

Goods and Services Tax and Customs Duty - Law and Practice

COURSE CODE: M21CM12DC

Postgraduate Programme in Commerce

Discipline Core Course

Self Learning Material



SREENARAYANAGURU
OPEN UNIVERSITY

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The State University for Education, Training and Research in Blended Format, Kerala

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Goods and Services Tax and Customs Duty - Law and Practice

Course Code: M21CM12DC

Semester - IV

**Discipline Core Course
Master of Commerce
Self Learning Material
(With Model Question Paper Sets)**



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GOODS AND SERVICES TAX AND CUSTOMS DUTY - LAW AND PRACTICE

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Master of Commerce

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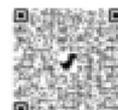
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MESSAGE FROM VICE CHANCELLOR

Dear learner,

I extend my heartfelt greetings and profound enthusiasm as I warmly welcome you to Sreenarayanaguru Open University. Established in September 2020 as a state-led endeavour to promote higher education through open and distance learning modes, our institution was shaped by the guiding principle that access and quality are the cornerstones of equity. We have firmly resolved to uphold the highest standards of education, setting the benchmark and charting the course.

The courses offered by the Sreenarayanaguru Open University aim to strike a quality balance, ensuring students are equipped for both personal growth and professional excellence. The University embraces the widely acclaimed “blended format,” a practical framework that harmoniously integrates Self-Learning Materials, Classroom Counseling, and Virtual modes, fostering a dynamic and enriching experience for both learners and instructors.

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Rest assured, the university’s student support services will be at your disposal throughout your academic journey, readily available to address any concerns or grievances you may encounter. We encourage you to reach out to us freely regarding any matter about your academic programme. It is our sincere wish that you achieve the utmost success.



Warm regards.
Dr. Jagathy Raj V.P.

01-08-2025

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01 BLOCK

Indirect Taxes and Goods and Services Tax

Block Content

- Unit - 1 Taxes
- Unit - 2 Introduction to GST



Unit 1

Taxes

Learning Outcomes

After completing this unit, the learners will be able to:

- ◆ familiarise the meaning, features and types of taxes
- ◆ differentiate between Direct Tax and Indirect Tax
- ◆ gain insight into the evolution of Indirect Taxes

Background

Taxes play a predominant role in the functioning of any economy. They serve as the primary source of revenue for governments. Tax is a mandatory financial charge imposed on individuals and businesses. The Indian Constitution carefully outlines the powers of the Centre and the States to levy various types of taxes, ensuring a balanced fiscal system. Taxes come with their own set of advantages and disadvantages. They help in funding development and reducing inequality while also causes issues like compliance challenges and economic distortions. A fundamental distinction exists between direct taxes, which are paid directly by the taxpayer, and indirect taxes, which are collected through intermediaries and ultimately borne by consumers. Understanding the various types of taxes and the historical evolution of indirect taxation in India provides valuable insight into how the taxation system has evolved to meet the demands of a growing and diverse economy. This unit discusses the meaning and features of taxes, the different types of taxes, the constitutional provisions related to taxation and the evolution of indirect taxation in India.

Keywords

Direct Tax, Indirect Tax, Constitutional provisions

Discussion

1.1.1 Meaning of Tax

- ◆ Mandatory payment to be made by every resident of the country

Tax refers to the mandatory payment to be made by every resident of the country. Taxes are imposed and collected by the Government to fund public welfare expenditures such as education, healthcare, pensions, and poverty alleviation. It is also used to fund defence and security, and infrastructure projects such as roads and dams of society. Such a levy is made through a statute i.e, Article 265 of the Constitution of India. There is no assurance of a ‘quid pro quo’. It means that there is no direct association between the taxes an individual pays and the specific public services they receive. The government may allocate the tax revenue towards any initiative that promotes overall social welfare, rather than offering personal benefits to the taxpayer.

- ◆ Direct tax - Tax levied directly on the income or wealth of a person
- ◆ Indirect Tax - Tax levied on the price of a good or service

Although taxes can be categorised on different bases, taxes are generally classified into direct and indirect taxes. Direct tax refers to a tax which is imposed or levied directly on the income or wealth of a person by the government. Here, the person who pays the tax cannot recover it from somebody else. As the burden of tax cannot be shifted to other persons, the taxpayer is also tax bearer in the cases of direct taxes. On the other hand, Indirect Taxes refer to a tax which is levied on the price of a good or service. In the case of indirect taxes, the person paying the tax passes on the incidence to another person.

1.1.2 Definition

According to Hugh Dalton “A tax is a compulsory charge imposed by a public authority irrespective of the exact amount of service rendered to the tax payer in return and not imposed as a penalty for legal offence”.

According to Jom Bouvier, “A tax is a pecuniary burden imposed for support of the government, the enforced proportional contribution of persons and property of the government and for all public needs”.

According to Prof Seligman “A tax is compulsory contribution from the person to the government to defray the expense incurred in the common interest of all without reference to special benefits conferred”.

According to Deviti. De Marco “A tax as a share of the income of citizens which the state appropriates in order to procure

for itself the means necessary for the production of general public services”

1.1.3 Nature/ Features of Taxes

i. It is a Compulsory Payment

- ◆ Compulsory payment

A Tax is a compulsory payment to be made by every citizen of the country to its government. In other words, the payment of tax is not voluntary. Taxes are imposed by law. The refusal to pay the tax is considered as an offence in the court of law. The objection or refusal or non –payment of tax leads to punishment.

ii. Levied for Public Benefit

- ◆ Levied for the welfare of the society

Public welfare is one of the main purposes for which tax is levied. It is levied for the welfare of the society not particularly for the special benefit of an individual. The Government proceeds are spent to extend common benefits to all the people.

iii. Power to Levy the Taxes

- ◆ Power to levy and collect the taxes is upon the government

Only the government has the power to levy and collect taxes from the people.

iv. Tax is not the cost of the benefit

- ◆ Taxation is designed to confer of benefits on the general public

Tax is not the cost of benefit conferred by the government on the public. Benefit and taxpayer are independent of each other, and payment of taxation is of course, designed for conferring of benefits on general public.

v. Tax is for economic growth and public welfare

- ◆ Contributes to economic growth and social welfare

The major objective of the government is to contribute to economic growth and social welfare. Developmental activities of the nations generally involve two operations, the raising of revenue and the spending of revenue, so the government spends taxes for economic benefit, for entire community and for the aggregate welfare of the society.

1.1.4 Constitutional Provisions related to Taxation in India

India has a three-tier federal structure. This three- tier federal structure comprises of the Union Government, the State Governments and the Local Government. The Constitution of India grants power to levy taxes and duties among these three tiers of Governments.

The following are the constitutional provisions related to taxation in India

◆ No tax shall be levied or collected except by authority of law

◆ Defines the territorial jurisdiction of laws made by parliament and state legislatures

◆ How legislative powers are divided between the parliament and the state legislatures

◆ Both union and states concurrent powers to make GST laws

◆ Article 265

This article prohibits the arbitrary collection of taxes in India. This article states that “no tax shall be levied or collected except by authority of law”.

◆ Article 245

Accordingly, Article 245 of the Constitution confers the power for enacting the laws on the Parliament and on the Legislature of a State. According to the provisions parliament may make laws for the whole or any part of the territory of India, and the legislature of a State may make laws for the whole or any part of the State.

◆ Article 246

This article gives the authority to the Union and State Governments for levying taxes. Schedule 7 of Article 246 contains three lists which list the matters where the Union and the State Governments have the respective authority to make laws.

The Central Government has the power to levy taxes in subject matters relating to Entries 82 to 91 of List I. Whereas, the State Governments have the power to levy taxes in subject matters relating to Entries 45 to 63 of List II. Further, the parliament has the power to make any law for any part of India not comprised in a State, even though such matter is included in the State List.

Direct tax, like Income tax, is levied by virtue of Entry 82. Taxes on income other than agricultural income and customs duty are levied by virtue of Entry 83. The power to levy the Goods and Services Tax (GST) introduced by the Constitution (101st Amendment) Act, 2016, has been conferred by Article 246A of the Constitution.

◆ Article 246 A

Article 246A is different from the earlier system under Article 246 where the taxation powers were divided between the Union and the States. Article 246A provides concurrent powers to both the Union and State Governments for enacting GST laws on intra-State supplies while it gives the Union Government exclusive authority over inter-State trade through IGST.

◆ Article 266

It deals with the Consolidated Funds and Public Accounts of India and the States. It states that the following shall form one consolidated fund to be entitled the Consolidated Fund of India:

◆ Creates the consolidated fund and the public account of India and the state

- i. The whole or part of the net proceeds of certain taxes and duties to States
- ii. All loans raised by the Government through the issue of treasury bills
- iii. All money received by the Government in repayment of loans
- iv. All revenues received by the Government of India
- v. Loans or ways and means of advances

The same holds for the revenues received by the State Government, and it is called the Consolidated Fund of the State. Money out of the Consolidated Fund of India or a State can be taken only in agreement with the law and for the purposes and of the Constitution.

◆ Article 268

◆ Duties levied by the union but collected and claimed by the states

This article relates to the duties levied by the Union government but which are collected and claimed by the State governments. This includes stamp duties, excise duty on medicinal and toilet preparations, etc. The revenue from such duties are assigned to the State Governments.

◆ Article 269 A

◆ Levy and collection of GST in the course of inter state trade or commerce

This is a newly inserted article. According to this article, the Union Government shall levy and collect the GST on supplies in the course of inter-State trade or commerce. Further, this tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament based on the recommendations made by the Goods and Services Tax Council.

◆ Article 270

◆ Taxes levied by the union and assigned to the states

This article deals with the distribution of revenue from taxes, including income tax and GST. However, it excludes the taxes articles mentioned, excluding those under Article 268 and 269. It also lays down the basis for sharing Union tax revenues with states as per the recommendations of the Finance Commission.

◆ Article 271

◆ Surcharge on certain taxes

This article has been amended. According to this article, the parliament has the power to levy surcharges on taxes under the Union List, like income tax. The proceeds from the collection of such tax go exclusively to the Centre. However, the states do not receive a share from surcharge collections, allowing the Centre to mobilise extra resources when needed.

◆ Restrictions on the powers of states to levy tax on GST

◆ Article 286

This article restricts the power of the States to levy taxes on goods and services that are imported into or exported out of India. This is to prevent States from taxing goods that are in transit between different States. This article has been amended.

1.1.5 Types of Taxation

Taxes can be classified on different grounds. They are

- A. On the basis of Incidence and Impact
- B. On the basis of the relationship between Tax Base and Tax Rate
- C. On the basis of the Assessment Method

A. On the basis of Incidence and Impact

Incidence means the first burden of tax. It falls on the person on whom the tax is levied for the first time. It may be shifted to other persons. On the other hand, Impact of Tax refers to the ultimate or final burden of Tax. It falls on who ultimately bears the tax burden normally the consumer. On the basis of incidence and impact, the taxes can be divided into namely Direct and Indirect Taxes.

◆ Tax where incidence and impact of tax falls on the same person

i. **Direct Tax:** Direct tax is a type of tax where the incidence and impact of tax falls on the same person. It is directly paid by the person on whom it is imposed to the government. So, the person paying the tax (Tax payer) is also the tax bearer. In other words, the direct tax cannot be shifted or transferred to another person. Examples of direct tax include Income-tax, Wealth Tax, Corporate Tax.

◆ Tax where incidence of tax falls on one person but the impact of tax falls on another person

ii. **Indirect Taxes:** Indirect tax is a type of tax in which the incidence of tax falls on one person but the impact of tax falls on another person. Indirect taxes are paid by to the government by a person and he recovers the same from another person. This means that the indirect taxes are paid indirectly to the government. Here the burden of taxes can be shifted. In other words, the tax incidence is passed at every stage till it reaches the final consumer. So, the consumer is the person who ultimately bears the tax burden.

B. On the basis of the relationship between Tax Base and Tax Rate

◆ Changes directly in proportion to the tax base

i. Proportional Taxes

These are taxes which vary or change directly in proportion to the tax base which may be income, value of goods property or wealth . For example, Wealth Tax

◆ Increase with increase in income

ii. Progressive Taxes

These are the taxes which increase with increase in income. For example , Income Tax.

◆ Tax rate decreases with increase in income

iii. Regressive Taxes

These are the taxes in which the tax rate decreases with increase in income For example. Tax charged on necessary items.

◆ Levied based on some unit of a product

C. On the basis of the Method of Assessment

i. Specific Tax /Duty

These are the taxes which are levied based on some unit of a product.

◆ Levied on the basis of value of goods

ii. Ad – valorem tax

When the taxes are levied on the basis of value of goods, it is referred to as an ad valorem tax. It is usually expressed in the form of percentage.

1.1.6 Types of Taxes

1.1.6.1 Direct Taxes

It is a tax where the burden cannot be shifted to another person. It is assessed on person, property, income, business and so on. Thus, the first burden (incidence) and the final burden (impact) of tax fall on the same person. In the case of direct taxes, the taxpayer is the tax bearer. Income Tax, Corporate Tax , and capital gains tax are the common types of direct taxes in India.

1.1.6.1.1 Features of Direct Taxes

i. Levied Directly on Income or Wealth

These taxes are imposed directly on individuals or entities based on their income, profits, or wealth. Income Tax, Corporate Tax are examples of Direct Taxes.

ii. Burden Cannot Be Shifted

The burden of direct tax cannot be shifted to another person. So the first and final burden falls on the same person. For example, if you earn income, you must pay the income tax and you can't ask someone else to pay it for you.

iii. Progressive in Nature

Direct taxes in India are generally progressive. It means that as level of income increases, the tax rate imposed also increases. People who earn more pay a higher percentage of tax.

iv. Governed by Specific Laws

Direct taxes are imposed and collected as per legal provisions under acts such as the Income Tax Act, 1961, and the Finance Acts passed annually by the Parliament.

v. Governed by Specific Laws

They are imposed and collected as per legal provisions under acts such as the **Income Tax Act, 1961**, and the **Finance Acts** passed annually by the Parliament.

vi. Source of High Revenue

They are a major source of government revenue, especially from sectors like corporations, high-income individuals, and professionals.

1.1.6.1.2 Advantages of Direct Taxes

i. Distribution

Direct taxes are imposed based on the taxable capacity of the taxpayer and their burden is justifiably distributed.

ii. Progressive

Direct taxes are progressive as higher rates of taxes are imposed on higher income groups and lower rates are imposed on lower income groups. Poor people are exempted under direct taxes.

iii. Certain

The government can estimate the proceeds from taxes and can balance its income and expenditure. Assessee is also certain about the amount of tax.

iv. Elastic

Direct taxes are considered elastic. It means that government revenue from these taxes increases as the income or wealth of individuals rises. Since these taxes are often progressive in nature, even a small increase in income can lead to a comparatively larger increase in tax collection. This elasticity allows the government to boost its earnings by adjusting tax rates.

v. Productive

Direct taxes are considered productive because they do not significantly impact a country's productive capacity in the short run. In contrast, indirect taxes tend to have a greater impact on productive capacity.

vi. Distributive Justice

Direct taxes are based on principle of Distributive Justice since they play a vital role in reducing the inequalities of income and wealth. This is done by taxing higher-income individuals at a higher rate. Thus, they help in ensuring a fairer distribution of economic resources in society.

1.1.6.1.3 Disadvantages of Direct Taxes

i. Arbitrary

The tax rates are fixed arbitrarily by the governments.

ii. Probability of Tax Evasion

Direct taxes are imposed on the income of the people. Tax burden increases with increase in income. So Direct taxes often induces the tax-payers to conceal their real income. It leads to the accumulation of black-money. Some Tax-payers also maintain bogus account for which they do not pay the taxes.

iii. Reduce Saving

A significant part of the income is taken away in form of taxes in the case of direct taxes, Thus, high rates of direct taxes affects the saving capacity of the people. This also ultimately affects the rate of capital formation in the country.

iv. Limited tax base

Direct taxes impact only a part of the society-salaried class. Business class avoid and evade direct taxes by manipulating accounts.

1.1.6.1.4 Types of Direct Taxes

i. Income Tax

- ◆ Imposed directly on the income of persons

It is a of direct tax which is imposed directly on the income of persons such as Individuals, Hindu Undivided Families (HUFs), Partnership Firms, Companies, Cooperative Societies, Trusts etc. Income tax is charged on taxable income.

ii. Corporate Tax

- ◆ Charged on the earnings of corporation

It is imposed on profits earned by the companies. Thus, both public and private companies, which are registered in India under the Companies (Amendment) Act, 2019 are liable to pay the Corporate Tax.

iii. Capital Gains Tax (CGT)

- ◆ Levied on the financial gain from selling capital assets

It is a tax levied on the profit earned from the sale of a from selling a Capital Asset.

iv. Securities Transaction Tax (STT)

- ◆ Tax imposed on trading of securities

It is a tax levied in connection with the purchase and sale of securities such as shares, bonds, mutual funds, etc. which are listed on recognized stock exchanges. STT is levied on the transaction value of securities. Thus, it is distinct from Capital Gains Tax, which applies to the profit you earn on the sale of securities. Securities Transaction Tax (STT) was introduced with the aim of curbing tax evasion on capital gains as the STT is taxed at source.

1.1.6.2 Indirect Taxes

These are taxes where the burden of tax can be shifted to others. In other words, the first burden (incidence) falls on one person while the final burden (impact) of tax falls on another person. Tax is imposed on one person and it is partly or wholly paid by another.

1.1.6.2.1 Features of Indirect Taxes

i. Tax on goods and services

Indirect tax is levied at the time of supply, manufacture, sale, purchase, import, or export of goods and services.

ii. Incidence and Impact

In the case of Indirect taxes, although the incidence of tax (first burden) falls on one person, the impact (final burden) falls on another person. Indirect Taxes are first paid by the persons on

whom these are levied. However, they shift the tax burden again and again until they reach the final consumers. Consumers are infact the true tax bearers.

iii. Regressive in Nature

Indirect tax does not differentiate between rich and poor. All persons whether rich or poor will have to bear the burden of tax on the goods or services consumed by them regardless of their tax paying ability. So, in the case of goods and services of mass consumption, the poor people are also required to pay equal percentage of tax just like the rich. This will likely result in widen disparities between rich and poor.

iv. Wider Tax Base

The tax base of indirect tax is much wider as compared to direct tax as majority of the goods and services are liable to indirect tax with very low threshold limits.

v. Inflationary in nature

Indirect taxes causes inflation as the cost of goods and services increases due to levy of indirect tax.

vi. No Direct Pinch

The seller is the person on which indirect tax is levied. However, he does not perceive it as a direct pinch of tax as he recovers the same from the buyer and pays it to the Government. Since, the price of goods or services sold already are inclusive of the taxes, the customer who is the ultimate tax bearer does not feel a direct pinch while paying the tax. Hence, the resistance to the payment of indirect taxes is comparatively less as compared to the Direct Taxes.

1.1.6.2 Advantages of Indirect Taxes

i. High revenue production

As Indirect taxes cover a large number of essential goods and luxurious goods which are consumed by the mass both rich and poor people, they have a huge scope for generation of revenue.

ii. No chance of tax evasion or tax avoidance

As the indirect taxes are included in the price of the goods and services, there is no chance of tax evasion or avoidance.

iii. Convenient

As the Indirect taxes are hidden in the price of goods and services, the tax payers do not directly feel the burden of these taxes.

iv. Economy

Indirect taxes are economical in collection and the administrative costs of collection are very low. In addition to this, the procedure of collection of these taxes is very simple.

v. Wide coverage

Indirect taxes cover a wide range of commodities like essential commodities and also the luxuries.

vi. Elasticity

Since a large number of commodities and services are covered by indirect taxation there is great scope for modifying of taxes, goods and tax rate, much depends on nature of goods and on their demands.

1.1.6.3 Disadvantages of Indirect Taxes

i. Inequitability

They are considered unfair and inequitable as they have a regressive impact. These taxes are imposed on goods and services. So, regardless of the income level, every consumer pays the same tax amount for a particular product or service, regardless of how much they earn these taxes are imposed at a uniform rate on commonly used goods and services, meaning. As a result, people with lower incomes end up bearing a heavier financial burden, since a larger share of their limited earnings goes towards paying these taxes compared to wealthier individuals.

ii. Less Productive

As these taxes involve many stages, the cost of collection is usually high in relation to the revenue that is earned from them.

iii. Inflationary Potentiality

Indirect taxes are inflationary in nature . In India, excessive indirect taxation on commodities of mass consumption can be considered as a contributing factor to the inflationary tend in the country.

iv. Disincentive Effect on Savings

Indirect taxes discourage savings when people have to spend more with a rise in the prices of commodities.

v. No Educative Value

Indirect taxes are not directly visible. As they are collected through middlemen like traders, hence, they do not promote any civic sense.



1.1.6.4 Types of Indirect Taxes

i. Goods and Services Tax (GST)

Since the implementation of the 101st Constitutional Amendment Act, 2016, the Goods and Services Tax (GST) has replaced nearly all pre-existing indirect taxes in India, marking a major tax reform. GST was introduced on 1st July, 2017. It is a comprehensive, destination –based, consumption tax which is levied on the supply of the goods and services in India. The taxable event in GST is the supply of goods and services. It has subsumed most of the earlier indirect taxes like excise duty, service tax, VAT, and others. The dual GST model, consisting of CGST and SGST/UTGST, suits India’s federal structure and is implemented across all States and Union Territories. GST introduced the concept of “one nation, one tax, one market”, unifying the country under a single indirect tax system.

Indirect Taxes (before GST Implementation)

The various taxes which existed before the implementation of GST are mentioned below

i. Value Added Tax (VAT)

- ◆ Levied when the goods were sold within the same state

It was a tax levied when the goods were sold within the same state (intra –state sales). It was called as Value Added Tax as tax was levied on the amount of value addition. The tax paid on purchases were allowed to be set –off against the tax payable on the sales so the tax was in practice levied on the amount of value addition.

ii. Sales Tax

- ◆ Levied when goods are sold by the seller within India

It is a tax which levied when goods are sold by the seller within India. It was levied under the legislation of the Central Government (Central Sales Tax) and the State Government (Sales Tax). Sales may be Inter –State Sales or Intra –State Sales. Intra –state sales refer to the sales that takes place within the same state while Inter –state sales refer to the sales that takes place between two states. Central Sales Tax is imposed on Inter –State Sales and Sales Tax was imposed on Intra- state sales. However, most states in India has supplemented it with Value Added Tax since 2006.

iii. Custom Duty

- ◆ Levied whenever goods were exported from India or imported into India

These were levied whenever goods were exported from India or imported into India. Thus, there were two types of Customs Duty namely Export Duty and Import Duty. Import Duty is lev-

ied when the goods are imported into India. Export Duty is levied when goods are exported to a place outside India. Customs duties were levied at the rates prescribed under the Customs Tariff Act, 1975 as amended from time to time or any other law for the time being in force.

iv. Excise Duty

It was a duty imposed by the government which was levied whenever some goods were produced or manufactured in India. It was levied by the Central Government under the Central Excise Act, 1944 and the Central Excise Tariff Act, 1985. It was charged on the excisable goods that were manufactured in India and were meant for domestic consumption within the country. Manufacturer or the producer had the liability to pay the excise duty. Eventually he shifts his tax burden by collecting it from the buyers of the goods.

◆ Imposed by the government which was levied whenever some goods were produced or manufactured in India

◆ Levied on the aggregate amount charged for the services provided or rendered by the service provider to the services receiver

v. Service Tax

It was a tax which was levied on the aggregate amount charged for the services provided or rendered by the service provider to the services receiver.

1.1.7 Difference between Direct and Indirect Taxes

Table 1.1.1 Difference between Direct and Indirect Taxes

Basis of Difference	Direct Taxes	Indirect Taxes
1. Meaning	It is a tax in which the incidence and impact of tax falls on the same person	It is a tax in which the incidence falls on one person and the impact falls on another person
2. Taxable Event	Income and Wealth of persons (Income based Taxes)	Supply of Goods and services (Supply based Taxes)
3. Examples	Income Tax, Wealth Tax, Corporate Tax, Securities Transaction Tax, Gift Tax, Capital Gains Tax	Goods and Services Tax, Sales Tax, VAT, excise duty, customs duty, service tax.

4. Tax Payer and Tax Bearer	Her, Tax payer and Tax Bearer are the same person.	Tax payer here is the person on whom the incidence of tax fell. While tax bearer is the one who ultimately bears the tax burden
5. Shifting of Tax Burden	Final Burden falls on the same person. Tax Burden cannot be shifted	Final Burden can be shifted to another person
6. Payment of Taxes	They are paid directly by the tax payer from his income/wealth	They are indirectly paid by the tax payer i.e while buying goods and services, payingfor services etc.
7. Nature	It is progressive in nature. It means that the tax burden increases with the increase in income. So, an individual with a higher income will have to pay a disproportionate share of the tax burden. On the other hand, an individual with a lower income will relatively have a small tax burden.	It is regressive in nature. It means that all persons (including those who are economically disadvantaged) will have to bear equalburden of tax on goods or service consumed bythem irrespective of their ability.
8. Tax Evasion	It is possible	It is not possible as the taxes are included in the price of the goods and services.

1.1.8 Evolution of Indirect Taxation in India

1. Indirect Taxation during Ancient and Medieval India

The history of indirect taxation can be traced back to ancient times. During ancient times, taxes were levied in kind i.e., in the form of goods and services. Levies such as tolls, customs duties, and transit taxes were common during the Mauryan Empire and

◆ Taxes in the form of tolls, customs duties, transit taxes

also under the Mughal rule. However, these taxes did not have a formal structure and they were functioning to finance administration, defence, and royal expenditures. However, the concept of taxing goods during trade and transportation laid the foundation for indirect taxes in India.

2. Indirect Taxes during British Rule

Indirect taxes acquired a more formal and systematic structure under British rule. Several indirect taxes were introduced under their rule, such as excise duties, customs duties and sales taxes. These taxes were used to fund their administration and war expenses. Excise duties were imposed on items like salt and opium, Customs duties were levied on imports and exports, and sales tax was also imposed at later stages. However, tax system under British rule was heavily exploitative and regressive. Revenue generation was given more focus rather than the welfare of the Indian economy.

- ◆ Many indirect taxes were introduced such as excise duty, customs duty

3. Post-Independence Period (1947–1970s)

Even after attaining independence in 1947, India retained much of the colonial tax framework. Indirect taxes became a major source of government revenue. Some of the indirect taxes levied during this period were Central Excise Duty, Sales Tax (levied by states), and Customs Duty But, the problem was that these taxes were not harmonised. This often leads to the overlapping of taxation, complexity in administration and cascading of taxes. This led the government to introduce reforms in order to make taxation more efficient and equitable.

- ◆ Indirect taxes levied during post independence period are central excise duty, sales tax, customs duty

4. Introduction of Modified Value Added Tax (MODVAT) in 1986

In 1986, as a part of modernising its indirect tax system, India introduced Modified Value Added Tax or MODVAT. The peculiarity of this tax was that it allowed manufacturers to claim credit on excise duty paid on inputs, which helped in reducing the cascading effect of taxes. MODVAT laid the groundwork for the input tax credit mechanism. It also marked the beginning of value-added tax reforms in India's indirect tax system.

- ◆ Manufacturers could claim credit of excise duty paid on inputs used to make the final product

5. Introduction of Service Tax

Another major milestone in the history of indirect taxes was the implementation of Service Tax in 1994. In the initial stages, it was levied on a limited number of services. However, by 2012, it had gradually expanded to include almost all services under the Negative List Regime. Under the Negative Tax Regime, all services were taxable unless specifically exempted. This helped

- ◆ The service sector was growing fast but not contributing tax revenue



to broaden the indirect tax base and showcased the growing importance of the service sector in the Indian economy. Despite this, several challenges were faced such as multiple tax authorities, overlapping laws, and separate compliances.

6. Implementation of VAT by States (2005)

In 2005, most Indian states replaced the existing sales tax with Value Added Tax (VAT). VAT was a more transparent and structured form of taxation. VAT allowed credit on tax paid at earlier stages of production and distribution. However, it was implemented only at the state level while the central taxes like excise duty and service tax remained separate. This created tax inefficiencies and a lack of uniformity across states. This also created hurdles for businesses operating in multiple states.

- ◆ State level VAT introduced

7. Growing Need for a Unified Tax System

A growing need for a unified tax system was felt by the late 2000s owing to various reasons like the inefficiencies of multiple indirect taxes (like excise, VAT, service tax, entry tax, luxury tax), increasing cases of tax evasion, and hindrances felt in the ease of doing business. So, businesses and policymakers advocated for a comprehensive solution. The aim was to integrate central and state taxes into a single framework.

- ◆ Integrate central and state taxes into a single tax

8. Introduction of Goods and Services Tax (GST) in 2017

Goods and Services Tax (GST) was introduced on 1st July 2017 through the 101st Constitutional Amendment Act after years of consultation and deliberation. GST subsumed multiple central and state taxes like excise duty, VAT, and service tax. The introduction of GST also helped to create a single, unified indirect tax system across the country. Under the GST framework, both the Centre and States levy tax concurrently. The introduction of GST has resulted in various improvements, such as the elimination of cascading of taxes, input tax credit across the supply chain and improved tax compliance through digitisation.

- ◆ One nation, one tax, one market

Summarised Overview

Taxes are mandatory payments to be made by every resident of the country. Taxes are imposed and collected by the Government in order to fund the public welfare expenditures, education, healthcare, pensions, poverty alleviation, defence and security, and infrastructure projects such as roads and dams of society. Direct tax refers to a tax levied directly on the income or wealth of a person by the government. Here, the impact and incidence of tax falls on the same person. Income Tax, Corporate Tax, and capital gains

tax are the common types of direct taxes in India. On the other hand, Indirect Taxes refer to a tax which is levied on the price of a good or service. In the case of indirect taxes, the person paying the tax passes on the incidence to another person. As of now, the main indirect tax levied in India is the Goods and Services Tax (GST). It has subsumed various indirect taxes such as VAT, Sales Tax, Excise Duty, and Service Tax.

Self-Assessment Question

1. Define tax.
2. Explain the different types of Taxation
3. Discuss the features of indirect taxes.
4. Differentiate between Direct Taxes and Indirect Taxes
5. Elucidate the features of Direct Taxes
6. Explain the merits and demerits of indirect Taxes.
7. Elaborate on the different types of Taxes in India.
8. What is Goods and Services Tax (GST)?

Assignments

1. Why is it important for a government to collect taxes? How do taxes help in national development?
2. What challenges do governments face in collecting taxes from people and businesses? How can these be reduced?
3. How has the evolution of indirect taxation in India helped consumers and businesses?
4. Why do governments levy both direct and indirect taxes? Can a country rely only on one type of tax? Give your opinion.
5. Examine the nature and scope of taxation in India. How does it support the goals of economic growth, redistribution, and fiscal discipline?



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Suggested Reading

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2. Datey, V. S. (2013). *Indirect taxes: Law and practice* (21st ed.). Taxmann Publications Pvt. Ltd.
3. Mehrotra, H. C., & Agarwal, V. P. (2017). *Indirect taxes* (18th rev. ed.). Sahitya Bhawan Publications.

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

SGOU

Unit 2

Introduction to GST

Learning Outcomes

After completing this unit, the learners will be able to:

- ◆ familiarise the meaning and features of Goods and Services Tax
- ◆ comprehend the need to implement GST
- ◆ explain the structure of GST
- ◆ gain insight into the benefits and challenges associated with GST implementation in India

Background

The Goods and Services Tax (GST) is a major reform in India's indirect tax system, introduced to simplify and unify the complex structure of taxation across the country. Evolving over several decades, GST was implemented to replace a wide range of indirect taxes such as excise duty, VAT, and service tax. This process is known as the subsuming of taxes. At its core, GST is a comprehensive, destination-based tax that applies to the supply of goods and services at every stage of value addition.

The implementation of GST has brought several benefits, including the elimination of the cascading effect of taxes, increased transparency, and the creation of a unified national market. However, despite its promising features and functions, implementation of GST also faced significant challenges during its introduction, such as technological readiness, transitional issues, and the need for coordination between the Union and state governments. Understanding the structure, features, and impact of GST is essential for grasping its importance in India's economic and fiscal landscape. This unit deals with the features, structure, benefits and challenges of implementing GST.

Keywords

Goods and Services Tax, Indirect Tax, Central Excise Duty, GST Council

Discussion

1.2.1 Concept of GST

Prior to the introduction of GST, the system of indirect taxation had a multiplicity of indirect taxes which were levied by both the Central and State Governments. However, this led to various complexities in the indirect tax structure. Such indirect taxation system had various deficiencies like requirement of multiple compliances, high administrative costs, problem of lack of uniformity in tax rates and structure across states, cascading effect of taxes due to 'tax-on-tax', and restrictions on seamless credit available (ie the credit of excise duty and service tax paid at the stage of manufacture was not made available to the traders while paying the State level Sales tax or VAT, and vice-versa). In addition to this, no credit of state taxes paid in one State could be availed in other States. The implementation of the Goods and Services Tax (GST) on 1st July, 2017 was one of the biggest reforms in the Indian Economy.

- ◆ An indirect tax which has replaced several existing indirect taxes

Goods and Services Tax is an indirect tax that has replaced several existing indirect taxes which existed in India, such as excise duty, VAT, and service tax. The Goods and Services Tax Act was passed by Parliament on 29th March 2017 and came into force on 1st July 2017. In simple terms, GST is imposed on the supply of goods and services. It is a comprehensive, multi-stage, and destination-based tax applied at every step of value addition. By merging most of the previous indirect taxes, GST has established a uniform indirect tax system across the country.

GST was initially implemented in France in 1954. Over the following 62 years, nearly 160 countries worldwide embraced the GST system. While most countries follow a single GST model, a few nations like Canada and Brazil have adopted the dual GST model. In line with this, India has also chosen a dual GST structure, where both the central and state governments levy the tax simultaneously.

A large number of taxes levied by the Centre and State governments were subsumed into a single tax with the introduction



of GST. This helped in mitigating the cascading effect of taxes. The introduction of GST also became instrumental in providing seamless credit and makes way for a common market.

1.2.1.1 Meaning of GST

◆ Indirect tax imposed on supply of goods and services. It is a multi-stage destination based tax

- ◆ GST refers to a tax imposed on the supply of goods, services, or both, except the tax on the supply of alcoholic liquor meant for human consumption.
- ◆ It is a destination-based consumption tax. This means that the tax will have to be paid in the state of final consumption of goods or services.
- ◆ It is a comprehensive tax as it covers both goods and services.
- ◆ It is levied at every stage of the supply chain, i.e, from production to the final consumption.
- ◆ It provides a comprehensive and continuous credit. In other words, at every stage, the supplier is allowed to claim credit for the GST paid by him on the purchase of goods and/or services, which can then be used to offset the GST liability on the goods or services they supply. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.
- ◆ It helps in eliminating the cascading effect of tax since it considers only the value added at each stage for taxation.
- ◆ The revenue from GST goes to the tax authority which has jurisdiction over the place where the goods or services are finally consumed (known as place of supply).
- ◆ It's introduction has subsumed multiple indirect taxes like excise duty, service tax, Value Added Tax, Central Sales Tax, Luxury tax and so on.

1.2.1.3 Features of GST

The introduction of Goods and Services Tax (GST) is a pivotal step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, it has mitigated cascading or double taxation in a major way and paved the way for a common national market. Introduction of GST has also made Indian products competitive in the domestic and international markets. Following are the features of GST

◆ Tax burden is borne by the final consumer

◆ Consumption Based Tax

GST is a consumption based tax as it will be payable in the state in which goods and services are finally consumed.

◆ Place where goods are ultimately consumed

◆ Destination based principle

When a transaction takes place between two states, there are two states involved. One is the origin state and the other is the destination state. The origin state is the state in which the movement of goods and services begins. Whereas, the destination state is the state in which the goods are finally consumed. GST is based on the destination based principle. It means that the destination state shall earn the tax revenue of GST.

◆ Supply of goods or services or both

◆ Taxable Event

Taxable event is that event the happening of which attracts the tax liability. The taxable event in GST is the supply of goods or services or both. However, it does not include the taxes alcoholic liquor for human consumption.

◆ Taxation is administered by central and state governments

◆ Dual GST

Under this model, both central and state governments will simultaneously will levy GST. GST structured into different components: CGST (Central GST), SGST (State GST), UTGST (Union Territory GST), and IGST (Integrated GST), each playing a specific role in revenue distribution between the Centre and the states. The GST to be levied by the Centre would be called Central GST (CGST) and that to be levied by the States (including Union territories with legislature) would be called State GST (SGST). Union territories without legislature would levy Union territory GST (UTGST).

◆ One state to another

◆ Inter-State supply

An Integrated GST (IGST) would be levied on Inter-State supply of goods or services.

◆ IGST

◆ GST on imports

Import of goods would be considered as Inter-State supplies. It should be subjected to IGST in addition to the applicable customs duties. Similarly, the import of services would be treated as Inter-State supplies and it would also be subjected to IGST.

◆ Items excluded from GST

◆ Items kept out of GST

GST applies to all goods and services except alcohol for human consumption. In the case of five specified petroleum prod-

ucts namely, Petroleum Crude, High Speed Diesel, Aviation Turbine Fuel, Motor Spirit and Natural gas, GST would be applicable from a date to be recommended by the GST Council.

◆ Exemption from paying GST

◆ **Threshold Exemption**

A uniform threshold exemption is applicable for both CGST and SGST. Businesses with an annual turnover of ₹40 lakh (or ₹20 lakh for special category States) are exempt from paying GST.

◆ **Exports are zero-rated**

Exports are not subject to GST as they are treated as zero-rated supplies.

◆ **Input Tax Credit (ITC)**

In GST system, the tax paid at each stage shall be available as input tax credit. It means that the taxes paid while purchasing the inputs shall be allowed as credit out of the taxes to be paid on the supply of output.

◆ **Self assessment**

System of self-assessment of the taxes payable by the registered person.

◆ **GST Common Portal**

It is an official online platform developed by the Goods and Services Tax Network (GSTN) to facilitate all GST-related services for taxpayers in India. It serves as a single-window system for various activities such as GST registration, return filing, tax payments, refund applications, and e-way bill generation.

◆ Enable tax payers to meet the GST compliance

The portal enables businesses to claim Input Tax Credit (ITC), track payments, and manage compliance efficiently. It also offers support for grievance redressal and provides important updates related to GST laws and procedures. By centralizing these functions, the GST Common Portal simplifies the compliance process and ensures transparency and ease of doing business.

1.2.1.3 Objectives/ Need of Implementing GST

i. To achieve the ideology of ‘One Nation, One Tax’

◆ All taxes are subsumed into one tax

Under the previous tax regime (before the implementation of the GST), there were multiple number of indirect taxes. There was no unified and centralised tax on both goods and services. Some of these taxes were levied by the Centre and some were levied by the state governments. After the implementation of

GST all these taxes were subsumed into one tax. Having a single tax enables every state to follow the same rate for a particular product or service. It becomes easier for the Central Government to decide the tax rates and policies. In addition to this, common laws relating to e-way bills for goods transport and e-invoicing for transaction reporting. This has eased the tax administration for the government.

ii. To eliminate the cascading effect of taxes

- ◆ Eliminate the situation of taxation over taxes

One of the demerits of the indirect taxes which were prevailing before the introduction of GST was the problem of cascading of taxes. The tax payers were not able to set off the tax credits of one tax paid against the other. This led to the problem of paying “tax on tax”. However, under the GST system, the taxes are levied only on the net value added at each stage of the supply chain. This has helped to eliminate the problem of cascading effect of taxes and has also contributed to the seamless flow of input tax credits across both goods and services.

iii. To curb tax evasion

- ◆ Avoiding tax evasion

The GST laws in India are much more stringent as compared to the previous indirect tax regulations. The taxpayers are allowed to avail input tax credit only if their suppliers have uploaded the corresponding invoices under the GST regime. This in turn has helped to reduce the possibility of claiming credits on fake bills. Further, the implementation of e-invoicing has helped to strengthen this mechanism. Furthermore, authorities can now detect and act against defaulters more swiftly and effectively as GST functions as a unified tax system across the country with a centralised monitoring framework. As a result, GST is expected to play a crucial role in reducing tax evasion to a large extent.

iv. To increase the taxpayer base

- ◆ Increase tax base in India

The implementation of GST has become instrumental in widening the tax base in India. Before the implementation of GST, each of the tax laws had a different threshold limit for registration and it was based on turnover. As GST is a consolidated tax levied on both goods and services, it has increased the number of tax-registered businesses. In addition to this, the stricter laws surrounding input tax credits have also helped in bringing certain unorganised sectors under the scope of GST.

v. Online procedures for ease of doing business

- ◆ Filing through online mode

Before the implementation of GST, taxpayers used to face a lot of hardships dealing with different tax authorities under each tax law. While return filing was done in online mode, most of the



assessment and refund procedures took place in the offline mode. However with the implementation of the GST, all the procedures from registration to return filing to refunds to e-way bill generation are carried out in online mode. This in turn has contributed to ease of doing business in India and has also aided in simplifying the compliance of taxpayers compliance to a great extent.

vi. Certainty in tax administration

- ◆ A common procedure for tax - administration

As there are common procedures for taxpayer registration, tax refunds, uniform return formats, a shared tax base, and a common system for classifying goods and service each with defined timeline, it helps to establish consistency and predictability in tax administration across the board.

vii. Easy tax compliance

- ◆ Simplified and automated procedures

GST is largely technology driven. The interface of the taxpayer with the tax authorities is carried out through a common portal (GSTN). There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All processes, like applying for registration, filing of returns, payment are done online.

1.2.3 Stages in the Evolution of Goods and Services Tax

The journey of the implementation Goods and Services Tax (GST) in India has been long and eventful. It involves several milestones and policy decisions which aimed at unifying the country's complex indirect tax structure.

- The concept of GST was strongly recommended by the **Vi-jay Kelkar Task Force in 2004**.
- Recognizing the importance of this tax reform, the **Union Government, for the first time, announced that GST would be applicable from 1st April,2010 in the Union Budget 2006-07**
- An amicable formula for implementation of GST in India was reached as a result of the several meetings held by the **Empowered Committee of State Finance Ministers**.
- In November, 2009, the first discussion paper was issued by the Government of India.
- Finance Minister in his speech announced that the GST will be rolled out by April 2011.
- On December 2014, Constitution (122nd Amendment) Bill was introduced in the parliament and it was passed by the Loksabha on 6th May, 2015.

- vii. Ministry of Finance released draft model law on GST in public domain for views and suggestions on June 14, 2016,
- viii. The Rajya Sabha passed the Constitution (122nd Amendment) Bill, 2014 on 3rd August, 2016 with certain amendments.
- ix. Finally, the Honourable President of India gave final assent for the Constitution (122nd Amendment) Bill, 2014 to become an Act on September 8, 2016. Thus, the Constitutional (101st Amendment) Act came into force and it empowers both the state and centre to levy the Goods and Services Tax.
- x. By 30th June, 2017, all States and Union Territories had passed their respective SGST and UTGST Acts except Jammu and Kashmir.

With effect from 1st July, 2017, the historic indirect tax reform GST was introduced. GST law was extended to Jammu and Kashmir on 8th July, 2017.

- xi. Four GST –related Bills became Acts in 2017 after the Honourable President of India gave assent to the bills. On 1st July, 2017, four GST legislations came into force and they are :

Central GST Act, Integrated GST Act, Union Territory GST Act and GST (Compensation to States) Act.

- xii. GST rules were introduced in 2017 on the basis of the recommendations of the GST Council and thereafter the GST rates were finalised.

1.2.4 GST Council

◆ A constitutional body responsible for making recommendations on issues related with GST in India

- ◆ The GST Council which was constituted on 15th September, 2016 as per the Article 279A of the Constitution (101st Amendment) Act, 2016.
- ◆ The main function of the GST Council is to make recommendations to the Union and the States on matters pertaining to GST. Such matters comprises of tax rates, threshold limits, exemptions, place of supply, special rates for raising additional resources during natural calamities/disasters, dispute resolutions and so on.
- ◆ The GST Council which will be a joint forum of the Centre and the States, shall consist of the following members:
 - i. The Union Finance Minister – Chairperson

- ii. The Union Minister of State, in-charge of Revenue or Finance –Member
 - iii. The Minister In-charge of finance or taxation or any other Minister nominated by each State Government - Members
- ◆ The quorum for the meetings of the GST council will be constituted by one-half of the total number of members of the GST Council. This meeting is where every decision of the GST Council is taken by a majority of not less than three-fourths of the weighted votes of the members present. However, the following principles are to be complied in the meeting:
 1. Out of the total votes casted in such meeting, the vote of the Central Government shall have a weight of (one-third of the total votes casted)
 2. Out of the total votes casted, the votes of all the State Governments taken together shall have a weight of two-thirds (of the total votes casted)
 - ◆ GST council shall make recommendations to the Union and the States relating to the following matters explained below:
 - a. taxes, cesses and surcharge that are to be levied by the Union and the States
 - b. goods and services that may be exempted from the levy of GST
 - c. the principles that govern the place of supply
 - d. the threshold limit of turnover below which the goods and services may be exempted from the goods and services tax
 - e. apportionment of GST levied in the course of inter-State supply
 - f. the rates including floor rates with bands of goods and services tax
 - g. any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster
 - h. special provisions with respect to the North Eastern States such as Arunachal Pradesh, Assam, , Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and states of Jammu and Kashmir Himachal Pradesh and Uttarakhand

◆ makes recommendations to the Union and the States on matters pertaining to GST

- i. to recommend the probable date on which the GST shall be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel
- j. to evaluate the need for a harmonized structure of GST and for the development of a harmonized national market for the goods and services
- k. functional procedures in the performance of GST system
 1. mechanism established to adjudicate any dispute
 2. between the Government of India and one or more States; or
 3. between the Government of India and any State or States on one side and one or more other States on the other Side
 4. any other matter relating to the GST as the council may decide.

1.2.5 Subsuming of Taxes

GST has subsumed many indirect taxes levied earlier which are given hereunder;

Table 1.2.1 List of Taxes subsumed by GST

Central Indirect Taxes	State Indirect Taxes
Central Excise Duty and Additional Excise Duty	Sales Tax/ VAT
Service Tax	Entertainment Tax
Excise duty levied under medicinal and toilet preparation Act, 1955	Luxury Tax
Counter Vailing Duty (CVD) and Special Counter Vailing Duty (CVD)	Purchase/Entry Tax
Central Sales Tax	Tax on lottery, betting and gambling
Central Surcharges and Central Cesses related to supply of goods	Advertisement Tax
	State Surcharge and Cesses related to Supply of goods and services

1.2.6 Structure of GST

- ◆ GST in India follows a dual model of tax structure

India has implemented dual GST regime. Both Central Government and State/ Union Territories concurrently (simultaneously) charge the goods and services tax.

In dual GST regime,

- ◆ Both the Centre and the States/UT's have the power to tax Intra - State Supplies (i.e, supply of goods and services within the same state/UT). Accordingly, all the Intra-State/UT transactions of goods and services would attract two types of levies namely Central Goods and Services Tax (CGST) and State Goods and Services Taxes (SGST) or Union Territory Goods and Services Taxes (UTGST).
- ◆ In the case of Inter- State supplies (i.e, supply of goods and services between two or more states/ UTs), the power to levy the tax lies with the Central Government. This levy is referred to as Integrated Goods and Services Taxes (IGST)

i. Central Goods and Services Tax (CGST)

- ◆ Levied on the Intra state/UT supply of goods and services or both

CGST has subsumed the earlier indirect taxes such as Central Excise Duty, Service Tax and other additional taxes. CGST is levied and collected by the Central Government. It is levied on the Intra state/UT supply of goods and services or both (Intra state/UT supply refers to supply of goods and services within the same state/UT). The Constitution (101st Amendment) Act, 2016 contains suitable provisions that empowers Centre to tax sales. CGST would be administered by the Central Government under the Central Goods and Services Act, 2017 and rules made thereunder.

Features of CGST

1. It was implemented after subsuming Central indirect taxes such as Excise Duty, Service Tax and other additional taxes.
2. The Taxable Event in CGST is the Intra state/UT supply of goods and services.
3. It will be administered by the Central Government. CGST will be levied and collected by the Central Government.
4. In the Tax Invoice, the amount of CGST charged shall be shown separately. The same shall be deposited into account of the Central Government as per rules.
5. Half of the total GST chargeable will be the CGST component. For example, if GST rate 12%, the rate of CGST shall be 6%.

6. For administration, the CGST Act, 2017 and CGST Rules, 2017 have been notified having whole of the India, jurisdiction.

Example: Assuming 28% GST on A. C. and Fridge manufacturer will issue Tax Invoice after charging 14% CGST and 14% SGST, for which input tax credit shall be available to the dealers under the distribution chain till the product reaches to the final consumer.

ii. State Goods and Services Tax (SGST)

State GST has subsumed the previous indirect taxes such as State VAT, Entry tax, Octroi, Luxury tax, Entertainment tax, etc. It is levied by the respective State Governments. It is levied on the Intra State supply of goods and services (Intra-State/UT supply refers to supply of goods and services within the same state/UT). SGST is levied under respective SGST Acts of different states. To enable taxing of services by the State, the Constitution (101st Amendment) Act, 2016 contains suitable provisions. SGST is to be administered by the State Governments as per the State Goods and Services Act, 2017.

- ◆ Levied on the Intra State supply of goods and services

Features of SGST

1. SGST has been implemented after subsuming State VAT, Entry Tax and other taxes and cesses which until then were levied by the State Governments.
2. States were charging various taxes and cesses arbitrarily at different rates before SGST. Now all the states in the country charge SGST at a uniform rate as prescribed.
3. Out of the total GST charged, half of the GST charged, is the component of SGST. If chargeable GST is 18%, 12% and 5%, SGST component shall be 9%, 6% and 2.5% respectively.
4. In the Tax Invoice, the SGST charged shall be shown separately by the supplier
5. The state where the supplier and recipient both are located shall utilise the amount collected under SGST.
6. Every State has enacted its own SGST Act, based upon Model GST laws.

Example: A trader of Jaipur supplies goods valued 2 lakh to a trader of Bikaner charging 6% CGST and 6% SGST under Tax-Invoice. The amount charged against SGST shall be deposited to the account of Rajasthan Government.



iii. Union Territory Goods and Services Tax (UTGST)

◆ Charged by the Central Government on the supply of goods and services within a Union Territory

UTGST is the GST applicable on the goods and services supply that takes place in any of the six Union Territories of India, (1) Andaman and Nicobar Islands, (2) Dadra and Nagar Haveli and Daman and Diu, (3) Chandigarh, (4) Lakshadweep, (5) Ladakh, (6) Jammu & Kashmir. The UTGST is imposed along with the Central GST (CGST) and is charged by the Central Government on the supply of goods and services within a Union Territory (intra-UT supply). Intra-UT supply refers to transactions that occur within the same Union Territory. So when the SGST cannot fulfil the needed provision there and for the same UTGST Act, 2017 has been enacted. The reason why a separate GST was implemented for the Union Territories is that the common State GST (SGST) cannot be applied in an Union Territories without legislature. Delhi and Puducherry, already have their own legislatures, so SGST is applicable to them. For any transaction of goods/service within a Union Territory-CGST + UTGST is levied.

Features

- i. It is levied by the Central Government.
- ii. It is levied on Intra UT transactions ie. transactions that take place within the same UT.
- iii. Taxable Event in UTGST is an intra-UT supply of goods or services or both.
- iv. The VAT that was applicable earlier got subsumed in UTGST.
- v. It is levied under the UTGST Act, 2017 and is applicable on all UT's except Delhi and Puducherry, which have their own legislatures like state GST for all states.
- vi. Income from UTGST is levied & collected by the UT's without state legislatures.

iv. Integrated Goods and Services Tax (IGST)

◆ Levied on all supplies of goods and services in the course of Inter-State trade or commerce

IGST comprises CGST and SGST. (i.e, IGST is equal to CGST + SGST). It is levied on all supplies of goods and services in the course of Inter-State trade or commerce. It is applicable on import of goods or services from outside countries as well. It will be levied and collected by the Centre on all inter-state supply of goods and services. The proceeds of IGST will be apportioned among the states on the basis of the recommendations of the GST Council. A separate 'Integrated Goods and Services Tax (IGST) Act', 2017 has also been enacted to determine the position of such supply and levy GST on Inter-State supply. In-

ter-State supplier shall pay IGST on value addition after adjusting available credit of IGST, CGST and SGST on his inward supplies. The exporting State shall transfer to the Centre the credit of SGST used in payment of IGST. The importing dealer shall claim a credit of IGST while discharging his output tax liability in his own State. The Centre shall transfer to the importing State the credit of IGST used in payment of SGST.

Features

- i. IGST is sum total of CGST and SGST.
- ii. It is levied by the Central Government.
- iii. It is levied on Inter State or Inter UT transactions (ie transactions that take place between two or more states or UT's).
- iv. Taxable Event in IGST is Inter inter-state/UT supply of goods or services or both.
- v. It is levied under the IGST Act, 2017.
- vi. Income from IGST shall be apportioned between the centre and states on the recommendations of the GST council

1.2.7 Benefits of Implementing GST

GST can be considered as a win-win situation for the entire country as it helps in bringing benefits to all the stakeholders of industry, Government and the consumers. It has also helped in lowering the cost of goods and services and has given a boost to the economy and made the products and services globally competitive.

The significant benefits of GST are discussed hereunder:

i. Eliminates the cascading effect of tax

Cascading effect refers to the situation of levying 'tax on tax' until it is sold to the final consumer. As compared to the indirect taxes where the cascading of tax was a big issue, GST helps to eliminate the problem of cascading of tax. It is because GST would be levied only to the net value added on the product, not to the whole value of the product.

◆ Avoiding the situation of tax on tax

ii. Unified national market

The aim of GST is to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.

◆ Common market with common tax rates



iii. Boost to 'Make in India' Initiative

◆ Make in India initiative

GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India. To maintain fairness in taxation, imported goods are subjected to Integrated GST, which is similar in rate to the combined CGST and SGST applied to local goods and services.

iv. Boosts Investments and Employment in the country

◆ Attracting more investments

The subsuming of the main Central and State indirect taxes which existed before being integrated into GST, and the provision of the full and seamless input tax credit on goods and services, and the gradual elimination of Central Sales Tax (CST), will help in lowering the production cost of locally manufactured goods and services. This will in turn, help in making the Indian products and services to become more competitive in global markets. This will eventually help in attracting more investments and will promote export growth. As exports increase, it will help in generating more employment opportunities.

v. Ease of doing business

◆ Doing business easier

GST system helps to create a simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes. This will aid in simplifying and bringing uniformity in tax structure. Doing Business becomes easier as there is uniformity in laws, procedures and tax rates across the country. Uniform definitions, standardised forms/formats, and a common interface via the GST portal will eventually contribute to overall efficiencies and better coordination.

vi. Increase in Government Revenue

◆ Boost government income

GST helps to boost the revenue of both the central and state governments. Since tax evasion is difficult under GST, all businesses are required to pay their taxes to the government. Additionally, fraudulent claims are minimised since the system mandates invoice matching between buyers and suppliers. By broadening the tax base and promoting improved compliance among taxpayers, GST contributes to a steady increase in government revenue.

vii. Exports from India on Zero-Tax

◆ Promotes export trade in India

Under GST, exports from India are treated as zero-rated supplies, allowing for effective input tax credit refunds. This enhances the competitiveness of Indian goods in international markets and promotes export growth.

viii. Certainty in Tax Administration

- ◆ Constant tax administration

The adoption of uniform processes for registration, tax refunds, return filing formats, a common tax base, and standardized classification of goods and services, along with strict timelines, ensures a predictable and consistent tax administration across the country.

ix. Easy Tax Compliance

- ◆ Simple tax fulfillment

GST relies heavily on technology. The interactions between taxpayers and tax authorities are conducted through a unified portal i.e, GSTN. Processes such as registration, return filing, tax payments, and refund claims are simplified and fully automated. Since all these activities are carried out online via GSTN, direct human interaction has been minimised. This results in faster decision-making and improved efficiency.

- ◆ Reduce dishonest practice

x. **Eradicate corruption:** Under GST all interactions are done through common GSTN portal. It will ensure least manual interface between the taxpayer and the tax administration. It will definitely affect the corruption.

1.2.8 Challenges Confronted in the Introduction of GST in India

1. Complexity in Structure

- ◆ Different tax rates

One of the primary challenges in GST implementation in India is the complexity of its structure. GST has multiple tax rates ranging from 0% to 28%, along with special rates for certain goods and services. This makes the tax system more complicated for businesses to comprehend and comply with.

2. Frequent Changes in Rules and Rates

- ◆ Regular changes in GST law

Since its inception in 2017, GST in India has witnessed numerous changes in tax rates, exemptions, and procedural requirements. These frequent amendments caused confusion among taxpayers and professionals alike.

3. Compliance Burden

- ◆ Multiple tax compliance requirements

The compliance process under GST is extensive. It mandates businesses to file multiple returns monthly, quarterly, and annually. However, small and medium-sized enterprises (SMEs) often lack the resources or expertise to manage these compliance requirements. Additionally, the implementation of the e-invoicing system and reconciliation of input tax credits (ITC) has further increased the burden on businesses.

4. Technical Challenges

- ◆ Various technical problems in GST system

The GST Network (GSTN), which is considered as the digital backbone for GST implementation, has faced several technical issues since its launch. Problems such as slow servers, system crashes, and glitches in return filing have caused frustration among the taxpayers. These technical difficulties have delayed return filings and caused disruptions in the functioning of businesses.

5. Lack of Awareness and Training

- ◆ Unawareness of GST law

Many businesses, especially in rural areas, face difficulties in tax compliance due to lack of awareness about GST rules and procedures. The limited training provided to stakeholders has resulted in errors in compliance and return filing. For small businesses, understanding and adopting the GST system has been a tough task.

6. Issues with Input Tax Credit (ITC)

- ◆ Ineligible claim on ITC

There has been a lot of complications regarding the claiming of input tax credit which is a key feature of GST. Most often the businesses face difficulties in reconciling invoices. This in turn results in denials of ITC claims. In addition to this, the stringent measures to curb tax evasion, such as matching supplier and recipient returns, has added another layer of complexity.

7. Impact on Small Businesses

- ◆ Implementation of GST negatively affect small business

The small businesses and unorganised sectors have faced various challenges while implementing GST. The implementation of GST has led to increased operational costs for small businesses as a result of compliance requirements and technicalities. As a result, many small traders and businesses have struggled in transitioning from informal to formal systems due to the lack of resources and expertise.

8. Revenue Concerns for States

- ◆ Lag in compensation payments

The autonomy to levy taxes on goods and services has been ceded by states under the GST system. Even though the central government compensates states for the losses in revenue, the state finances have been affected by the delays in compensation payments.

9. Coordination between Central and State Governments

- ◆ Lack of coordination between central and state

The success of GST implementation in India depends on the effective coordination between the Union and the state governments. However, political disputes and differences in priorities

often result in delays in decision-making and policy execution. These issues hinder the efficient operation of the GST system.

10. Challenges in Specific Sectors

- ◆ Negatively affect selected sectors

Presently, petroleum, alcohol and certain other sectors have been kept outside the purview of GST. This has created complications in tax compliance and revenue collection and has also limited the potential benefits of a unified tax system.

1.2.9 Constitutional Background

The constitutional foundation for GST was laid through the 101st Constitutional Amendment Act, 2016. This amendment introduced several new provisions and has also altered existing ones to accommodate the new GST regime. The constitutional background of GST is discussed below:

◆ Article 246 A

This Article grants authority to both the Central and State Governments to legislate on matters related to GST levied by the Centre or respective States. The Central Government holds exclusive power to make laws concerning GST on inter-State supply of goods and/or services. However, for certain specified goods such as petroleum crude, motor spirit, high-speed diesel, aviation turbine fuel, natural gas, these provisions will become applicable only from the date recommended by the GST Council.

◆ Article 269A

This article provides for the levy and collection of GST on supplies in the case of inter-state trade or commerce, including imports. The revenue generated from such GST has to be shared between the Centre and the States. This is based on the recommendation by the GST Council.

◆ Article 270

This article has been amended to allow for the sharing of Goods and Services Tax (GST) revenue between the Central and State governments. This distribution is carried out based on an order issued by the President, who considers the recommendations made by the Finance Commission.

◆ Article 279A

To ensure uniformity and cooperation in decision-making, the amendment also introduced Article 279A, which established the GST Council. It is a constitutional body responsible for making

key decisions regarding tax rates, exemptions, thresholds, and dispute resolution. GST Council comprises of the Union Finance Minister, Union Minister of State for Finance, and the Finance Ministers of all States.

◆ **Article 286**

In order to restrict the power of States from taxing the supply of goods or services during inter-state trade or commerce, this article was amended. This was necessary to prevent double taxation and maintain consistency in the tax structure. The Seventh Schedule of the Constitution, which distributes legislative powers between the Union and the States, was also amended.

◆ **Article 366**

This was an existing article. However, it was amended to include the following definitions:

- i. Goods and Services Tax means any tax on the supply of goods, or services or both, except taxes on the supply of alcoholic liquor for human consumption.
- ii. Services refer to anything other than goods.
- iii. State includes Union Territory with a legislature.

1.2.10 Amendment to Constitution

Constitution (101st Amendment) Act, 2016 was enacted on 8.09.2016 for the following significant amendments.

- a. Both Parliament and State legislatures simultaneously will have the power to make laws for imposing taxes on goods and services.
- b. The levy of GST will apply on the supply of goods and services except alcoholic liquor for human consumption.
- c. The Integrated Goods and Services Tax (IGST) on inter-State transactions of goods and services shall be imposed and collected by the Central Government. The collected revenue will be apportioned between the Centre and the States as per the provisions laid down by law enacted by Parliament and based on the recommendations of the GST Council.
- d. The principles for identifying the place of supply and determining when a supply qualifies as an inter-State trade or commerce transaction are to be established through legislation enacted by the Parliament.

- e. GST will not be applicable on petroleum crude, high speed diesel (HSD), motor spirit (petrol), natural gas, and aviation turbine fuel (ATF) until a date is notified based on the recommendations of the GST Council.
- f. The Union Government will continue to have the authority to levy excise duties on the above-mentioned products in addition to tobacco and tobacco products that are manufactured or produced within India.
- g. Article 279A of the Constitution of India empowers the president of India to constitute the Goods and Service tax Council (GST Council) under the chairmanship of the Union Finance Minister to recommend about (Article 279A) GST rate, Valuation and other fundamental rules, Exemption, Future changes, Return and Registration.

Summarised Overview

The implementation of Goods and Services Tax (GST) marks a major milestone in India's indirect tax reforms. Goods and Services Tax is an indirect tax which came into force on July 1st, 2017. It has replaced several existing indirect taxes which existed in India, such as excise duty, VAT, and service tax. GST is a comprehensive, multi-stage, and destination-based tax. The taxable event in GST is the supply of goods or services or both. The GST Council, which was constituted on 15th September 2016 as per Article 279A of the Constitution (101st Amendment) Act, 2016 makes recommendations to the Union and the States on matters pertaining to GST. Such matters comprise of tax rates, threshold limits, exemptions, place of supply, special rates for raising additional resources during natural calamities/disasters, dispute resolutions and so on. India has implemented a dual GST regime. Both the Central Government and State/ Union Territories concurrently (simultaneously) charge the goods and services tax. In dual GST regime, Both the Centre and the States/UTs have the power to tax Intra - State Supplies (i.e, supply of goods and services within the same state/UT). Accordingly, all the Intra-State/UT transactions of goods and services would attract two types of levies namely Central Goods and Services Tax (CGST) and State Goods and Services Taxes (SGST) or Union Territory Goods and Services Taxes (UTGST). In the case of Inter-State supplies (i.e, supply of goods and services between two or more states/ UTs), the power to levy the tax lies with the Central Government. This levy is referred to as Integrated Goods and Services Taxes (IGST). The implementation of GST has several benefits. It removed the cascading effect of taxes (tax-on-tax), increased tax compliance, created a common national market, and improved the ease of doing business. GST also made indirect taxation more transparent and digitalized, with processes like registration, filing returns, and payments being handled online. Despite these advantages, the introduction of GST faced many challenges. These included the need for major constitutional changes, the coordination required between Centre and States, training



of tax officials and businesses, and adjustments in technology systems. Small businesses initially found it hard to comply due to frequent changes and complex return filing systems. However, the introduction of GST has enhanced the competitiveness of Indian goods in both domestic and global markets.

Self-Assessment Question

1. What is GST? Discuss its features.
2. Explain the need of implementing GST.
3. Discuss the challenges confronted in the implementation of GST in India
4. Discuss the advantages of implementing GST in India.
5. Elucidate the structure of GST
6. Elaborate the constitutional provisions related to GST in India.

Assignments

1. Explain how GST has simplified the tax system in India. What were the main problems it solved?
2. Evaluate the impact of GST on the Indian economy in terms of tax compliance, ease of doing business, and revenue generation.
3. What are the main advantages of having a single tax like GST instead of many separate taxes?
4. Assess the challenges faced by small businesses and MSMEs in adapting to the GST regime. What measures have been taken to ease their compliance burden?
5. How has the introduction of GST affected the informal sector and the unorganized economy in India?

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1. Mehrotra, H. C., & Agarwal, V. P. (2023). *Goods and Services Tax and Customs Duty*. Sahitya Bhawan Publications.

Suggested Reading

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Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

SGOU

02 BLOCK

Levy and Collection of GST

Block Content

- Unit - 1 Registration
- Unit - 2 Time, place and value of supply
- Unit - 3 Assessment of GST



Unit 1

Registration

Learning Outcomes

After studying this unit, the learner will be able to:

- ◆ explain the need and importance of GST registration for taxpayers
- ◆ describe the step-by-step procedure involved in GST registration and related forms
- ◆ analyse the circumstances and legal process of cancellation of GST registration
- ◆ evaluate the role and impact of Information Technology in efficient GST implementation and compliance

Background

Goods and Services Tax (GST) is a unified indirect tax structure implemented in India to restructure the taxation system across the country. It applies to the supply of goods and services and has substituted multiple indirect taxes such as VAT, service tax, excise duty, etc. One of the important aspects of GST compliance is registration, which is compulsory for businesses crossing the prescribed turnover threshold or involved in inter-state supply and e-commerce. A registered person obtains a GSTIN and becomes legally recognised under the tax system.

The registration procedure is fully digital, enabling businesses to apply online through the GST portal. It involves submitting basic business information, uploading documents, and receiving verification by the authorities. If the department does not act within the stipulated time, the registration is deemed approved, providing legal certainty to applicants. Due to non-compliance, registration may need to be cancelled, either voluntarily or by the tax officer. Even after cancellation, taxpayers may be liable for dues prior to cancellation and must file a final return. Importantly, the entire GST system is driven by Information Technology, through a digital backbone provided by the Goods and Services Tax Network (GSTN). From registration to return filing and compliance tracking, IT plays a crucial role in ensuring transparency, speed, and accountability in the Indian tax administration.

Keywords

GSTIN, Deemed Registration , GSTR-10

Discussion

2.1.1 Need for GST Registration

Under the GST regime, registration is a legal necessity for businesses involved in the supply of goods or services. GST registration provides a unique identification number called GSTIN that is used for tax compliance and reporting. There are several compelling reasons why GST registration is essential for businesses in India.

2.1.1.1 Legal Requirement

- ◆ Mandatory registration

GST registration is mandatory for businesses whose aggregate annual turnover exceeds the prescribed threshold limits. Non-compliance, such as failing to register when required, can lead to penalties and even prosecution under the law.

In addition to turnover-based registration, certain categories of businesses must obtain GST registration regardless of their turnover. These include:

- ◆ Inter-state suppliers
- ◆ E-commerce operators
- ◆ Non-resident taxable persons
- ◆ Agents of registered suppliers

Current Threshold Limits:

- ◆ **Goods:** ₹40 lakh (₹20 lakh in special category states)
- ◆ **Services:** ₹20 lakh (₹10 lakh in special category states)

These threshold limits are designed to strike a balance on one hand, providing relief to small and medium enterprises (MS-MEs) by reducing compliance burdens, and on the other, ensuring adequate tax revenue collection for the government.

- ◆ GST registration to file returns

2.1.1.2 Collection and Payment of Tax

Registered person under GST is officially permitted to collect GST from customers. Without registration, a business cannot



charge tax on sales. GST registration is necessary to file GST returns and deposit the collected tax with the government. This helps in maintaining transparency and ensures compliance with tax laws.

2.1.1.3 Claiming Input Tax Credit (ITC)

◆ Cut tax liability

Key advantages of GST registration are the ability to claim input tax credit. ITC allows businesses to cut their tax liability by claiming credit for the GST paid on purchases and inputs. Without registration, an enterprise cannot avail this benefit, resulting in higher costs and reduced profitability.

2.1.1.4 Expansion and Credibility of Business

◆ Recognised identity

GST registration gives an enterprise a formal and legally recognised identity. It enhances the credibility of the business in the eyes of customers, suppliers, and financial institutions. Large organisations and government agencies require vendors to be GST-registered. GST registration allows businesses to participate in tenders, apply for loans, and build trust with clients.

2.1.1.5 Inter-State Trade and E-Commerce

◆ Operation in multiple states

Any business involved in inter-state supply of goods or services must register for GST, regardless of turnover. Similarly, suppliers who sell goods or services through e-commerce platforms must obtain GST registration. Without registration, such businesses are not allowed to operate legally in multiple states.

2.1.1.6 Avoidance of Penalties

◆ Heavy penalty

Operating without GST registration can result in heavy penalties under the GST Act.

2.1.2 Procedure for registration

2.1.2.1 Application for registration

Persons who are required to obtain GST registration, excluding non-resident taxable persons, persons liable to deduct or collect tax at source, and those supplying online information and database access or retrieval services, must apply for registration within 30 days from the date they become liable for registration under the GST Act.

2.1.2.2 Verification and approval of the application

The proper officer will examine the application and the accompanying documents, and in case these are in order, grant the registration to the applicant within three working days from the date of submission of the application.

2.1.2.3 Issue of GST Registration certificate

The proper officer, after approval of the registration application, shall issue a certificate of registration in FORM GST REG-06 showing the principal place of business and additional place(s) of business.

2.1.2.4 Effective date of registration

If a person applies for GST registration within 30 days of becoming liable, the registration will be effective from the date they became liable. However, if the application is made after 30 days, the registration will be effective from the date it is actually granted.

2.1.2.5 Registration of persons required to deduct tax at source [TDS] or to collect tax at source [TCS]

Such a person has to apply for registration in FORM GST REG-07. The registration certificate would be as per FORM GST REG-06. When such a person no longer remains liable to deduct tax at source or collect tax at source, the proper officer may cancel the registration and communicate cancellation in FORM GST REG-08.

2.1.2.6 Registration to a non-resident taxable person

Application in FORM GST REG-09 has to be submitted at the common portal along with a self-attested copy of a valid passport at least five days prior to the commencement of business.

2.1.2.7 Suo motu registration

Under suo motu registration the tax registration process is initiated by the tax authorities themselves without a specific application or request from the tax payer.

The officers are empowered to suo moto grant temporary registration to a person if pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, it is found that such person is liable to registration under the Act but has failed to apply for such registration. An order in FORM GST REG-12 will be issued in this regard

2.1.2.8 Unique Identity Number for certain special entities

This provision applies to any specialized agency of the United Nations, any Multilateral Financial Institution or Organization notified under the United Nations (Privileges and Immunities) Act, 1947, as well as Consulates or Embassies of foreign countries, and any other person or class of persons as may be noti-

◆ UIN Registration



fied by the Commissioner. These entities are required to obtain a Unique Identity Number (UIN) to claim refunds on notified supplies of goods or services or both received by them. For this purpose, an application must be submitted in FORM GST REG-13

2.1.2.9 Amendment of registration

- ◆ Change in particulars

In case of any change in any of the particulars furnished initially in the application for registration the registered person is required to, within fifteen days of such change, submit an application, in FORM GST REG-14, along with documents relating to such change.

2.1.2.10 Cancellation of registration

- ◆ Cancellation procedures

The application for cancellation of registration must be submitted in FORM GST REG-16 through the Common Portal within thirty days from the date of the event that warrants cancellation. The application should include details of inputs held in stock, inputs contained in semi-finished or finished goods, and capital goods held on the date from which cancellation is sought. It must also specify the tax liability on such goods, details of any payment made against this liability, and be accompanied by supporting documents. However, in the case of a voluntarily registered person, cancellation is not permitted before the completion of one year from the date of registration. Upon receipt and verification of the application, the proper officer will issue an order of cancellation in FORM GST REG-19 within thirty days from the date of application.

2.1.2.11 Cancellation by authorities

- ◆ Violation of provisions

The registration granted to a person may be cancelled if the person either does not carry out any business from the declared place of business or issues invoices or bills without actually supplying goods or services, in violation of the provisions of the GST Act or the rules made under it. In such cases, if the proper officer has sufficient reason to believe that the registration is liable to be cancelled, he will issue a notice in FORM GST REG-17, requiring the person to explain within seven working days from the date of service of the notice why their registration should not be cancelled. The reply must be submitted in FORM GST REG-18 within the given time frame. After considering the reply, the officer shall issue an order in FORM GST REG-19 within thirty days from the date of receipt of the reply.

2.1.2.12 Revocation of cancellation of registration

A registered person, whose registration is cancelled by the proper officer on his own motion, can submit an application for

◆ Revocation by proper offices

revocation of cancellation of registration, in FORM GST REG-21, within thirty days from the date of service of the order of cancellation of registration. However, if the registration has been cancelled for the failure to furnish returns, such an application can be filed only after furnishing returns and paying any amount due as tax with interest, penalty and late fee. A proper officer, if satisfied, can revoke cancellation by issuing an order in FORM GST REG-22 within thirty days. If not, he will issue a notice in FORM GST REG-23, reply to which has to be furnished within 7 days in FORM GST REG-24.

◆ Streamlines compliance, enhances transparency, and fosters ease of business

GST digitisation has revolutionised the tax regime in India by streamlining compliance, enhancing transparency, and curbing tax evasion. Digital platforms like the Goods and Services Tax Network (GSTN) enable online registration, e-invoicing, return filing, and real-time transaction monitoring, making processes efficient and less prone to manual errors. The integration of advanced technologies—including data analytics and artificial intelligence—helps tax authorities track anomalies, identify fraudulent behaviour, and maintain a comprehensive database of taxpayers. These reforms empower both the government and businesses to adapt to an increasingly data-driven economy, fostering ease of doing business and strengthening overall tax compliance.

◆ Different challenges

However, GST digitisation has faced several challenges. Technical glitches in the GSTN portal, such as slow loading times, session timeouts, issues in return filing, and duplications in invoices, often disrupt the compliance process, leading to missed deadlines and penalties. Such problems are especially acute during peak filing periods, affecting taxpayers' efficiency and increasing their reliance on costly consultants. The digitised system also demands frequent software updates and adaptation to new return formats, which can be difficult for small businesses with limited technical capabilities.

◆ Fraudulent Invoicing

A major risk arising from digitisation is the misuse of fake GSTINs and fraudulent invoicing. Unscrupulous entities create fake identities or registrations to generate bogus invoices, thereby availing wrongful Input Tax Credit (ITC) and defrauding the government. This distorts market competition and results in significant revenue losses for the exchequer. Enforcement agencies have detected thousands of fake firms, leading to substantial recoveries and stringent penalties under the law. Such misuse underscores the need for continuous improvement in verification systems and robust control measures within the digital GST ecosystem. While digitisation under GST is crucial for efficient

tax administration and business growth, technical and security challenges remain prominent and require ongoing vigilance and technological refinement.

2.1.3 Deemed Registration

◆ Deemed registration in certain situations

Deemed registration under the Goods and Services Tax (GST) regime refers to a situation where an applicant is considered legally registered under GST even without explicit approval or communication from the tax authorities, provided certain conditions are met. This concept ensures that the registration process is not delayed indefinitely and promotes a timely, efficient system of taxpayer onboarding.

◆ Automatic GST approval

As per Section 25(10) of the Central Goods and Services Tax (CGST) Act, 2017, when a person applies for GST registration and the proper officer fails to take any action, such as issuing a registration certificate, seeking clarification, or rejecting the application within the prescribed time, the application is deemed to be approved. According to Rule 9 of the CGST Rules, if no action is taken by the officer within seven working days from the date of submission of the application or from the date of receiving additional clarification, the registration is deemed granted. As per the 2020 amendment to Rule 9, the proper officer is empowered to extend the verification period up to 30 days in cases where physical verification of the business premises is required.”

◆ Migration from existing laws to GST regime

The concept of deemed registration also applies in the context of migration of existing taxpayers from earlier laws like VAT, Service Tax, or Central Excise to the GST regime. If an existing taxpayer had submitted the required documents and no discrepancy was communicated within the prescribed period, their registration under GST was treated as deemed.

2.1.4 Cancellation of GST Registration

Cancellation of GST Registration – Detailed Explanation (As per Section 29 and Related Rules)

Under Section 29(1) of the Central Goods and Services Tax (CGST) Act, the registration granted under GST can be cancelled in the following cases:

1. Suo Moto by a Proper Officer
2. On a request made by the registered person voluntarily
3. On an application made by the legal heirs, in the case of the death of a registered individual

The first proviso to Rule 20 states that voluntarily registered persons may apply for cancellation only after the expiry of one year from the effective date of such registration.

2.1.4.1 Circumstances Leading to GST Registration Cancellation (Sec. 29(1))

GST registration may be cancelled under the following situations:

- i. Discontinuation or transfer of business, either fully or partially, through sale, merger, amalgamation, demerger, or disposal.
- ii. Change in the constitution of the business (e.g., conversion from proprietorship to partnership).
- iii. The person is no longer liable to be registered, such as when their turnover falls below the threshold limit.

2.1.4.2 Cancellation Initiated by the Proper Officer (Sec.29(2))

The Proper Officer may cancel a GST registration under the following conditions:

- i. If the registered person violates any provisions of the GST Act or Rules.
- ii. If a person registered under the composition scheme (Section 10) fails to file returns for three consecutive tax periods.
- iii. If a regular taxpayer fails to file GST returns for a continuous period of six months.
- iv. If a voluntarily registered person does not commence business within six months from the date of registration.
- v. If the registration was obtained by fraud, willful misstatement, or suppression of facts.

2.1.4.3 Consequences of Cancellation (Sec. 29(3), 29(4), 29(5))

- i. Cancellation does not absolve the taxpayer of any liability for tax, penalties, or interest that arose before the date of cancellation.
- ii. If a registration is cancelled under the State GST (SGST)/ Union Territory GST (UTGST) Act, it will be deemed cancelled under the CGST Act as well.
- iii. Upon cancellation, the taxpayer must pay tax on the closing stock, including raw materials, semi-finished, and finished goods, as follows:

- a. In the case of inputs in stock:
- ◆ Reversal of input tax credit (ITC) on the closing stock, or
 - ◆ Tax on the transaction value of the closing stock, whichever is higher.
- b. In the case of capital goods:
- ◆ ITC claimed on such capital goods (reduced by 5% per quarter as per Rule 43), or
 - ◆ Tax on the transaction value, whichever is higher.

2.1.5 Rules Governing Cancellation of Registration

Rule 20 – Application for Cancellation

- ◆ The application must be submitted in FORM GST REG-16 within 30 days from the date of the event that triggers cancellation.
- ◆ Voluntarily registered persons are permitted to apply for cancellation only after one year from the effective date of registration.

Rule 21 – Grounds for Cancellation by Proper Officer

The Proper Officer may cancel registration if:

- ◆ The registered person does not operate from the declared place of business.
- ◆ The person issues invoices without the actual supply of goods or services, in contravention of GST laws.
- ◆ The person violates Section 171 relating to anti-profiteering provisions.

Rule 22 – Procedure for Cancellation by Officer

- ◆ A Show Cause Notice (Form GST REG-17) is issued by the Proper Officer, requiring the taxpayer to explain within 7 working days why the registration should not be cancelled.
- ◆ The taxpayer must submit a reply in FORM GST REG-18 within the stipulated 7 working days.
- ◆ After reviewing the response, the Proper Officer may:
 - a) Cancel the registration by issuing FORM GST REG-19, or
 - b) Drop the proceedings by issuing FORM GST REG-20 if satisfied with the explanation.

- ◆ The cancellation order must be issued within 30 days from the date of the application or the date of receipt of the reply.

2.1.6 Information Technology in GST

◆ Technology-driven tax system

Information Technology (IT) plays a vital role in the implementation, administration, and compliance of the Goods and Services Tax (GST) in India. GST is a technology-driven tax system, designed to simplify the complex structure of indirect taxation through automation and digital integration. The mainstay of this system is the Goods and Services Tax Network (GSTN), a robust IT infrastructure that facilitates end-to-end GST operations for taxpayers, tax authorities, and other stakeholders. GSTN is a non-profit, non-government company that manages the GST portal, which provides a single, unified interface for taxpayers to perform various activities, including registration, return filing, payment of taxes, claim of input tax credit, refund applications, and tracking of status. This portal ensures transparency, accuracy, and real-time data access, making compliance simpler and more efficient.

◆ The e-invoicing system

One of the innovative uses of IT in GST is the introduction of the e-invoicing system, which standardises invoice generation and allows real-time uploading of invoice data to the portal. Similarly, the E-way bill system, also IT-based, enables smooth tracking and verification of the movement of goods across states.

◆ Technology prevents tax fraud

IT tools help in reducing tax evasion and improving tax compliance. Data analytics, artificial intelligence (AI), and machine learning (ML) are used by tax authorities to detect fraud, mismatches, and irregularities in returns. The integration of IT with banks, transport databases, and the income tax department further strengthens GST enforcement. Information Technology has transformed the tax ecosystem under GST by making it paperless, automated, and transparent. It improves compliance, reduces errors, and ensures ease of doing business, thereby fostering a digitally empowered tax administration in India.

Summarised Overview

GST registration is a legal requirement for businesses that exceed the prescribed turnover limits or engage in inter-state trade and e-commerce, enabling them to collect tax, claim input tax credit, and comply with GST laws. The registration process is completely online, involving application form submission, document upload, and issuance of a GSTIN upon approval. In cases where the GST authority does not act within the stipulated time, the registration is deemed approved, ensuring efficiency and legal rec-



ognition for the applicant. GST registration can also be cancelled, either voluntarily, by the tax officer, or by legal heirs, due to reasons such as business closure, transfer, non-compliance, or inactivity, with a final return (GSTR-10) to be filed and liabilities cleared. The entire GST system is powered by Information Technology through the GST portal managed by GSTN, using tools like e-invoicing, e-way bills, and data analytics to enhance transparency, automate processes, and strengthen compliance.

Self-Assessment Question

1. What is GST registration, and why is it required?
2. What is deemed registration under GST?
3. Name the form used for GST cancellation by a registered person.
4. What are the consequences of non-filing returns under GST?
5. List any two circumstances under which the proper officer may cancel a registration.
6. What is the role of GSTN in GST implementation?

Assignments

1. Compare voluntary and mandatory GST registration with examples.
2. Explain the legal implications of deemed registration under GST with case law references.
3. Conduct a Case Study on Deemed Registration and Legal Implications

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1. Aggarwal, V. (2022). *GST: Concepts, Practice and Procedures* (4th ed.). Taxmann Publications Pvt. Ltd.
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Suggested Reading

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Space for Learner Engagement for Objective Questions

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SGOU

Unit 2

Time, Place and Value of Supply

Learning Outcomes

After completing this unit, the learner will be able to:

- ◆ explain the concept of 'Supply' under GST and differentiate between Composite and Mixed Supplies
- ◆ apply valuation rules to determine the taxable value of goods and services as per the GST law
- ◆ identify the correct 'Time and Place of Supply' for goods and services to ensure compliance with GST provisions
- ◆ recognise the cascading effect of taxation and explain how Input Tax Credit (ITC) eliminates this issue under GST

Background

The Goods and Services Tax (GST), implemented in India in 2017, brought significant reforms in the indirect taxation system by combining various central and state taxes into a single, unified structure. One of the main objectives of GST is to eliminate the cascading effect of taxation, promote ease of doing business, and enhance compliance through a structured approach. The proper determination of the Value of Supply, Time and Place of Supply, and the nature of transactions influences the tax liability and classification of GST as CGST, SGST, or IGST. Mechanisms like Reverse Charge and the Composition Scheme offer alternative compliance methods, particularly for small and unregistered businesses. The Input Tax Credit (ITC) system plays an important role in ensuring tax neutrality and eliminating the tax-on-tax burden, which was prevalent in the pre-GST era. The benefit of ITC promotes better working capital management and cost savings for registered taxpayers.

Keywords

Supply, Reverse Charge, Composite Supply, Input Tax Credit (ITC)



Discussion

◆ Supply

The concept of "Supply" forms the foundation of the Goods and Services Tax (GST) regime in India. GST is a destination-based tax levied on the supply of goods or services or both. The term "supply" is defined under Section 7 of the CGST Act, 2017, and it encompasses a wide range of transactions, making it critical for determining tax liability.

◆ Supply includes all forms of supply

According to Section 7(1), supply includes all forms of supply of goods or services such as sale, transfer, barter, exchange, license, rental, lease, or disposal made or agreed to be made for a consideration in the course or furtherance of business. It also includes the import of services for a consideration, whether or not in the course of business. Thus, both monetary and non-monetary exchanges are covered under the ambit of supply, provided there is a quid pro quo relationship.

◆ Activities considered as supply even in absence of consideration

Furthermore, Section 7(1)(c) read with Schedule I of the Act outlines certain activities that are considered a supply even without consideration. Examples include the permanent transfer of business assets, supply between related persons, or supply between distinct persons (like branches in different states) in the course of business. This broadens the tax net to prevent avoidance through internal transfers.

◆ Supply of goods or supply of services

Schedule II of the CGST Act helps in classifying whether a transaction constitutes a supply of goods or a supply of services. For instance, leasing of land and buildings is treated as a supply of services, whereas the sale of goods is classified accordingly. This classification is essential as the rate of tax and compliance requirements differ between goods and services.

◆ Activities that are not considered as supply of goods or services

Section 7(1A) added by the CGST Amendment Act, 2018, further clarifies that certain activities or transactions specified in Schedule III are neither supply of goods nor supply of services, such as services by an employee to an employer, transactions in money, and actionable claims.

◆ Traditional and non-traditional forms of transactions

The scope of supply under GST is vast and includes both traditional and non-traditional forms of transactions. It ensures that almost every economic activity with commercial value is brought within the tax framework, thereby ensuring a comprehensive and efficient taxation system. Understanding the scope of supply is essential for businesses to determine tax obligations, compliance, and reporting under the GST regime.

2.2.1 Composite Supply

◆ Naturally bundled supply

Under the Goods and Services Tax (GST) a composite supply means, a supply made by a taxable person consisting of two or more goods or services or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business. This concept is defined in Section 2(30) of the CGST Act, 2017. The supply includes a principal supply, and all other supplies are considered ancillary or dependent upon it. As per Section 8(a) of the CGST Act, a composite supply shall be treated as the supply of the principal supply, and the applicable tax rate shall be that of the principal item. To determine whether a supply is composite, it must be seen whether the combination of goods or services is naturally bundled, meaning they are usually sold together in that line of business. The decision depends on industry practice and customer expectations.

2.2.2 Mixed supply

◆ Artificially bundled supply

A mixed supply under GST refers to the combination of two or more individual supplies of goods or services made together for a single price, where such a combination is not naturally bundled, and each component can be supplied independently. This is defined in Section 2(74) of the CGST Act, 2017. Unlike composite supply, the components of a mixed supply do not depend on one another and are not naturally packaged together in the ordinary course of business. The tax treatment of a mixed supply is specified in Section 8(b) of the CGST Act, which states that the entire supply shall be taxed at the highest rate applicable to any one of the individual items in the bundle. For instance, a festival gift box containing chocolates (18%), sweets (12%), and a small toy (28%) sold for a single price will be considered a mixed supply and taxed at the highest rate—28%. This rule prevents taxpayers from combining high-tax items with low-tax items to reduce the overall tax burden.

◆ Bundling intent matters

The critical distinction between mixed and composite supply lies in the intent and commercial nature of bundling. In a mixed supply, the goods or services are grouped together merely for promotional or convenience purposes and not out of necessity or business norms. For example, if a seller offers a combo deal of a shaving kit containing razors, aftershave, and a perfume bottle for a flat price, and these items are usually sold separately in the market, it is a mixed supply. Since each item maintains its independent utility and identity, and the bundle is not a regular business practice, the tax must be applied at the highest rate among them. Proper classification is crucial to avoid disputes

and penalties. Businesses must document the purpose and nature of each bundled offering to determine whether it is a mixed or composite supply. Misjudging such classification can result in underpayment or overpayment of GST and compliance issues during audits. Mixed supply rules under GST ensure that businesses do not exploit pricing strategies to avoid higher taxes and uphold the integrity of the tax structure.

2.2.3 Valuation rules

Under the GST regime, the value of supply is generally the transaction value agreed upon between the supplier and recipient. However, in specific situations where the transaction value cannot be determined normally, Rules 27 to 35 of the CGST Rules, 2017 provide structured methods for valuation.

2.2.3.1 When the consideration is not wholly in money (Rule 27)

- ◆ Case of non-monetary consideration

When the consideration for a supply is partly or fully non-monetary, the value is first taken as the open market value of the supply. If that is unavailable, the value shall be the sum of money paid and the equivalent of non-monetary consideration. If even this cannot be determined, the value should be that of like kind and quality, and if all else fails, it must be based on cost or reasonable means.

2.2.3.2 Value of supply of goods or services or both between distinct or related persons, other than the supply through an agent (Rule 28)

- ◆ Supplies between distinct or related persons

For supplies between related persons or distinct persons (for example, between different GST-registered branches of the same business), the value is determined using the open market value. If this is not available, then it is based on goods or services of like kind and quality. If neither is available, the cost-based method or reasonable means must be used.

2.2.3.3 Value of supply of goods made or received through an agent (Rule 29)

- ◆ Supply between principal and agent

In the case of supply between a principal and an agent, the value is the open market value. When goods are supplied for further sale by the recipient, 90% of the price charged by the recipient to an unrelated customer for similar goods can be used. If this is not determinable, the cost-based or reasonable method applies.

2.2.3.4 Value of supply of goods or services or both based on cost (Rule 30)

- ◆ Unsuitability of previous rules

When none of the previous rules are suitable, the value of supply is taken as 110% of the cost of production, manufacturing, procurement, or provision of services.

2.2.3.5 Residual method for determination of value of supply of goods or services (Rule 31)

- ◆ Residual method for value determination

If value determination is still not possible, a reasonable method consistent with the GST principles and the provisions of the Act should be used. For service providers, this rule can be used directly instead of applying the cost-based rule.

2.2.3.6 Value of supply of services in relation to the purchase or sale of foreign currency, including money changing [Rule 32(2)]

- ◆ Exchange of foreign currency

For foreign currency exchange services, if one currency is Indian rupee, the value is calculated as the difference between the RBI reference rate and the exchange rate applied, multiplied by the total units exchanged. If the RBI rate is not available, the value is 1% of the total amount in rupees. If neither currency is in Indian rupees, the value is 1% of the lesser of the two amounts obtained by converting both currencies into rupees. Alternatively, a slab-based method can be chosen, where value is 1% of the exchanged amount or ₹250 (whichever is higher) up to ₹1 lakh, ₹1,000 plus 0.5% for amounts from ₹1 lakh to ₹10 lakh, and ₹5,500 plus 0.1% above ₹10 lakh, capped at ₹60,000.

2.2.3.7 The value of supply of services in relation to life insurance business Rule 32(4)

- ◆ Value of life insurance

In the case of life insurance services, if the investment portion is disclosed to the policyholder, the value is the gross premium minus the investment component. For single premium annuity policies, the value is 10% of the premium. In other cases, it is 25% of the premium for the first year and 12.5% for subsequent years.

2.2.3.8 Value for the supply of second-hand goods - Rule 32(5)

- ◆ Value when the nature of goods do not change

For dealers in second-hand goods who do not change the nature of the goods during processing, the value is the selling price minus the purchase price, ignoring negative values. If the goods are repossessed from a defaulting borrower, the purchase price is reduced by 5% for every quarter or part thereof between the date of purchase and disposal.

2.2.4 Reverse Charge Mechanism and Composition Scheme

2.2.4.1 Reverse Charge [Sec. 9(4)]

◆ Recipient pays tax

Tax should be collected from the recipient of goods or services. It is the duty of the supplier of taxable supplies to collect tax and remit the tax amount to the Government. However, in some cases, it is practically impossible for the supplier to collect tax. For instance, when a farmer sells his agricultural products to a dealer, the tax on supply cannot be collected and remitted to the Government by the supplier because a farmer is an unregistered person. Therefore, when a registered person purchases taxable goods or avails taxable services from unregistered persons, the supplier does not collect and remit tax. In such cases, it is the recipient who is liable to pay tax on supplies. The tax so paid by the recipient of goods or services is called 'reverse charge'.

In the case of GST, the supplier collects tax from the buyer and pays the amount to the Government. In the case of reverse charge, the buyer has to pay tax to the government. Therefore, it is called the reverse charge mechanism (RCM).

All the provisions of the Act shall apply to such a recipient, and he will be considered as the person liable for paying tax in relation to the supply. Later, when the recipient sells the goods, he can claim credit for the tax paid against the output tax collected.

2.2.4.2 The Composition Scheme

◆ Simplified small-taxpayer scheme

The Composition Scheme under the Goods and Services Tax (GST) is a simplified taxation mechanism designed to reduce the compliance burden for small taxpayers. It allows eligible businesses to pay GST at a fixed rate on their turnover, instead of the regular rates applicable under the normal scheme. This scheme is available to manufacturers, traders, and restaurant service providers with an aggregate turnover up to ₹1.5 crore (₹75 lakh for certain special category states). Small service providers with turnover up to ₹50 lakh can also opt for a similar scheme under a separate notification. The tax rates under the composition scheme are significantly lower, 1% for traders and manufacturers, 5% for restaurant service providers, and 6% for service providers under the optional scheme. Businesses registered under the composition scheme are not allowed to collect tax from customers, nor are they eligible to claim input tax credit. They must issue a bill of supply instead of a tax invoice and mention “composition taxable person” on every notice and signboard. While this scheme

simplifies compliance and reduces paperwork, it also limits certain activities such as inter-state sales and makes the dealer less competitive in B2B markets due to ineligibility for input credit.

2.2.5 Time of Supply of Goods – Section 12 of the CGST Act

The concept of time of supply is vital under the GST law, as it determines the point in time when the liability to pay tax arises. Section 12 of the CGST Act deals with the time of supply in respect of goods.

2.2.5.1 Time of Supply in Normal Cases [Section 12(1) and 12(2)]

In cases of regular or forward charge supply of goods, the time of supply is the earliest of the following three events:

- ◆ The date of issue of the invoice by the supplier for the movement or delivery of goods to the recipient.
- ◆ The date of receipt of payment for the supply, either in part or in full.
- ◆ The date of entry of the payment in the supplier's books of accounts or the date on which the payment is credited to the supplier's bank account.

Whichever of these events occurs first will determine when the tax liability arises under GST for the supply of goods.

2.2.5.2 Time of Supply under Reverse Charge Mechanism [Section 12(3)]

In the case of goods supplied under the Reverse Charge Mechanism (RCM), where the recipient is liable to pay GST, the time of supply is the earliest of the following:

- ◆ The date of receipt of goods by the recipient.
- ◆ The date of payment as recorded in the books of accounts of the recipient or the date on which payment is debited from the recipient's bank account.
- ◆ The date immediately following 30 days from the date of issue of the invoice or any other relevant document by the supplier.

If none of these criteria can be determined, the date of entry in the recipient's books will be considered as the time of supply.

2.2.5.3 Time of Supply in Case of Vouchers [Section 12(4)]

The treatment of vouchers depends on whether the supply is identifiable at the time of issuance. Accordingly, the time of supply for vouchers is determined as:

- ◆ The date of issue of the voucher, if the supply is identifiable at that time.
- ◆ The date of redemption of the voucher, in all other cases.

This guarantees tax is levied either at the time of issue or redemption based on the nature of the voucher.

2.2.5.4 When the Time of Supply Cannot Be Determined [Section 12(5)]

If it is not possible to determine the time of supply using the above provisions, then it shall be:

- ◆ The date on which the periodical return is filed, such as GSTR-1 or GSTR-3B.
- ◆ If the return is not filed, the date on which the tax is paid, whichever is earlier.

This provision ensures that tax liability does not escape assessment in complex or exceptional situations.

2.2.5.5 Time of Supply in Case of Interest, Late Fee or Penalty [Section 12(6)]

When any interest, late fee, or penalty is charged for delay in payment or additional value is added after the original supply, the time of supply for such additional amounts shall be the date on which the supplier receives the amount. This ensures tax is paid even on additions to the original consideration.

2.2.6 Place of Supply under GST

The concept of Place of Supply is a fundamental element in the framework of the Goods and Services Tax (GST) in India. It plays a critical role in determining whether a particular transaction is an intra-state or inter-state supply, which in turn governs the type of tax applicable, CGST and SGST for intra-state supplies and IGST for inter-state supplies. The rules for determining the place of supply are laid down under the Integrated Goods and Services Tax (IGST) Act, 2017.

- ◆ Transaction is intra-state or inter-state

2.2.6.1 Place of Supply of Goods

The place of supply of goods depends on whether the supply involves movement or not:

- ◆ **Supply Involving Movement of Goods:** If the goods are moved from one place to another, the place of supply is the location where the movement of goods terminates for delivery to the recipient.
- ◆ **Supply without Movement:** If there is no movement involved (e.g., goods sold at the seller's premises), the place of supply is the location of the goods at the time of delivery.
- ◆ **Bill-to-Ship-to Transactions:** When goods are delivered to a person on the direction of a third party (say, goods are billed to A but shipped to B), the place of supply is the location of the person who gives the instruction—i.e., the billing party.
- ◆ **Import and Export of Goods:** For imports, the place of supply is the location of the importer in India. For exports, the place of supply is a place outside India, and such supplies are considered zero-rated.

2.2.7 Value of supply

The value of taxable supply of goods and services may normally be 'the transaction value' which is the price paid or payable; the price is the sole consideration. Section 15 of the CGST Act further explains the different inclusions and exclusions in the transaction value. For example, the transaction value will not include a refundable deposit, a discount allowed before or at the time of supply. GST will be charged on the 'transaction value'. The transaction value is the price actually paid (or payable) for the supply of goods/services.

◆ Transaction value

2.2.8 Cascading Effect of Taxation

The cascading effect of taxation occurs when a product is taxed multiple times throughout its supply chain without credit for the tax paid at earlier stages. This results in an increase in the final price of goods or services because each stage of production or distribution adds its own tax on top of the previous one.

◆ Multiple taxation on a single product

Under the earlier tax regime in India (before GST), multiple indirect taxes like excise duty, VAT, service tax, etc., were levied at diverse points of supply. However, there was no seamless flow of credit between these taxes. For example, a manufacturer paid excise duty on inputs and then charged VAT on final goods, but the VAT was calculated on a value that already included excise duty, thus creating a cascading effect. This led to inflated prices and a non-transparent tax structure.

◆ Pre-GST cascading taxes

- ◆ Limitation of the previous system

The cascading effect was a main drawback of the previous tax system, as it reduced the competitiveness of Indian products in both domestic and international markets. It also increased compliance costs for businesses and created confusion due to overlapping taxes by central and state governments.

- ◆ GST removed cascading effect to a great extent

With the introduction of GST, the cascading effect has largely been removed through a unified tax system and the provision of Input Tax Credit (ITC). GST is a destination-based tax that allows seamless credit across the value chain, thereby reducing the overall tax burden on goods and services. This shift not only made the tax structure more efficient and transparent but also significantly benefited consumers through reduced prices.

- ◆ Claiming credit for taxes paid on inputs

2.2.9 Input Tax Credit (ITC)

Input Tax Credit (ITC) is a mechanism under the GST system that permits businesses to claim credit for the tax paid on purchases (inputs) used for making taxable supplies. ITC ensures that tax is collected only on the value addition at each stage of the supply chain, effectively removing the cascading effect of taxes.

- ◆ Tax on value added

For example, if a manufacturer pays GST on raw materials used in production, they can claim credit for that tax while paying GST on the final product. This means the manufacturer only pays tax on the value added, not on the entire cost including tax paid on inputs.

To claim ITC, the following conditions must be met:

- ◆ The buyer must possess a tax invoice or debit note.
- ◆ Goods or services must be actually received.
- ◆ Tax must be paid by the supplier to the government.
- ◆ The buyer must have filed the GST return (GSTR-3B).

ITC cannot be claimed on certain items like personal use goods, motor vehicles (in most cases), and goods used for exempt supplies.

The ITC system brings transparency, decreases the cost of goods and services, and promotes better tax compliance. It helps to improve cash flow and working capital efficiency for businesses by reducing the effective tax liability.

2.2.10 Benefits of Input Tax Credit

1. **Elimination of Cascading Effect:** ITC eliminates the burden of tax on tax, which prevailed under the earlier indirect

tax system. Thus, the taxation process becomes efficient and lowers the final cost of goods and services.

- 2. Reduction in Cost of Production:** Since taxes paid on inputs are credited back, the overall cost for businesses is reduced. This enhances competitiveness in the market.
- 3. Boost to Working Capital:** By reducing the amount of tax payable in cash, ITC improves a business's cash flow. Businesses are able to invest their resources more efficiently.
- 4. Encouragement of Compliance:** To claim ITC, the buyer guarantees the seller files GST returns and pays the due tax. This mutual accountability improves tax compliance throughout the supply chain.
- 5. Transparency and Uniformity:** The ITC system promotes transparency in tax payments and simplifies tax administration. Businesses can track tax credits effortlessly, leading to more accurate financial reporting.
- 6. Lower Consumer Prices:** As tax costs reduce for businesses, the benefit often gets passed on to end consumers through lower prices, thereby controlling inflation.
- 7. Improved Exports:** ITC is available even for exported goods/services, making exports zero-rated. This enhances India's export competitiveness.

ITC is a cornerstone of the GST framework, offering fairness, efficiency, and economic benefits across sectors. It helps build a transparent and robust indirect tax system, aligned with international best practices.

Summarised Overview

Composite and Mixed Supplies help distinguish between naturally bundled supplies and unrelated supplies offered together. Composite supply has a principal supply that determines the tax rate, while mixed supply is taxed at the highest applicable rate among the goods or services involved. Accurate classification avoids incorrect taxation. Valuation Rules define how to compute the taxable value of a supply when consideration is not wholly in money or when the supplier and recipient are related. The transaction value is the primary method, while alternative rules apply in specific cases. This ensures the government receives the correct tax on actual value. The Reverse Charge Mechanism (RCM) shifts the tax payment responsibility to the recipient for specific goods, services, or unregistered supplier transactions. RCM requires recipients to pay tax in cash and later claim ITC. It ensures tax coverage in otherwise untaxed areas. The

Composition Scheme is an optional route for small taxpayers to pay tax at a fixed rate with fewer compliance burdens. It disallows ITC and tax collection from customers but provides ease of operation. Only eligible taxpayers can opt based on turnover limits. Time of Supply determines when the liability to pay tax arises, based on the invoice date, payment date, or accounting entry. Different rules apply for normal supply, reverse charge, vouchers, or additional charges. It is essential for timely compliance. Place of Supply helps classify a transaction as intra-state or inter-state to determine the correct tax (CGST/SGST or IGST). Rules vary for goods and services, depending on movement, location of recipient, or performance of service. Accurate determination is important for correct taxation. Cascading Effect of Taxation refers to tax on tax, where the burden accumulates through the supply chain. GST removes this effect by enabling credit for taxes paid on inputs at every stage. This reduces product costs and improves tax transparency. Input Tax Credit (ITC) allows businesses to claim credit for GST paid on purchases used to make taxable supplies. ITC encourages compliance and reduces the tax burden, improving cash flow. However, certain restrictions and conditions apply to claim credit.

Self-Assessment Question

1. How do Composite and Mixed Supplies differ?
2. Explain the importance of determining the correct time of supply.
3. What is Reverse Charge Mechanism under GST?
4. How does ITC help in removing the cascading effect?
5. What are the eligibility conditions for claiming ITC?
6. What are the benefits of ITC for registered businesses?

Assignments

1. Identify five scenarios where the Reverse Charge Mechanism applies and explain each..
2. Calculate the value of supply for a transaction involving partial monetary and non-monetary consideration.
3. Compare intra-state and inter-state supply with real-life business examples.
4. Calculate tax liability under RCM for services received from an unregistered transporter.

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SGOU

Unit 3

Assessment of GST

Learning Outcomes

After completing this unit, the learner will be able to:

- ◆ know the procedures and conditions for Reversal and Recovery of Input Tax Credit (ITC) under GST
- ◆ distinguish between various GST documents such as Tax Invoice, Credit Note, Debit Note, and Bill of Supply
- ◆ learn about Electronic Ledgers – Cash, Credit, and Liability ledgers

Background

The introduction of the Goods and Services Tax (GST) in India was a major reform in the indirect tax system by subsuming multiple taxes under one unified regime. One of the main components of GST is the Input Tax Credit (ITC) system, which eliminates the cascading effect of tax and ensures tax efficiency. To ensure accountability, mechanisms such as recovery and reversal of credit are vital. Businesses should comply with rules when credit is wrongly availed or when goods/services become ineligible. Documentation such as Tax Invoices, Credit Notes, Debit Notes, and Bill of Supply plays a critical role in substantiating claims and tax liabilities. The electronic ledgers, Cash, Credit, and Liability, form the backbone of the GST digital infrastructure, helping in real-time tracking of payments, credit utilisation, and outstanding liabilities. credit management, document control, and GST compliance practices ensures proper tax administration and avoid legal complications.

Keywords

Input Tax Credit, Reversal of Credit, Tax Invoice, Electronic Ledgers



2.3.1 Recovery of Input Tax Credit (ITC)

- ◆ Reclaiming incorrect tax credit

Recovery of Input Tax Credit (ITC) means the action taken by tax authorities to reclaim or demand the amount of ITC that has been wrongly availed by a registered taxpayer. The GST law provides a structured framework for monitoring, verifying, and recovering such credits to ensure compliance and prevent revenue leakage. As per the Central Goods and Services Tax (CGST) Act, 2017, ITC can be claimed when certain conditions are met, such as possession of a valid tax invoice, receipt of goods or services, actual payment of tax by the supplier to the government, and furnishing of suitable returns by the recipient. If any of these conditions are not fulfilled, or if ITC is claimed fraudulently, the Input Tax Credit becomes ineligible and is subject to recovery by the tax department. The GST law provides specific provisions for the demand and recovery of such amounts by the tax authorities.

2.3.2 Demand Proceedings

The process usually begins with the issuance of a Show Cause Notice (SCN) by the proper officer. The nature of the SCN and subsequent recovery process depends on whether the non-payment, short payment, erroneous refund, or wrong availment/utilisation of ITC is due to:

- ◆ In cases of genuine errors

1. Reasons other than fraud or willful misstatement/suppression of facts (Section 73 of CGST Act)

In such cases, which are considered genuine errors, the taxpayer is given an opportunity to pay the outstanding amount along with interest. If the payment is made within 30 days of the SCN, no penalty is levied, and all proceedings are concluded. If not, a penalty of 10% of the tax due or INR 10,000 (whichever is higher) may be imposed. The time limit for issuing an order under Section 73 is typically three years from the due date of the annual return for the relevant financial year.

- ◆ Blameworthy cases

2. Fraud, willful misstatement, or suppression of facts with intent to evade tax (Section 74 of CGST Act)

These type of cases involve a higher degree of culpability and attract stricter penalties. The penalty can range from 15% to 100% of the tax due, depending on when the payment is made. The time limit for issuing an order under Section 74 is five years from the due date of the annual return for the relevant financial year.

2.3.3 Reversal of Credit

◆ Cancelling credit entry

A reversal of credit is the cancellation of a credit entry previously made in an account. This action cancels out the original credit, restoring the account balance to what it would have been had the credit not occurred. It's a common accounting adjustment used to correct errors, process returns, or reflect changes in transactions.

◆ ITC cancellation requirement

Under Goods and Services Tax (GST) systems (e.g., in India), a reversal of Input Tax Credit (ITC) may be required when the conditions for availing the credit are no longer met. This could happen if the goods are not received, payment is not made within the stipulated period, or inputs are used for non-taxable purposes. The taxpayer must then reverse the credit claimed and pay the equivalent tax amount along with applicable interest. Reversals are documented and tracked to maintain audit trails and ensure accuracy. Depending on the jurisdiction or organization, penalties may apply for wrongful credits or delays in reversals.

◆ Proof of supply

A tax invoice is an important commercial document that serves as a detailed record of a transaction involving the sale of goods or services. Its primary purpose is to outline the amount of tax applicable to the transaction, in addition to the base price of the items or services. Section 31 of the CGST Act, 2017 deals with issuing of Tax Invoices or a Bill of Supply for every supply of goods or services. The term "invoice" or "tax invoice" means the tax invoice referred to in Section 31 of the CGST Act, 2017.

In India issuing a tax invoice is a legal obligation for businesses registered under GST rules. It ensures transparency and accountability in tax collection and payment. It allows the buyer to claim input tax credit on the taxes paid on their purchases, preventing a cascading effect of taxes.

A valid tax invoice must contain specific details to be legally compliant. These usually include:

1. Invoice Number: A unique, sequential number for identification and tracking.
2. Date of Issue: The date the invoice was generated.
3. Details of the seller: Legal name, address, and Goods and Services Tax Identification Number (GSTIN) or equivalent tax registration number.

4. Details of Buyer: Legal name, address, and GSTIN (if applicable) of the recipient of goods or services.
5. Description of Goods/Services: Clear and concise details of what was sold.
6. Quantity: The number of units for each item.
7. Unit Price: The price per unit before tax.
8. Taxable Value: The total value of goods/services before tax.
9. Applicable Tax Rate: The percentage of tax applied (e.g., 5%, 12%, 18%, 28% GST).
10. Amount of Tax: The calculated tax amount for each item or the total.
11. Total Invoice Value: The sum of the taxable value and the total tax amount.
12. Terms of Payment: Due date, payment methods, etc.
13. Signature: Though not always strictly required for electronic invoices, it's common for physical ones.

2.3.5 Bill of Supply

◆ No-tax invoice

Bill of Supply is a document issued by a registered supplier in specific cases where the supply of goods or services is exempt from GST, or when the supplier is registered under the Composition Scheme. Unlike a tax invoice, a Bill of Supply does not contain any type of tax amount, since the supplier is not permitted to collect tax from the recipient. It is issued only when GST is not chargeable on the supply

2.3.5.1 Contents of a Bill of Supply

1. Name, address, and GSTIN of the supplier
2. Consecutive serial number (not exceeding sixteen characters)
3. Date of issue
4. Name, address, and GSTIN or UIN of the recipient (if registered)
5. Description of goods or services
6. Value of supply (with discount or abatement, if any)

7. Signature or digital signature of the supplier or his authorised representative

2.3.6 Debit Note

- ◆ Document shows increase in value of goods

A Debit Note is a document issued by a seller to a buyer to show an increase in the value of goods or services supplied, after the original tax invoice has already been issued. It serves to inform the buyer that an additional amount is payable due to various reasons, such as undercharging of tax, an increase in quantity or value of goods, or correction of invoice errors.

2.3.6.1 A debit note is issued in the following cases

- a. When the amount payable by the buyer to the seller is increased, then a debit note will be issued by the seller.
- b. When the tax invoice has a lower taxable value than the amount that should have been charged, then a debit note is issued.

A registered person issuing a debit note must declare its details in the return for the month in which the debit note is issued. The declaration should be made no later than the 30th of November following the end of the relevant financial year, or the date of filing the annual return, whichever is earlier.

Purpose of Debit Note:

- ◆ To account for additional charges not included in the original invoice.
- ◆ To adjust the tax liability when goods are supplied at a higher value than originally invoiced.
- ◆ To reflect upward revision in price after supply.

2.3.6.2 Contents of a Debit Note

- ◆ Name, address, and GSTIN of the supplier
- ◆ Nature of the document (clearly marked as “Debit Note”)
- ◆ Serial number and date of issue
- ◆ Name, address, and GSTIN of the recipient (if registered)
- ◆ Original tax invoice number and date
- ◆ Value of taxable supply and amount of tax (CGST, SGST/UTGST, IGST, Cess)

- ◆ Reason for issuing the debit note
- ◆ Signature of the supplier or authorized representative

2.3.7 Credit Note

◆ Invoice value reduction

A Credit Note is a document issued by a registered supplier under the Goods and Services Tax (GST) system when the value of the goods or services charged in the original tax invoice surpasses the actual amount payable by the recipient. It effectively reduces the taxable value and the corresponding tax liability of the supplier. This mechanism helps in correcting errors and maintaining transparency in post-sale adjustments.

2.3.7.1 Legal Provision

According to Section 34(1) of the CGST Act, 2017, a supplier is permitted to issue a credit note when.

1. The taxable value or tax charged in the original invoice is more than the actual amount.
2. The recipient returns the goods supplied.
3. There is a deficiency in goods or services provided.
4. A post-sale discount is offered and was not mentioned in the original invoice.

The credit note allows the supplier to adjust the excess tax charged and reduce the output tax liability in the corresponding GST return.

2.3.7.2 Contents of a Credit Note (as per Rule 53 of CGST Rules, 2017)

1. Name, address, and GSTIN of the supplier
2. Nature of the document (Credit Note)
3. Consecutive serial number and date of issue
4. Name, address, and GSTIN/UIN of the recipient (if registered)
5. Reference to the original tax invoice number and date
6. The value of the supply credited, the amount of tax reduced (CGST, SGST/UTGST, IGST, Cess)
7. Reason for issuing the credit note
8. Signature or digital signature of the supplier or authorised representative

The details of the credit note must be declared in Form GSTR-1 for the month in which it is issued. This must be done on or before the 30th of November following the end of the financial year or before filing the annual return, whichever is earlier. After this date, the supplier cannot reduce tax liability using the credit note.

2.3.8 Electronic Cash Ledger (Section 49(1) of CGST Act)

◆ GST payment wallet

The Electronic Cash Ledger is an online account maintained on the GST portal for each registered taxpayer. It reveals all deposits made by the taxpayer toward tax, interest, penalty, fee, or any other amount payable under GST. It functions like a prepaid wallet from which payments can be made to discharge liabilities.

◆ Utilization only for payments under GST law

The ledger gets populated when the taxpayer deposits money using challan FORM GST PMT-06 via online banking, debit/credit card, NEFT, RTGS, or over-the-counter payment in authorized banks. Once deposited, the amount is shown under respective minor heads like tax, interest, penalty, fee, or others, and under major heads such as CGST, SGST/UTGST, IGST, and Cess. The amount in this ledger can be utilized only for making payments under GST law. This ledger does not allow adjustments or carry-forward of input tax credit, it is strictly for payments made in cash. It ensures accountability and real-time tracking of payments made by taxpayers.

◆ Credit available to the taxpayer

2.3.9 Electronic Credit Ledger (Section 49(2) of CGST Act)

The Electronic Credit Ledger is maintained for every registered person eligible to claim Input Tax Credit (ITC). It shows the credit available to the taxpayer against purchases of goods or services used in the course of business. Electronic Credit Ledger automatically updates when the taxpayer files eligible inward supply details in Form GSTR-2B and ITC is claimed in GSTR-3B. It reflects the amount of credit that can be used to pay output tax liability. ITC is categorized under CGST, SGST/UTGST, IGST, and Cess.

Utilization of credit is subject to Section 49A and 49B, which prioritize usage of IGST first, followed by CGST and SGST. Credit in this ledger cannot be used to pay interest, penalty, or late fees, it is restricted only to paying tax liability.

The Electronic Credit Ledger helps to avoid tax cascading, promotes transparency, and provides a digital record of credit

utilised. However, ineligible or wrongly claimed ITC must be reversed with interest. Thus, the Electronic Credit Ledger is crucial for managing input credits and ensuring proper tax utilisation.

2.3.10 Electronic Liability Register

The Electronic Liability Register records all outstanding liabilities of a taxpayer under GST. These liabilities arise from self-assessment, returns, demand notices, interest, penalties, or mismatches. The Electronic Liability Register acts as a consolidated account showing total dues payable by the taxpayer. Every registered person has this register maintained in Form GST PMT-01 on the GST portal. It reflects tax liability as reported in GSTR-3B, demand notices under Section 73 or 74, or liabilities arising from proceedings under the GST Act.

◆ GST dues record

This ledger has three main components:

- ◆ Self-assessed tax liability
- ◆ Liabilities from previous returns
- ◆ Liabilities due to assessment, audit, or adjudication

Payments from the Electronic Cash Ledger or Electronic Credit Ledger are used to offset liabilities recorded in this register. Once a payment is made, the liability reduces accordingly. It also reflects unpaid liabilities, making it a critical tool for compliance. The government recover dues shown in this ledger using provisions of demand and recovery under Sections 78 to 84. Any failure to pay leads to penalties or further legal action. The Electronic Liability Register gives a complete picture of the taxpayer's total dues under the GST law, and enables systematic tracking of payment status.

◆ Complete picture of total dues

Summarised Overview

Recovery of Credit under GST means the process by which tax authorities recover wrongly availed or utilised Input Tax Credit (ITC), often arising from ineligible purchases, non-receipt of goods or services, or failure to pay the supplier within the prescribed time. Reversal of Credit is mandated when goods or services become exempt, are used for non-business purposes, or are not received, and such reversal must include applicable interest. A Tax Invoice is a crucial document issued for taxable supplies, containing GSTIN, value, tax amount, and other details, and it is essential for the recipient to claim ITC. A Credit Note is issued when the original invoice overstates value or tax or when goods are returned, thus reducing the supplier's tax liability, whereas a Debit Note is used to increase the taxable value or correct undercharging, leading to an

increase in tax liability. A Bill of Supply is issued for exempted supplies or by Composition Scheme dealers and does not include tax. The Electronic Cash Ledger records all cash deposits made by the taxpayer for payment of GST dues. The Electronic Credit Ledger reflects the ITC available for utilisation against output tax liability, and the Electronic Liability Ledger maintains a real-time record of all outstanding tax liabilities of the taxpayer under GST

Self-Assessment Question

1. List the mandatory contents of a tax invoice.
2. What is the purpose of a Debit Note?
3. What is the difference between a tax invoice and a bill of supply?
4. What is the function of the Electronic Credit Ledger?
5. How is the Electronic Liability Ledger updated?
6. Compare Tax Invoice and Bill of Supply.

Assignments

1. Draft a Debit Note and explain the reason for issuance.
2. Develop a scenario where reversal of credit is necessary and calculate the same.
3. Create a GST compliance checklist for a small business.

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Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

SGOU



03 BLOCK

Administration of GST- Appeals and Revisions

Block Content

- Unit - 1 Administration of GST
- Unit - 2 Appeals and Revision

Unit 1

Administration of GST

Learning Outcomes

After completing this unit, the learner will be able to:

- ◆ know the Structure and Role of the GST Council in administering and implementing GST policies
- ◆ identify the Powers and Functions of GST Authorities, including their roles in inspection, search, seizure, and arrest
- ◆ explain Procedures Related to Demand and Recovery under the GST
- ◆ comprehend the Concept and Legal Framework of Advance Ruling, including the role of Authority and Appellate Authority

Background

The administration of GST involves various bodies and mechanisms, including the GST Council, which is the apex decision-making authority composed of the Union Finance Minister and state finance ministers. It is responsible for recommending GST rates, exemptions, thresholds, and resolving disputes between states and the Centre. To enforce compliance, GST law empowers authorities to conduct inspections, searches, seizures, and arrests when evasion or fraud is suspected. These powers are provided to protect revenue interests and ensure lawful operation under the GST regime. GST also includes provisions for demand and recovery of tax dues, especially in cases of short payment, non-payment, or erroneous refunds. Additionally, liability provisions are laid down for various situations such as business transfers, mergers, and company liquidation. The advance ruling mechanism is an essential tool for providing clarity on tax matters to taxpayers in advance, reducing litigation and promoting certainty. The Goods and Services Tax Network (GSTN) is a sophisticated IT platform that serves as the technological backbone for registration, returns, payments, and compliance monitoring. Together, these components ensure the effective administration, transparency, and implementation of GST in India.



Keywords

GST Council, Advance Ruling, Inspection and Seizure

Discussion

The Goods and Services Tax (GST) Council is a pivotal constitutional body in India, established under Article 279A of the Indian Constitution. It serves as the primary decision-making authority for all matters related to the implementation and administration of the Goods and Services Tax (GST) in the country. The formation of the GST Council was a landmark step towards cooperative federalism in India, bringing together the Central and State governments to jointly shape the nation's indirect tax policy.

◆ Dual system

Administration under GST is also a dual system. For ensuring maximum efficiency the administration has been divided between centre and state government. The Central Board for Indirect Taxes and Customs [CBIC] shall be responsible for administration of Central GST (CGST) and Integrated GST [IGST], and the State GST [SGST] and Union Territory GST [UTGST] shall be administered by the State/UT tax authorities. Constitutional (122nd Amendment) Bill (CAB for short) was introduced in the parliament and passed by the Rajya Sabha on 03rd August 2016 and the Lok Sabha on 08th August 2016.

3.1.1 Constitution of GST Council

The Union Cabinet approved the setting up of GST Council on 12th September 2016 and setting up its secretariat as per the following details

- ◆ Creation of the GST Council as per Article 279A of the amended Constitution;
- ◆ Creation of the GST Council Secretariat, with its office at New Delhi;
- ◆ Appointment of the Secretary (Revenue) as the Ex-Officio Secretary to the GST Council;
- ◆ Inclusion of the Chairperson of the Central Board of Excise and Customs (CBEC), as a permanent invitee (non-voting) to all proceedings of the GST Council;

- ◆ Create one post of Additional Secretary to the GST Council in the GST Council Secretariat (at the level of Additional Secretary to the Government of India), and four posts of Commissioner in the GST Council Secretariat (at the level of Joint Secretary to the Government of India).

As such, the following are the designated personnel who collectively form the GST Council:

1. Chairman

The Union Finance Minister, who will be the chairman of the GST Council

2. Members

- The Union minister of state in charge of revenue or finance who will be a member of the council;
- One member from each state who is the minister in charge of finance or taxation or any other minister,
- Vice Chairman: Any one of them will be vice chairman of the GST Council who will be mutually elected by them (ie. to be chosen out of the Ministers of state).

◆ GST council

3.1.2 GST Council Meeting

Goods and Services Tax Council takes decisions regarding related matters in its meetings

Essentials of GST Council Meeting

1. Quorum at GST council meeting

At least 50 percent of the total number of the member should be present at the meeting for a valid meeting of the members of GST council.

◆ 50 percentage

2. Decision by majority

Every decision made during the meeting should be supported by at least 75 percent majority of the weighted votes to the members who are present and voting at the meeting

◆ 75 percentage

3. Weightage to Centre & States

In "article 279 A" a principle is there which divides the total weighted vote cast between central government and state government:

- ◆ The vote of central government shall have the weighted of one-third of the total votes.

◆ Weightage of votes



- ◆ The votes of state government shall have the weighted of two third of the total votes, cast in the meeting.

4. Decision of meeting not be declared invalid

Any act, decision or proceedings of the meetings of the GST council shall not be declared as invalid based on any remaining deficiency at the time of establishment of GST council i.e.

- ◆ if there is any vacancy remained in the council
- ◆ if there is any defect in the constitution of council
- ◆ if there is any defect in the appointment of a person as a member of the council
- ◆ if there is any procedural non-compliance.

◆ Resolve disputes

Decisions in the GST Council are made through consensus or a special majority, ensuring that both the Centre and states have a fair say. Notable outcomes from past meetings include rate revisions, extension of GST return deadlines, and addressing sector-specific challenges. These meetings help resolve disputes, simplify tax structures, and ensure uniformity across the nation.

Importantly, the Supreme Court in *Union of India v. Mohit Minerals Pvt. Ltd. (2022)* categorically clarified that the Council's recommendations are persuasive and not binding on States and Union Territories. This ruling is a significant pointer, as it underlines the cooperative yet federal nature of GST and preserves the fiscal autonomy of states.

Each meeting of the GST Council thus reflects the evolving nature of the Indian economy and the government's commitment to responsive taxation. The Council continues to serve as a dynamic platform to align the interests of various governments while maintaining the integrity of the GST system.

3.1.3 Functions of GST Council

◆ GST policy recommendations

The GST Council performs crucial functions to ensure the smooth implementation and administration of the Goods and Services Tax in India. Its primary function is to recommend tax rates, exemptions, and thresholds for goods and services under GST. The Council also decides on model GST laws, rules, and principles of levy, apportionment of IGST, and place of supply. The GST Council has been instrumental in bringing all States on a common page and ensuring consensus on various complex issues on which there were divergent views. GST council is one of the main arms of the constitution, duly constituted to carry out

various functions for GST rollout by making recommendations to the union and state on the following matters.

a. Subsuming of Taxes

On subsuming various taxes, cesses and surcharges in GST.

b. Exemptions

Details of services and goods that will be subjected to GST or which will be exempted from GST.

c. Threshold Limit

The threshold limit below which services and goods will be exempted from GST.

d. GST Rates

Floor rates & special rates. On GST rates, including the floor rate with bands of GST and any special rate for the time being, to arrange resources to face any natural calamity.

e. Special Provisions

Making special provisions for the following states: Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

f. GST Laws

On the GST law relating to the principle of levy of GST and the principles which will govern the place of supply.

3.1.4 Information infrastructure for GST: GSTN

◆ IT infrastructure

GSTN (Goods and Services Tax Network) is a not-for-profit, Non-government Company established to provide IT infrastructure and services to implement the Goods and Services Tax (GST) system in India. It acts as the backbone of the GST regime by offering a digital platform for taxpayers, tax authorities, and other stakeholders to interact seamlessly.

GSTN manages the Common Portal, where businesses can register under GST, file returns, pay taxes, and claim input tax credit. It ensures secure data exchange between the central and state tax departments. The portal is designed to be user-friendly and supports real-time processing of information



It was incorporated on March 28, 2013. The portal being used by the government to track every financial transaction, and will provide taxpayers with all services from registration to filing taxes and maintaining all tax details.

3.1.5 GST Common Portal: Website managed by GSTN

◆ Unified GST portal

Common GST Electronic Portal- www.gst.gov.in a website managed by Goods and Services Network (GSTN) has been set up by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States. The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates, etc.) and Intranet by Tax Officials, etc. The portal is one single common portal for all GST related services.

◆ Consortium for all stakeholders

A common GST system provides linkage to all State/UT Commercial Tax Departments, Central Tax authorities, Taxpayers, Banks and other stakeholders. The eco-system consists of all stakeholders, starting from the taxpayer to the tax professional to tax officials to the GST portal to Banks to the accounting authorities. Primarily, GSTN provides three front-end services to the taxpayers, namely registration, payment and return through the GST Common Portal.

The functions of the GSTN include:

- ◆ facilitating registration;
- ◆ forwarding the returns to Central and State authorities;
- ◆ computation and settlement of IGST
- ◆ matching of tax payment details with the banking network,
- ◆ providing various MIS reports to the Central and the State Governments based on the taxpayer return information;
- ◆ providing analysis of taxpayers' profiles, and running the matching engine for matching, reversal and reclaim of input tax credit.
- ◆ providing a reliable, efficient and robust IT backbone for the smooth functioning of GST in India.

3.1.6 Inspection Search and seizure

Under the Goods and Services Tax (GST) law, the government has empowered tax officers with enforcement powers such as inspection, search, seizure, and arrest to prevent tax evasion

and ensure compliance. These powers are provided under Sections 67 to 69 of the Central Goods and Services Tax (CGST) Act, 2017. However, these actions must be exercised cautiously and only by authorised officers.

Inspection is the process of visiting a business place to check the books of accounts, stock, documents, etc., to verify compliance with GST.

1. Joint Commissioner or above may authorise any CGST officer to inspect the place of business of a taxable Person/ Transporter/warehouse owner:

Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that

- a. a taxable person has-
 - ◆ suppressed any transaction relating to the supply of goods or services or both or the stock of goods in hand, or
 - ◆ has claimed input tax credit in excess of his entitlement under this Act or
 - ◆ has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act, or
- b. any person engaged in the business of transporting goods, or an owner or operator of a warehouse or a godown, or any other place
 - ◆ is keeping goods which have escaped payment of tax or
 - ◆ has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this ACT.

Then he may authorise in writing any other officer of central tax to inspect any places of business of a taxable person or the persons engaged in the business of transporting goods or the owner d or a godown or any other place.

If, during inspection, the officer believes that certain goods or documents are hidden to avoid tax, a search may be conducted. Seizure is the act of taking possession of goods, documents, books, or things that are suspected of being involved in tax evasion. A search refers to a detailed examination of any place (e.g., business premises, godowns, vehicles) to uncover tax-related information.

◆ Seizure



2. Joint commissioner or above may himself search/seize or authorise CGST officer to search/seize goods, document, books and things due to inspection or otherwise: Where the proper officer not below the rank of Joint Commissioner:

- ◆ either pursuant to an inspection carried out under sub-section (1) or otherwise,
- ◆ has reasons to believe that any goods liable to confiscation or any documents or books or things.
- ◆ which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place
- ◆ He may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things.

Detention of goods which cannot be seized:

Provided that where it is not practicable to seize any such goods,

- ◆ the proper officer, or any officer authorised by him
- ◆ may serve on the owner or the custodian of the goods an order
- ◆ That he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer

3. Period of detention of documents and things

Provided further that the documents or books or things so seized

- ◆ Shall be retained by such officer only for so long as may be necessary
- ◆ For their examination and for any inquiry or proceedings under this act.

4. Return of documents, books - not relied upon

The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person,

- ◆ which have not been relied upon for the issue of notice under this Act or the rules made thereunder

- ◆ Shall be returned to such person within a period not exceeding 30 days of the issue of the said notice.

5. Power to seal or break door of any premises

The officer authorised under sub-section (2)

- ◆ shall have the power to seal or break open the door of any premises or
- ◆ to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.

3.1.7 Arrest [Section 69]

- ◆ Applicable in case of fraud or evasion etc

Arrest is a serious action under GST, applicable in cases of fraud, willful evasion, or issuance of fake invoices. Only the Commissioner has the power to authorize arrest if he has reason to believe that a person has committed an offense under Section 132 of the CGST Act.

1. Officer empowered by commissioner has power to arrest

Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (1) or (1) of sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of central tax to arrest such person.

2. Produce the person arrested for cognizable offence before magistrate

Where a person is arrested under sub-section (1) for an offence specified under subsection (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest AND produce him before a Magistrate within 24 hours.

3. Subject to the provisions of the Code of Criminal Procedure 1973

a. Release of person on bail in case of non-cognisable and bailable offence

Where a person is arrested under subsection (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate.



b. Release of person on bail by AC/DC in case of non-cognisable or bailable offence

In the case of a non-cognisable and bailable offence, the Deputy Commissioner (DC) or the Assistant commissioner(AC) shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer- in- charge of a police station.

3.1.8 Demand and Recovery under GST

In the Indian GST framework, the efficient collection of revenue is vital for the functioning of the government. Sometimes, tax may be not paid, short paid, refunded erroneously, or wrongly availed/utilized as Input Tax Credit (ITC). To address such instances, the CGST Act, 2017 has laid down comprehensive provisions under Sections 73 and 74, dealing with demand and recovery, depending on whether the default was due to fraud or non-fraudulent reasons.

◆ Section 73 & 74

Section 73 – Other than Fraud

This section deals with cases where:

- ◆ Tax is not paid, short paid,
- ◆ Erroneous refund is granted, or
- ◆ Wrong ITC is availed or utilized,

Section 74 – Fraud and Similar Offenses

This section is applicable when the above defaults are committed due to:

- ◆ Fraud,
- ◆ Willful misstatement of facts,
- ◆ Suppression of facts with an intent to evade tax.

3.1.9 Key Differences between Fraud and Other than Fraud Cases

Table 3.1.1 Key Differences between Fraud and Other than Fraud Cases

Aspect	Section 73 (Other than Fraud)	Section 74 (Fraud / Suppression)
Nature of Default	Unintentional / Genuine error	Intentional / Fraudulent
Penalty	10% of tax or ₹10,000 (whichever is higher)	100% of tax amount
Time Limit for SCN	2 years 9 months from annual return due date	4 years 6 months from annual return due date

Time Limit for Final Order	3 years from due date	5 years from due date
Voluntary Payment Before SCN	No penalty	15% of tax as penalty
Voluntary Payment After SCN	10% of tax or ₹10,000	25% of tax as penalty
Payment After Order	10% of tax or ₹10,000	50% of tax as penalty

The provisions of Demand and Recovery under GST are thoughtfully framed to differentiate between honest errors and fraudulent actions. Section 73 provides relief in non-fraud cases through lower penalties and relaxed timelines. Section 74 imposes stringent penalties for fraudulent activities but still offers opportunities to conclude proceedings at various stages.

3.1.10 Liability to pay tax in certain cases

By offering multiple chances for voluntary compliance and ensuring proportional penalties, the GST law encourages honest taxpayers to correct mistakes early. At the same time, it provides the government with effective tools to safeguard revenue. Proper implementation of these provisions ensures transparency, accountability, and efficiency in the Indian indirect tax system.

I. Sec 85 –liability in case of transfer of business

Joint Liability

- ◆ Transferee and transferor are jointly liable

The transferor and the transferee are jointly and severally liable for any tax, interest, or penalty due from the taxable person up to the date of such transfer. When a taxable person, who is liable to pay tax under this Act, transfers their business—either wholly or partially through sale, gift, lease, leave and license, hire, or by any other means, both the original owner and the person to whom the business is transferred shall be held jointly and severally liable, either fully or to the extent of such transfer

Only Transferee liable

- ◆ Transferee liable

The transferee of a business shall be liable to pay tax on the supply of goods or services or both made by him from the date of such transfer. If the transferee continues to operate the business, whether in his own name or under any other name, he must pay tax on such supplies and, if registered under this Act, is required to apply for amendment of his registration certificate within the prescribed time.

- ◆ Agent supplies or receives taxable good

II. SEC 86-liability of agent and principal

Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act

- ◆ Amalgamation merger

III. SECT 87-liability in case of amalgamation or merger of companies

When two or more companies are amalgamated or merged. (in pursuance of an order of court or of tribunal or otherwise) and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other, during the period commencing on the date from which the order takes effect till the date of the order. Then such transactions of supply and receipt, shall be included in the turnover of supply or receipt, of the respective companies and, they shall be liable to pay tax accordingly. The said two or more companies, shall be treated as distinct companies, for the period up to the date of the said order and, the registration certificates of the said companies, shall be cancelled with effect from the date of the said order.

- ◆ Jointly and severally

SEC 89-liability of directors of private company

Director jointly and severally liable. Where any tax, interest or penalty due from a private company, in respect of any supply of goods or services or both, for any period cannot be recovered, then, every person who was a director of the private company, during such period shall, jointly and severally, be liable for payment of such tax, interest or penalty, unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

SEC 93-Special provisions regarding liability to pay tax, interest or penalty in certain cases

1. Liability in case person dies

Save as otherwise provided in, the Insolvency and Bankruptcy Code 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then

- ◆ Business is continued after his death - Legal Representative or Other Person Continuing Business shall be liable.
- ◆ If the business carried on by the person is discontinued, whether before or after his death, his legal representative SHALL BE liable to pay, out of the estate of the deceased.

2. Partition of HUF or AOP

Where a taxable person, liable to pay tax, interest or penalty under this Act, is a Hindu Undivided Family or an association of person and, the property of the Hindu Undivided Family or the association of person is, partitioned amongst the various members or groups of members, then, each member or group of members shall, jointly and severally, be liable to pay the tax, interest or penalty due from the taxable person under this Act, upto the time of the partition, whether such tax, penalty or interest has been determined, before partition but has remained unpaid or is determined after the partition.

3. Firm is dissolved

Where a taxable person, liable to pay tax, interest or penalty under this Act, is a firm, AND the firm is dissolved, then, every person who was a partner shall, jointly and severally, be liable to pay the tax, interest or penalty due from the firm under this Act, upto the time of dissolution, whether such tax, interest or penalty has been, determined before the dissolution, but has remained unpaid or, is determined after dissolution.

4. Guardianship or Trust is terminated

Where a taxable person liable to pay tax, interest or penalty under this Act,

- a. is the guardian of a ward on whose behalf the business is carried on by the guardian, or
- b. is a trustee who carries on the business under a trust for a beneficiary.

Then, if the guardianship or trust is terminated, the ward or the beneficiary SHALL BE liable. to pay the tax, interest or penalty due from the taxable person, upto the time of the termination of the guardianship or trust whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

3.1.11 Advance ruling

As per the CGST Act, an advance ruling means a decision provided by the Authority or Appellate Authority to an applicant on matters or questions specified under the Act, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. An advance ruling helps the applicant in planning his activities which are liable for payment of GST, well in advance. It also brings certainly in de-

◆ Pre-determined GST clarity



termining the tax liability, as the ruling given by the Authority for Advance Ruling is binding on the applicant as well as Government authorities.

A legally constituted body called Authority for Advance Ruling (AAR) can give a binding ruling to an applicant who is a registered taxable person or is liable to be registered. The advance ruling given by the Authority can be appealed before an Appellate Authority for Advance Ruling (AAAR).

3.1.12 SEC 96-Authority for advance ruling [AAR]

Subject to the provisions of this chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act (SGST) or Union Territory Goods and Services Tax Act (UTGST) shall be deemed to be, the authority for advance ruling (AAR) in respect of that State or Union territory.

SEC 98-Procedure on receipt of application

Section 98 of the CGST Act, 2017 lays down the procedure that the Authority for Advance Ruling (AAR) must follow upon receiving an application for advance ruling under Section 97. As the first step, the AAR is required to forward a copy of the application to the concerned officer (the jurisdictional officer of the applicant) and may call for relevant records, ensuring that the tax department is aware of and involved in the proceedings. The AAR then examines the application, the supporting documents, and any material furnished by the applicant or the officer. It must also provide both parties an opportunity to be heard, ensuring that the principles of natural justice are followed. After considering all facts, the AAR decides whether the application is admissible. The application may be rejected if the question raised is already pending or has been decided in any proceeding under the GST Act involving the same applicant. Before rejection, the applicant must be given a chance to present their case. If the application is admitted, the AAR must pronounce its ruling in writing within 90 days from the date of receipt of the application. In case of a difference in opinion between members of the AAR, the matter is referred to the Appellate Authority for Advance Ruling (AAAR). This structured procedure ensures timely, transparent, and fair rulings, helping taxpayers get clarity on GST matters and promoting consistency and certainty in tax compliance.

◆ Authority for advance ruling

3.1.13 SEC 99-Appellate authority for advance ruling [AAAR]

Section 99 of the CGST Act, 2017 provides for the constitution of the Appellate Authority for Advance Ruling (AAAR).

This authority hears appeals against the rulings of the Authority for Advance Ruling (AAR). The AAAR consists of two members – the Chief Commissioner of Central Tax and the Commissioner of State Tax/UT Tax – who are appointed by the central and state governments.

◆ Appellate authority

An appeal to the AAAR can be filed either by the applicant or the jurisdictional officer if they are not satisfied with the AAR's ruling. It must be filed within 30 days, with a possible extension of another 30 days if valid reasons are shown. The AAAR then examines the case, hears both sides, and may confirm or modify the AAR's ruling. Its decision is binding on the applicant and the jurisdictional officer. Thus, Section 99 provides a second level of review to ensure fairness and consistency in GST interpretation.

However, there is a major limitation. At present, the AAAR exists only at the state level. There is no national-level AAAR, which has led to conflicting rulings by different state AAARs on similar issues. For businesses operating in multiple states, this creates uncertainty and compliance difficulties. To resolve this, a National AAAR has been proposed, but it is not yet operational.

Summarised Overview

The Goods and Services Tax (GST) administration in India is governed by a robust institutional framework led by the GST Council, which is established under Article 279A of the Constitution. The Council, comprising the Union Finance Minister as Chairperson and state finance ministers as members, is the apex decision-making body responsible for determining tax rates, exemptions, threshold limits, and procedural rules, ensuring nationwide uniformity and cooperative federalism. Supporting this structure are various authorities such as the Central Board of Indirect Taxes and Customs (CBIC), Commissioners, Proper Officers, and appellate bodies, who are empowered to assess, audit, and monitor taxpayers, thereby ensuring streamlined compliance and enforcement. Enforcement mechanisms include inspection, search, seizure, and arrest under Sections 67 to 72 of the CGST Act, with Section 69 empowering officers to arrest individuals in cases of fraud or serious violations, thus promoting transparency and deterring tax evasion. Demand and recovery procedures, governed by Sections 73 and 74, deal with short payment or non-payment of taxes, using legal tools such as property attachment and bank account garnishment to recover dues. In certain cases like business transfers, mergers, liquidation, or agency, Sections 85 to 94 impose liability on successors, agents, or legal heirs for outstanding tax dues. To provide legal clarity and reduce litigation, the mechanism of Advance Ruling is available, wherein taxpayers can seek authoritative decisions on tax matters such as classification, valuation, and input tax credit, with provisions for appeal through the Appellate Authority. The entire GST system is digitally supported by the Goods and Services Tax Network (GSTN),

government owned entity that manages registrations, return filing, payments, invoice matching, and data analytics. GSTN serves as the technological backbone of the GST regime, enabling seamless, real-time compliance and creating a transparent, integrated tax ecosystem for businesses and authorities alike.

Self-Assessment Question

1. What is the structure and role of the GST Council?
2. Who are the authorities responsible for GST administration?
3. Explain the procedure for inspection under GST.
4. What are the grounds for search and seizure under GST law?
5. When can a person be arrested under GST?
6. Define demand under Section 73 of CGST Act.
7. How does recovery of unpaid GST occur?

Assignments

1. Write a report on the functions and composition of the GST Council.
2. Explain the powers of GST authorities with suitable sections and case laws.
3. Critically evaluate the inspection and search mechanism under GST.
4. Case study analysis: Arrest under GST – Procedure and safeguards.
5. Prepare a chart of demand and recovery procedures under Section 73 and 74.

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Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.



SGOU

Unit 2

Appeals and Revision

Learning Outcomes

After completing this unit, the learner will be able to:

- ◆ analyze the powers of Revisional Authorities and differentiate them from appellate powers
- ◆ explain various offences, penalties, and compounding provisions under the GST law
- ◆ evaluate the functioning of GSTN, transfer of Input Tax Credit, compensation rules, and job work procedures

Background

GST unified multiple central and state-level taxes into a single, comprehensive tax, enhancing ease of doing business and ensuring a common national market. To ensure smooth enforcement, legal redress, and efficient tax administration, the GST law provides detailed provisions related to appeals, revisions, offences, and compliance procedures. Appeals can be made at various levels, starting from the Appellate Authority to the Appellate Tribunal, and eventually to the High Court and Supreme Court, offering multiple avenues for dispute resolution and justice. Simultaneously, the power of revision allows tax authorities to review incorrect or improper decisions, adding another layer of oversight. The law also identifies various offences and penalties to curb tax evasion and provides a compounding mechanism to settle cases without litigation. The law covers transitional provisions to help taxpayers smoothly shift from the old tax regime, and explains key concepts like intra-state and inter-state supply, zero-rated and deemed exports, and import of goods/services under IGST. Technological support from GSTN (Goods and Services Tax Network) ensures a real-time, digital tax ecosystem. Important elements like transfer of ITC, interest, compensation to states, and job work procedures ensure operational efficiency and clarity. A strong administrative and legal structure is therefore critical to the effective implementation and sustainability of the GST framework in India.



Keywords

Appellate Tribunal, Compounding of Offences, IGST

Discussion

◆ Review

3.2.1 An appeal

An appeal is a request made to a higher court to review the decision of a lower court. It means asking the higher court to check whether the lower court's judgment was correct. Through an appeal, a person can request the higher court to change, cancel, or correct the decision of the lower court if it was wrongly decided or if justice requires it.

While appeal is the judicial examination, Memorandum of Appeal contains the grounds on which the judicial examination is invited.

The Goods and Services Tax (GST) law in India provides a strong appeals and revision mechanism to ensure justice and accountability in tax administration. This mechanism enables taxpayers to challenge orders passed by authorities and ensures that disputes are resolved fairly and lawfully. It is governed by Chapter XVIII (Sections 107 to 121) of the CGST Act, 2017.

Appeals and revisions serve two main purposes:

1. To protect the rights of taxpayers against arbitrary or incorrect decisions.
2. To ensure legal and administrative accountability within the tax system.

An appeal is a legal remedy whereby a person aggrieved by any decision or order of an authority may approach a higher authority to seek relief. Under GST, a taxpayer can file appeals at multiple levels if dissatisfied with an order.

3.2.2 Basic features of appeal

1. Appeals are made against the order of the Adjudicating Authority.
2. Appeal can be made by the Appellant or by the Department as well.

3. Appellant is the person aggrieved
4. The appeal filed by the appellant normally is divided into 3 parts which
 - a. Form of appeal
 - b. Statement of facts
 - c. Grounds of appeal

All the grounds ie. contention shall be stated in the grounds of appeal. As per Section 107(10) if the appellant wants to raise any other grounds which is not mentioned in the grounds of appeal, then the appellant must satisfy appellate authority that the omission to mention any grounds was not wilful or unreasonable.

5. No Remand to lower authority. Section 107(11) of the Central Goods and Services Tax (CGST) Act, 2017 provides that the Appellate Authority shall pass such order as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the authority that passed the said decision or order. Thus, Appellate Authority does not have power to remand the case to original authority.
6. The CGST Act makes provisions of first appeal before 'Appellate Authority' and second appeal before 'National Goods and Service Tax Appellate Tribunal' (Appellate Tribunal).
7. The Appellate Tribunal will be common for CGST, IGST, UGST and SGST. The Appellate Tribunal will have Member (Judicial), Member (Centre) and Member (State). Thus, Appellate Tribunal will have a three member bench.

3.2.2.1 First Appeal (section 107)

First Appeal can be filed with the Appellate Authority against the orders of the Adjudicating Authority.

◆ Adjudicating authority

'Adjudicating authority' means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling the Appellate Authority and the Appellate Tribunal Section 2(4) of CGST Act, 2017.

Section 2(8) of the CGST Act, 2017 defines Appellate Authority as an authority appointed or authorised to hear appeals as referred to in Section 17 of the CGST Act.

3.2.2.2 Appeal to the appellate authority-sec 107

1. Filing of appeal by an aggrieved person

- ◆ As per Section 107, an appeal to the Appellate Authority can be made upon the order or decision passed by an "adjudicating authority". However, an appeal cannot lie if any decisions or orders are not appealable as per Sec. 121.

2. Time limit to file an appeal

- ◆ As per Sec. 107(1), an appeal to the Appellate Authority should be made by the aggrieved person within three months from the date of communication of the order of the Adjudicating Authority.
- ◆ As per Sec. 107(2), the order of the Commissioner determining the points arising out of his decision may also be appealed to the Appellate Authority within six months from the date of communication of the order by the Commissioner.
- ◆ The Appellate Authority can condone the delay up to one month from the end of the prescribed period of 3/6 months for filing the appeal (3+1/6+1), when there is sufficient cause as laid down in Section 107(4) of the Act

3. Powers to allow additional grounds

When the Appellate Authority is satisfied that the omission was not willful or unreasonable, then he can allow the additional grounds in the appeal petition.

4. Order passed to be communicated

The copy of the order of the Appellate Authority has to be communicated to the appellant, respondent and the adjudicating authority. The same copy can be marked to the jurisdictional Commissioner of the CGST and the SGST/the UTGST Acts.

5. Amount of mandatory pre-deposit for every appeal

As per Sec.107(6), it is mandatory to deposit the full amount of tax, interest, fine, fee and penalty arising from the impugned order in every appeal, and also an amount equivalent to 10% of the amount of tax in dispute arising from the order in relation to which the appeal has been filed.

6. Recovery of the balance amount
 - ◆ On making the payment of pre-deposit as above, the recovery proceedings will be stayed, in terms of Section 107(7).
7. Order enhancing the quantum of duty/fine/penalty/reduction in the amount of refund/ITC from the one passed by the original authority
 - ◆ The Appellate Authority is empowered to enhance the fees or penalty or fine in lieu of confiscation or to reduce the amount of refund or the input tax credit. Before passing an order for enhancement of fees/fine, a reasonable opportunity should be given to reply to the show cause notice issued against the proposed detrimental order. (First Proviso to Section 107(11)).
 - ◆ The order in the above case should be passed within three years from the date of erroneous refund of ITC u/s 73(10) or within the time limit of five years from the date of short paid/wrongly availed of ITC u/s 74(10).
8. No power to remand back the case to the adjudicating authority
 - ◆ As per Section 107(11), the Appellate Authority shall pass an order confirming, modifying or annulling the decision appealed against him. But the Appellate Authority shall not refer the case back to the Adjudicating Authority.

3.2.2.3 Revisional Authority - SEC.108

1. Powers of the Revisional Authority to revise any order passed under the Act by his subordinates
 - ◆ According to Section 2(99) of the Act, "Revisional Authority" is defined as an authority appointed or authorised under this Act for the revision of decisions or orders referred to in Section 108.
 - ◆ As per Section 108 of the Act, a "Revisional Authority" can call for and examine any order passed by his subordinates. When the Revisional Authority feels that the order of the lower authority seems to be erroneous in so far as it is prejudicial to revenue and is illegal or improper or has not taken into account certain material facts, then he may revise the order after giving an opportunity of being heard to the notice.

◆ To revise order

◆ Stay the order

2. Powers of the "Revisional Authority" to stay the order passed by his subordinates pending such revision

- ◆ Pending the revision petition, the "Revisional Authority" can stay the operation of any order passed by his subordinates.

The time limit for filing the memorandum of cross objections before the Tribunal is 45 days from the date of receipt of appeal [Sec. 112(6)].

3. Interest payable on refund of the pre-deposit amount - Sec. 115

◆ Interest

- ◆ As per Section 115 of the Act, when there is a refund of amount deposited by the appellant under Section 107 or under Section 112 consequent to any order of the Appellate Authority or of the Appellate Tribunal, then the interest at the rate not exceeding 6% shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

3.2.2.4 Appeal before The High Court-SEC.117

1. Orders passed by the Appellate Tribunal may be appealed to the High Court by the aggrieved person. The High Court may admit such appeal only when it involves substantial question of law.

2. The following appeals are taken by the High Court:

- ◆ when there are different views regarding the treatment of a transaction(s) in the case of Intra-State or Inter-State supplies, or
- ◆ when there are different views regarding the place of supply.

3. The High Court may admit an appeal within 180 days of the order of the Appellate Tribunal. The High Court may extend the appeal period beyond 180 days, if it is satisfied that there is sufficient cause that the appellant was prevented from presenting the appeal. [Sec.117(2)]

4. If the High Court is satisfied that the case involves substantial question of law formulated by it, then it may allow the appeal.

3.2.2.5 Appeal before the Supreme Court-SEC.118

1. As per Sec.118, an appeal can be made to the Supreme Court in the following cases:

- ◆ The Supreme Court can take up an appeal upon the order passed by the High Court on its own motion or on an application by the aggrieved party.
- ◆ As against the order passed by the Appellate Tribunal in the matter relating to the treatment of a transaction(s) being intra-State or inter-State, or where two or more States, or a State and the Centre, have different views regarding the place of supply.

3.2.3 Revision and Offences

Two essential elements of this GST framework are revision of orders and offences and penalties. Revision ensures administrative oversight on erroneous or improper orders. The aim of the provisions relating to offences is to deter willful default or fraudulent activity. Together, they uphold the integrity of the GST system and ensure fair treatment for both taxpayers and the revenue authorities.

◆ Integrity

Under Section 108 of the CGST Act, the concept of revision allows a Revisional Authority, such as the Commissioner or any other officer authorized by him, to revise decisions or orders passed by subordinate officers. This power can be exercised either suo motu or on reference from another officer if the original order is illegal, improper, or prejudicial to the interest of revenue. The law clearly prohibits revision of any order if it is under appeal or has already been appealed. The revisional order must be passed within three years from the date of the original order, and the revision process must be completed within one year from the initiation. This provision helps in correcting administrative errors and reinforces the supervisory role of higher authorities.

◆ Corrections

3.2.3.1 Offences

◆ GST violation penalties

GST Law provides for penalties and punishments for violation of law. The word 'Offence' is not defined in the Constitution. Article 367 of the Constitution says that unless the context otherwise provides for, words not defined in Constitution, the meaning assigned in the General Sections Act, 1897 may be given.

Section 3(8) of General Sections Act 1897 defines Offence as any act or omission made punishable by any law for the time being in force. Section 2(n) of Criminal Procedure Code defines offence as any act or omission made punishable by any law for the time being in force.

Every fiscal statute requires the assessee to follow certain provisions of the Act. These laws deal with acquiring registration,

classifying products, calculating tax liabilities, paying taxes, submitting returns, receiving credit, and so on. The taxable person must complete these activities within the time frame specified in the statute.

3.2.3.2 Penalties

The Goods and Services Tax (GST) law in India lays down a comprehensive penalty structure to ensure compliance and deter tax evasion. Penalties are imposed for various contraventions of provisions under the CGST Act, SGST Act, and related rules, regardless of whether such contravention was made with or without fraudulent intent. These penalties serve both as a deterrent and a corrective measure. The two broad categories under which penalties are levied include monetary penalties and prosecution (criminal penalties). While minor or procedural lapses may attract fines or late fees, deliberate fraud or evasion can result in both hefty fines and imprisonment.

◆ GST compliance penalties

The statute also allows for the imposition of a penalty if the assessee fails to meet the responsibilities imposed on him by various provisions of the sections or the rules enacted under them within the time frame set in the statute. Penal measures are strong when the assessee knowingly violates statutory provisions.

◆ Penalty for violation

Penalty in any legislation means a punishment, whether by way of fine or otherwise, such as retention of goods, incarceration, detention, and confiscation of goods or conveyance, etc., for committing any offences or for failure to execute any act required by law.

The GST Law envisions two types of punishments. These can be simultaneous and concurrent.

Civil Liability

Penalty for violation of statutory provisions involving a penalty of money and confiscation of goods. This is a civil penalty and can be adjudged in departmental adjudication. This penalty can be levied by departmental authorities

◆ Departmental adjudication

Criminal Liability

Criminal punishment is of imprisonment and fine; which is granted only in a criminal court after prosecution. These are provided in GST law.

◆ Criminal court

Compounding of Offences

A competent criminal court is the body that can impose fines and imprisonment. The offender may, however, consent to pay

◆ Quasi judicial agencies

the composition amount in lieu of appearing in court. Quasi-judicial agencies can issue orders for the payment of composition money. This is referred to as "compounding of offences."

Compounding is an agreement reached by the person committing the offence and the administrator of the law. Compounding crime is the practice of receiving money (known as compounding fees) in exchange for agreeing not to prosecute an offender.

◆ Compounding allowed

In the event that the relevant party desires to avoid litigation, the GST law also allows for the compounding of offences. Compounding is only permitted upon the payment of the taxes, interest, and penalties associated with such violations. Compounding, however, won't be available for

◆ Compounding not allowed situations

- a. A second time offender of Cognizable offence specified in clauses (a) to (f) of sub-section (1) of Section 132.
- b. A second time offender where earlier offence had been under any other GST law in respect of supplies of value exceeding one crore rupees
- c. A person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force.
- d. A person who has been convicted for an offence under this Act by a court
- e. A person who has been accused of committing an offence specified in clause (g) or clause (1) or clause (k) of sub-section (1) of Section 132; and
- f. Any other class of persons or offences as may be prescribed

Rule 162 has been inserted in Central GST Rules, 2017 vide Notification No. 15/2017-Central Tax, dated 1-7-2017 prescribing the procedure for compounding of offences under GST laws.

3.2.4 Inter-State and Intra-State Supply under GST

Under the Goods and Services Tax (GST) regime in India, the concepts of inter-state and intra-state supply are crucial for determining the applicable type of GST—Integrated GST (IGST) or Central GST (CGST) and State GST (SGST). These distinctions are governed by the Integrated Goods and Services Tax (IGST) Act, 2017 and the Central Goods and Services Tax (CGST) Act,

2017. Understanding whether a transaction is inter-state or intra-state is vital for businesses, as it affects tax compliance, registration, place of supply, and the flow of input tax credit.

3.2.5 Inter-State Supply

An inter-state supply refers to the supply of goods or services from one state or union territory to another, or from a state to a union territory, or vice versa. It also includes imports and exports. As per Section 7 of the IGST Act, a supply is treated as inter-state if the location of the supplier and the place of supply are in two different states or union territories. In such cases, IGST is levied and collected by the Central Government.

- ◆ Two different states

3.2.6 Intra-State Supply

An intra-state supply refers to the supply of goods or services within the same state or union territory, where the location of the supplier and the place of supply are in the same state or union territory. In this case, both CGST and SGST are levied on the transaction. The CGST is collected by the Central Government, and the SGST is collected by the respective State Government.

- ◆ Same state

3.2.7 Zero-rated Supply

Zero-rated supply under GST means supplies that attract a 0% tax rate but are still considered taxable supplies under law. As per Section 16 of the IGST Act, 2017, zero-rated supplies include:

- ◆ Zero percentage GST

- ◆ Export of goods or services, and
- ◆ Supply to a Special Economic Zone (SEZ) developer or unit.

These supplies are different from exempt supplies because taxpayers making zero-rated supplies are eligible to claim input tax credit (ITC) on inputs and input services used in making such supplies. The supplier can claim a refund of unutilized ITC, either by supplying goods or services without payment of IGST under a Letter of Undertaking (LUT), or by paying IGST and then claiming a refund. This guarantees that exports remain tax-free, promoting India's competitiveness in global trade. Certain procedural conditions must be met to avail the benefits, such as timely filing of refund applications, proper documentation, and maintaining records. Zero-rating is a key feature of GST aimed at guaranteeing that the domestic tax does not burden the exported goods and services, adhering to the principle that taxes should not be exported.

- ◆ ITC claim

3.2.8 Imported Supply

◆ Another country

Under GST, an imported supply means the import of goods or services into India from a place outside the country. As per Section 7 of the IGST Act, the import of goods is considered an inter-state supply and attracts Integrated GST (IGST) under the Customs Act, in addition to Basic Customs Duty (BCD) and other applicable cesses. In the case of import of services, IGST is payable by the recipient under the reverse charge mechanism (RCM). For instance, if a company in India receives consultancy services from a firm in the US, the Indian company must pay IGST on that service. Imports are taxed to maintain competitive neutrality, ensuring that domestic and imported goods or services are treated equally. Importers can claim input tax credit on IGST paid, provided the goods or services are used for business purposes and proper documentation (like Bill of Entry and invoice) is maintained. GST on imports is collected by customs authorities at the time of clearance. Thus, GST extends to cross-border trade and integrates customs duties into the broader tax framework.

3.2.9 Transfer of Input Tax Credit (ITC)

◆ Credit for GST paid for input
◆ Avoid double tax effect

Input Tax Credit (ITC) is a basic feature of GST that allows businesses to claim credit for the GST paid on inputs used to make taxable outward supplies. Transfer of ITC typically refers to transferring unutilized credit from one GST registration to another, especially during business reorganizations like mergers, demergers, sale of business, or change in constitution. As per Section 18(3) of the CGST Act and Rule 41 of the CGST Rules, the registered person can transfer the ITC to the transferee, subject to certain conditions. The transferor must file Form GST ITC-02, and the transferee must accept it on the GST portal. Additionally, in the case of inter-state transactions between different GST registrations of the same PAN, the credit is not directly transferable and must follow the supply-and-tax mechanism. The smooth transfer of ITC ensures the continuity of credit chain and avoids cascading taxes. It is essential to maintain proper records and compliance to avail of ITC transfer benefits during business restructuring or registration cancellations.

3.2.10 Compensation Rules

The GST Compensation to States Act, 2017 provides for compensating states for the revenue loss arising due to the implementation of GST. States were guaranteed a 14% annual growth in revenue for a period of five years from July 2017, with 2015-16 as the base year. The Compensation Rules gov-

- ◆ For revenue loss
- ◆ Collect additional tax from specific items

ern how this compensation is calculated, paid, and monitored. The Centre collects compensation cess on specific luxury or sin goods such as tobacco, aerated drinks, and motor vehicles, and distributes it among states to bridge the shortfall in revenue. The rules also outline procedures for filing returns by states, time-lines for fund transfers, and adjustments for any excess or short payments. Compensation payments are subject to audit and may require certification from state authorities. The aim is to protect the financial interests of states that may have been more reliant on their previous tax structures (like VAT, Octroi) and thus experienced shortfalls post-GST. The mechanism ensures fiscal federalism and cooperative spirit between the Centre and the states in the new tax regime

3.2.11 Base Year Revenue

- ◆ Base for compensation
- ◆ Reduce financial loss

Base year revenue refers to the tax revenue of a state during the financial year 2015-16, which forms the foundation for calculating compensation to states under the GST (Compensation to States) Act, 2017. This revenue includes all taxes that were subsumed under GST such as VAT, CST, Entry Tax, Entertainment Tax, and Luxury Tax. The 14% compounded annual growth over this base year revenue is used to determine the compensation entitlement of a state. If the actual GST revenue in any year falls short of this projected amount, the Centre compensates the state using the GST Compensation Cess fund. The revenue considered excludes taxes on petroleum products and alcohol, which remain outside GST. Accurate calculation and certification of base year revenue by the Comptroller and Auditor General (CAG) and state finance departments were essential for determining fair compensation. This concept ensured that states were not financially disadvantaged due to the shift from a multi-tax structure to GST, thus promoting cooperative federalism. It also provided a transitional financial safety net for states until they fully adjusted to the new tax regime and developed alternate sources of revenue under the GST framework.

3.2.12 Miscellaneous Provisions

- ◆ General laws for transparency
- ◆ Powers and legal procedures

The Miscellaneous Provisions under the GST law include various general and residual clauses that help in smooth administration, enforcement, and compliance of the law. These are primarily contained in Chapter XXI (Sections 150 to 174) of the CGST Act, 2017. These provisions deal with topics such as obligation to furnish information returns (Sec 150), assistance of police or other officers (Sec 151), protection of action taken in good faith (Sec 157), and liability in case of company liquidation (Sec 88). It also includes rectification of errors, rounding

off of tax amounts, and removal of difficulties (Sec 174), empowering the government to resolve unforeseen implementation challenges. These clauses ensure that the GST framework operates smoothly and account for exceptional circumstances not covered under specific sections. They also provide powers to issue rules, remove ambiguity, protect officers, and facilitate legal procedures. Though not frequently invoked in day-to-day business operations, these provisions are essential for maintaining the administrative integrity and continuity of GST. They act as supporting legal tools, enabling the authorities to deal with special cases, emergencies, and operational difficulties encountered during the implementation of the law.

3.2.13 Interest

Interest under GST is levied when a taxpayer fails to pay tax or delays payment beyond the due date. As per Section 50 of the CGST Act, 2017, a registered person is liable to pay interest at 18% per annum on the outstanding tax amount if not paid within the due date. In cases of wrongful availment and utilization of Input Tax Credit (ITC), interest is payable at 24% per annum. The interest is calculated from the day tax was due until the actual payment is made. Unlike penalties, interest is automatic and compensatory, not punitive. It cannot be waived unless specifically permitted under law or orders. Recent amendments and CBIC circulars have clarified that interest is payable only on net cash liability (not gross liability) in most cases, easing the burden on genuine taxpayers. This provision ensures timely tax compliance, discourages delay in tax payments, and maintains the liquidity of tax revenue for the government. Interest liability must be paid before filing annual returns or in response to notices issued during assessment or audit. It is a critical part of the GST compliance system, ensuring fiscal discipline and fairness.

- ◆ For delays and default

3.2.14 Job Work Procedure

Job work refers to any process or treatment undertaken by a person (called the job worker) on goods belonging to another registered person (called the principal). The job work procedure is governed by Section 143 of the CGST Act, 2017, and allows the principal to send inputs or capital goods to a job worker without paying tax, provided the goods are returned within the prescribed time. Inputs must be returned within 1 year and capital goods within 3 years, failing which such movement is treated as a deemed supply and becomes taxable. Job work enables businesses to outsource production processes without breaking the input tax credit chain. The principal can claim ITC on goods sent

- ◆ Deemed supply
- ◆ Documents

to job workers and even on goods directly shipped from the supplier to the job worker. If the finished goods are supplied directly from the job worker's premises, the job worker must be registered, or the principal must declare the place as an additional place of business. Job work promotes operational efficiency and cost reduction in sectors like textiles, jewellery, and engineering. However, proper documentation, including challans and e-way bills, is essential to avoid tax disputes.

3.2.15 Deemed Export

Deemed exports means certain supplies of goods that do not leave the country, yet are treated as exports under GST law because they are supplied under special conditions. As per Section 147 of the CGST Act and related notifications, supplies such as goods made to Export Oriented Units (EOUs), Advance Authorization holders, or Projects funded by multilateral agencies are treated as deemed exports. In these cases, payment must be received in Indian rupees and goods must be manufactured in India. Though the goods are not physically exported, the benefits of zero-rating are extended in the form of refund of tax paid on such supplies either to the supplier or recipient, as specified. This encourages domestic manufacturing and supports government policies like Make in India. To claim the benefits, suppliers must file deemed export refund applications, maintain documentation, and comply with DGFT and GST rules. Deemed exports are beneficial for industries dependent on indirect export channels and for incentivizing procurement from domestic sources for export-linked activities. Such transactions must be carefully structured to meet the eligibility and procedural criteria prescribed under the GST and FTP (Foreign Trade Policy).

- ◆ Advantage of zero rate

Summarised Overview

The GST law offers a well-defined appeals mechanism for dispute resolution, beginning with the Appellate Authority under Section 107, and further extending to the Appellate Tribunal, High Court, and Supreme Court. Taxpayers can appeal against orders passed by adjudicating authorities and seek legal remedies. Alongside, the Revisional Authority under Section 108 has the power to revise erroneous decisions made by lower authorities, provided the order is not already appealed. To enforce compliance, GST law prescribes offences and penalties under Sections 122 to 138. These include issues like tax evasion, wrongful ITC claims, and obstruction of officers. Some offences can be compounded, allowing defaulters to avoid litigation by paying a specified amount. Penalties may be monetary or criminal (including imprisonment) depending on the severity of the offence. Transitional provisions ensure a smooth shift from the old tax regime (VAT, excise, service tax) to GST, including rules for carrying forward of cred-

its and handling ongoing proceedings. The law also explains inter-state and intra-state supply—IGST is levied on inter-state and imports, while CGST and SGST apply to intra-state transactions. Zero-rated supplies, such as exports and supplies to SEZs, are taxed at 0% but allow ITC refund. Imports are treated as inter-state and taxed under IGST. The GSTN provides the technology backbone for GST operations, handling registration, returns, payments, and ITC reconciliation. Provisions also exist for transfer of ITC, job work procedures, and deemed exports, supporting manufacturing and trade flexibility. Compensation rules protect states from revenue loss by ensuring 14% annual revenue growth over the base year. Additionally, interest provisions apply on delayed tax payments and incorrect ITC claims. Together, these elements create a comprehensive and dynamic GST ecosystem.

Self-Assessment Question

1. Explain the powers and scope of Revisional Authority under the GST Act.
2. What is the scope of appeal to the Supreme Court in GST cases?
3. Define revision under the GST framework. How is it different from appeal?
4. What constitutes an offence under the GST law?
5. What are the conditions for compounding of offences under GST?
6. What are the key features of transitional provisions under GST?
7. What is imported supply under GST? How is it taxed?
8. Explain the rules regarding transfer of Input Tax Credit (ITC).

Assignments

1. Compare and contrast the treatment of inter-state and intra-state supply with examples and applicable tax heads.
2. Discuss the significance of penalties in ensuring compliance under GST.
3. Explain how the base year revenue (2015-16) was determined for compensation to states. Include a simple data table.

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SGOU

04 BLOCK

Customs Law in India

Block Content

- Unit - 1 Basic Concepts in Customs Law
- Unit - 2 Levy of tax and Assessment procedure
- Unit - 3 Penalties, Appeals and Revision

Unit 1

Basic Concepts in Customs Law

Learning Outcomes

After completing this unit the learner will be able to:

- ◆ get an idea on the basic concepts of customs law
- ◆ know the role of customs duty in international trade
- ◆ get an awareness on the basis of determining customs duty

Background

In an increasingly globalized economy, international trade plays a vital role in shaping the economic health and strategic position of a country. To regulate and monitor the flow of goods across borders, every nation implements a set of laws and procedures. In India, customs law is primarily governed by the Customs Act, 1962, the Customs Tariff Act, 1975, and the Foreign Trade (Development and Regulation) Act, 1992. These laws ensure that imports and exports are conducted in a controlled, lawful, and efficient manner while safeguarding the nation's economic and security interests.

The fundamental purpose of customs law is to levy and collect duties on imports and exports, prevent smuggling and undervaluation, and ensure compliance with international trade agreements. Customs duty serves as a major source of revenue for the government and acts as a powerful tool for implementing trade policy, protecting domestic industries, and maintaining balance in the foreign exchange reserves.

This unit introduces the basic concepts of customs law. It outlines the understanding the role of customs duty in international trade, which includes protecting local industries from unfair competition and regulating trade flows. This unit describes the basis for determining customs duty, which includes principles of valuation, classification, and country of origin. The unit provides insights into anti-dumping duties, which are levied to counteract the ill effects of dumping. This foundational knowledge is essential for understanding the legal and practical dimensions of cross-border trade and customs compliance.



Keywords

Basic Customs Duty (BCD), Anti-dumping Duty, Countervailing Duty

Discussion

- ◆ Governs import and export of goods

Customs law refers to the legal framework which governs the import and export of goods across different countries. It has a vital role in regulating international trade, ensuring national security, and shielding domestic industries. The laws are imposed by customs authorities, such as the Central Board of Indirect Taxes and Customs (CBIC) in India. Some basic concepts are as follows.

4.1.1 Import and Export

The two vital concepts in customs law are *import* (bringing goods into a country from another country) and *export* (sending goods out of a country). Customs law describes procedures and restrictions related to these processes.

4.1.2 Customs Duty

Customs duty is a tax levied on goods when they cross international boundaries. Various types of duties are

- ◆ Charged on imported goods

- ◆ To counteract subsidies

- ◆ To protect domestic industries

- ◆ Temporary duty

- Basic Customs Duty (BCD):** Basic Customs Duty is charged on imported goods at prescribed rates.
- Countervailing Duty (CVD):** Countervailing duty is imposed to counteract subsidies provided by exporting countries.
- Anti-Dumping Duty:** Anti-Dumping Duty is imposed when goods are imported less than their normal value to protect domestic industries
- Safeguard Duty:** Safeguard duty is a temporary duty to keep the domestic industry from a sudden surge in imports.

4.1.3 Valuation of Goods

For customs purposes, the value of goods is generally based on the *transaction value*, i.e., the price actually paid or payable. If the transaction value is not available the customs officials may use different valuation methods like deductive value or computed value.

4.1.4 Classification of Goods (HS Code)

- ◆ Classified using harmonized system of nomenclature

Goods are classified using the Harmonized System (HS) of Nomenclature, which assigns codes to different categories of products. The right classification determines the applicable duty rate, restrictions, or exemptions.

4.1.5 Prohibited and Restricted Goods

Some goods are totally prohibited from import or export due to safety, health, or security reasons (e.g., narcotics, endangered species). Restricted goods are those require special licenses or permits (e.g., firearms, chemicals, currency).

4.1.6 Objectives of Customs Law

Customs law is a critical component of a nation's legal framework that manages the movement of goods across its borders. It plays a main role in regulating international trade, ensuring compliance with trade agreements, and safeguarding national interests. The primary objectives of customs law are:

4.1.6.1 Revenue Generation

- ◆ To generate revenue for the government

Fundamental objective of customs law is to generate revenue for the government through the imposition of customs duties on imports and exports. This revenue contributes to national income and supports public expenditure.

4.1.6.2 Regulation of Imports and Exports

- ◆ Aids control the inflow and outflow of goods

Customs law aids control the inflow and outflow of goods by administering import and export policies. It confirms that only permitted goods enter or leave the country. This maintains a balance between domestic supply and demand and protecting the economy.

4.1.6.3 Protecting Domestic Industries

- ◆ Protects from unfair foreign competition

By imposing customs duties and other regulations, customs law protects and support domestic industries from unfair foreign competition. Anti-dumping duties and safeguard measures are preventing the flooding of the local market with cheap imports.

4.1.6.4 Prevention of Illegal Trade

- ◆ Prevents smuggling of prohibited goods

Customs law has a vital role in preventing the smuggling of prohibited goods, such as narcotics and counterfeit products. It helps in ensuring national security and public safety.

4.1.6.5 Facilitation of Legitimate Trade

- ◆ Designed to legitimate trade

Customs procedures are designed to legitimate trade by providing rules, faster clearance processes, and electronic filing systems. This improves the ease of doing business and encourages trade growth. Customs law serves numerous purposes, from revenue collection to national security and economic development. Its appropriate implementation is essential for a stable and prosperous economy.

Role of Customs Duty in International Trade

- ◆ Revenue Generation

Customs duty has a significant role in shaping international trade. It influences the movement and competitiveness of goods across national borders. It is a form of indirect tax levied by the government on goods imported or exported in a country. The structure and application of customs duties serve as a major source of government revenue and impact economic policy, and foreign trade relations. The most important role of customs duty is to generate revenue for the government. In developing countries, customs duty is a key contributor to the national budget. The taxes levied on imported goods help fund education, health, and other development projects. By taxing imported goods, governments are able to get financial resources without placing a huge direct tax burden on their citizens.

- ◆ Protect of domestic industries

Another role of customs duty is the protection of local industries. By imposing high rate of duties on imported goods, governments can make foreign products more expensive than locally manufactured ones. This policy gives a competitive advantage to domestic producers, helping them to develop without facing undue pressure from cheap or subsidised imports. Protective customs duties are very important in promoting the development of infant industries that are not yet ready to compete on a global scale.

- ◆ Balance of trade

Customs duties help in maintaining a favourable balance of trade. By regulating imports through duties and restrictions, a country can prevent excessive outflow of foreign exchange and confirm that its trade deficit does not raise uncontrollably. At the same time, export duties may be used to control the outflow of scarce natural resources and essential commodities.

- ◆ Helps in political and economic objectives

Customs duties shall be used as tools of trade policy and diplomacy. Countries can encourage or control trade with particular nations through the imposition or relaxation of tariffs. This will help to achieve political and economic objectives, such as boosting trade partnerships, retaliating against unfair trade practices, or complying with international trade agreements.

◆ Ensure quality and safety

Customs duties regulate the quality and safety of imported goods. By imposing higher tariffs on substandard products, and strictly enforcing customs inspections, governments ensure that imported goods meet national safety and health standards. This protects consumers and supports sustainable trade practices.

◆ Prohibit illegal trade

Customs duties prohibit illegal trade and smuggling. A well-structured customs system ensures that all goods exported and imported are properly documented and taxed. This discourages black-market operations and make sure that all trade activities contribute to the formal economy.

◆ Helps international trade management

Customs duty is an important instrument in international trade management. It helps economic development, protects domestic interests, and guarantees the smooth functioning of cross-border trade. While extreme duties can hinder free trade, a balanced application of customs tariffs help to maintain sustainable and inclusive economic growth.

4.1.7 Basis of Determining Customs Duty

◆ Assessable value

The factors involved in determining customs duty are the assessable value, classification of goods, rate of duty, and country of origin. Assessable value is the value that is used for the calculation of tax. Assessable value includes the cost of goods sold, transportation cost up to the location of the buyer and insurance. Assessable value is calculated by adding the cost of goods, freight charges, and insurance charges. The assessable value of the imported goods is the foundation for calculating customs duty. This is usually based on the transaction value i.e. the price actually paid or payable for the goods when sold for export to India. The assessable value also includes charges like freight, insurance and handling charges incurred up to the place of importation. If the transaction value is not available or cannot be accepted, customs authorities may use alternative methods following the rules under the WTO Valuation Agreement.

◆ Harmonised System of Nomenclature

All goods are classified under a specific code in the Harmonised System of Nomenclature (HSN). Each code has a corresponding rate of duty under the Customs Tariff Act. Perfect classification is essential because it directly impacts the applicable customs duty rate.

◆ Final customs duty

The category and rate of duty also impact the final customs duty. This includes Basic Customs Duty (BCD), Integrated Goods and Services Tax (IGST), Social Welfare Surcharge, and sometimes Anti-Dumping or Safeguard Duties, depending on the situation.

4.1.8 Types of Customs Duties

Customs duties serve multiple purposes, for example, revenue generation, protecting domestic industries and imposing trade policies. There are different types of customs duties, each serving a particular function. The major types of customs duty are

4.1.8.1 Basic Customs Duty

- ◆ Fundamental type of import duty

This is the fundamental type of import duty. Basic Customs Duty is levied on the value of goods imported, calculated as per the transaction value, which includes the cost, insurance, and freight (CIF). The rates of Basic Customs Duty vary for different types of goods and are prescribed in the Customs Tariff Act. It serves as a protective measure to protect domestic industries from foreign competition.

4.1.8.2 Countervailing Duty

- ◆ Imposed on imported goods

Countervailing Duty is imposed on imported goods to counterbalance the effect of different subsidies provided by the exporting country to their exporters. This duty guarantees a level playing field for domestic producers by neutralising the advantage that foreign producers may receive through subsidies. It is levied under Section 9 of the Customs Tariff Act.

4.1.8.3 Safeguard Duty

- ◆ Temporary measure

Safeguard duty is imposed as a temporary measure to safeguard the domestic industry from a quick and sharp increase in imports that may cause serious injury.

4.1.8.4 Protective Duty

- ◆ To protect weak and new industries from international competition

Protective duty is levied to protect domestic industries, especially those considered weak or newly established, from international competition. This duty is levied by the government on the recommendation of the Tariff Commission.

4.1.8.5 Social Welfare Surcharge

- ◆ Levied on aggregate of customs duties

This surcharge is levied on the aggregate of customs duties for the purpose of financing education, health, and social welfare schemes. The standard rate is generally 10% of the basic customs duty.

4.1.8.6 Additional Customs Duty

- ◆ To counterbalance excise duty

This duty is levied to counterbalance the excise duty that local producers pay. It was referred to as the Countervailing Duty

(CVD) before the GST era. Post-GST, this duty has largely been subsumed under IGST, but it may still apply to certain goods.

4.1.8.7 Anti-dumping duty(U/s 9A of Customs Tariff Act)

◆ Anti-dumping duty

When the export price of a product imported into India is less than the normal value of like articles sold in the domestic market of the exporter, it is known as dumping. Although there is nothing inherently illegal or immoral in an exporter charging a price less than the price prevailing in its domestic market, the Designated Authority can initiate necessary action for investigations and subsequent imposition of anti-dumping duties, if such dumping causes or threatens to cause material injury to the domestic industry of India. Anti-dumping action can be taken only when there is an Indian industry which produces "like articles" when compared to the allegedly dumped imported goods. This duty is country-specific, ie. it is imposed on imports from a particular country. Under the General Agreement on Tariffs and Trade (GATT) provisions, anti-dumping duties higher than the margin of dumping cannot be imposed.

4.1.8.8 Steps in Computation of Anti-Dumping Duty

◆ Determination of anti-dumping duty

- ◆ **Determine the Normal Value (NV):** This is the price at which the goods are sold in the domestic market of the exporting country. If domestic prices are not available, constructed value or prices to third countries may be used.
- ◆ **Determine the Export Price (EP):** This is the price at which the goods are exported to the importing country. Adjustments may be made for discounts, rebates, and other factors.

- ◆ **Calculate the Dumping Margin (DM):**

$$\text{Dumping Margin (DM)} = \text{Normal Value (NV)} - \text{Export Price (EP)}$$

A positive dumping margin indicates that dumping has occurred.

- ◆ **Compare with Injury Margin (if applicable):** Injury Margin is the difference between the fair selling price of the domestic industry and the landed cost of imports. As per WTO rules and Indian practice, the lower of the Dumping Margin and Injury Margin is imposed as the anti-dumping duty.
- ◆ **Apply the Duty:** Anti-dumping duty is imposed as a fixed amount per unit or a percentage of the value, depending on the decision by the investigating authority (DGTR in India). The duty is levied in addition to basic customs duty and other applicable tax

Summarised Overview

Customs law refers to the body of rules and regulations governing the import and export of goods across a country's borders. In India, customs activities are primarily regulated under the Customs Act, 1962 and the Customs Tariff Act, 1975. The basic purpose of customs law is to facilitate international trade while ensuring proper assessment and collection of duties, preventing illegal trade practices like smuggling, and protecting national interests. The objectives of customs law include revenue generation, protection of domestic industries, implementation of foreign trade policy, and regulation of goods based on safety, health, and environmental standards. Customs law also ensures compliance with international treaties and trade agreements. The role of customs duty in international trade is significant, as it serves both economic and protective functions. By imposing duties on imports, the government not only earns revenue but also controls the volume and nature of foreign goods entering the country. It helps maintain trade balance and encourages the growth of domestic industries by making imported goods relatively more expensive. The basis for determining customs duty involves assessing the transaction value of goods, which includes the cost of goods, freight, insurance, and other related charges. Goods are classified using HSN codes, and appropriate duties are levied based on this classification. There are various types of duties imposed under customs law, including Basic Customs Duty (BCD), Additional Customs Duty (CVD), Integrated GST (IGST), Safeguard Duty, and Protective Duty. Each type has its own purpose, ranging from revenue collection to protecting local industries from harmful trade practices. Anti-dumping duty is a specific type of duty imposed when foreign goods are sold in India at unfairly low prices, potentially harming domestic manufacturers. These duties are recommended by the Directorate General of Trade Remedies (DGTR) after investigation.

Self-Assessment Question

1. How does customs duty help protect domestic industries?
2. What is the Customs Act, 1962 primarily concerned with?
3. What is the role of the CBIC in customs administration?
4. What is the difference between BCD and IGST under customs duty?
5. What is the importance of the country of origin in determining customs duty?
6. Explain the basic concepts and features of Customs Law in India.
7. Discuss the primary objectives of imposing customs duties on imported goods.
8. Write an essay on the evolution of customs law in India.

Assignments

1. Evaluate the importance of customs law in protecting local industries and ensuring fair competition.
2. Discuss in detail the types of customs duties levied in India with suitable examples.
3. Analyze the impact of customs duties on a country's import and export policy.
4. Explain the relevance of origin rules and preferential tariffs in determining customs duty.

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Unit 2

Levy of Tax and Assessment Procedure

Learning Outcomes

After completing this unit, the learner will be able to:

- ◆ know about specified goods
- ◆ get an idea of the valuation and valuation rules
- ◆ be aware of exemptions from customs duty
- ◆ describe Assessment Procedures

Background

Customs taxation plays a crucial role in the regulation of international trade and the generation of government revenue. The levy of customs tax refers to the legal imposition of duties on goods that are imported into or exported from a country. The levy of customs duty is generally based on two key factors: the classification of goods and their value or quantity. Proper classification under the Customs Tariff is essential, as different goods attract different rates of duty. The value of imported goods for duty purposes is typically determined based on the transaction value, which includes the cost of goods, freight, insurance, and other charges as specified in the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The assessment procedure under customs law involves several steps to ensure the correct amount of duty is levied and collected. When goods arrive at a customs station, an importer must file a Bill of Entry, which includes complete details about the goods such as their classification, value, country of origin, and applicable duties. The customs officers verify these declarations, examine the goods where necessary, and assess the correct duty payable. Advanced systems like the Risk Management System (RMS) are used to speed up the process by reducing manual checks and focusing only on high-risk consignments. If any discrepancies are found during assessment, customs authorities may reclassify goods or reassess their value. After assessment, the importer is required to pay the duty before the goods are cleared. Provisions also exist for provisional assessment, reassessment, and appeals in case of disputes. The levy and assessment of customs duty is a systematic legal process aimed at ensuring fairness, transparency, and compliance in cross-border trade.

Keywords

Specified Goods, Valuation, Assessment Procedures

Discussion

4.2.1 Point and Circumstances of Levy

◆ Legal seizure of property

A "levy" refers to the legal seizure of property by an authority for the purpose of satisfying a tax debt. It is an enforcement step taken by revenue authorities when a taxpayer has not been able to pay taxes owed despite receiving prior notices and opportunities to resolve the debt. The main point of a levy is to force compliance with tax laws and recover unpaid tax liabilities through the seizure of financial assets, wages, bank accounts, or even physical property. It serves as an instrument to uphold the integrity of the tax system by ensuring that all taxpayers meet their obligations.

◆ Path of the process of levy

The process of levy regularly follows a structured and legally mandated path. Before a levy is imposed, the taxpayer might have been assessed a tax liability and formally notified of the amount due. The government need to send a notice and demand for payment. If the taxpayer fails to make arrangements to pay the debt, the tax authority sends a final notice of intent to levy and notice of your right to a hearing, generally at least 30 days before the levy takes place. This period allows the taxpayer to either pay the amount, enter into an instalment agreement, request a collection due process (CDP) hearing, or propose other remedies like an offer in compromise. Only after this due process is completed, or the taxpayer does not act can the levy be executed.

◆ Circumstances that lead to levy

Circumstances that lead to a levy include prolonged non-payment of taxes, ignoring repeated notices from the tax authority, and failing to respond to collection efforts. Often, levies are used when other collection attempts have failed or the taxpayer is deemed uncooperative. Taxpayers who show an unwillingness to negotiate or who have a history of evading tax responsibilities are more likely to face a levy. Authorities avoid levies when taxpayers show good faith efforts to comply, such as by setting up payment plans or submitting financial hardship documentation.

In certain cases, the levy may be limited or delayed based on the situation of the taxpayer. For example, if the taxpayer proves

◆ Room to breath

financial hardship, the authority might delay or release the levy. Certain assets are exempt from levy under the law, including some public assistance payments, limited amounts of personal property, and a portion of wages. Levies can be devastating, particularly if they involve freezing of bank accounts, as they can severely impact a taxpayer's ability to meet daily living expenses.

◆ Lists all the goods being transported

4.2.2 Import and Export Manifest

An Import and Export Manifest is an important document in international trade and customs procedures. It is a statement that lists all the goods being transported on a vessel, aircraft, or other methods of transport. The manifest serves as a declaration by the carrier to the customs authorities of the importing or exporting country. It has a vital role in ensuring proper control, regulation, and monitoring of goods crossing international borders.

◆ Import General Manifest

In the case of imports, the import manifest might be submitted by the carrier or their agent upon the arrival of the vessel or aircraft at the port or airport. The Import General Manifest contains comprehensive details about all goods on board, such as the bill of lading number, quantity, weight, consignee details, and the port of origin. The filing of the IGM is compulsory under customs laws and must be completed before unloading the cargo. It helps authorities verify the legality of the goods, assess applicable duties, and check for any prohibited or restricted items. It assists in maintaining security and facilitating the clearance process.

◆ Export General Manifest

For exports, an Export General Manifest is filed by the carrier after the goods have been loaded onto the vessel or aircraft. The EGM contains details similar to the IGM but concentrates on goods leaving the country. It includes particulars such as shipping bill numbers, names of exporters, destination country, and the port of discharge. Filing the EGM is vital to close the shipping bills in the customs system and obtain proof of export. This proof is required to claim export incentives, duty drawback, and other benefits provided by the government to exporters.

◆ Compulsory document

Both import and export manifests are crucial for maintaining transparency in trade transactions and for the smooth functioning of customs operations. These documents are now filed electronically in many countries through automated systems like ICEGATE in India. The Import and Export Manifest is a compulsory document that acts as an official declaration of goods carried by a transport carrier.

4.2.3 Specified Goods

- ◆ Categories of goods listed by the government for applying special provisions

Specified goods are specific items or categories of goods that are clearly identified and listed by the government for applying special provisions under the customs, taxation, or trade regulations. These goods are subject to specific treatment in terms of duties, exemptions, restrictions, or procedural requirements. The classification of goods as “specified” allows governments to exercise focused control, encourage or discourage their movement, and promote broader policy objectives.

- ◆ Schedules issued by the Central Government

In the context of customs law, specified goods often appear in schedules or notifications issued by the Central Government under statutory provisions. These may include goods eligible for concessional rates of customs duty, goods entitled to exemptions under specific conditions, or goods requiring mandatory inspection or certification. Under various customs notifications, goods such as lifesaving drugs, defence equipment, and agricultural machinery are classified as specified goods to receive preferential treatment like duty exemption or reduction.

- ◆ Specified goods

Specified goods also play an important role in taxation. In India, the Goods and Services Tax regime identifies certain goods as specified for the purpose of levying compensation cess or special rates. Luxury items such as automobiles, aerated drinks, and tobacco products are treated as specified goods for the levy of additional cess. Similarly, in the Excise Act or the Customs Tariff Act, goods like, alcoholic beverages, petroleum products, gold are categorised specified for applying differential tax treatment.

- ◆ Importance of the identification of specified goods

The identification of goods as specified is important for regulatory enforcement, revenue generation, and the implementation of trade policy. It helps the authorities to streamline processes, prevent evasion, and facilitate trade in priority sectors. Importers and exporters need to be aware of whether their goods fall under the “specified” category to ensure compliance with the applicable laws and procedures.

4.2.4 Warehouse

- ◆ A facility where imported goods can be stored

A warehouse in customs law means a secured and licensed facility where imported goods can be stored under the control of customs authorities without the immediate payment of import duties and taxes. This warehousing system serves as an important mechanism in international trade, allowing importers to defer duty payments until the goods are required for home consumption or re-export. Warehousing is not only a logistical solution

but also a financial strategy that supports businesses in managing cash flows, inventory, and compliance with customs regulations.

◆ Provisions related to warehousing

The Customs Act, 1962, in India provides provisions related to warehousing. According to the Act, once the goods are imported and the Import General Manifest (IGM) is filed, the importer can submit a bill of entry for warehousing and request permission from the department to store the goods in a bonded warehouse. After getting approval, the goods are transferred to the warehouse under the supervision of customs authorities.

4.2.5 Types of Warehouses under Customs Law

◆ Serves as a powerful tool to enhance trade efficiency

Warehousing under customs law is a strategic and legal facility that plays an important role in facilitating international trade and ensuring effective customs control. It provides importers with flexibility in managing inventory, reduces immediate financial obligations, and supports the government in regulating and monitoring the flow of goods. Through different types of warehouses, the system serves a wide range of business needs. With proper compliance and use, customs warehousing turns into a powerful tool to enhance trade efficiency, reduce costs, and support national and international economic growth. There are different types of warehouses permitted under customs law, depending on their use and the nature of goods:

◆ Owned and operated by government agencies or private firms

◆ **Public Bonded Warehouses**

These warehouses are owned and operated by government agencies or private firms under a license from the customs department. They are open for use by all importers and offer standard storage facilities.

◆ Licensed for use of a particular importer

◆ **Private Bonded Warehouses**

These warehouses are licensed for the use of a particular importer. Businesses that frequently import large quantities of goods may choose to operate their own private warehouses to store goods conveniently.

◆ For storing sensitive or restricted goods

◆ **Special Warehouses**

These warehouses are designated for storing sensitive or restricted goods such as arms, explosives, narcotics, or alcoholic beverages. They are maintained under strict customs supervision and require approvals.

◆ For storing goods for export

◆ **Export Warehouses**

These warehouses are used for storing goods for export, allowing exporters to store goods duty-free until they are shipped



- ◆ Units registered under export promotion schemes

out of the country. This encourages timely fulfilment of export orders.

◆ **Export Oriented Unit Warehouses**

Units that registered under Export Promotion Schemes may have bonded warehouses for storing duty-free imported inputs used for manufacturing goods meant exclusively for export.

4.2.6 Benefits of Warehousing in Customs Law

◆ **Deferred Payment of Duties**

One of the primary advantage of customs warehousing is the deferral of duty payment, which increase business liquidity and reduces the financial burden on importers.

◆ **Bulk Importing**

Importers can bring in goods in bulk quantities and store them in bonded warehouses, withdrawing smaller quantities as needed. This will helps in better inventory control and avoids supply disruptions.

◆ **Duty-Free Storage for Exports**

Goods for export can be stored in export warehouses without incurring customs duty, reducing the cost burden for exporters.

◆ **Reduction in Port Congestion**

Warehousing facilities that located outside port premises reduces congestion at ports, allowing faster clearance and better logistics management.

◆ **Facilitates Re-export**

Importers can store goods temporarily and later re-export them to another country, especially in cases of international trading and re-routing.

◆ **Helps in Quality Control and Inspection**

Before clearing goods for domestic use, importers can check the products and carry out quality checks while the goods are still in the warehouse.

4.2.7 Valuation and Valuation Rules under Customs Law

Valuation under customs law means the process of fixing the value of imported or exported goods for assessing customs du-

◆ Precise valuation is important

ties. As majority of customs duties are charged on an ad valorem basis (i.e., a percentage of the value of the goods), precise valuation is vital for fair taxation and proper revenue collection. It helps prevent undervaluation or overvaluation that could otherwise result in revenue loss, fraud, or trade imbalances. Customs valuation ensures homogeneity, transparency, and compliance with international trade practices.

In India, customs valuation is governed by Section 14 of the Customs Act, 1962 along with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. These laws are aligned with the World Trade Organisation (WTO) Agreement on Customs Valuation that aims to establish a fair, homogenous and neutral system for customs valuation across member countries.

4.2.8 Valuation of Imported Goods

◆ Transaction value basis

The transaction value is the basis of valuation for imported goods, which is the price really paid or payable for the goods when sold for export to India. This is provided under Section 14(1) of the Customs Act. The transaction value of goods includes the cost of goods along with additional charges such as freight, insurance, and handling charges incurred up to the place of importation. This value must reveal the true value of the goods and should not be influenced by any particular relationship between the buyer and the seller. Customs may reject the stated transaction value if the parties are related and the relation has influenced the price, or if the value is inaccurate. In such cases, the Customs Valuation Rules prescribe other methods of valuation, which are to be applied sequentially.

4.2.9 Methods of Valuation

If the transaction value is not acceptable, authorities use any of the following methods in the prescribed order

- 1. Transaction Value of Identical Goods:** This method uses the value of identical goods imported at the same commercial level and in similar quantities.
- 2. Transaction Value of Similar Goods:** When identical goods are not available, the value of similar goods is used, provided they share characteristics and commercial use.
- 3. Deductive Value Method:** In this method, the value is based on the selling price of goods in the Indian market, after deducting costs such as local duties and taxes.



4. **Computed Value Method:** The Computed Value Method is based on the cost of production, materials, profit, and other expenses in the exporting country.
5. **Fallback Method:** If none of the above methods work, customs may select reasonable means consistent with WTO guidelines to determine the value.

4.2.9.1 Additions to Transaction Value

Some elements need to be added to the transaction value if they are not included in the invoice. These include commissions and brokerage (except buying commissions), the value of materials, tools, and services supplied by the buyer to the seller for free or at a reduced cost, royalties and license fees, and the value of any part of the resale proceeds that accrue to the seller. These additions are compulsory to reflect the full value of the goods as per Rule 10 of the Valuation Rules.

◆ Elements to be added to transaction value

◆ Expenses not included in transaction value

◆ Proper documentation is essential

- i. **Exclusions from Transaction Value:** Some expenses are not included in the transaction value, provided they are shown separately in the invoice. These include charges for construction, installation, and maintenance carried out after importation, post-importation transport costs, and domestic taxes or duties applicable within India.
- ii. **Documentation for Valuation:** Proper documentation is essential for customs valuation. Importers and exporters must provide commercial invoices, packing lists, bills of lading or airway bills, insurance certificates, freight details, purchase orders, and declarations regarding the relationship between the buyer and the seller. Customs officials rely on these documents to verify the accuracy of the declared value and to apply the appropriate valuation method.

4.2.9.2 Role of Special Valuation Branch (SVB)

In India, the Special Valuation Branch (SVB) is a specialised division of customs which deals with cases involving related party transactions and complex valuation issues. When an importer deals with a related party, SVB examines whether the declared value is influenced by the relationship. Valuation is a sensitive area in customs law, and there are disputes and litigation. Importers may purposely undervalue goods to avoid duties, while exporters may overvalue goods to get higher export incentives. Related party transactions, improper classification of goods, and manipulation of freight or insurance charges are some common tactics used to misrepresent value. To counter these practices,

◆ SVB – Valuation Control

customs authorities have powers to reject declared values, conduct audits, and confiscate goods.

4.2.9.3 Penalties for Mis-valuation

- ◆ Imposition of penalties equal to the amount of duty sought to be evaded

Mis-valuation of goods can lead to severe penalties. Under Section 114A of the Customs Act, customs authorities may impose penalties equal to the amount of duty sought to be evaded. Goods may be confiscated under Section 111 (for imports) or Section 113 (for exports). In cases involving fraud or wilful mis-declaration, criminal prosecution may also be initiated.

4.2.10 WTO Agreement on Customs Valuation

India's customs valuation system is aligned with the WTO Agreement on Customs Valuation which was adopted to establish a fair, uniform valuation system across global trade. The agreement discourages arbitrary or fictitious values and emphasizes the usage of transaction value as the primary method. It also mandates transparency in the valuation procedures and allows importers to appeal against valuation decisions.

- ◆ Systematic approach to valuation

Customs valuation is an important part of international trade and customs administration. It guarantees that the correct amount of duty is levied on imported and exported goods, prevents revenue leakage, and discourage unfair trade. The legal framework under Section 14 of the Customs Act, along with the Valuation Rules of 2007, provides a systematic approach to valuing goods. The transaction value method is the primary basis, with alternate methods applied where necessary. Importers and exporters need to maintain transparency, declare accurate values, and provide complete documentation. Customs authorities, on their part, must make it sure that the valuation rules are implemented fairly and consistently. With expansion of global trade, the role of accurate valuation in promoting compliance and protecting national revenue becomes increasingly significant.

4.2.11 Exemptions from Customs Duty

- ◆ Customs duty exemptions

To support economic growth, encourage trade, protect local industries, and promote public welfare, governments often provide exemptions from customs duty for particular goods, services, or entities. These exemptions are governed by the provisions of the Customs Act, 1962 and the Customs Tariff Act, 1975, along with various notifications and circulars issued by the Indian Government from time to time. In India, exemptions play an important role in facilitating international trade and supporting government policies in different sectors such as defence, health, agriculture, education, and industry. Customs duty ex-

emptions may be full or partial, conditional or unconditional, and may apply to particular goods, categories of importers, or under specific circumstances.

The primary legal provisions for granting exemptions from customs duty are:

◆ **Section 25 of the Customs Act, 1962**

This empowers the Central Government to issue notifications to exempt goods, either absolutely or conditionally, from the whole or any part of customs duty.

◆ **Customs Tariff Act, 1975**

This Act classifies goods and fixes the rates of customs duties applicable on imports and exports. Exemptions modify these rates under specific conditions. Exemptions are generally notified in the Official Gazette and are legally binding. They may apply to Basic Customs Duty (BCD), Integrated Goods and Services Tax (IGST), Compensation Cess, or other applicable levies.

4.2.12 Types of Customs Duty Exemptions

1. General Exemptions

These are blanket exemptions applicable to all importers unconditionally. They are issued in the public interest, often to cut the cost of essential goods such as food items, life-saving drugs, or defence equipment. These are automatic and do not require the importer to fulfill any obligations.

◆ Applicable to all importers unconditionally

2. Conditional Exemptions

Conditional Exemptions are granted subject to the fulfilment of certain conditions. Importers must comply with prescribed norms such as end-use restrictions, export obligations, or adherence to specific certification or documentation requirements.

◆ Granted subject to fulfilment of certain conditions

3. Area-Based Exemptions

To promote industrial development in backwards areas, the government grants customs duty exemptions for units set up in Special Economic Zones (SEZs), Export Oriented Units (EOUs), and Software Technology Parks (STPs).

◆ To promote industrial development in backwards areas

4. End-Use-Based Exemptions

End-use-based exemptions apply when the imported goods are used for a particular purpose or by a specific sector, such as agriculture, healthcare, or research.

◆ When imported goods are used for particular purpose

◆ Based on national interest or policy objectives

◆ Allows duty free import of capital goods and inputs

5. Sector-Specific Exemptions

Some industries or sectors may be granted duty relief based on national interest or policy objectives.

6. Export Promotion Scheme-Based Exemptions

The Government of India promotes exports through many schemes such as Export Promotion Capital Goods (EPCG) and Advance Authorization Scheme that allow duty-free imports of capital goods and inputs, respectively, against export commitments.

4.2.13 Procedure for Availing Exemptions

To claim a customs duty exemption, the importer must follow certain procedures

◆ Correct Classification and Notification Reference

The goods must be classified under the exact Harmonized System (HS) code, and the applicable exemption notification should be quoted in the Bill of Entry.

◆ Submission of Required Documents

Documents such as licenses, certificates, end-use bonds, and undertakings must be submitted to customs authorities.

◆ Compliance with Conditions

In the case of conditional exemptions, the importer must comply with all specified conditions during importation and post-clearance (e.g., export obligations or end-use verification).

◆ Audit and Verification

Customs may conduct audits or inspections to verify compliance with exemption conditions. Non-compliance may lead to the withdrawal of the exemption and recovery of duties with penalties.

4.2.14 Important Notifications and Examples

1. **Notification No. 50/2017-Customs:** A comprehensive exemption notification that lists various goods and the applicable conditions for exemption or concessional duty.
2. **Notification No. 18/2015-Customs:** Grants exemption to certain goods imported by EOUs.
3. **Notification No. 84/97-Customs:** Exempts goods imported for specified purposes, such as agriculture, sports, or scientific research.

4. **Defense and Space Exemptions:** Goods imported by the Ministry of Defence or ISRO for official purposes are often exempt from customs duties.
5. **Medical Exemptions:** Life-saving drugs, medical devices, and diagnostic kits are often granted customs exemptions to reduce healthcare costs.

4.2.15 Customs Duty Authorities and Their Powers

◆ Customs Authority Powers

The collection, administration, and enforcement of customs duty fall under the domain of the customs authorities. The customs authorities collect duties and also regulate cross-border trade, ensure national security, prevent smuggling, and implement trade policy. For carrying out these responsibilities, the customs law provides a structured hierarchy of customs officials and clearly defines their powers, roles, and jurisdictions. The authorities are empowered to enforce the law through different processes such as assessment, examination, search and seizure, adjudication, and prosecution.

Legal Framework

The main legislation governing customs duty authorities and their powers in India includes

- ◆ The Customs Act, 1962
- ◆ The Customs Tariff Act, 1975
- ◆ Rules and Regulations issued under the Customs Act
- ◆ Notifications and Circulars issued by CBIC (Central Board of Indirect Taxes and Customs)

Section 3 of the Customs Act empowers the Central Government to appoint customs officials and assign their duties and powers.

4.2.16 Hierarchy of Customs Authorities

The customs administration in India is structured as follows:

1. Central Board of Indirect Taxes and Customs (CBIC)

◆ Apex body

Central Board of Indirect Taxes and Customs is the apex body under the Department of Revenue, Ministry of Finance. CBIC formulates policies regarding customs, exercises supervision over field formations, and ensures implementation of customs laws. Central Board of Indirect Taxes and Customs issues circulars and notifications and handles international trade negotiations relating to customs.

2. Principal Chief Commissioner of Customs / Chief Commissioner of Customs

These officers supervise customs activities at the zonal level. These officers oversee compliance, supervise subordinate officers, and ensure policy implementation within their jurisdiction.

3. Principal Commissioner / Commissioner of Customs

The Commissioner is the main decision-maker at the port or customs station. They are responsible for overall administration, anti-smuggling operations, adjudication of disputes, and enforcement of the Customs Act.

4. Additional Commissioner / Joint Commissioner of Customs

These officers assist the Commissioner and are responsible for specific functional areas such as valuation, import, export and preventive operations.

5. Deputy Commissioner / Assistant Commissioner of Customs

They are accountable for assessing customs duty, examination of goods, and issuing orders regarding clearance and refund of duties.

6. Appraising Officers, Inspectors, Superintendents, and Clerical Staff

These officers handle the operational aspects like examining cargo, checking documents, verifying valuation and classification, and reporting to senior officers.

Powers of Customs Officers

Customs officers have an extensive range of powers to ensure the proper administration of customs laws. These powers are detailed under various sections of the Customs Act, 1962:

1. Power to Search (Section 100–102)

Customs officers have the right to search any person, baggage, or conveyance if they suspect concealment of goods liable to confiscation. They may also search premises with proper authorization. Female persons can only be searched by female officers.

2. Power to Arrest (Section 104)

Customs officers of the rank of Assistant Commissioner or above can arrest any individual who is suspected of an offence punishable under customs law, particularly in cases of smuggling, duty evasion, or fraudulent declarations.

3. Power to Seize Goods (Section 110)

If the customs officer has reason to believe that any goods are liable to confiscation (e.g., smuggled, undervalued, prohibited), they may seize the goods and take them into custody.

4. Power to Issue Summons (Section 108)

Any customs officer not below the rank of Superintendent can summon an individual to give evidence or produce documents. Failure to comply can result in legal consequences.

5. Power of Assessment and Valuation (Section 17)

Customs officers have the power to assess the value of imported or exported goods and determine the correct classification and applicable rate of duty.

6. Power to Demand Duty (Section 28)

If customs duty has not been levied due to fraud, suppression of facts, or misstatement, officers can issue a notice within the prescribed time (generally 2 years or 5 years, depending on the nature of the case).

7. Power to Confiscate Goods and Impose Penalties (Sections 111–127)

Goods that are misdeclared, undervalued, or imported/exported in violation of the law can be confiscated. Monetary penalties can be imposed on offenders.

8. Power to Adjudicate (Section 122)

Customs officers have the authority to adjudicate cases involving duty disputes, classification issues, and contraventions. The power to adjudicate varies with the rank of the officer and the value involved.

9. Power to Grant Refunds (Section 27)

Customs officers have the right to process and approve claims for refund of excess customs duty paid, provided the claim is filed within the time limit (usually one year from the date of payment).

10. Power to Authorize Warehousing (Sections 57–73)

Customs Officers can give permission for goods to be stored in bonded warehouses without immediate payment of customs duty, and supervise entry and clearance from such warehouses.

11. Power in Anti-Smuggling Operations

Customs officers play a significant role in preventing the smuggling of goods like gold, narcotics, and counterfeit currency. Officers conduct surveillance, investigate suspicious consignments, and coordinate with other enforcement agencies.

4.2.17 Quasi-Judicial Powers

- ◆ Customs officers act as quasi-judicial authorities

Customs officers have the right to act as quasi-judicial authorities while adjudicating disputes related to classification, exemption eligibility, confiscation, and penalties. They conduct personal hearings, examine evidence, and issue orders in accordance with natural justice. An importer or exporter aggrieved by the decision of a customs officer can appeal to higher authorities, such as

- ◆ Commissioner (Appeals) under Section 128
- ◆ Customs, Excise, and Service Tax Appellate Tribunal (CESTAT) under Section 129
- ◆ High Courts and the Supreme Court in cases involving questions of law

Customs Preventive and Intelligence Units

To limit evasion and smuggling, customs authorities operate specialised units like:

- ◆ **Directorate of Revenue Intelligence (DRI)**

The DRI is India's apex anti-smuggling agency that is involved in intelligence gathering, investigation, and prosecution of serious customs violations.

- ◆ **Customs Preventive Commissionerate**

Customs Preventive Commissionerate handle anti-smuggling operations in sensitive areas such as coastal belts, land borders, and airports.

Technological and Modern Powers

Modern customs operations rely heavily on technology. Officers are empowered to use electronic systems such as:

- ◆ ICEGATE (Indian Customs Electronic Gateway) for e-filing of Bills of Entry and Shipping Bills
- ◆ EDI (Electronic Data Interchange) for faster clearance and real-time tracking

- ◆ RMS (Risk Management System) to assess the risk level of shipments and reduce physical checks

Checks and Balances

- ◆ Powers with Accountability

While customs officers enjoy powers, their actions are subject to judicial review and administrative oversight. Abuse of power or violation of rights will be challenged in the courts. CBIC issues guidelines and standard operating procedures to ensure that the powers of customs officials are exercised fairly, transparently, and within the bounds of the law. Customs authorities in India play a significant role in revenue collection, trade facilitation, border security, and enforcement of import-export laws. The hierarchy of customs officers from the CBIC down to appraising officers confirms efficiency and accountability in customs administration. With growing international trade, the role and powers of customs authorities continue to increase, incorporating advanced technology and global best practices. Proper exercise of their powers, along with legal safeguards and appellate mechanisms, confirms that customs laws are implemented effectively and justly.

- ◆ Process by which customs authorities determine exact amount of duty payable

Assessment Procedures under Customs Law

Assessment under customs law means the process by which customs authorities determine the exact amount of duty payable on imported or exported goods. It is an important stage in the customs clearance process, as it guarantees the accurate calculation and collection of customs duties and other applicable taxes. The customs assessment procedure includes verification of the classification, valuation, quantity, origin, and eligibility for exemptions or benefits. This process plays a vital role in maintaining revenue integrity, compliance with trade regulations, and facilitating legitimate international trade.

Legal Framework of Assessment

The assessment of imported and exported goods is governed by:

- ◆ Section 17 of the Customs Act, 1962 – Deals with the assessment of duty.
- ◆ Section 18 – Pertains to provisional assessment when necessary details are unavailable.
- ◆ Section 46 – Requires the filing of a bill of entry for imported goods.
- ◆ Section 50 – Requires the filing of a shipping bill for export goods.

The customs authorities follow the Customs Tariff Act, 1975 for classification and rates of duty. The valuation is determined as per Section 14 of the Customs Act and Customs Valuation Rules, 2007.

4.2.18 Types of Assessment

1. Self-Assessment

- ◆ Introduced as a trade facilitation measure

Self-Assessment introduced as a trade facilitation measure. Self-assessment requires importers and exporters to assess their goods and declare the applicable classification, rate of duty, and benefits in the Bill of Entry (for imports) or Shipping Bill (for exports). Customs officers may verify and re-assess the declaration if discrepancies are noticed.

2. Re-assessment

- ◆ Carried out on finding any errors or lack of clarity

If the assessing officer finds any errors or lack of clarity in the self-assessment, a re-assessment is carried out. Re-assessment may lead to additional duty or rejection of exemptions claimed.

3. Provisional Assessment

- ◆ Allowed when importer or exporter is not able to furnish all necessary documents

Under Section 18 of the Customs Act, if the importer or exporter is not able to furnish all necessary documents or if the officer requires further information, a provisional assessment can be allowed. Duties are assessed on a provisional basis, and the importer/exporter is required to furnish a bond and bank guarantee. Final assessment is done later when required information is submitted.

4. Final Assessment

- ◆ Conclusive determination of amount of duty payable

Final Assessment is the conclusive determination of the amount of duty payable after all required documents are verified and any provisional assessment is finalized.

Steps in the Assessment Procedure

1. Filing of Documents

The importer or exporter can file the Bill of Entry or Shipping Bill electronically through the ICEGATE portal. It includes all details of the goods such as quantity, classification (HS Code), country of origin, applicable duty, exemptions claimed, etc.

2. Verification of Declaration

Customs authorities verify the correctness of the declaration. This involves checking the classification, valuation, and exemption claims, if any. This step confirms that the importer/exporter

has complied with customs regulations and duty calculation is accurate.

3. Examination of Goods

Based on the risk profile, goods may be subject to physical examination. The Risk Management System selects consignments for examination while allowing low-risk consignments to be cleared without examination.

4. Assessment by Customs Officer

If the goods are selected for re-assessment or detailed scrutiny, a customs officer checks the documents and assessment. In the case of discrepancies in valuation, classification, or exemption, appropriate corrections are made, and duty is recalculated.

5. Payment of Duty

Once the assessment is completed, the importer/exporter pays the assessed amount of customs duty banks. Payment is a prerequisite for the clearance of goods.

6. Release/Out-of-Charge Order

After the payment of duty and completion of the assessment, customs authority issues an Out-of-Charge (OOC) order for imports or Let Export Order (LEO) for exports, authorizing the clearance of goods.

7. Post-Clearance Audit (PCA)

Customs conduct an audit of the importer/exporter after clearance to ensure compliance. The audit includes verification of documents, financial records, and use of exemptions. If differences are found, duty can be demanded, and penalties may be imposed.

4.2.19 Key Components in Assessment

1. Classification of Goods

Goods are classified under appropriate Harmonized System of Nomenclature codes as per the Customs Tariff. This classification determines the applicable rate of duty.

2. Valuation of Goods

The value of goods is assessed as per Section 14 and the Customs Valuation Rules, 2007, based on the transaction value or alternative methods if the declared value is not acceptable.

3. Origin of Goods

The country of origin impacts the rate of duty and eligibility for benefits under Free Trade Agreements (FTAs), Preferential Trade Agreements (PTAs), or anti-dumping duties.

4. Notification Benefits/Exemptions

Importers/exporters can claim partial or full exemption based on notifications. The assessment process verifies the eligibility and compliance with conditions attached to such exemptions.

Role of Technology in Assessment

India has made significant advancements in customs processes through the use of technology:

- ◆ **ICEGATE (Indian Customs Electronic Gateway):** This enables electronic filing of documents and facilitates quicker processing.
- ◆ **EDI (Electronic Data Interchange):** EDI reduces paperwork and enhances accuracy.
- ◆ **RMS (Risk Management System):** This ensures low-risk consignments are cleared quickly while high-risk consignments undergo detailed assessment.
- ◆ **Faceless Assessment:** A recent reform that allows customs officers from different locations to assess documents, ensuring anonymity, uniformity, and faster clearance.

4.2.20 Issues and Challenges in Assessment

1. **Misclassification or Under-Invoicing:** Importers may purposely misclassify or undervalue goods to reduce duty, leading to disputes and reassessment.
2. **Complexity of Rules:** Frequent changes in customs notifications and tariff schedules may create confusion and lead to errors in self-assessment.
3. **Delayed Finalisation of Provisional Assessments:** In some cases, finalisation of provisional assessment takes longer, results in uncertainty and blocked working capital.
4. **Subjectivity in Valuation:** Valuation disputes are common, particularly in related-party transactions or when comparable values are unavailable.

4.2.21 Remedies and Appeals

If an importer/exporter is not satisfied with the assessment, they can:

- ◆ Request re-assessment with additional documents or clarification.
- ◆ File an appeal to the Commissioner (Appeals) under Section 128 of the Customs Act.
- ◆ Approach the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT), and further to High Courts/Supreme Court for legal redress.

The assessment procedure under customs law is important for ensuring proper duty collection and facilitating smooth international trade. After the introduction of self-assessment, faceless clearance, and electronic systems, the process has become more effective, transparent, and trade-friendly. The challenges, such as valuation disputes, classification errors, and compliance issues, persist.

Summarised Overview

The levy of customs duty arises at the point when goods are imported into or exported from India, and it is determined based on the rate and valuation applicable at the time of filing the Bill of Entry or Shipping Bill. The Import and Export Manifest is submitted by carriers upon arrival or departure, listing all goods and ensuring regulatory oversight. Certain specified goods attract special duties or restrictions due to their nature or strategic importance. Warehouses, especially bonded warehouses, allow importers to store goods without immediate duty payment, offering flexibility in logistics and inventory management. The valuation of goods, governed by the Customs Valuation Rules, 2007, is primarily based on the transaction value, and alternative methods are used when that cannot be determined. Various exemptions from customs duty are granted through government notifications to support economic policies, essential sectors, or international commitments. The customs authorities, including Commissioners and other officers, are empowered to assess duty, inspect goods, impose penalties, and ensure compliance with customs laws. The assessment procedure involves filing relevant documents, verifying declarations, examining goods where necessary, and determining the correct duty payable, often aided by electronic systems like EDI and RMS for efficient processing.

Self-Assessment Question

1. What are the benefits of storing goods in bonded warehouses?
2. What is the transaction value under customs valuation rules?
3. When are alternative valuation methods used instead of transaction value?
4. What are the key components included in the valuation of imported goods?
5. Name the different types of exemptions available from customs duty.
6. What powers are granted to Customs Commissioners?
7. Explain the legal basis and circumstances under which customs duty is levied.

Assignments

1. Write a report on the step-by-step customs assessment procedure for imported goods.
2. Analysis of exemptions in promoting domestic industries and public interest.
3. Analyze how and why certain goods are classified as specified, and the implications for duty rates, control measures, and compliance.
4. Discuss bonded warehouses, types, procedures for warehousing, and the benefits provided to importers and the economy.
5. Evaluate the structure of customs administration, powers of customs officers, and how they execute assessment and enforcement duties.

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Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

SGOU



Unit 3

Penalties, Appeals and Revision

Learning Outcomes

After completing this unit, the learner will be able to:

- ◆ learn about various penalties and prosecutions in customs law
- ◆ get an idea of the valuation of goods
- ◆ be aware of baggage rules

Background

The Customs Act, 1962, prescribes a detailed framework for penalties, appeals, and revisions to address violations and ensure fair enforcement. The penalties are imposed for offences such as evasion of duty, misdeclaration, non-declaration, unauthorised import/export, and non-compliance with customs procedures. These penalties may be monetary, involve confiscation of goods, or lead to prosecution, depending on the gravity of the offence. The goal is not only to punish violators but also to deter others from engaging in similar practices. In cases where an importer, exporter, or any person is aggrieved by a decision or order passed by a customs authority, they have the legal right to file an appeal. The first level of appeal lies with the Commissioner (Appeals), and further appeals can be made to higher forums such as the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), the High Court, and ultimately the Supreme Court, depending on the nature and complexity of the case. Appeals must be filed within a specified time frame and supported by relevant documents and grounds of objection. Customs law provides for revisionary powers under which the Central Government may review certain orders passed by subordinate officers. This mechanism ensures a system of checks and balances within the administrative structure. The purpose of appeals and revisions is to provide affected parties a fair opportunity to challenge unjust or incorrect decisions, thereby upholding principles of natural justice and transparency in customs administration. The framework of penalties, appeals, and revisions forms an essential part of the customs law, ensuring legal compliance, accountability, and the protection of the rights of stakeholders involved in international trade.

Keywords

Penalties , tax liability , valuation of goods, baggage

Discussion

4.3.1 Penalties and Prosecutions under Customs Law

Due to the complication of international trade and the temptation to evade duties, cases of violations such as smuggling, misdeclaration, and fraudulent enabling of exemptions often occur. For addressing these infractions, the Customs Act, 1962 provides for a comprehensive system of penalties and prosecutions. These legal tools support enforce compliance, prevent revenue leakage, and deter illegal trade practices.

- ◆ Penalties - by customs authorities
- ◆ Prosecutions - proceedings in a court of law

Penalties under the customs law are primarily administrative in nature and are imposed for contravention of customs provisions, whether deliberate or due to negligence. They may range from monetary fines to confiscation of goods. Prosecution is a legal proceeding initiated for serious offences and can result in criminal penalties, including imprisonment and fines. The difference between penalties and prosecution is significant. While penalties are adjudicated and enforced by customs authorities, prosecutions require criminal proceedings in a court of law and are reserved for serious violations.

The Customs Act provides different sections that deal with penalties. Section 112 addresses improper imports of goods, including smuggling or abetting such acts. Anyone who does so shall be penalised up to the full value of the goods or five thousand rupees, whichever is higher. Section 114 deals with penalties for improper exportation of goods, and Section 117 provides for a general penalty for breaches not explicitly mentioned elsewhere in the Act. In all cases, the law ensures that penalties are proportionate to the nature and seriousness of the offence.

- ◆ Confiscation

One of the most important consequences under customs law is the confiscation of goods. Under Sections 111 and 113, goods which are misdeclared, smuggled, prohibited, or improperly imported or exported shall be confiscated. Confiscation results in the loss of the goods to the importer or exporter and often includes fines and duties. The means of transportation used in the



offence can also be confiscated under Section 115, particularly when they are knowingly used in the commission of smuggling activities.

- ◆ Power to adjudicate offences and impose penalties

Customs officers has the power to adjudicate offences and impose penalties through a process called adjudication. Customs Officers are categorized by rank, and their powers differ based on the value of the goods involved. Before imposing any penalty or confiscation, the customs law mandates the issuance of a Show Cause Notice (SCN), giving the alleged offender a chance to explain their case. The principles of natural justice, including the right to an impartial hearing, are fundamental to the adjudication process.

- ◆ Provisions to criminal prosecution

When the offence is serious and includes an element of fraud, willful misstatement, or smuggling of high-value or prohibited goods, prosecution is initiated. Section 135 of the Customs Act lays down the provisions to criminal prosecution. It provides for imprisonment of up to seven years and a fine for offences involving goods exceeding ₹50 lakh in value or for repeated violations. For less severe offences, the punishment can extend up to three years. Prosecutions are pursued after obtaining prior approval from the Commissioner of Customs, as prescribed under Section 137, to ensure that criminal proceedings are initiated judiciously and not for minor procedural lapses.

- ◆ Cognizable and non-cognizable offences

Customs law differentiates between cognizable and non-cognizable offences. Cognizable offences are more serious violations, such as smuggling of prohibited goods or large-scale duty evasion, where the customs authorities can arrest without a warrant. Non-cognizable offences are less serious and need prior approval for arrest and investigation. This classification helps prioritize enforcement resources and safeguards individuals from undue harassment for minor infractions.

- ◆ Compounding of offences

In some cases, individuals can avoid prosecution through compounding of offences. This is an administrative procedure where the offender admits to the contravention and pays an amount in lieu of facing criminal proceedings. The compounding of offences reduce the burden on the judiciary, ensures faster resolution, and allows firms to continue operations without the stigma of criminal records. Compounding is not available in cases involving national security, serious smuggling, or repeat offenders.

Provisions are made for offences committed by companies under Section 138. If a company violates customs law the Managing Director, CEO, or any other responsible officer may also

◆ Accountability at the management level

be held liable if the offence happened with their knowledge or due to their negligence. This ensures accountability at the management level and avoids the misuse of the corporate structure to evade customs duties.

◆ Appeal

The enforcement process under customs law follows a definite sequence. Once a violation is detected, the authorities may seize the goods, issue a show cause notice, and conduct adjudication. If the offence is of a criminal nature, prosecution shall be sanctioned. In the event of confiscation, the offender may be given the option to pay a redemption fine in lieu of losing ownership of the goods. This redemption fine is calculated based on the market value of the goods and the gravity of the offence. If an importer or exporter is aggrieved by the penalty or confiscation imposed by the adjudicating authority, they can file an appeal. The first level of appeal lies with the Commissioner (Appeals), followed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). For questions of law, appeals can be taken to the High Courts and Supreme Court. This multi-tiered appellate system ensures that errors or excessive penalties can be corrected through due process.

The Indian customs department has taken initiatives to make the penalty and prosecution system more transparent and technology-driven. The use of Risk Management Systems Faceless Assessment, and e-Adjudication reduced the scope for discretion and improved the speed and accuracy of customs processing. These developments are aligned with the government's goals of Ease of Doing Business and Trade Facilitation while ensuring enforcement against wilful defaulters.

4.3.2 Tax Liability and Valuation of Goods under Customs Law

Tax liability

◆ Central to determining how much duty an importer or exporter needs to pay

Under customs law, the concepts of tax liability and valuation of goods are central in determining how much duty an importer or exporter needs to pay while moving goods across international borders. In India, these processes are governed by the Customs Act, 1962, and the Customs Tariff Act, 1975, backed by various rules, notifications, and international agreements. Correct valuation and correct assessment of tax liability are important for the effective functioning of trade and revenue systems, ensuring transparency and fairness in international commerce.

Tax liability refers to the amount of customs duty and other applicable taxes that an importer or exporter is on goods im-

◆ The amount of customs duty indebted to pay

ported into or exported out of the country. The customs duties includes Basic Customs Duty (BCD), Integrated Goods and Services Tax (IGST), Social Welfare Surcharge, Anti-Dumping Duty, Safeguard Duty, and Cess, depending on the nature of goods and applicable legal provisions. The liability arises at the time of import or export, as defined in Sections 12 and 15 of the Customs Act. Section 12 makes all goods imported liable to duty unless specifically exempted by law. The applicable rate of duty and valuation as of the date of filing the bill of entry (for imports) or shipping bill (for exports) is critical in determining the tax liability.

4.3.3 Valuation of goods

◆ Assessable Value Basis

The valuation of goods is the foundation for calculating customs duties. The value determined is termed the assessable value, which, when multiplied by the applicable duty rate, gives the duty payable. The law provides that valuation should reflect the transaction value — the price really paid or payable for the goods when sold for export to India. This concept is enshrined in Section 14 of the Customs Act, 1962, and elaborated through the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, which align with the World Trade Organisation (WTO) Valuation Agreement.

◆ Methods of valuation

The first method of valuation is the transaction value method which is used when the buyer and seller are unrelated, and the price is the sole consideration. This method is most favoured, provided that there are no restrictions on the sale, the price is not influenced by any relationship, and enough information is available. If the transaction value cannot be accepted, the law prescribes another method in a sequential manner. These include the transaction value of identical goods, transaction value of similar goods, deductive value, computed value, and the residual method as a last resort.

◆ Classification of goods

Tax liability is influenced the valuation and the classification of goods under the Customs Tariff. Every product should be classified under the appropriate HS (Harmonized System) code that determines the applicable rate of duty. Incorrect classification may lead to either underpayment or overpayment of duty, resulting in penalties or delays. Therefore, it is important that importers correctly identify the HS code and keep supporting documentation ready to justify their claim.

Another factor which affects both valuation and tax liability is the origin of goods. India has various trade agreements that allow preferential rates of duty on goods originating from partner

◆ Origin & Valuation

countries. Under such agreements, goods need to comply with rules of origin and be accompanied by a certificate of origin. Customs valuation may become complex due to factors such as freight and insurance costs, royalties and license fees, design and development charges, commissions and brokerage, and packing costs. All these elements, if not already included in the invoice price, need to be added to determine the correct assessable value. When valuation disputes arise, Authorities may reject the declared value and resort to other methods. This leads to reassessment, provisional assessment, or even confiscation if misdeclaration is detected. In those cases, the importer has the right to appeal against the order and produce supporting evidence to defend their valuation. Transparency, proper documentation, and prior planning are vital for avoiding such disputes.

◆ Imposition of IGST

For exports, the valuation is generally based on the FOB (Free on Board) value of goods i.e., the value at which goods are delivered at the port of export. Export duty, although less common in India, may be levied on some goods such as iron ore, raw hides, or specific agricultural products. The Shipping Bill, filed electronically through the customs portal, serves as the base document for determining the value of export goods. Exporters must ensure that the declared value is realistic, as over-invoicing or under-invoicing may lead to rejection of benefits like duty drawback or may even invite investigation under the Foreign Exchange Management Act (FEMA) or the Prevention of Money Laundering Act (PMLA). Another important development is the imposition of IGST (Integrated Goods and Services Tax) on imports under the GST regime. While customs duty remains a part of import taxation, IGST is collected in lieu of central and state taxes and is applicable on the assessable value plus the customs duty. Importers must consider customs duties and IGST while calculating their total tax liability. Import IGST can be claimed as input tax credit under the GST law, provided conditions are met.

◆ Tax liability and valuation core elements of import-export process

Tax liability and valuation of goods under customs law are not just technical tasks but core elements of the import-export process. They need careful planning, accurate documentation, and full awareness of legal provisions. After globalisation and increasing trade volumes, authorities face the dual challenge of facilitating trade and ensuring compliance. While the law provides guidelines and modern tools for valuation and tax calculation, it also enforces strict penalties for misdeclaration, undervaluation, or fraud. Businesses involved in international trade need to approach customs compliance not just as a legal obligation but as a strategic responsibility to ensure smooth and lawful operations.

4.3.4 Import Procedure and Documents under Customs Law

The import of goods into India involves several steps, compliances, and documentation as outlined by the Customs Act, 1962, the Customs Tariff Act, 1975, and the Foreign Trade (Development and Regulation) Act, 1992. The Directorate General of Foreign Trade (DGFT), Central Board of Indirect Taxes and Customs (CBIC), and other regulatory bodies guarantee that import activities align with India's trade policies and economic goals. The import procedure includes various stages from obtaining an Importer Exporter Code (IEC) to the final delivery of goods after customs clearance.

1. Obtaining an Import License and Quota

The first step in the import process is to determine whether an import license is required for the goods in question. This involves consulting the Indian Trade Classification (ITC-HS) based on the Harmonized System of Coding. If the goods fall under a restricted category, the importer must apply for and obtain the necessary license and quota from the Directorate General of Foreign Trade (DGFT).

◆ ITC - HS

2. Arranging Foreign Exchange

The importer must secure the required foreign exchange to make payments to the overseas supplier. This is usually done through an authorized dealer bank in compliance with FEMA (Foreign Exchange Management Act) guidelines. The bank may ask for documentation such as the proforma invoice and contract for releasing foreign currency.

◆ FEMA

3. Placing an Order

After confirming product specifications and pricing, the importer places a formal purchase order with the supplier. The order should clearly mention details like product quantity, delivery schedule, shipping terms, and payment conditions. This purchase order becomes the basis of the commercial transaction between the buyer and the seller.

◆ Placing formal purchase order

4. Appointing Clearing and Forwarding Agents

A clearing and forwarding (C&F) agent is appointed to facilitate customs clearance and transportation of goods. These professionals are licensed to represent the importer before customs authorities and handle logistics. They assist in preparing documents, filing declarations, paying duties, and ensuring timely delivery.

◆ Facilitate customs clearance and transportation

5. Receipt of Documents

- ◆ Documents sent to importer or their bank

After dispatching the goods, the exporter sends the shipment documents to the importer or their bank. These documents typically include the Bill of Lading or Airway Bill, Commercial Invoice, and Packing List. Timely receipt of these documents is essential for initiating customs clearance and processing payment.

6. Customs Clearance

- ◆ Filing of bill of entry

The importer or their agent files the Bill of Entry electronically through the ICEGATE portal to initiate customs clearance. Along with this, all supporting documents must be submitted for verification and assessment by customs officers. After inspection and payment of applicable duties, the customs authorities allow clearance of goods.

7. Payment and Delivery

- ◆ Final payment to exporter

Once the customs clearance is completed, the importer makes the final payment to the exporter, if not already paid under Letter of Credit terms. The goods are then transported from the port to the importer's warehouse or business premises. Proper documentation is maintained for record and future compliance.

Essential Documents

Bill of Entry

- ◆ Mandatory legal document

This is a mandatory legal document submitted to customs authorities that declares the nature, quantity, and value of imported goods. It helps in determining the correct duty payable. Only after its approval can the goods be cleared from the port.

Commercial Invoice

- ◆ Issued by exporter

The commercial invoice is issued by the exporter and contains important information like product description, quantity, value, and terms of trade. It forms the basis for customs valuation. This document is crucial for both payment processing and tax assessment.

Bill of Lading or Airway Bill

- ◆ Serves as receipt of goods shipped

This is a transport document that serves as a receipt of goods shipped and provides shipping details such as port of loading, destination, and carrier. It also acts as a title of goods. The original Bill of Lading is often required to claim ownership and clear the goods.

Import License

- ◆ Required for importing restricted or regulated goods

An import license is required for importing restricted or regulated goods into India. It is issued by the DGFT and must be submitted during customs clearance. The absence of a license for restricted goods can lead to confiscation or penalties.

Certificate of Origin

- ◆ Essential for claiming preferential tariffs

This document certifies the country in which the goods were manufactured or produced. It is essential for claiming preferential tariffs under trade agreements. Customs authorities use it to verify eligibility for duty concessions.

Packing List

- ◆ Helps in inspection and identification of goods

The packing list provides a detailed breakdown of the contents, packaging type, weight, and measurements of each consignment. It helps in the inspection and identification of goods during customs clearance. It ensures transparency and facilitates smooth handling at the port.

Letter of Credit (LC)

- ◆ Financial document issued by importer's bank

A Letter of Credit is a financial document issued by the importer's bank guaranteeing payment to the exporter. It ensures that the seller receives payment upon fulfilling the terms and submitting required documents. It minimizes the risk for both parties in international trade.

4.3.5 Export Procedure and Documents under Customs Law

Exporting goods from India involves a structured procedure and a comprehensive set of documents, all governed primarily by the Customs Act, 1962, and the Foreign Trade Policy (FTP). The aim is to facilitate legitimate trade while ensuring compliance with regulations and preventing illegal activities.

Export Procedure under Customs Law

1. Registration Process

- Importer Exporter Code (IEC):** Mandatory for all exporters, obtained from the Directorate General of Foreign Trade (DGFT). This is a PAN-based unique code.
- Authorized Dealer (AD) Code Registration:** Exporters must register their bank's AD Code with Customs for the realization of export proceeds and any drawback benefits.

- iii. **Registration under Export Promotion Schemes:** If exporting under schemes like MEIS, SEIS, or EPCG, the relevant licenses/certificates must be registered with Customs.
- iv. **GST Registration:** Essential for most businesses, including exporters.

2. Preparation of Goods

- i. **Packing and Marking:** Goods must be packed and marked as per international standards and buyer specifications.
- ii. **Pre-shipment Inspection (if required):** For certain goods or destinations, an inspection certificate from an authorized agency may be necessary.
- iii. **Insurance:** Marine insurance should be obtained to cover risks during transit.

3. Customs Clearance (Shipping Bill Processing)

- i. **Filing of Shipping Bill:** This is the primary document for customs clearance. It is filed electronically through ICE-GATE (Indian Customs EDI Gateway) by the exporter or their Customs Broker (CHA). The Shipping Bill details the goods, their value, destination, and other crucial information.
- ii. **Assessment:** The system or a Customs Officer assesses the Shipping Bill to determine applicable duties, taxes, or benefits (like drawback).
- iii. **Examination of Goods:** Once the goods arrive at the port/airport, they are presented for physical examination by Customs officers to verify that they match the declarations in the Shipping Bill.
- iv. **"Let Export Order" (LEO):** Upon satisfactory examination and compliance, the Customs officer issues the LEO, permitting the goods to be loaded for export.

4. Loading and Shipment

- i. Goods are loaded onto the vessel/aircraft/vehicle under customs supervision.
- ii. The carrier issues a Bill of Lading (for sea freight) or Air Waybill (for air freight) as a receipt and contract of carriage.



5. Post-Shipment Formalities

- i. **Export General Manifest (EGM):** The carrier files the EGM with Customs after the departure of the conveyance.
- ii. **Realization of Export Proceeds:** Exporters must ensure foreign exchange proceeds are realized within the stipulated time as per RBI regulations.
- iii. **Claiming Export Incentives:** Apply for drawback, GST refunds, or other export incentives.

Key Documents Required

- i. **Shipping Bill/Bill of Export:** The most crucial document for customs clearance. Different forms exist for duty-free, dutiable, or drawback claims.
- ii. **Commercial Invoice-cum-Packing List:** Details of goods, quantity, value, buyer/seller information. Often combined for efficiency.
- iii. **Bill of Lading/Air Waybill:** Transportation document issued by the carrier, serving as a contract of carriage and receipt of goods.
- iv. **Proforma Invoice:** Preliminary invoice provided to the buyer for quotation and negotiation.
- v. **Export Order/Purchase Order:** The buyer's official confirmation of the order.
- vi. **Foreign Exchange Control Form (e.g., GR Form):** Declaration for foreign exchange realization.
- vii. **Certificate of Origin (CoO)/Generalized System of Preferences (GSP) Certificate:** Required by the importing country for preferential tariff treatment.
- viii. **Inspection Certificate:** If pre-shipment inspection is mandatory for specific goods or destinations.
- ix. **Letter of Credit (LC):** If the payment terms involve an LC, though not a direct customs document, it's vital for the overall transaction.
- x. **Insurance Certificate:** Proof of marine insurance.
- xi. **Registration-cum-Membership Certificate (RCMC):** Obtained from Export Promotion Councils/FIEO for availing benefits.

4.3.6 Meaning of Baggage

The term "**baggage**" means the personal belongings of a traveller that are carried during travel. This includes hand bag-

- ◆ Personal belongings of a traveller carried during travel

gage and checked-in baggage, which contain clothing, electronic gadgets, gifts, and other personal items. According to Section 2(3) of the Customs Act, 1962, "baggage" includes unaccompanied baggage but excludes motor vehicles. Personal items and household effects, both new and used, can be brought in by a passenger as baggage, depending on the limits prescribed under Indian customs law.

- ◆ Customs Baggage Rules

Rules Regarding Baggage under Customs Law

The movement of personal belongings across international borders by passengers is regulated under customs baggage rules. These baggage rules are formulated to strike a balance between facilitating the entry of passengers and preventing misuse of concessions for commercial purposes. In India, the Customs Act, 1962, and the Baggage Rules, 2016, govern the import of baggage. The Central Board of Indirect Taxes and Customs (CBIC) administers these rules, ensuring that returning residents, tourists, and other travellers adhere to a standardised procedure while carrying goods into or out of the country.

4.3.6.1 Types of Baggage

Baggage is broadly classified into the following types:

1. **Accompanied Baggage:** Items that are brought in by a passenger while arriving in India.
2. **Unaccompanied Baggage:** Items sent before or after the passenger's arrival and received separately within a prescribed period.
3. **Hand Baggage:** Items carried on board by the passenger.
4. **Checked-in Baggage:** Items handed over at check-in and carried in the aircraft's cargo hold.

Unaccompanied baggage need to be declared and should arrive within one month before or after the passenger's arrival. In certain cases, this time frame can be extended by customs authorities.

4.3.6.2 Baggage Rules, 2016

The Baggage Rules, 2016, framed under Section 79 of the Customs Act, classify passengers based on their stay abroad, nationality, and age. The concessions in terms of quantity and value vary accordingly. These rules provide duty-free allowances for certain items and specify duty rates for items exceeding the free allowance.

- ◆ Maximum value of goods

Duty-Free Allowance

Duty-free allowance means the maximum value of goods that a passenger can bring into India without paying any customs duty. This allowance varies based on the duration of stay abroad and the age of the passenger. As per the rules:

1. Indian Residents Returning from Abroad

- ◆ Stay of more than 3 days (Adults and Minors)
 - Adults: Duty-free allowance up to ₹50,000 (₹15,000 for passengers(adults) arriving from Nepal, Bhutan, or Myanmar by air).
 - Children below 10 years: Allowance up to ₹15,000.

2. Tourists (Foreign Nationals or Non-Residents)

- ◆ Duty-free items include personal effects and travel souvenirs up to a value of ₹15,000.

3. Transfer of Residence (TR)

Indian residents returning for permanent settlement can avail of Transfer of Residence benefits if they have stayed abroad for at least 2 years. They are allowed concessional duty on personal and household articles up to a specified value.

- ◆ The goods must be for personal use and not for sale.
- ◆ Duty is typically 15% (plus applicable cess) on household goods up to ₹500,000 value.

Articles Not Allowed Under Duty-Free Baggage

Some items are not eligible for duty-free allowance and are subject to customs duty regardless of value. These include:

- ◆ Alcoholic liquor and tobacco products (beyond the allowed quantity).
- ◆ Gold or silver in commercial quantities.
- ◆ Firearms and ammunition.
- ◆ Professional equipment exceeding prescribed limits.
- ◆ Flat-screen televisions.

Prohibited and Restricted Goods

Travelers are not allowed to import items prohibited under the Customs Act, Foreign Trade Policy, or other regulations. Prohib-

ited items include narcotics, wildlife products, and pornographic material. Restricted items, like drones, satellite phones, and certain medical devices, need prior permission or a license from the relevant authority. Import of such goods without permission may result in confiscation, penalty, or even prosecution.

Penalties for Violation

Non-compliance with baggage rules may lead to the following consequences:

- ◆ Confiscation of goods under Section 111.
- ◆ Monetary penalties under Section 112.
- ◆ Prosecution under Section 135 for serious offences.
- ◆ Blacklisting or seizure of passport in repeat or serious cases.

Hence, passengers are advised to declare dutiable items honestly to avoid legal issues.

The baggage rules under Indian customs law are designed to simplify the clearance process for genuine passengers while preventing commercial misuse of import facilities. They allow returning residents and tourists to bring reasonable quantities of personal belongings and gifts without the burden of customs duty. These benefits come with restrictions and compliance requirements. Understanding the categories of baggage, duty-free allowances, items exempt from concession, and declaration obligations is very important for every international traveller.

◆ Baggage rules

Summarised Overview

Penalties under the Customs Act are imposed for offences such as misdeclaration, smuggling, undervaluation, and procedural violations, with consequences ranging from monetary fines and confiscation of goods to suspension of licenses and imprisonment. Prosecutions are initiated in cases of willful intent, habitual non-compliance, or significant revenue loss, ensuring both deterrence and accountability. This dual mechanism of civil penalties and criminal proceedings upholds the integrity of the customs system. Tax liability arises when dutiable goods cross the customs frontier and are declared for import or export, calculated based on their classification and assessed value. The primary valuation method is the transaction value, subject to verification by customs authorities. If doubts arise about the declared value, secondary methods such as identical or similar goods values or computed values are applied in sequence under the Valuation Rules. Baggage rules set duty-free allowances for personal effects carried by travellers based on their duration of stay and category, with prescribed limits for items like clothing, electronics, gifts, and souvenirs. Items exceeding these limits attract duty

at standard rates or may be seized, while prohibited goods remain banned irrespective of allowance. Clear declaration and labelling at the customs counter facilitate efficient processing. The import procedure begins with obtaining an Importer–Exporter Code (IEC), placing orders, and arranging shipment, followed by electronic filing of a Bill of Entry via the EDI system. Supporting documents such as the commercial invoice, packing list, bill of lading or airway bill, insurance certificate, and certificate of origin must accompany the declaration. Customs officers then verify, inspect if necessary, assess duty, and clear goods upon payment. Export procedures require registration on the ICEGATE portal, IEC procurement, order finalisation, and production of goods, after which a Shipping Bill is filed electronically with documents like the commercial invoice, packing list, export license (if applicable), and certificates of origin or quality. Following documentary assessment and physical inspection where needed, goods are cleared for shipment, and exporters can claim incentives and duty drawbacks by submitting proof of export. Rules regarding baggage further categorise travellers such as tourists, returning residents, diplomats, and crew with tailored duty-free allowances for items like alcohol, tobacco, and precious metals, specifying quantities and conditions for each group. Excess or undeclared items attract duty or confiscation, and travellers must pay assessed duty before exiting the customs area. These rules balance facilitation of personal travel with the prevention of commercial smuggling via passenger channels. The launch of Turant Customs (2020) introduced faceless, contactless, and paperless clearance, making the customs process faster and more transparent. Similarly, the Authorised Economic Operator (AEO) Scheme provides faster clearances, reduced checks, and other benefits to trusted traders, thereby enhancing ease of doing business. These initiatives represent a major shift from the older procedures that focused heavily on physical verification and manual processing. Highlighting these changes will ensure the chapter reflects the modern, technology-driven approach of Indian Customs.

Self-Assessment Question

1. What offenses can attract penalties under customs law?
2. When can prosecution be initiated under the Customs Act?
3. How is the transaction value of goods determined?
4. What are baggage rules?
5. Who is eligible for duty-free baggage allowance?
6. What is the purpose of a Bill of Entry?
7. What is the process of customs clearance for imports?
8. How are baggage rules different for NRIs and foreign tourists?
9. What is the penalty for importing restricted goods through baggage?

Assignments

1. Explain the concept of tax liability and the various methods of customs valuation.
2. Prepare a report on the latest baggage rules applicable to travellers arriving in India.
3. Write a step-by-step guide for exporters in India, highlighting the documentation process.
4. Evaluate the effectiveness of customs baggage rules in preventing smuggling.
5. Analyse the role of valuation rules in determining fair customs duty.

Reference

1. Jain, R. K. (2024). *Customs law manual: As amended by Finance Act, 2024* (Vol. 1). Centax Publications.
2. Kumar, R. (2023). *Indirect taxes: GST, customs & foreign trade policy* (9th ed.). Bharat Law House.
3. Institute of Chartered Accountants of India. (2023). *Study material on customs law and foreign trade policy*. ICAI Board of Studies.
4. Sharma, R. (2021). *Understanding customs law and procedures in India*. LexisNexis India.

Suggested Reading

1. Datey, V. S. (2025). *Customs law & practice with foreign trade policy* (27th ed.). Taxmann Publications Private Limited.
2. Advani, V. K. (2024). *Customs duty law and practice*. Notion Press Media Pvt. Limited.
3. Gupta, Y. (2024). *Customs law* (2nd ed.). Yash Gupta.
4. Gupta, N., Modi, A., & Gupta, M. (2023). *NEP Goods and services tax and custom duty*. SBPD Publications.
5. Mehrotra, H. C., & Agarwal, V. P. (2021). *Goods and services tax (G.S.T.) & customs duty*. Sahitya Bhawan Publications.



Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

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MODEL QUESTION PAPER SETS





SREENARAYANAGURU OPEN UNIVERSITY

Model Question Paper (SET- A)

QP CODE:

Reg. No:

Name:

FOURTH SEMESTER MASTER OF COMMERCE (M.COM) DEGREE EXAMINATION

DISCIPLINE CORE COURSE

M21CM12DC – GOODS AND SERVICES TAX AND CUSTOMS DUTY : LAW AND PRACTICE

Time: 3 Hours

Max Marks: 70

SECTION A

Answer any five of the following questions in one or two sentences each. Each question carries 2 marks.

(5x2=10)

1. Define tax?
2. What is ITC?
3. What is CGST?
4. What is mixed supply?
5. Explain inter state supply?
6. What is anti-dumping duty?
7. What is self assesement?
8. What are baggage rules?

SECTION B

Answer any six of the following questions in half a page each. Each question carries 5 marks.

(6x5=30)

9. Explain different types of taxation ?
10. Explain the need for GST registration?
11. Describe the features of appeal ?



12. Explain the structure of GST?
13. Describe Challenges Confronted in the Introduction of GST in India?
14. Explain the procedure for GST registration?
15. Explain the types of custom duty exemptions?
16. What is the purpose of a Bill of Entry?
17. Write a note on zero rated supply?
18. Who are the authorities responsible for GST administration?

SECTION C

Answer any two of the following questions in detail. Each question carries 15 marks.

(2x15=30)

19. Discuss the evolution of Indirect Taxation in India ?
20. Discuss the structure and composition of the GST Council?
21. Explain different types of customs laws in India?
22. Explain the powers and functions of customs officers under the Customs Act, 1962.





SREENARAYANAGURU OPEN UNIVERSITY

Model Question Paper (SET- B)

QP CODE:

Reg. No:

Name:

FOURTH SEMESTER MASTER OF COMMERCE (M.COM) DEGREE EXAMINATION

DISCIPLINE CORE COURSE

M21CM12DC – GOODS AND SERVICES TAX AND CUSTOMS DUTY : LAW AND PRACTICE

Time: 3 Hours

Max Marks: 70

SECTION A

Answer any five of the following questions in one or two sentences each. Each question carries 2 marks.

(5x2=10)

1. What is direct tax?
2. What is dual GST?
3. What is deemed registration in GST?
4. What is composite supply?
5. Explain reverse charge?
6. What is custom duty?
7. Explain GSTN?
8. What is reassessment?

SECTION B

Answer any six of the following questions in half a page each. Each question carries 5 marks.

(6x5=30)

9. Describe the features of indirect tax?
10. Explain the different types of assessments?
11. What are the eligibility conditions for claiming ITC?



12. Explain the difference between direct tax and indirect tax?
13. Briefly explain the authority for advance ruling?
14. Explain Section 12 of the CGST Act
15. Describe the functions of the GST council?
16. Explain the features UTGST
17. Discuss the types of warehouses under customs law.
18. Briefly explain section 69

SECTION C

Answer any two of the following questions in detail. Each question carries 15 marks.

(2x15= 30)

19. Explain the concept of Value of Supply under GST. What are the different inclusions and exclusions considered while determining the value of supply?
20. Discuss the powers of the GST authorities regarding audit, inspection, and investigation?
21. Write an essay on the evolution of customs law in India.
22. Discuss the key constitutional provisions related to the implementation of GST in India ?



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**DON'T LET IT
BE TOO LATE**

SAY NO TO DRUGS

**LOVE YOURSELF
AND ALWAYS BE
HEALTHY**



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Goods and Services Tax and Customs Duty - Law and Practice

COURSE CODE: M21CM12DC



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