For CA, CS, CMA Final & Professionals

INDIRECT TAX LAWS
GST & CUSTOMS

SUMMARY BOOK

9th

Revised Edition

Special Features of This Book

- ☑ Entire IDT (GST + Customs) Revision
- ☑ Updated with all amendments upto 31st Oct, 2023
- ☑ Covering all topics with latest Notifications & Circulars
- ☑ Covering GST Section & Rule Numbers Referencer

CA. YASHVANT MANGAL

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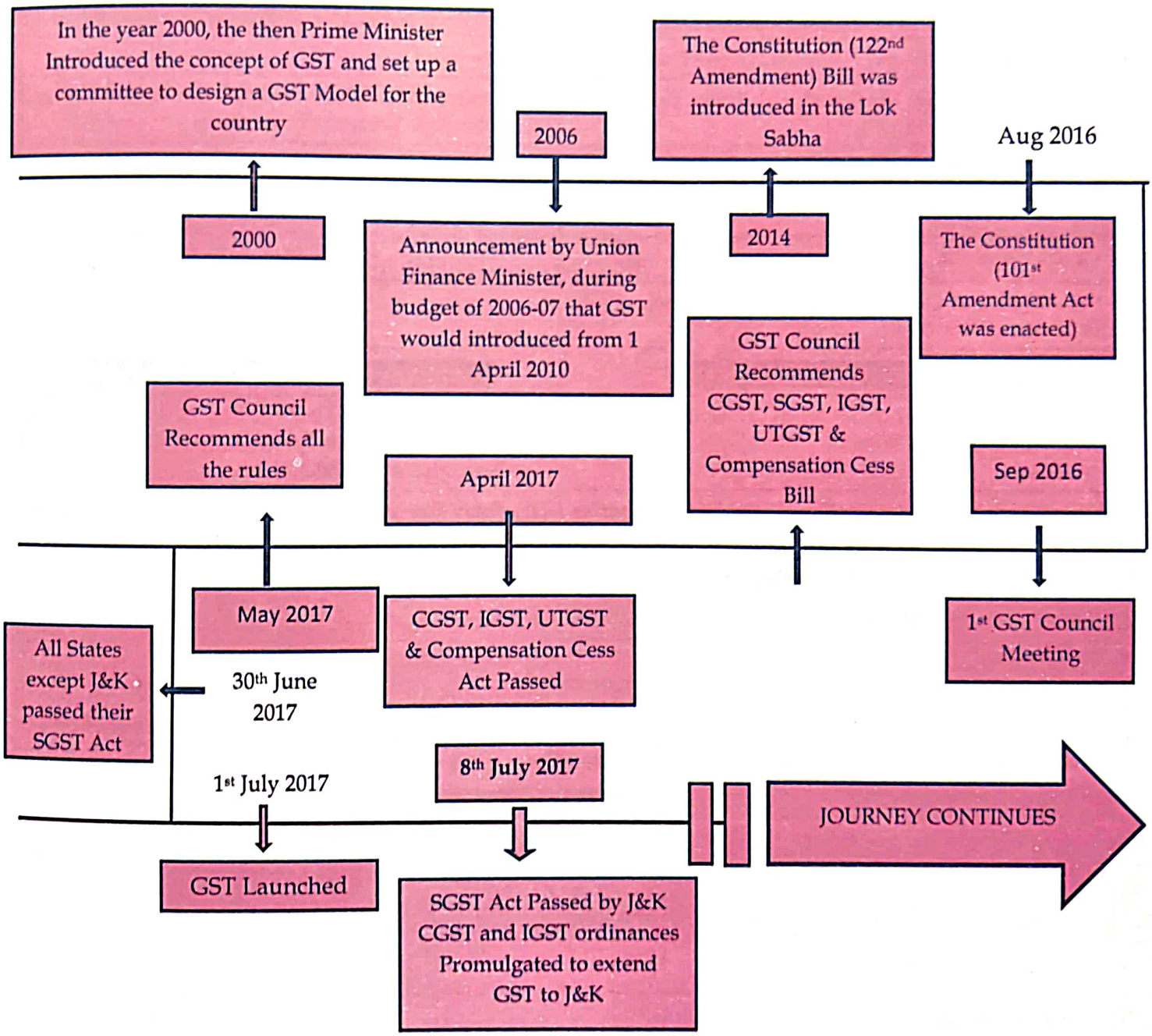
Chapter 1 GST in India : An Introduction

Genesis of GST in India



Concept of GST

- **Valued Added Tax:** GST is a value added tax levied on manufacture, sale and consumption of goods and services.

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- **Continuous Chain of Tax Credits**: GST offers comprehensive and continuous chain of tax credits and takes only the value added at each stage of supply chain.
- **Burden Borne by Final Consumer**: Only the final consumer bears the GST charged by the last supplier in the supply chain, as all previous suppliers are provided with set-off benefits at all the previous stages.
- **No Cascading of Taxes**: Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

Taxes Subsumed in GST

CENTRAL LEVIES SUBSUMED IN GST	CENTRAL LEVIES NOT SUBSUMED IN GST
(1) Central Excise Duty and Additional Excise Duties	(1) Customs Duty
(2) Excise Duty under Medicinal and Toilet Preparation Act	(2) Central Excise Duty on 5 Petroleum Products and Tobacco & Tobacco Products.
(3) Service Tax	
(4) CVD and Special CVD	
(5) Central Sales Tax	
(6) Surcharges and Cesses in so far as they relate to supply of goods and services.	
STATE LEVIES SUBSUMED IN GST	**STATE LEVIES NOT SUBSUMED IN GST**
(1) State surcharges and cesses in so far as they relate to supply of goods and services	(1) State Excise Duty on Alcohol Liquor for Human Consumption and Opium, Indian Hemp and other Narcotic Drugs and Narcotics
(2) Entertainment Tax (except those levied by local bodies)	(2) Sales Tax on 5 Petroleum Products and Alcohol Liquor for Human Consumption
(3) Tax on lottery, betting and gambling	(3) Profession Tax
(4) Entry Tax (All Forms) and Purchase Tax	(4) Electricity Duty
(5) VAT/Sales Tax	(5) Stamp Duty
(6) Luxury Tax	(6) Toll Tax
(7) Taxes on advertisements.	(7) Road and Passenger Tax.

Central / State Levies to be Levied after introduction of GST

Goods	(Supply)	(Manufacture)	(Sale)	
	GST	ED	VAT	CST
Alcoholic Liquor for human consumption	✗	✓	✓	✓
Petroleum crude, High speed diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel	✗	✓	✓	✓
Tobacco & Tobacco products	✓	✓	✗	✗

Opium, Indian Hemp and other Narcotic Drugs	✔	✔	✘	✘
All other Goods & Service	✔	✘	✘	✘

Benefits of GST

GST is a win-win situation for the entire country. It brings benefits to all the stakeholders of industry, Government and the consumer. It will lower the cost of goods and services, give a boost to the economy and make the products and services globally competitive. The significant benefits of GST are discussed hereunder:

Benefits to economy

- Creation of unified national market
- Boost to 'Make in India' initiative
- Enhanced investment and employment

Simplified tax structure

- Ease of doing business
- Certainty in tax administration

Easy tax compliance

- Automated procedures with greater use of IT
- Reduction in compliance costs

Advantages for trade and industry

- Benefits to industry
- Mitigation of ill effects of cascading
- Elimination of multiple taxes and double taxation
- Benefits to small traders and entrepreneurs

Buoyancy to the Government Revenue: GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the tax-payer compliance.

Constitutional Provisions

Power to levy and collect taxes whether, direct or indirect emerges from the Constitution of India. In case any tax law, be it an act, rule, notification or order is not in conformity with the Constitution, it is called ultra vires the Constitution and is illegal and void.

The significant provisions of the Constitution relating to taxation are:

I. Article 265: Article 265 of the Constitution of India prohibits arbitrary collection of tax. It states that "no tax shall be levied or collected except by authority of law". The term "authority of law" means that tax proposed to be levied must be within the legislative competence of the Legislature imposing the tax.

II. Article 246: It gives the respective authority to Union and State Governments for levying tax. Whereas Parliament may make laws for the whole of India or any part of the territory of India, the State Legislature may make laws for whole or part of the State.

III. 7th Schedule to Article 246: It contains 3 lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

List – I	Union List	It contains the matters in respect of which the parliament (Central Government) has the exclusive right to make laws.
List – II	State List	It contains the matters in respect of which the State Government has the exclusive right

		to make laws.
List – III	Concurrent List	It contains the matters in respect of which both the Central & State Governments have power to make laws.

Power to levy GST has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101st Amendment) Act, 2016. Article 279A empowered President to constitute GST Council. Article 366(12A) of the Indian Constitution defines the GST.

Significant provisions of Constitution (101st Amendment) Act, 2016

Significant amendments made by Constitution Amendment Act are discussed below:

IV. Article 246A: Power to make laws with respect to Goods and Services Tax

- This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State.
- Centre has the exclusive power to make laws with respect to GST in case of inter-State supply of goods and/or services.
- However, in respect to the following goods, the aforesaid provisions shall apply from the date recommended by the GST Council:
  1. Petroleum Crude
  2. High Speed Diesel
  3. Motor Spirit (commonly known as Petrol)
  4. Natural Gas
  5. Aviation Turbine Fuel.

V. Article 269A: Levy and collection of GST on inter-State supply

- Article 269A stipulates that GST on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the GST Council.
- In addition to above, import of goods or services or both into India will also be deemed to be supply of goods and/or services in the course of Inter-State trade or Commerce.

VI. GST Council: Article 279A

- Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- 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 & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of Revenue or Finance is also its member.
- 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 and voting. Vote of the Centre has a weightage of one-third of total votes cast and votes of all the State Governments taken together has a weightage of two-thirds of the total votes cast, in that meeting.

Charge of Tax

The very basis for the charge of tax in any taxing statute is the taxable event i.e. the point on which the levy of tax gets attracted. Under GST, the taxable event is **Supply. CGST Act/SGST Act/UTGST Act** levies tax on all **intra-state supplies** of goods and/or services while **IGST Act** levies tax on all **inter-state supplies** of goods and/or services. In GST, both Central and State Governments have simultaneous power to levy GST on Intra-State Supplies only. GST is a destination based tax on consumption of goods and services.

Taxable Event under GST

- The incidence of tax is the foundation stone of any taxation system. It determines the point at which tax would be levied, i.e., the taxable event. Under GST, the taxable event is "Supply".

Important Definitions – Section 2

Clause	Definitions
(6)	"aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.
(19)	"capital goods" means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business.
(20)	"casual taxable person" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.
(30)	"composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. **Example**: Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.
(31)	"consideration" in relation to the supply of goods or services or both includes – (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government; (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government: Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.
(32)	"continuous supply of goods" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify.
(33)	"continuous supply of services" means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify.
(44)	"electronic commerce" means the supply of goods or services or both, including digital products over digital or electronic network.
(45)	"electronic commerce operator" means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
(47)	"exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply.
(52)	"goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed

	before supply or under a contract of supply.
(56)	"**India**" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, sea-bed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters.
(59)	"**input**" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.
(60)	"**input service**" means any service used or intended to be used by a supplier in the course or furtherance of business.
(74)	"**mixed supply**" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. **Example**: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.
(78)	"**non-taxable supply**" means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act.
(80A)	"**online gaming**" means offering of a game on the internet or an electronic network and includes online money gaming; [inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]
(80B)	"**online money gaming**" means online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force; [inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]
(84)	"**person**" includes – (a) an individual; (b) a Hindu Undivided Family; (c) a company; (d) a firm; (e) a Limited Liability Partnership; (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India; (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013; (h) any body corporate incorporated by or under the laws of a country outside India; (i) a co-operative society registered under any law relating to co-operative societies; (j) a local authority; (k) Central Government or a State Government; (l) society as defined under the Societies Registration Act, 1860; (m) trust; and (n) every artificial juridical person, not falling within any of the above.
(85)	"**place of business**" includes – (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or (b) a place where a taxable person maintains his books of account; or (c) a place where a taxable person is engaged in business through an agent, by whatever name called.

(90)	"**principal supply**" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.
(92)	"**quarter**" shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year.
(98)	"**reverse charge**" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act.
(102)	"**services**" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged. Explanation.-- For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;
(102A)	"**specified actionable claim**" means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming; [inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]
(105)	"supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied: Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims; [Proviso inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]
(106)	"**tax period**" means the period for which the return is required to be furnished.
(107)	"**taxable person**" means a person who is registered or liable to be registered under section 22 or section 24.
(108)	"**taxable supply**" means a supply of goods or services or both which is leviable to tax under this Act.
(112)	"**turnover in State**" or "**turnover in Union territory**" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess.
(117)	"**valid return**" means a return furnished u/s 39(1) on which self-assessed tax has been paid in full.
(117A)	"**virtual digital asset**" shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961; [inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]
(118)	"**voucher**" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.

"Abhi to IDT Shuru Hui hai..."