

1.1 Genesis of GST in India (History of GST in India)

1. **Marks : 4 Marks**
2. **Frequency : Alternative Attempts**
3. **Important -**
 - a. Deficiencies in Pre-GST
 - b. Taxes Subsumed / not Subsumed

Year	Milestone	Key Details
2000	Initial Proposal	PM Atal Bihari Vajpayee introduced the concept and set up an Empowered Committee (EC) headed by Asim Dasgupta to design the GST model.
2003	Kelkar Task Force	The Vijay Kelkar-led Task Force on Indirect Taxes recommended a comprehensive GST to simplify the tax structure.
2006	First Budget Announcement	Finance Minister P. Chidambaram proposed a rollout date of April 1, 2010 , in his Union Budget speech.
2009	First Discussion Paper	The Empowered Committee released the First Discussion Paper (FDP), sparking national debate on GST's design.
2011	115th Amendment Bill	The UPA government introduced the Constitution Amendment Bill to enable GST, but it later lapsed with the dissolution of the 15th Lok Sabha.
2014	122nd Amendment Bill	The new NDA government reintroduced the bill in the Lok Sabha in December 2014.
2016	The Legal Milestone	The 101st Constitution Amendment Act was passed by Parliament and received Presidential assent on September 8, 2016 .
2016	GST Council Formed	The GST Council was notified (Sept 12), creating a joint forum for the Centre and States to decide on tax rates and exemptions.
2017	Passage of GST Bills	Four key bills (CGST, IGST, UTGST, and Compensation Act) were passed by Parliament in March/April and subsequently by state legislatures.
July 1, 2017	The Grand Launch	GST was officially rolled out across India at a historic midnight session in the Central Hall of Parliament.

1.1 Overview of Taxation System In India

1. **In Simple Words tax is nothing but money that people pay to the Government**
2. **Type of Taxes in India-**

Types of Taxes	Meaning	Handled By
Direct Tax	<ol style="list-style-type: none"> 1. DT is levied directly on income of Person and where the tax burden cannot be passed on to any other person. 2. DT is levied on Income & property. 	CBDT- Central Board of Direct Taxes
Indirect Taxes	<ol style="list-style-type: none"> 1. IDT is not paid on the income or Property but is levied indirectly on the ultimate consumer of goods and services. 2. Indirect taxes are levied on <ol style="list-style-type: none"> a. consumption, b. expenditure, c. privilege, or d. right . 	CBIC- Central Board of Indirect Taxes & Customs



Tax Name	What it was	Levied By
Central Excise Duty	A tax on the manufacture of goods within India.	Central Government
Service Tax	A tax on the provision of services (intangibles).	Central Government
Value Added Tax (VAT)	A multi-point tax on the sale of goods within a state.	State Government

1.3 Introduction to GST

1. Commencement of Acts

GST was made applicable to whole of India from **1st July 2017**. (J&K- 8th July 2017).

2. Extent of CGST/ SGST/ UTGST /IGST Act (Section 1)- It extends to whole of India

3. Definition of India (Sec. 2(56) of CGST Act, 2017): India is extended upto **200 Nautical Miles (NM)** in water.

"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.

1.4 Constitutional Power of Taxation (Constitutional Validity of IDT)

1. The **Constitution** of India is the **supreme law** of India. The authority to levy a tax is derived from the Constitution of India.

2. **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"**.

3. **Article 246** of the Indian Constitution, lays down **three types of lists** and distributes legislative powers including taxation, between the Parliament of India and the State Legislatures.

- Union List** - It contains the matters in respect of which the **Parliament** (Central Government) has the **exclusive right to make laws**. E.g. Income Tax except Agriculture Income

- b) **State List** - It contains the matters in respect of which the **State Government** has the **exclusive right to make laws**. E.g. Taxes on agricultural income
- c) **Concurrent List** - It contains the matters in respect of which both **Central Government and State Government** has the **exclusive right to make laws**. (No taxes mentioned under this list)

1.5 Difference Between Direct & Indirect Taxes

Basis	Direct Tax	Indirect Tax
Meaning	Direct tax is referred to as the tax, levied on person's income and wealth and is paid directly to the government	Indirect Tax is referred to as the tax, levied on a person who consumes the goods and services and is paid indirectly to the government.
Nature	Progressive in nature i.e., higher tax is levied on a person earning higher income and vice versa.	Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability.
Incidence and Impact	Falls on the same person . Assessee, himself bears such taxes. Thus, it pinches the taxpayer.	Falls on different person . Tax is recovered from the assessee, who passes such burden to another person. Thus, it does not pinch the taxpayer.
Example	Income Tax	GST, Custom Duty
Evasion	Tax evasion is possible	Tax evasion is hardly possible because it is included in the price of the goods and services.
Inflation	Direct tax helps in reducing the inflation .	Cost of goods and services increases due to levy of IDT thus indirect taxes promote inflation .
Imposition and collection	Imposed on and collected from the same person	Imposed on and collected from consumers of goods and services but paid and deposited by the assessee.
Burden	Cannot be shifted	Can be shifted
Event	Taxable income of the assessee	Supply of goods and services

1.6 Features of Indirect Taxes

- Tax on Goods and Services** : Indirect tax is levied at the time of supply or manufacture or purchase or sale or import or export of goods. Further, it is also **levied on supply**.
- Burden** : Indirect tax paid by the seller, shall be **recovered by the seller from the buyer**. Thus, one can say that burden of indirect tax is shifted from seller to buyer and ultimately borne by consumers of such goods or services.
- Inflationary in nature**: Cost of goods and services increases due to levy of indirect tax thus indirect taxes **promote inflation**.

4. **Social welfare:** It is useful tool to promote social welfare by checking the consumption of **harmful goods or sin goods** through **higher rate of tax**.
5. **Wider Tax Base:** Majority of goods and services are liable to indirect tax with very low threshold limits, so tax base is much wider in case of indirect tax in compare to direct tax.
6. **Regressive in Nature:** **All persons** (rich or poor) **will bear equal wrath of tax** on goods or service consumed by them irrespective of their ability.
7. **No Direct Pinch :** Seller (the person on which indirect tax is levied) **does not perceive a direct pinch of tax** as it is recovered by him from the buyer and then he is paying to the Government.

1.7 Pre GST-Tax Structure and Deficiencies

1. Certain transactions were subject to **double taxation** and were taxed as both goods and services, since under the earlier regime, distinction between goods and services was often blurred.
2. VAT where different states were charging **VAT at different rates**, which were resulting in imbalance of trade between the states
3. CENVAT did not include chain of value addition in the distributive trade after the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed. This led to the **cascading of taxes**.
4. Though **CENVAT** and State-Level **VAT** were essentially value added taxes, **set off** of one against the credit of another was **not possible** as CENVAT was a central levy and State-Level VAT was a state levy.
5. There were **several taxes in the States**, such as, Luxury Tax, Entertainment Tax, etc. which were **not subsumed in the VAT**. Hence for a single transaction, multiple taxes in multiple forms were required to be paid.
6. **VAT** on goods was **not integrated with tax on services**, at the State level, to remove the cascading effect of service tax. With service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax- buoyancy
7. **CST** was another source of distortion in terms of its cascading nature since it **was non- VATABLE**. Being an origin-based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.

1.8 Amendments made by the Constitution (101st Amendment) Act, 2016

Introduction of the GST required amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax.

1.8.1 Article 246-A- Special provision with respect to Goods and Services Tax

1. Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

2. Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

1.8.2 Article 279A - Constitution of Goods and Services Tax Council

1. The President has constituted the GST Council on 15th September 2016
2. The GST Council which will be a **joint forum of the Centre and the States**, shall consist of the following members

a.	Union Finance Minister	Chairperson
b.	The Union Minister of State, in-charge of Revenue of finance	Member
c.	The Minister In-charge of finance or taxation or any other Minister nominated by each State Government	Members

3. The Goods and Services Tax Council shall **make recommendations** to the Union and the States on—
 - a. the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
 - b. the goods and services that may be subjected to, or exempted from the goods and services tax;
 - c. model Goods 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;
 - d. the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
 - e. the rates including floor rates with bands of goods and services tax;
 - f. any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
 - g. special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
 - h. any other matter relating to the goods and services tax, as the Council may decide.
4. The Goods and Services Tax Council shall **recommend the date** on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.
5. **One-half of the total number** of Members of the Goods and Services Tax Council shall **constitute the quorum** at its meetings.
6. Every decision of the GST Council shall be taken at a meeting, by a **majority of not less than three-fourths of the weighted votes** of the members present and voting, in accordance with the following principles, namely:—

- a. the vote of the **Central Government** shall have a **weightage of one third** of the total votes cast, and
- b. the votes of all the **State Governments** taken together shall have a **weightage of two-thirds** of the total votes cast, in that meeting.

1.8.3 Article 269A- Levy and collection of goods and services tax in course of inter-State trade or commerce

1. Goods and services **tax 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 Goods and Services Tax Council.
2. Parliament may, by law, formulate the principles for **determining the place of supply**, and when a supply of goods, or of services, or both takes place **in the course of inter-State** trade or commerce.

1.9 Tax subsumed in the GST

Following **17 taxes**, levied by different Governments, were subsumed in the GST:

1.9.1 Central Taxes Subsumed

1. Central Excise Duty
2. Additional Excise Duties (Textiles and Textile Products, Goods of Special Importance, etc.)
3. Excise Duty under Medical and Toilet Preparation Act, 1955.
4. Additional Customs Duty (Countervailing Duty - CVD)
5. Special Additional Duty of Customs (SAD)
6. Service Tax
7. Central Surcharges related to supply of goods and services.
8. Central Cesses related to supply of goods and services.

1.9.2 State Taxes Subsumed

1. Value Added Tax (VAT) / Sales Tax
2. Central Sales Tax (levied by Centre, collected by States)
3. Entertainment Tax (other than the tax levied by local bodies)
4. Luxury Tax
5. Entry Tax (All forms of Entry tax, Octroi, etc.)
6. Purchase Tax
7. Taxes on Advertisements
8. Taxes on Lotteries, Betting, and Gambling
9. State Cesses and Surcharges (insofar as they relate to supply of goods and services)

1.9.3 List of taxes not subsumed under GST in India

Central Taxes	State Taxes
Basic Customs Duty	State Excise Duty
Research and Development Cess	Stamp Duty

Export Duty	Profession Tax
Anti-Dumping Duty	Motor Vehicle Tax
Safeguard Duty	

1.10 Concept of GST

1. Value Added Tax
2. Continuous Chain of Credit
3. Burden Borne by Final Consumer
4. No Cascading effect of Taxes
5. Destination-based/ Consumption-based Tax

1.11 What are outside the purview of GST?

1. **Alcoholic liquor for human consumption** - State Excise Duty + VAT
2. **Petroleum products:** Petroleum crude, Motor spirit (petrol), High speed diesel, Natural gas and Aviation Turbine Fuel. - Central Excise duty + VAT
3. **Electricity**- GST Charged at Nil Rate but Electricity duty charged by State Government
4. **Property tax** such as Stamp Duty.
5. **Motor vehicles tax.**
6. **Entertainment tax** collected by State Authorities.

1.12 Taxes which Both GST and Other IDT are charged

1. **Tobacco**- Central Excise duty + GST.
2. **Opium, Indian hemp and other narcotic drugs and narcotics** - State excise duties + GST.

1.13 GST Model

1. **Dual GST Model:**
 - a. India has adopted a dual GST model, i.e., where the tax is imposed **concurrently by the Centre and the States.**
 - b. For an **intra-State** sale, the GST is equally divided between the Centre and the State (**CGST + SGST**), and
 - c. For **inter-State** sales, the GST is collected by the Centre (**IGST**)
2. **GST consists of the following Acts:**
 - a. Central Goods and Services Tax Act, 2017
 - b. State Goods and Services Tax Act, 2017
 - c. Integrated Goods and Services Tax Act, 2017
 - d. Union territory Goods and Services Tax Act, 2017
 - e. Goods and Services (compensation to States) Tax Act, 2017

1.14 Nature of Supply

1.14.1 INTER STATE SUPPLY: Section 7 of the IGST Act, 2017 deals with the inter-State supply.

1. **Domestic:** Supply of goods or supply of services where location of the supplier and the place of supply are in:
 - a. two different States;
 - b. two different Union territories;
 - c. or a State and a Union territory

2. **Imports:**
 - a. Supply of Imported goods into the territory of India till they cross the customs frontiers of India.
 - b. Supply of service imported into the territory of India

3. **Exports and other scenarios:**

Supply of goods or services or both,

 - a. Where the supplier is located in India and the place of supply is outside India;
 - b. to or by a Special Economic Zone developer or a Special Economic Zone (SEZ) unit; or
 - c. in the taxable territory, not being an intra-State supply and not covered elsewhere in this section.

1.14.2 INTRA STATE SUPPLY:

Section 8 of the IGST Act, 2017 where location of the supplier and the place of supply are in same State or same Union Territory.

1.15 Benefits of GST

The benefits of GST can be summarized as under :

A. For Business and Industry

- i. **Easy compliance :** A robust and comprehensive IT system would be the foundation of the GST regime in India. Therefore, all tax-payer services such as **registrations, returns, payments**, etc. would be **available to the taxpayers online**, which would make compliance easy and transparent.
- ii. **Uniformity of tax rates and structures :** GST will ensure that indirect **tax rates and structures are common across the country**, thereby increasing certainty and ease of doing business. In other words, GST would make doing business in the country tax neutral, irrespective of the choice of place of doing business.
- iii. **Removal of cascading :** A system of **seamless tax-credits** throughout the value-chain, and across boundaries of States, would ensure that there is minimal cascading of taxes. This would reduce hidden costs of doing business.
- iv. **Improved competitiveness :** **Reduction in transaction costs** of doing business would eventually lead to an improved competitiveness for the trade and industry.
- v. **Gain to manufacturers and exporters :** The subsuming of major Central and State taxes in GST, complete and **comprehensive set-off** of input goods and services and phasing out of Central Sales Tax (CST) would **reduce the cost** of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

B. For Central and State Governments

- i. **Simple and easy to administer** : Multiple indirect taxes at the Central and State levels are being replaced by GST. Backed with a robust end-to-end IT system, GST would be **simpler and easier to administer** than all other indirect taxes of the Centre and State levied so far.
- ii. **Better controls on leakage** : GST will result 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 inbuilt mechanism in the design of GST that would incentivize tax compliance by traders.
- iii. **Higher revenue efficiency** : GST is expected to **decrease the cost of collection of tax** revenues of the Government, and will therefore, lead to higher revenue efficiency.
- iv. **Boost to 'Make in India' initiative** : GST will give major boost to the 'Make in India' initiative of government of India by making goods and services produced in India competitive in all the markets.

C. For the Consumer

- i. **Single and transparent tax proportionate to the value of goods and services** : Under GST, there would be only one tax from the manufacturer to the consumer, leading to transparency of taxes paid to the final consumer.
- ii. **Relief in overall tax burden** : Because of efficiency gains and prevention of leakages, the **overall tax burden** on most commodities **will come down**, which will benefit consumers.

1.16 Aggregate Turnover [Section 2(6)]

Includes	Excludes
Value of all outward Supplies	• Taxes charged under GST Act
• Taxable supplies (leviable of GST)	• Value of inward supplies on which tax is payable under reverse charge.
• Exempt supplies (includes supplies non-leviable to GST)	
• Exports	
• Inter-State supplies	
of persons having the same PAN be computed on all India basis	

1.17 Threshold limit for Registration

Following is the threshold limit applicable to various States and Union territories

₹ 10 lakh for supplier of goods and / or services	₹ 20 lakh for supplier of goods and/ or services	₹ 20lakh for supplier of services/both goods and services and threshold limit of ₹ 40 lakh for supplier of goods
<ul style="list-style-type: none"> • Manipur • Mizoram • Nagaland • Tripura 	<ul style="list-style-type: none"> • Arunachal Pradesh • Meghalaya • Sikkim • Uttarakhand • Puducherry • Telangana 	<ul style="list-style-type: none"> • Jammu and Kashmir • Assam • Himachal Pradesh • All other States

1.18 GST Network

1. A common portal or platform is needed which could act as a clearing house and verify the claims and inform the respective government to transfer the funds.
2. This is possible with the help of a strong IT infrastructure.
3. Accordingly, Government has established common GST Electronic Portal (www.gst.gov.in), a website managed by Goods and Services Network (GSTN) for the tax payer and common IT infrastructure for Central and States.
4. GSTN (a non-profit Government owned organisation) is a Special Purpose Vehicle.
5. **The functions of the GSTN** would, inter alia, include:
 - a. facilitating registration;
 - b. forwarding the returns to Central and State authorities;
 - c. computation and settlement of IGST;
 - d. matching of tax payment details with banking network;
 - e. providing various MIS reports to the Central and the State Governments based on the tax payer return information;
 - f. providing analysis of tax payers' profile; and
 - g. running the matching engine for matching, reversal and reclaim of input tax credit.
6. The GSTN is developing a common GST portal and applications for registration, payment, return, assessment and MIS/reports.
7. **Salient features of GSTN**
 - a. Incorporated in March 2013 as sec. 25 100% government owned company with paid up capital of ₹ 10 crore
 - b. To function as a Common Pass-through portal for taxpayers
 - i. Submit registration application
 - ii. File returns
 - iii. Make tax payments
 - c. To develop back-end modules for States
 - d. Infosys Ltd. appointed as Managed Service Provider (MSP)
 - e. Appointed more than 70 GST Suvidha Providers (GSPs)