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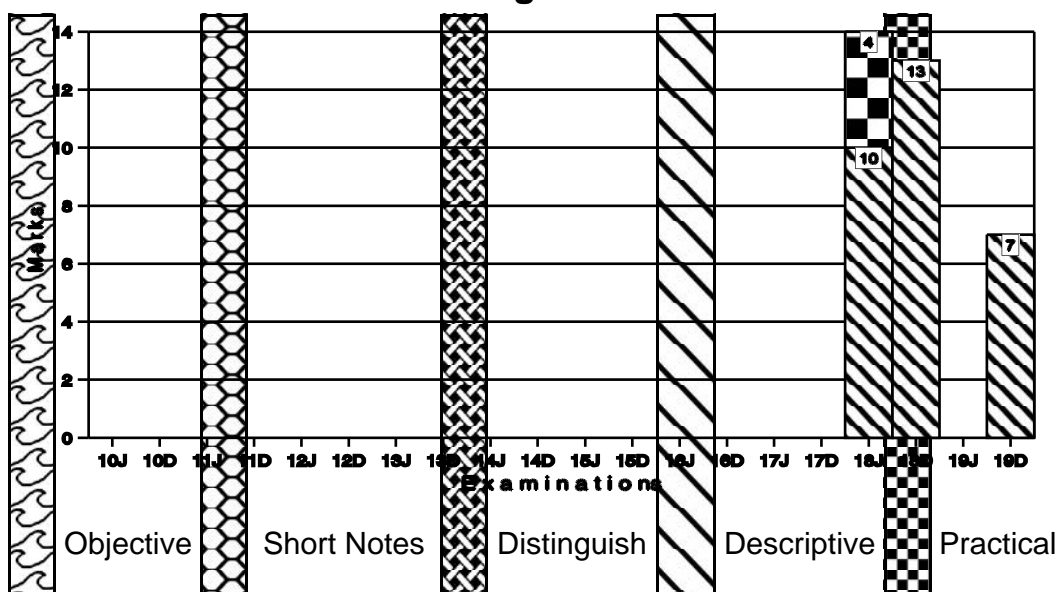
INTRODUCTION

THIS CHAPTER INCLUDES

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| <ul style="list-style-type: none"> Fundamentals of GST Constitution [101st Amendment] Act, 2016 What is GST Advantages of GST Need for GST in India One Nation - One Tax | <ul style="list-style-type: none"> Dual GST Model Inter-State Vs Intra-State Stock Transfers Goods and Services Tax Network [GSTN] GST Council Important Definitions under CGST Law |
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Marks of Objective, Short Notes, Distinguish Between, Descriptive & Practical Questions

Legend



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DESCRIPTIVE QUESTIONS

2018 - June [2] (a) (i) What do you mean by GST Council? What is its guiding principle? What are its functions? **(5 marks)**

(ii) State the advantages of GST. **(5 marks)**

Answer:

- (i) As per Article 279A of the Constitution of India, the President of India is empowered to constitute Goods and Services Tax Council. The President of India constituted the GST Council on 15th September, 2016. The GST Council shall consist of Union Finance Minister as a Chairperson, Union Minister of State in-charge of Finance as a member, the State Finance Minister or State Revenue Minister or any other Minister nominated by each State as a member of the Council. The GST Council shall select one of them as Vice Chairperson of Council.

Guiding principle of the GST Council:

The mechanism of GST Council would ensure harmonization on different aspects of GST between the Centre and the States as well as among States. It has been provided in the Constitution (101st Amendment) Act, 2016 that the GST Council, in its discharge of various functions, shall be guided by the need for a harmonized structure of GST and for the development of a harmonized national market for goods and services.

Functions of the GST Council:

GST Council is to make recommendations to the Central Government and the State Governments on

- tax rates,
- exemptions,
- threshold limits,
- dispute resolution,
- GST legislations including rules and notifications etc.

(ii) Advantages of GST

- (a) One Nation One Tax.
- (b) Removal of bundled indirect taxes such as VAT, CST, Service tax, CAD, SAD, and Excise.
- (c) Removal of cascading effect of taxes i.e. removes tax on tax.
- (d) Increased ease of doing business;
- (e) Lower cost of production, increases demand will lead to increase supply. Hence, this will ultimately lead to rise in the production of goods. Resultantly boost to make in India initiative.
- (f) It will boost export and manufacturing activity, generate more employment and thus increase GDP with gainful employment leading to substantive economic growth.

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2018 - Dec [2] (a) State briefly the features of the GSTN, i.e., the role assigned to GSTN in India. **(7 marks)**

Answer:

Functions of the GSTN (i.e. Role assigned to GSTN):

Creation of common and shared IT infrastructure for functions facing taxpayers has been assigned to GSTN. These functions and areas are:

- Filing of registration application
- Filing of return,
- Creation of challan for a tax payment
- Settlement of IGST payment (like a clearing house),
- Generation of business intelligence and analytics etc. for the use of the Department

All statutory functions to be performed by tax officials under GST like approval of registration, assessment, audit, appeal, enforcement etc. will remain with the respective tax departments.

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2018 - Dec [2] (b) (ii) What are the salient features of Integrated Goods and Services Tax (IGST)? **(6 marks)**

Answer:

The following are some of the salient features of IGST:

- The Central Government would administer and levy taxes on IGST
- Seller/service provider in the origin state is to charge IGST on interstate supply of goods and/or services. $IGST = CGST + SGST/UTGST$
- Interstate Seller/Service provider shall use his input CGST and input SGST for payment of IGST, i.e. he shall pay net IGST.
- Inter-state Buyer/Service recipient shall avail input tax credit on the basis of tax invoice for payment of his own IGST, CGST or SGST/UTGST
- Both, the seller/service provider and the buyer/service recipient shall report these transactions in the respective e-returns
- The exporting state/U.T. will transfer the SGST/UTGST portion to Central Government and Central Government will transfer that SGST/UTGST to importing State/U.T.
- Stock transfer to branch/depot in other state/U.T. will also attract IGST. Where the stock transfer is from branch in one city to a branch in another city but within the same State/U.T. it does not attract any IGST or CGST and SGST unless the each branch is separately registered and it has separate verticals.
- IGST will be levied on Import of Goods and/or Services. Therefore, import will attract basic custom duty plus IGST.

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2019 - Dec [2] (a) What is GST? What are its advantages?

(3+4=7 marks)

PRACTICAL QUESTIONS

2018 - June [6] (a) (i) Mr. Velmurugan of Panruti (Tamil Nadu), a farmer, sold raw cashew nuts produced in his farm land to M/s. Rajesh International

of Chennai, a company registered under GST. Applicable rate of GST is 5%. Value of Goods is ₹ 1,00,000. M/s Rajesh International has input credit of IGST ₹ 4,000. You are required to answer the following :

(a) Who is liable to pay GST?

(b) Net Liability of GST?

(4 marks)

Answer:

- (a) As per Notification No.4/2017-Integrated Tax (Rate) dated 28.06.2017, in the case of supply of cashew nuts, not shelled or peeled, by an agriculturist to a registered person, the registered person who purchases the goods is liable to pay the tax under reverse charge mechanism. Hence, in the given case, M/s. Rajesh International is liable to pay GST.
- (b) The GST liability in the given case is ₹ 5,000 i.e., 5% on ₹ 1,00,000. Since, both the supplier and recipient are situated in Tamilnadu, the taxes to be paid are CGST ₹ 2,500 and SGST ₹ 2,500. However, M/s. Rajesh International has input credit of IGST ₹ 4,000, which shall be adjusted first with the CGST liability and the balance remaining after adjustment shall be adjusted with SGST liability. Hence, the net tax liability of M/s. Rajesh International is SGST ₹ 1,000.

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TOPIC NOT YET ASKED BUT EQUALLY IMPORTANT FOR EXAMINATION

Q1. Write short notes on basic concepts of GST.

Answer:

(I) **Concepts of GST:**

- (a) GST is value added tax levied on manufacture, sale and consumption of goods and services.
- (b) GST is a comprehensive tax, which is levied on supplies of the goods and services.

(II) **Salient features of GST**

- (i) The GST is applicable on the supply of goods or services or both as against the past concept of tax on the manufacture and sale of goods or provision of services. It is destination based

consumption tax.

- (ii) There is a dual GST with the Centre and States simultaneously levying it on a common tax base. The GST levied on intra-state supplies of goods and/ or services by the Centre is known as Central GST (CGST) and that levied by the States is known as the State GST (SGST)
- (iii) The GST levied on Inter-State Supply of Goods and Services and on import of goods and services (in the place of CVD and SAD) is Integrated Goods and Services Tax (IGST), which is equal to CGST plus SGST. It is levied and collected by Centre under IGST Act, 2017. Accounts would be settled periodically between the Centre and the State to ensure that the SGST portion of IGST is transferred to the "Destination State" where the goods or services are eventually consumed.
- (iv) The GST is applicable on all goods other than alcoholic liquor for human consumption and five petroleum products, viz. petroleum crude, motor spirit (petroleum), high speed diesel, natural gas and aviation turbine fuel. It applies to all services barring a few to be specified.

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Q2. What were the deficiencies of the past regime of indirect tax?

Answer:

Following were the weaknesses of past regime of indirect taxes:

- (a) Multiplicity of taxes;
- (b) Tax cascading;
- (c) Complexities in administration;
- (d) Multiple points of taxation;
- (e) Lack of uniformity in provisions and rates;
- (f) Complexity in determining nature of transaction- Goods Vs. Service;
- (g) Inability of states to levy service tax.

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Q3. What are the benefits of GST?

Answer:

The benefits of GST can be summarized under following headings:

(I) **For Business and Industry**

(a) **Easy compliance**

A robust and comprehensive IT system would be the foundation of the GST. Therefore, all tax payer services such as registrations, returns, payments, etc. are available to the taxpayers online. It has made the whole system of GST payment and return filing easy and transparent.

(b) **Uniformity of tax rates and structures**

GST ensures that indirect tax rates and structures are common across the country. It Increases certainty and ease of doing business. In other words, there are same rules and rates of tax across the country.

(c) **Removal of cascading effect:**

A system of seamless tax-credits throughout the value-chain, and across boundaries of States, has ensured that there is minimal cascading of taxes. This has reduced hidden costs of doing business.

(d) **Improved competitiveness**

Reduction in transaction costs of doing business, improves competitiveness for the trade and industry.

(e) **Gain to manufacturers and exporters**

The GST has decreased the cost of locally manufactured goods because of the following reasons:

- Most of the central and state taxes vanishes;
- Central Sales Tax would not be charged;
- Complete and comprehensive set-off of the input goods and services.

Because of the reduced cost of Indian industry, it has been more competitive in global market. It has given boost to Indian Exports.

(II) **For Central and State Governments:**

(a) **Simple and easy to administer**

GST replaces multiple indirect taxes at the Central and State levels. Backed with a robust end-to-end IT system, GST is simpler and easier to administer than all other indirect taxes of the Centre and State.

(b) **Better control on revenue leakage**

GST results in better tax compliance due to a robust IT infrastructure. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an in-built mechanism in the design of GST that has incentive tax compliance by traders.

(c) **Higher revenue efficiency**

GST is decrease the cost of tax collection. It has lead to higher revenue efficiency.

(III) **For the consumer:**

(a) **Single and transparent tax proportionate to the value of goods and services:**

From the manufacturing of a product to the sale, there are many peoples involved. These are manufacturer, distributor, wholesaler and retailer. Every one of them charges for its role thus the cost of the product increases. How should each of them pay the tax. Should the tax levied on the total cost of product at every stage or should it be only on the increased cost? Definitely, It should be on the amount which was increased because of that intermediary. But the GST is being charged only on the value addition not on whole sale price. It has made products cheaper.

(b) **Relief in overall tax burden:**

Because of efficiency gains and prevention of leakages, the overall tax burden on most commodities will come down, which has benefitted consumers.

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Q4. Which taxes at the Centre and State level has gone away (subsumed) because of the GST?

Answer:

- (I) **Vanishing of Central Taxes:** At the Central level, the following Central taxes has been gone away:
1. Central Excise Duty,
 2. Additional Excise Duty,
 3. Service Tax,
 4. Additional Customs Duty commonly known as Countervailing Duty, and
 5. Special Additional Duty of Customs.
- (II) **Vanishing of State Taxes:** At the State level, the following taxes has been gone away:
1. State Value Added Tax/Sales Tax,
 2. Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States),
 3. Octroi and Entry tax,
 4. Purchase Tax,
 5. Luxury tax, and
 6. Taxes on lottery, betting and gambling.

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Q5. Which taxes are not subsumed under GST?

Answer:

Following taxes are not subsumed under GST:

- (a) Basic Custom Duty;
- (b) Tax on petroleum Products;
- (c) Electricity and power;
- (d) Real Estate(land and supply of building after completion)- Stamp Duty;
- (e) Alcohol for human consumption.

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Q6. Write short notes on Goods and Services Tax Council. What are the powers and functions of GST Council?

Answer:**(1) Formation:**

According to the Article 279A, the President shall by order within 60 days from the date of commencement of the Constitution (101st) amendment Act, 2016, constitute a Council, to be called as Goods and Service Tax Council.

(2) Composition:

The GST Council shall consist of the following members: ,

- (a) The Union Finance Minister who will be the CHAIRMAN of the council;
- (b) The Union Minister of State in charge of Revenue or Finance who will be the MEMBER of council;
- (c) ONE MEMBER from each state who is Minister in charge of Finance or Taxation or any other Minister, and anyone of them will be VICE CHAIRMAN of the GST Council who will be mutually elected by them.

Notes
<ol style="list-style-type: none"> 1. The Secretary of Revenue Department will work as EX-Officio Secretary to the GST Council. 2. The Chairperson of Central Board of Indirect Taxes and Customs will be the permanent invitee in all the proceedings of the GST Council who will not have the voting rights.

(3) Functions/ role of the GST Council:

The GST council shall make recommendations to the Union and State on these following matters :

- (a) On subsuming of various taxes, cess, and surcharge in GST.
- (b) Details of services and goods that will be subjected to GST or which will be exempted from GST.
- (c) On Threshold limit below which services and goods will be exempted from GST.

- (d) On GST rates including floor rate with bands of GST and any special rate for time being to arrange resources to face any natural calamity.
- (e) Making special provisions for the following states: Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand;
- (f) Model good and services tax laws. Principles of levy, apportionment of goods and services tax levied on supplies in the course of inter-state trade or commerce under article 269A and the principles that govern the place of supply;
- (g) Any other matter relating to the good and services tax, as the council may decided.

(4) **Power to levy tax on Petroleum Products**

The good and services tax council shall recommend the date on which the good and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(5) **Harmonised System**

While discharging the function conferred by this Article(i.e. article 269A), the GST Council shall be guided by the need for a harmonised structure of good and services tax and for the development of a harmonised national market for good and services

(6) **Quorum and Decision-Making**

For a valid meeting of the members of GST Council, at least 50% of the total number of the member should be present at the meeting.

(7) **Voting Rights**

Every Decision made during the meeting should be supported by at least 75% majority of the weighted votes of the members who are present and voting at the meeting, in accordance with the following principles, namely:

- (a) The vote of the Central Government shall have a weightage of $\frac{1}{3}$ rd of the total votes casted, and
- (b) The votes of all the State Governments taken together shall have a weightage of $\frac{2}{3}$ rd of the total votes casted.

(8) **Vacancy etc. not to invalidate proceedings:**

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

- (a) if there is any vacancy remained in the Council
- (b) if there is any defect in the constitution of Council
- (c) if there is any defect in the appointment of a person as a member of the Council
- (d) if there is any procedural non compliance.

(9) **Dispute Management:**

The GST Council shall establish a mechanism to adjudicate any dispute arising out of the recommendations of the Council or implementation thereof:

- (a) between the CG and one or more States; or
- (b) between the CG and any State or States on one side and one or more States on the other side; or
- (c) between two or more States.

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Q7. What has been the causes for recent amendment in constitution for introduction of GST?

Answer:

The Constitution provides demarcation of power to tax between the Center and States. The Center is empowered to tax services and goods upto the manufacture stage and states to tax sale of goods. The States do not have the power to levy a tax on supply of services while the Center does not have power to levy tax on the sale of goods. The Constitution does not confer express power either to the Center or State Government to levy a tax on the (supply of goods and services) also, the constitution also does not empower the states to impose tax on imports.

Therefore, it is the essential to have constitutional amendments for empowering the Center to levy tax on sale of goods and States for levy of services tax and tax on imports and other consequential issues.

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Q8. What are the significant provisions of Constitution (101st Amendment) Act, 2016?

Answer:

- (I) **Concurrent powers:** Concurrent powers have been given to parliament and state legislatures to make laws governing taxes on goods and services.
- (II) **Levy and Collection of IGST:** Levy of integrated goods and services tax on inter-state transaction of goods and services to be levied and collected by the Central Government and apportioned between the Union and the State in the manner provided by Parliament by law as per the recommendation of the GST Council.
- (III) **Power to formulate principles for determining the place of supply:** Principles for determining the place of supply Principles for determining the place of supply and when a supply takes place in the course of the inter-state trade of commerce shall be formulated by the parliament, by law.
- (IV) **Levy of GST:** GST shall be levied on all supply of goods and services except alcoholic liquor for human consumption.
- (V) **Levy of GST on certain goods:** On the following products GST shall not be levied, till a date to be notified on the recommendation of the GST Council:
 - (a) Petroleum crude
 - (b) High speed diesel
 - (c) Motor spirit(commonly known as petrol)m
 - (d) Natural gas
 - (e) Aviation turbine fuelThe union government shall retain the power to levy duties of excise on the aforesaid products besides tobacco and tobacco products manufactured or product in India.
- (VI) **Formation of GST Council:** Article 279A of the constitution empowers the president to constitute a joint forum of the Center and states namely, goods and services tax council.

11.14

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The provisions relating to GST Council came into force on 12th September, 2016 president constituted the GST Council on 15th September, 2016.

The Union Finance Minister is the Chairman of this Council and Ministers in charge of Finance/Taxation or any other minister nominated by each of the states and UTs with legislatures are its members. Besides, the Union Minister of State in charge of Revenue or Finance is also its member. The function of the council is to make recommendations to the union and the states on important issues like tax rates, exemption, threshold limits, dispute resolution etc.

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