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[GOODS AND SERVICE TAX]

Constitutional Amendment Act for GST – salient features

What are the major Chronological events that have led to the Introduction of GST ?

GST is being introduced in the country after a 13 year long journey since it was first discussed in the report of the Kelkar Task Force on indirect taxes. A brief chronology outlining the major milestones on the proposal for introduction of GST in India is as follows :

- **In 2003, the Kelkar Task Force on indirect tax had suggested a comprehensive Goods and Service Tax (GST) based on VAT principle.**
- **A Proposal to introduce a National level Goods and Service Tax (GST) by April 1, 2010 was first mooted in the Budget Speech for the financial year 2006-07**
- **Since the proposal involved reform / restructuring of not only indirect taxes levied by the Centre but also the States, the responsibility of preparing a Design and Road MAP for the Implementation of GST was assigned to the Empowered Committee of State Finance Ministers (EC).**
- **Based on inputs from Govt of India and States, the EC released its First Discussion Paper on Goods and Services Tax in India in November, 2009.**
- **In order to take the GST related work further, a joint working Group consisting of officers from Central as well as State Government was constituted in September, 2009.**
- **In order to amend the Constitution to enable introduction of GST, the Constitution (115th Amendment) Bill was introduced in the Lok Sabha in March 2011. As per the prescribed procedure, the Bill was referred to the Standing Committee on Finance of the Parliament for examination and report.**
- **Meanwhile, in pursuance of the decision taken in a meeting between the Union Finance Minister and the Empowered Committee of State Finance Ministers on 8th November, 2012, a 'Committee on GST Design', consisting**

of the officials of the Government of India, State Governments and the Empowered Committee was constituted.

- This Committee did a detailed discussion on GST design including the Constitution (115th) Amendment Bill and submitted its report in January, 2013. Based on this Report, the EC recommended certain changes in the Constitution Amendment Bill in their meeting at Bhubaneswar in January 2013.
- The Empowered Committee in the Bhubaneswar meeting also decided to constitute three committees of officers to discuss and report on various aspects of GST as follows : -
 - Committee on Place of Supply Rules and Revenue Neutral Rates ;
 - Committee on dual control, threshold and exemptions;
 - Committee on IGST and GST on imports.
- The Parliamentary Standing Committee submitted its Report in August, 2013 to the Lok Sabha. The recommendations of the Empowered Committee and the recommendations of the Parliamentary Standing Committee were examined in the Ministry in Consultation with the Legislative Department. Most of the recommendations made by the Empowered Committee and the Parliamentary Standing Committee were accepted and the draft Amendment Bill was suitably revised.
- The final draft Constitutional Amendment Bill incorporating the above stated changes were sent to the Empowered Committee for consideration in September 2013.
- The EC once again made certain recommendations on the Bill after its meeting in Shillong in November 2013. Certain recommendations of the Empowered Committee were incorporated in the draft Constitution (115th Amendment) Bill. The revised draft was sent for consideration of the Empowered Committee were incorporated in the draft Constitution (115th Amendment) Bill. The revised draft was sent for consideration of the Empowered Committee in March, 2014.

- **The 115th Constitutional (Amendment) Bill, 2011, for the introduction of GST introduced in the Lok Sabha in March 2011 lapsed with the dissolution of the 15th Lok Sabha.**
- **In June 2014, the draft Constitution Amendment Bill was sent to the Empowered Committee after approval of the new Government.**
- **Based on a broad consensus reached with the Empowered Committee on the contours of the Bill, the Cabinet on 17.12.2014 approved the proposal for introduction of a Bill in the Parliament for amending the Constitution of India to facilitate the introduction of Goods and Services Tax (GST) in the country. The Bill was introduced in the Lok Sabha on 19.12.2014, and was passed by the Lok Sabha on 06.05.2015. It was then referred to the Select Committee of Rajya Sabha, which submitted its report on 22.7.2015.**
 - **Assented by the President on 8 September 2016**
 - **Central Government appointed 16 September 2016 as the date on which the provisions would come in force**
 - **Confers simultaneous power upon Parliament and the State Legislatures to enact laws for goods and services**
 - **Subsuming of various Central and State Taxes**
 - **Subsuming of various Central indirect taxes and levies such as Central Excise Duty, Additional Excise Duties, Service Tax, Additional Customs Duty commonly known as Countervailing Duty, and Special Additional Duty of Customs;**
 - **Subsuming of State Value Added Tax/Sales Tax, Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States), Octroi and Entry tax, Purchase Tax, Luxury tax, and Taxes on lottery, betting and gambling**
 - **Dispensing with the concept of 'declared goods of special importance' under the Constitution**

- Earlier, this clause empowered the Parliament to restrict and provide such condition with respect to any state laws which sought to levy tax on sale and purchase of such goods declared as of special importance and/or a tax on sale or purchase concerning transactions of works contract, hire-purchase, and transfer of right to use any goods as specified in Article 366(29A) (b), (c), (d).
- Levy of Integrated Goods and Services Tax on inter-State transactions of goods and services
- Clause 269A provides for levy of Goods and Services Tax on supplies in the course of inter-State trade or commerce.
- Such Tax shall be levied and collected by Government of India and thereafter 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 Goods and Services Tax Council.
- Import of goods or services would be treated as inter-state supplies and thus it would be subject to IGST in addition to applicable custom duties.
- Exports would be zero rated
- Scope of GST
- GST shall cover all goods and services, except alcoholic liquor for human consumption, for the levy of goods and services tax. In case of petroleum and petroleum products, it has been provided that these goods shall not be subject to the levy of Goods and Services Tax till a date notified on the recommendation of the Goods and Services Tax Council
- Compensation to the States
- The Parliament on recommendation of the Goods and Services Tax Council would provide for compensation to the States for loss of revenue arising on account of implementation of the GST for a period of five years
- Creation of Goods and Services Tax Council
- GST Council to examine issues relating to goods and services tax and make recommendations to the Union and the States on parameters like rates, taxes, cesses and surcharges to be subsumed, exemption list and threshold limits, Model GST laws, etc. The Council shall function under the Chairmanship of the Union Finance Minister and will have all the State Governments as Members
- Validity period of existing law relating to tax on goods or services or on both

- any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier

- ▶ **Central taxes (Taxes subsumed)**
 - ▶ Excise Duty
 - ▶ Excise Duty levied under the Medicinal & Toiletries Preparation Act
 - ▶ CVD
 - ▶ SAD
 - ▶ Service tax
 - ▶ CST
 - ▶ Surcharges & Cesses (relating to supply of goods & services)

- ▶ **State taxes (Taxes subsumed)**
 - ▶ VAT
 - ▶ Entry tax / Octroi
 - ▶ Luxury tax
 - ▶ Tax on entertainment and amusement not levied and collected by Panchayat / Municipality / Regional Council / District Council
 - ▶ Taxes on lottery, betting & gambling
 - ▶ State cesses & surcharges (relating to supply of goods & services)

- ▶ **Central Taxes (Taxes not subsumed)**
 - ▶ Basic Customs Duty
 - ▶ Export Duties
 - ▶ Clean Energy Cess
 - ▶ Customs Cess

- ▶ **State Taxes (Taxes not subsumed)**
 - ▶ **Stamp Duties**
 - ▶ **Taxes on consumption or sale of electricity**
 - ▶ **Taxes on goods and passengers carried by road or on inland waterways**
 - ▶ **Taxes on vehicles**
 - ▶ **Taxes on professions, trades, callings and employments**

Activity	Current tax structure	Proposed GST Framework
Import of goods	Customs duty (BCD, CVD, Customs Cess and SAD) + Entry tax	BCD + IGST + Customs Cess
Import of Service	Service tax, SBC, KKC	IGST
Inter-state purchase of goods	Excise duty + CST + Entry tax	IGST
Intra-state purchase of goods	Excise duty + VAT + Entry Tax	CGST + SGST
Inter-state procurement of services	Service tax, SBC, KKC	IGST
Intra-state procurement of services	Service tax, SBC, KKC	CGST + SGST
Inter-unit transfer of capital goods from one state to another	Cenvat Credit to be reversed by transferor unit and to be availed by transferee unit	IGST
Exports	Duty Free	Zero rated

Central / State Goods and Service Tax Act, 2016

- ▶ 27 Chapters
- ▶ Section 1 to 197
- ▶ 33 Transitional Provisions
- ▶ 5 Schedules
- ▶ Valuation Rules

► **Supply**

Supply includes: supply of goods or services, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other means made or agreed to be made by such person in the course or furtherance of business for a consideration

- Supply of goods or services between related persons without consideration when made in the course of furtherance of business

Not covered : Intra-state transfer within same registration

Goods/ Service

Goods: Every kind of movable property other than money and securities but includes actionable claim

Services

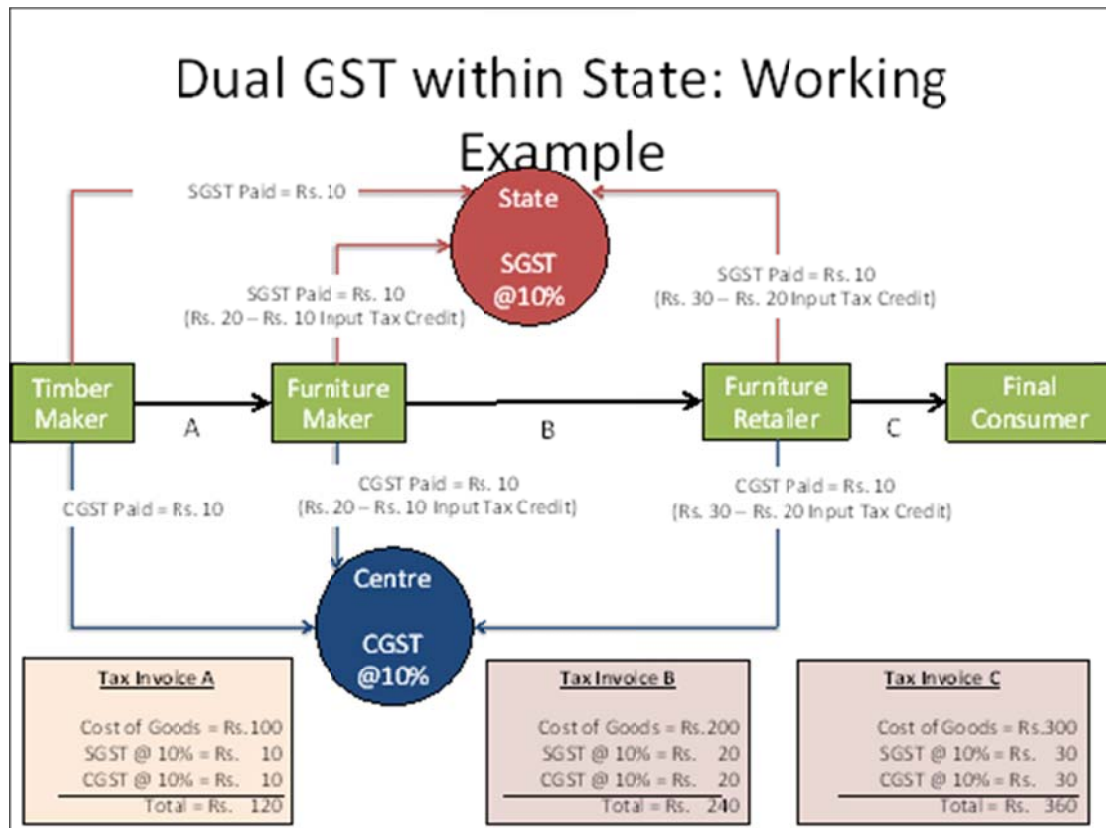
- Service : anything other than goods includes works contracts

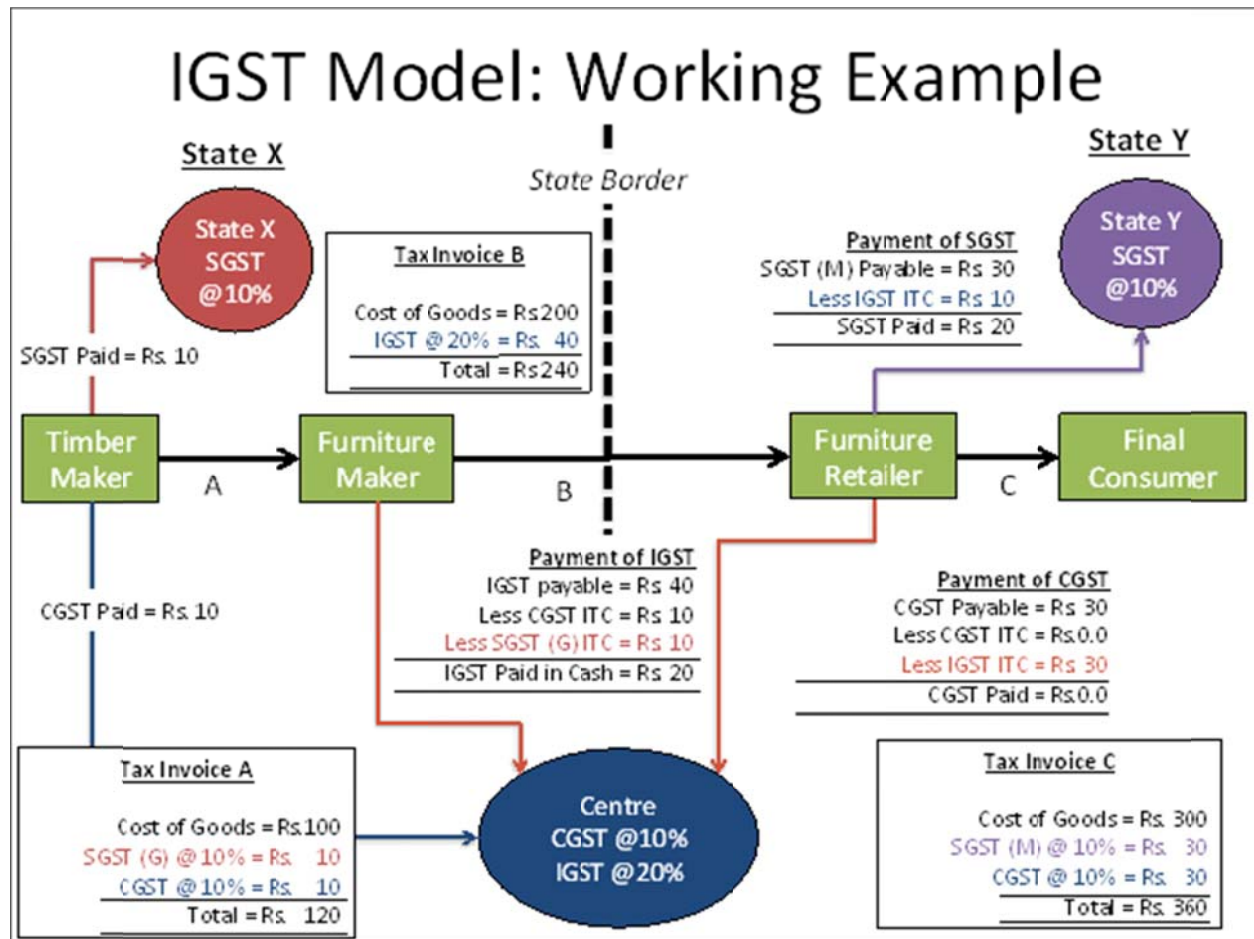
Taxing activity

- Supply is taxable
- Threshold limits – INR 20 lakh
- States would levy tax on services
- Taxability of inter-state transaction of services introduced
- Concept of reverse charge to continue (category of supply of goods and/or services to be covered under reverse charge and abatement, if any, to be notified on recommendation of GST council)

Integrated Goods and Service Tax Act, 2016

- 11 Chapters
- Section 1 to 24
- Place of Supply of Goods or Service [Chapter IV of IGST Act]





Some key aspects to be notified:

- ▶ Taxes to be subsumed
- ▶ GST Rules
- ▶ Abatements/exemptions
- ▶ Negative list?
- ▶ RCM applicability
- ▶ Deemed exports
- ▶ Tax Incentives