



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2023 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rishikesh Dave; Publisher – Ayush Pandey

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The Evolution and Implementation of GST

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Received 30 January 2023; Accepted 18 February 2023; Published 22 February 2023

The central topic that has been touched on and discussed in this paper is “The Evolution and Implementation of GST”. The paper provides the genesis of the evolution of the goods and services tax in India and also covers the international history relating to the pertinent topic. The paper further analyses the various steps involved in the creation of the Goods and Services Act which was the result of a long persistent process and the beginning of a new era in the system of indirect taxes. The mention of the GST Council which is an important aspect of the implementation of GST gives the entire paper a holistic meaning. A new approach introduced in the legal system of any country cannot be effective unless is paired with the relevant provisional colouring. Hence, the paper also briefs various Acts passed to provide a governing mechanism for Goods and Services Tax.

Keywords: *goods & services, tax, evolution, implementation, gst council.*

INTRODUCTION

Tax, in simple words, is a contribution of society to the respective government for its benefits. There are two major types of taxes, direct tax, and indirect tax. Direct tax is directly imposed on the income of a person. Here, person means all the persons as defined in section 2(31) of The Income Tax Act, 1961¹. Examples of direct taxes are income tax and corporate tax. Whereas,

¹ Income Tax Act 1961, s 2(31)

indirect tax is imposed on the consumption of goods and services. A few examples of indirect taxes are customs duty, excise duty, sales tax, value-added tax, and goods and services act. At present in India, goods and services tax and customs duty are the only indirect taxes that are imposed subject to exceptions such as Alcohol for human consumption (VAT and excise duty applicable), tobacco product, and petroleum products. Goods and services tax abbreviated as GST is as its name suggests the indirect tax imposed on the consumption of goods and services. The introduction of GST is the most recent evolution in the history of indirect taxes in India. It not only made the levy and collection easier but also guaranteed certain benefits such as eliminating the cascading effects of taxes, easy online procedures, lesser compliance, etc. The advantages of GST assuredly outweigh the disadvantages of GST. Goods and Services Tax is inherently a destination-based tax that is levied and collected both on intra-state and inter-state transactions. The goods and services tax has replaced all the other indirect taxes such as value-added tax, excise duty, etc. subject to certain specified exceptions.

INTERNATIONAL PERSPECTIVE

The first country to implement goods and services tax was France. France adopted the model of GST in 1954. The reason behind the adoption of GST in France was to reduce tax evasion. After France, around 160 countries adopted the one-country tax system i.e., GST. However, the model adopted to implement the goods and services tax is different in different countries. India has adopted the dual GST model which closely resembles to the GST models in Canada and Brazil. The countries that have adopted GST include Canada, Australia, Vietnam, Brazil, Spain, South Korea, Nigeria, Italy, Singapore, the United Kingdom, Monaco, and China. In many countries, GST is also known as VAT (value-added tax).

When we look at all the countries that have adopted and implemented goods and services tax, India is the country having the highest GST slab rate. About 60% of goods fall under the slab of 18% and 28% GST, unlike other countries. On the other hand, Hongkong has the lowest GST rate of 5% however, in Hongkong, there is no value-added tax or sales tax. The primary reason for adopting and implementing GST in all these countries was to have one kind of indirect tax

rather than a plethora of indirect taxes which would lead to tax evasion, the cascading effect of double taxation, confusion about the sources of tax, etc.

EVOLUTION OF GST IN INDIA

Before GST came into existence in India, there were several indirect taxes in India including service tax, excise duty, entertainment tax, stamp duty, value-added tax, and securities transaction tax. Service tax is levied by the service provider and is then collected by the central government. Excise duty comes into the picture when a manufacturer manufactures goods. Entertainment tax is as the name suggests imposed on entertainment such as buying video games, card games, watching movies, etc. Stamp duty is levied on transactions related to immovable properties. The stamp duty is also paid on legal documents. The stamp duties are governed by The Indian Stamps Act, of 1899.²

Value-added tax is imposed when the goods or products were sold to the customers directly. There were two kinds of value-added taxes, the central state tax, and the state sales tax. The securities transaction tax was imposed on the transactions performed as regards securities dealings on stock exchanges such as the Bombay Stock Exchange (BSE), and National Stock Exchange (NSE). The Goods and Services Tax subsumed all these indirect taxes promoting the concept of “One Nation One Tax”.

The beginning of Goods and Services Tax can be traced back to the year 2000. Late MR. Atal Bihari Vajpayee, the then Prime Minister of India had suggested the implementation of goods and services tax in India in the year 2000. Accordingly, a committee was formed which was called EC (Empowered Committee) headed by the then finance minister of West Bengal, Mr. Asim Dasgupta. The committee was created essentially to draft a GST model suitable for the Indian taxation system. The representatives both from the state and the centre were asked to examine the various facets of the rough GST model drafted which included the inter-state, intra-state transactions, implementation, slab rates, state-center bifurcation, etc.

² Indian Stamps Act 1899

In 2004, the Kelkar Committee also known as the Kelkar Task Force headed under the chairmanship of MR. Vijay Kelkar, the then adviser to the Ministry of Finance and Company Affairs, suggested that the indirect tax regime in effect had various issues and the proposed goods and services tax model would alleviate all such issues.

Until 2005, no discussion was conducted concerning the proposed goods and services tax regime. However, in the budget session for the financial year 2005-2006, the goal of implementing GST was discussed. The then Finance Minister Mr. P. Chidambaram said that the purpose of implementing GST is to have a uniform regime for indirect tax having jurisdiction over the entire country. According to him the implementation of Goods and Services Tax would be a long-term goal. The GST introduction date was set to be April 1, 2010, in February 2006 by him as he was the finance minister of the central government. Hence, the year 2006 can be considered to be one of the most important years in the history of GST in India. In 2007 and 2008, the GST introduction date was confirmed to be April 1, 2010. The tenure of the then Finance Minister Mr. P. Chidambaram came to an end in 2008 and in July 2009 Mr. Pranab Mukherjee who later became the President of India took his oath as the Finance Minister of India. He too corroborated the Goods and Services Tax introduction date to be 1st April 2010.

The Empowered Committee we learned about at the beginning created and presented a First Discussion Paper (FDP) on the proposed goods and services tax regime. The paper was again put forth for comments and discussions especially from stakeholders to give a direction to the implementation of Goods and Services Tax. The Goods and Services Tax could not get introduced on the proposed date of April 10, 2010, since the mission-mode project was introduced by the Government of India which inherently provided for the foundation on which the GST regime would stand. Therefore, the introduction of GST was postponed.

The Congress Government in March 2011 introduced the GST Bill through Constitution's 115th Amendment³. Finally, the thought of introducing GST had come into reality but the objections by the opposing party were a huge hindrance in the actual implementation of the GST. Hence,

³ Constitution (115th Amendment) Bill 2011

the Bill was sent to a standing committee that conducted several discussions regarding the issue. The opposing party had issues over clause 279B⁴. Clause 279B offers more power to the central government than the state government.⁵ In November 2012 MR. P. Chidambaram and the then finance minister held a meeting and decided that all the issues on the Goods and Services Tax regime shall be resolved before December 31, 2012, providing an actual deadline for the resolution of the problems.

In the budget session of 2013, the then Finance Minister, P. Chidambaram announced a compensation of Rs. 9,00,00,000 to the states for the implementation of an altogether new tax regime called as GST regime. He also requested the states to cooperate with the union in the implementation of the Goods and Services Tax. In August 2013 the standing committee submitted its report to the parliament upon which it was approved with a few amendments. However, Gujarat objected to the implementation of GST as it would cause a loss to it.

Owing to the number of obstacles and issues, the GST bill lapsed and BJP Government came into power in the year 2014. Mr. Narendra Modi became the Prime Minister of India and Mr. Arun Jaitley took oath as the new Finance Minister of the Union of India. He submitted the constitution (122nd Amendment) which was referred to the standing committee for its examination. On May 6, 2015, Lok Sabha passed the GST Bill. Rajya Sabha did not pass the Bill. Hence, the draft model of Goods and Services Tax was put to the public's suggestions for eliminating the prospective issues arising out of such a regime. The opposition which was primarily the congress party finally agreed to the GST Bill subject to the proposed amendments in the bill. This led to the passing of the Bill in the Rajya Sabha on August 3, 2016. On August 8, 2016, the Lok Sabha passed the amended GST bill.

The bill was presented before the states for ratification and passing. Assam became the first state to ratify and pass the GST Bill (Amended Constitution Bill). In September 2016, Mr. Pranab Mukherjee, the then President of India gave assent to the GST Bill paving a way for it to become an Act. The Union Cabinet assented to the formation of a GST Council and the first meeting of

⁴ *Ibid*, Cl 279B

⁵ *Ibid*

the GST Council was held in New Delhi. GST was implemented in India on July 1, 2017, in a grand ceremony in the central hall of parliament on midnight of June 30, 2017.

GST COUNCIL

According to the provisions of Article 279A (1) of the constitution⁶, the GST Council has to be constituted by the president of India within 60 days of the commencement of Article 279A.⁷ According to Article 279A, the GST Council shall consist of the following:

- A chairperson who shall be the union finance minister.
- A member who shall be the union minister of state in charge of revenue or finance
- Members who shall be the ministers in charge of finance or taxation or any other minister nominated by each state government.

ACTS RELATED TO GOODS AND SERVICES TAX

The GST regime in India is a dual taxation regime meaning the tax is levied both by Central Government and the State Governments as the case may be. The 7th Schedule of the Constitution of India⁸ provides for the division of powers between the centre and the state which applies to the imposition of GST as well. Accordingly, the Central Goods and Services Tax Bill, the States Goods and Services Tax Bill, the Integrated Goods and Services Tax Bill, Union Territories Bill, and the Goods and Services Tax (Compensation to States) Bill were introduced and then passed by both the houses converting the bills into the CGST Act, 2017⁹, the SGST Act, 2017¹⁰, the IGST Act, 2017¹¹, the UGST Act, 2017¹² and the GST (Compensation to States) Act, 2017¹³ respectively.

- For intra-state transactions, CGST+SGST is applicable. For example, if the supplier and the recipient both are from Maharashtra, CGST+SGST is levied.

⁶ Constitution of India 1950, art 279A(1)

⁷ Constitution of India 1950, art 279A

⁸ Constitution of India 1950, schedule 7

⁹ Central Goods and Services Tax Act 2017

¹⁰ State Goods and Services Tax Act 2017

¹¹ Integrated Goods and Services Tax Act 2017

¹² Union Territories Tax Act 2017

¹³ Goods and Services (Compensation to States) Act 2017

- For intra-union territorial transactions, CGST+UTGST is applicable except for the union territories of Delhi and Puducherry wherein SGST is applicable. For instance, if the supplier and the recipient are from the same union territory, CGST+UTGST is levied.
- For Interstate transactions, IGST is applicable. For example, if the recipient is from Punjab and the supplier is from Maharashtra, IGST is levied.
- For export, and import transactions also IGST is applicable.
- For transactions in Special Economic Zones, IGST is applicable.

CONCLUSION

The introduction of the Goods and Services Tax has proved to be a boon in the history of indirect taxes in India. The new regime mitigates the various issues presently before GST providing for a more efficient and effective indirect tax imposition. The classification of GST Acts according to the transactions whether intra-state or inter-state makes it an easy-to-impose and understandable governing mechanism without any confusion and complications occurring thereby. The filtration process that the GST went through before coming into force has made it a close-to-perfection regime despite having certain issues which are counterbalanced due to the easy and efficacious implementation.