect tax regime⁵. The

³ 'A Broader View Of Kelkar Task Force' (*The Financial Express*, 25 September 2004)
<<https://www.financialexpress.com/archive/a-broader-view-of-kelkar-task-force/123005/>> accessed 12 August 2021

⁴ Budget Speech of P Chidambaram, Minister of Finance' (*The Times Of India*, 8 February 2006)
<<https://timesofindia.indiatimes.com/india/budget-speech-of-p-chidambaram-minister-of-finance/articleshow/1432170.cms>> accessed 28 August 2021

⁵ Shaji Vikraman, 'From threats of 'blood on the streets' to national consensus' (*The Indian Express*, 30 June 2017)
<<https://indianexpress.com/article/explained/gst-rollout-vat-from-threats-of-blood-on-the-streets-to-national-consensus-4728358/>> accessed 01 September 2021

dissolution of the Lok Sabha led to the lapsing of the bill in 2014. Thereafter, the 122nd Constitutional amendment bill was introduced in the year 2014. The bill was referred to the select committee of the Rajya Sabha. After the approval from the Rajya Sabha with amendments, on 3rd August 2016, the amendments were adopted and Lok Sabha passed the bill unanimously on 8th August 2016⁶. After the approval of the constitutional amendment bill from the parliament, as per Article 368⁷ of the Constitution of India, ratification of the constitutional amendment is required from half of the state legislatures. Post ratification from more than the 15 states of India, the GST bill got the assent of the President and it was notified as the 101st Constitutional amendment Act, 2016.

In order to take the decisions pertaining to the Goods and Services Tax, there was the formation of the GST Council in the year 2016, as per Article 279A⁸ of the Constitution of India. The GST Council took the important decisions on the working of the GST. The tax rates were decided in the third GST council meeting. In order to facilitate the working of the GST, four bills – Central GST, State GST, Union Territory GST, and Integrated GST passed. After the passing of the different GST bills, the slab rates were discussed and the fitment of the product in the tax slabs was discussed in the 14th GST council meeting.

CENTRE-STATE FISCAL RELATIONS

The demarcation of the fiscal powers between the central government and state governments in India has been laid down in the constitution of the country. During the previous indirect tax regime, the power to levy tax on manufacturing activities, in general, has been assigned to the central government. The exception to the general rule was that the power to levy excise duty on the manufacturing of alcohol for the consumption of humans and opium was with the state government. After the commencement of the GST, the excise duty on liquor for human consumption continued to be outside the new indirect tax regime. The state government has been vested with the power to levy a sales tax.

⁶ Alsiba Sachdev, 'One year of GST: A timeline of events which led to the country's biggest tax reform' (*The Hindustan Times*, 1 July 2018) <<https://www.hindustantimes.com/business-news/one-year-of-gst-a-timeline-of-events-which-led-to-the-country-s-biggest-tax-reform/story-ONJIEk8KY4D6XmyKC2KSXN.html>> accessed 27 August 2021

⁷ Constitution of India, 1950, art.368

⁸ Constitution of India, 1950, art.279A

In interstate transactions, the Centre imposes a tax (Central sales tax). However, this tax is collected by the state and kept in the coffers of the originating state. As far as the services are concerned, only the Centre can levy service tax. States cannot levy customs duty on imports or exports. This is the sole domain of the central government, which it collects as additional duties of customs, which is in addition to the basic customs duty, in the present structure of taxes.

The GST has been possible in India by tweaking the previous fiscal position of the constitution. The amendment to the Constitution empowered the central and state government to levy state GST and central GST concurrently. The 101st constitutional amendment has brought into existence the GST council under Article 279A of the constitution of India. The Council is unique and is a forum for both the states and the Centre. The council consists of the union finance minister as the chairman of the council and members of the council include the minister holding the portfolio of finance under the state minister. The Council has been empowered under Article 279A (4)⁹ to make recommendations on the important aspects relating to GST including the rate and incidence of taxes.

RESOLUTION OF CASCADING EFFECT UNDER GST

The era of the Goods and Services Tax regime is generally credited with the resolution of cascading effect¹⁰ that was present in the previous tax regime. Prior to the commencement of GST in 2017, for the intrastate sale of any goods, Value added tax used to be levied. Where there was an interstate supply of goods, the central sales tax used to be levied. If any manufacturer was selling any goods, under the previous tax regime, he is obliged to collect the excise duty from the purchaser. In any interstate transaction, where the manufacturer is selling the goods to the dealer, present in another state, the dealer was supposed to pay the excise duty and he was also liable to pay central sales tax on the total value of goods, including the applicable excise duty. The levy of CST on the sum total, which was inclusive of the price of the goods and the excise duty, led to the situation of tax on tax. This was the situation of

⁹ Constitution of India, 1950, art.279A(4)

¹⁰ Rajat Mohan, 'How GST changed the face of Indian tax system' (*The Financial Express*, 25 March 2020) <<https://www.financialexpress.com/economy/how-gst-changed-the-face-of-indian-tax-system-here-are-six-benefits-to-society/1909166/>> accessed 16 August 2021

cascading effect. The policymakers, by bringing in the Goods and Services tax, have tried to iron out the issue of cascading effect, which was present in the previous tax regime.

The present regime of Goods and Services tax has provided for the availing of the input tax credit while discharging the liability to pay the collected outward tax on any transaction. The dealer who has paid the Central Goods and Services Tax and State Goods and services tax on any intra-state purchases, or the dealer who has paid the integrated Goods and Services tax on any inter-state supply, can avail of the GST paid on the purchases. The tax paid will be treated as the input tax credit for paying the GST collected by the dealer, on any outward transaction. The dealer while paying the collected CGST or SGST, can utilize the available credit, gained by him/her while paying CGST or SGST during the inward transaction. It should be noted over here, that the cross utilization of credits of CGST and SGST is not allowed.

That means, that in order to pay the collected CGST to the government, the available credit from CGST can be used to discharge the CGST liability. Similarly, in order to pay the SGST, which has been collected by the dealer, during the outward supply, the credit from SGST can be used. The available CGST cannot be used to discharge the SGST liability. However, that is not true for the collected IGST. The credit from the IGST has to be utilized first to discharge any IGST liability, and then in any order, the same can be used to discharge the liability of SGST or CGST.

CORRELATION BETWEEN THE REVENUE GENERATED FROM GST AND THE HEALTH OF ECONOMY

The Goods and Services tax is the indirect tax levied on the supply of goods and services. The Tax is omnipresent in almost each and every commercial activity within the country. The revenue collections from the imposition of Goods and Services Tax have been treated as a barometer for measuring the economic activity within the country¹¹. The revenue collection of more than 1 lakh crore for the month, is treated as a good figure to check into the economic activities in the country. Apart from the GST revenue collection, the E-way bill generation also

¹¹ Aanchal Magazine, 'Explained: Why recent GST revenue collection data indicates uptick in economic activity' (*The Indian Express*, 2 September 2021) <<https://indianexpress.com/article/explained/explained-gst-revenue-collection-economic-activity-covid-7482385/>> accessed 20 June 2022

provides a good indicator of the interstate transactions in the country. It is to be noted that as per the GST law, for the transportation of goods more than Rs50,000, it is mandatory to get the e-way bill generated.

COLLECTION OF GST FOR THE FINANCIAL YEAR 2019-20 AND 2020-21

Month	GST Collection in the Financial year 2019-20 (in Rs. Crore)	GST Collection in the Financial year 2020-21(in Rs. Crore)
April	113865	32172
May	100289	62151
June	99939	90917
July	102083	87422
Aug	98202	86499
Sep	91916	95480
Oct	95379	105155
Nov	103491	104963
Dec	103184	115174
Jan	110818	119875
Feb	105361	113143
March	97590	123902

Source: Goods and Services Tax Council

ANALYSIS OF GST COLLECTION

Goods and Services Tax is levied on the supply of goods and services. Under GST, the different indirect taxes have been subsumed. The Architecture of the GST has simplified the process of filing GST, in terms of complexity. The integration of the indirect taxes levied at the State and Union Territory level into the one indirect tax required a robust Information technology architecture, which can handle the filing of returns by crores of taxpayers from across the 36 states and union territories. As per the data analysis from the GST Network, the Public sector companies forming a small base, contributes around 35% of the revenue generated, from the levy of the GST¹². On the other hand, the proprietorships which form the base of around 80% contribute around 13% of the revenue for the government.

The revenue from the GST is highly skewed in the favour of the businesses with a turnover of more than 5 crores. Around 20% of the dealers are having zero tax liability under the GST. The businesses having a turnover of around 20 lakh are found to be contributing around 1.5% of the revenue for the government. The number of taxpayers registered on the GST Network is more than 1 crore. The Portal has witnessed the filing of more than 73 crore returns. Around 200 crores e-way bill has been processed on the GST Network.

CHALLENGES OF THE GST REGIME

Though the GST collection figures hint at the regime's stabilizing, there appear to be issues which confront the system. The fact of the matter is that the system has failed to subsume entirely the previous indirect taxes within it. The revenue from the taxes not subsumed within the GST is estimated to contribute around 40% of the total revenue of the government from the indirect taxes (excluding the custom duty) in the F.Y. 2021-22. As far as the states are concerned, the numbers from F.Y. 2017-18 to F.Y. 2020-21 suggest that the contribution of the indirect taxes outside the GST contributes around 40% to the revenue kitty of the states.

The compensation to the states still remains a contentious issue. The statutory guarantee of providing compensation to the states if their revenue falls below the growth of 14% from the

¹² Samrat Sharma, 'Govt's 80% GST collection comes from these businesses; listed firms top GST contributor' (*Financial Express*, 10 July 2020) <<https://www.financialexpress.com/economy/govts-80-gst-collection-comes-from-these-businesses-listed-firms-top-gst-contributor/2019387/>> accessed 24 June 2022

base year of F.Y. 2015-16, was the principal point of bringing the states to forgo the taxation powers under the previous indirect tax regime. The analysis shows that from the F.Y. 2014-17 the growth of the revenues for the states from the taxes under the previous tax regime was around 10%. After the commencement of the GST, the average growth in the revenue has been around 6.5%, from the F.Y. 2018-19 to F.Y. 2021-22. However, the recent numbers of the GST collection show the growth of more than 14% in the revenue, for some of the states. The states are wary of the ability to ensure the growth of the revenue in the F.Y. 2023-24, due to the gloomy external factors and weak macro indicators.

Another challenge confronting the GST regime is the practice of not issuing genuine receipts. The government brought in the measures like e-way bills and a scheme of e-invoicing, in order to end the practice of bogus receipts. The practice of not maintaining the proper records in the FMCG and pharma sectors is still prevalent. The practice of evading the taxes in a few sectors enabled the retailers to sell the products below the maximum retail price. The possibility of evasion is seeming, not possible in the space of consumer durables. However, experts are of the view that e-invoicing and credit matching has certainly assisted in reducing tax evasion and increasing the tax base. The conflicting decisions by the authorities regarding advance rulings at the state level have added to the woes of the multinational companies, carrying out business across different states. The absence of the centralized authority of advance ruling has added to the conundrum, caused due to the conflicting decisions of the authority of advance ruling at the state level. The only option available for the companies is to approach the high courts, in the absence of the centralized AAR.

The technical glitches in the information technology support infrastructure have added to the problems in the implementation of the new indirect tax regime. The GST has been successful in subsuming the indirect taxes of the previous regime and enabling the ease of doing business. However, technical snags at times have disrupted the timely implementation of the different GST returns and e-way bills. The stakeholder in the GST regime has been adversely affected due to the technical glitches in the GST network. There has been a flooding of the writ petitions in the high courts due to the technical disruptions in the systems on different aspects including the excess payment of taxes and delay in the payment of the refunds. There has been

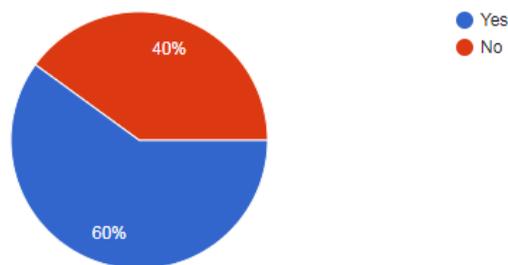
a start of a vicious cycle wherein the unscrupulous elements entered the system to reap the benefits by indulging in fraud, by taking the advantage of the technical faults during the initial years. The fallout of such devious practices led to bringing more supervision and added compliances for the taxpayers.

The establishment of the National Anti-profiteering Authority has been under controversy for several reasons. The objective of the formation of such authority under the new indirect tax regime was to ensure that the benefits of reduced rates under the GST regime are passed on to the end consumers. The role of the authority came under criticism due to the lack of rationale in the imposition of the penalties. The authority is expected to be merged with the Competition Commission of India by the end of 2022. However, the challenge to the constitutionality of creating the authority would remain undeterred.

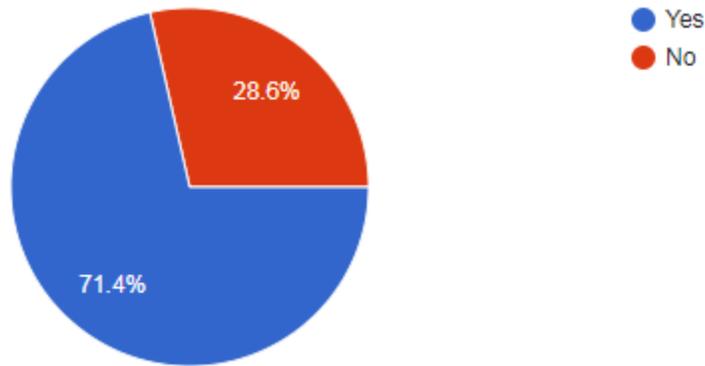
ANALYSIS OF THE PERCEPTION OF THE PEOPLE OF THE GST

The Researcher has conducted an empirical study about the perception of the GST, post its commencement on the year 1st July 2017. The respondents have posed 70 questions pertaining to the GST. The answers to the questions are in the Yes-No format. The questions were asked to the focused group of around 130 participants. The background of the participant ranges from being final year students pursuing legal education to business personnel. The response was fetched from the 70 participants. The result of the survey is presented below, along with the questions posed to the participants.

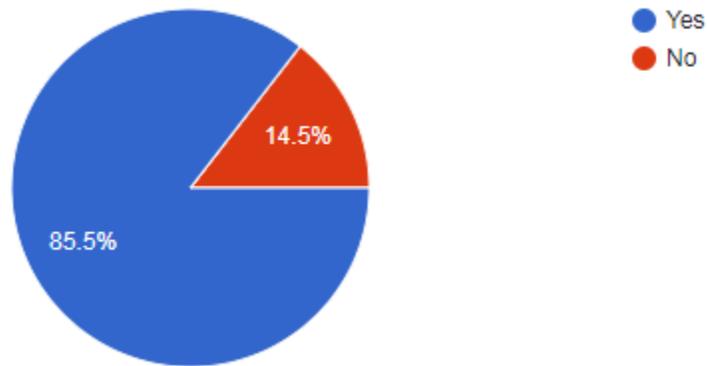
Q1. Do you think GST has contributed to reducing the prices for general consumers?



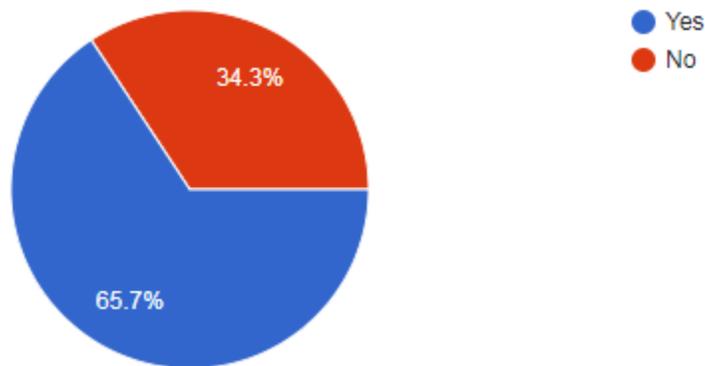
Q2. Has GST reduced the complexity as envisaged by the framers?



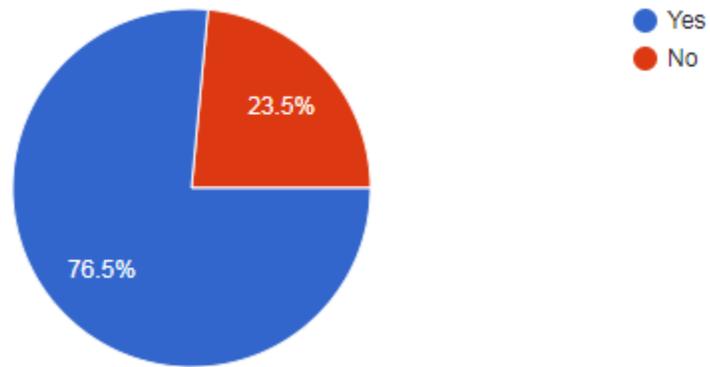
Q3. Does the One Nation One Tax phrase fits for the path-breaking Indirect Tax of India?



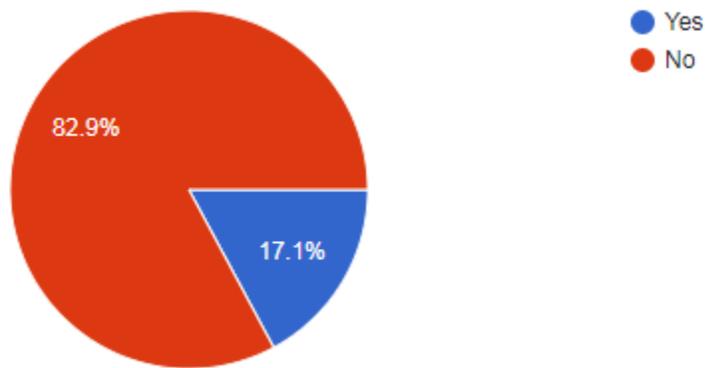
Q4. In your estimate, has GST contributed to raising more revenue for the government than the previous tax regime?



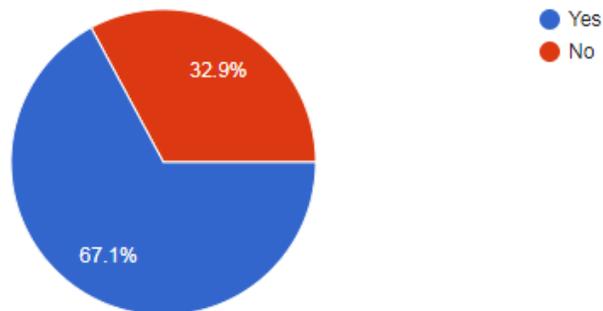
Q5. Do you think that GST has contributed to strengthening cooperative federalism in India?



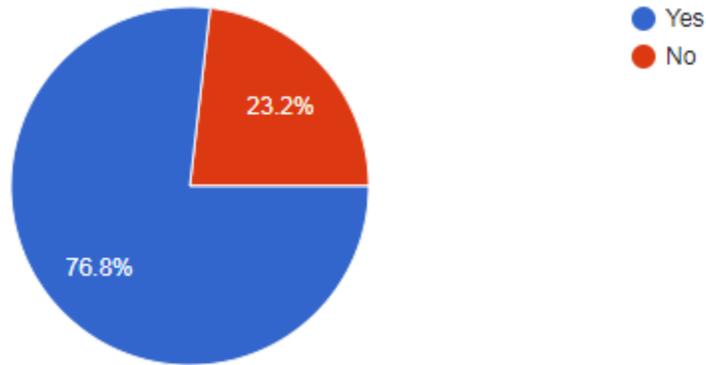
Q6. Currently, there are different rates of GST for different products. Do you think that the GST rate should be single across the product for the sake of ease?



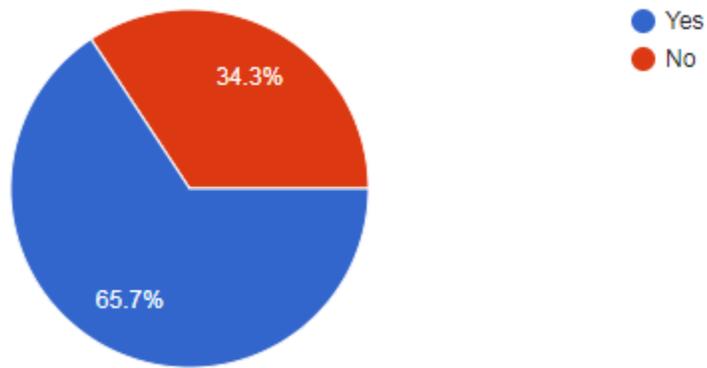
Q7. Do you think that under GST cascading effect has completely been removed?



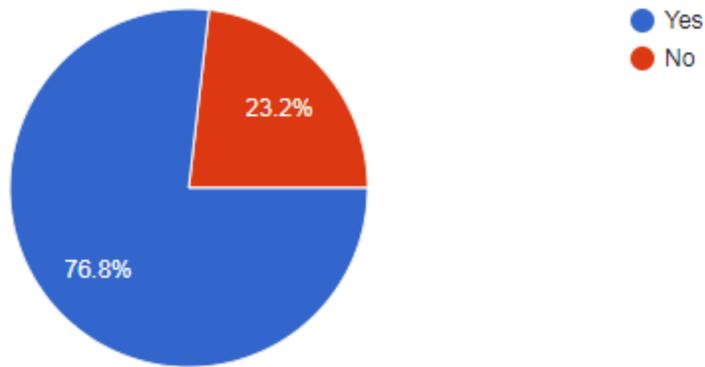
Q8. The Tax Administration has become more transparent under GST. Do you agree with it?



Q9. Has GST converted the fragmented Indian economy into one market?



Q10. Do you find any correlation between rising GST revenue and economic recovery in India Post COVID?



The Analysis of the answers in the Questionnaires shows that there is a positive perception, pertaining to the GST.

CONCLUSION

In the words of the Empowered Committee of State Finance Ministers, the Goods and Services Tax was a significant improvement and the logical step in the direction of a comprehensive reform of the indirect tax system in the country. In the economic history of India, it can prove to be the most important initiative. It has made way for the modernization of administration in the tax arena of India by making it simpler and bringing in greater transparency. When this reform was brought in New Zealand way back in 1987, it helped in improving the revenue collection by 45 percent higher than anticipated because of improved compliance. The benefits are dependent upon the design of the GST structure. There are many challenges that lie ahead with the present design. The challenges could be tackled with the proper research and true political commitment to bringing about a fundamental reform of the system. Whether the stakeholders like it or not, they need to gear up for a Dual GST. The gain or loss for the stakeholders will depend upon the final restructuring of GST rates, the tax schedules, and the framework of the law regarding, the adjustment of ITC on either item basis or on a gross basis.

The impact of the GST has been tremendous. It has among other things, helped in simplifying the law. The stakeholders should try to become well-versed with the proposed legislation and try to take steps in upgrading their systems. It is expected that gains will be pervasive across the sectors. Good intentions can be inverted in the absence of the right execution. The efforts shall be made to harmonize the provisions vulnerable to conflicting interpretations, or which are drafted erroneously. Because, if the process gets entangled in continuous litigation, then the entire objective of the reform will suffer an adverse impact. It has to be remembered that opportunities to bring about a fundamental reform arrive infrequently, and when they do arrive, there is a need that they are pursued vigorously.