

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 8 | Issue 4
2025

© 2025 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any suggestions or complaints, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the International Journal of Law Management & Humanities, kindly email your Manuscript to submission@ijlmh.com.

Environmental Taxation: A Study on the Fragmented Legislations in India

FRANCY VICTOR¹

ABSTRACT

The growing environmental challenges in India underscore the urgent need for a structured environmental taxation system. Within this context, tax and cess must not only penalize activities that are harmful to the environment but also serve as tools to fund sustainable initiatives. Despite this evolving and urgent need, India still lacks a unified national framework to regulate such endeavors, instead what exists are fragments of what one hopes for an integrated legislation. To address the same, this research paper analyses the state-level legislation concerning environmental taxation, focusing on the collection and allocation of the received funds toward ecological projects. To resolve the evident gaps in the data transparency, the present study relies on information that was obtained through filing of the RTI's through the Right to Information Act, 2005. Based on the findings, the paper proposes a National Green Tax regime that is comprehensive and transparent while ensuring accountability and uniformity across jurisdictions.

I. INTRODUCTION

A. Environmental taxation

Environmental taxation has emerged as an important tool for addressing environmental issues and promoting sustainable development worldwide. Taxation policies aimed at discouraging harmful activities and encouraging environmentally-friendly practices have gained traction in recent years. In India, environmental taxation has been recognized as a crucial instrument to address environmental challenges and promote sustainable development. One such important aspect of environmental taxation in India is the imposition of cess, which is a levy or charge on certain goods, substances, or activities that are deemed harmful to the environment.

There are many environmental issues facing the globe today, such as pollution, biodiversity loss, and climate change, all of which have a detrimental effect on economic growth and human health and well-being. Environmental taxes can assist in addressing these issues by discouraging harmful behaviour and promoting more environmentally friendly behaviour. Therefore, to put it simply, environmental taxation is basically a mechanism used by

¹ Author is an Advocate at RVJ Law Associates, India.

governments to discourage environmentally harmful activities and promote more sustainable behaviours by levying taxes on specific activities or items that have negative environmental repercussions.

B. Background of Study

The dire requirement of environmental taxation in India stems from various reasons but primarily the continuous increase in population for the past few decades that had negatively affected the ecology without any end. The connotation “Tax or Cess” by itself not only reprimands but simultaneously assists funds contributing to resourceful and sustainable projects. It is well past the eleventh hour for the absence of a consolidated regime with respect to all environmental taxation inclusive of cess, fine and other modes of collection on violation of abuse of environment that is legitimate, exhaustive and the existence of the same uniform across all states in India.

The paper focuses on the existing legislations and enactments across all the states especially concerning one with the collection of the cess or tax and the basic usage of the same to fund for environmentally enriching projects. To absolve the lack of transparency among the state governments and the funds collected respectively to aid ecological concerns, the paper aims through means of RTI's to gain such data.

C. Objective

The main objective of this research is to analyze the efficiency of the current existing legislations that are concerned with the imposition of environmental tax or cess.

D. Research Problem

R1: Whether the existing legislations in reference to environmental taxation and imposition of green cess are effective in achieving its objectives?

E. Hypothesis

H1: The environmental tax regime in India is inept and inefficient to achieve the objective

F. Review of Literature

1. *The 'Carbon Tax Package': An Appraisal of its Efficiency in India's Clean Energy Future* by Ipshita Chaturvedi, this paper speaks about the fragmented green tax system in India, that has various types of green cess, the excise on petrol and diesel and various other green tax based initiatives that were undertaken by the states.
2. *Environmental Law and Practice in India: Overview* by by Els Reynaers Kini and Gautambala Nandeshwar, M V Kini. This paper gives an overview of the

environmental law in india, by especially looking at the problematic areas when it comes to water, air and land pollution.

3. *Environmental Taxation by Robertson C. Williams III*, this speaks about the different possibilities of environmental tax policy reforms. This paper proved beneficial for analyzing the necessary tax reforms that is needed for the Indian environment.
4. *Impact of environmental tax on green development: A nonlinear dynamical system analysis by Xinghua Fan, Xuxia Li, Jiuli Yin*. This speaks about the importance and impact of environmental tax when it had been adopted by several modern governments and how it had promoted a green development but more importantly the role these governments play by in promoting this development.
5. *Green Taxation: Its Impact and Necessity in India by Arjun Pal*. This paper speaks about discouraging environmental hazards by imposing a stricter eco-taxing regime.
6. *Ecotaxes: A comparative study of India and China by Rajat Verma*, where this paper compares the various types of environmentally related taxes between India and China.

G. Research Methodology

The research methodology adopted is “empirical research” and an “RTI- based research”. The data for this paper was primarily derived and analyzed through means of submitting formal requests under the RTI Act, 2005 to obtain the relevant data and information. This paper also relied on secondary data, including articles, research papers, websites, news articles to complete this dissertation.

II. ENVIRONMENTAL TAXATION

In India, the concept of environmental taxation, particularly through the use of cess, has gained significance in addressing environmental issues and promoting sustainability. The role of cess in India's environmental taxation framework is crucial. Cess revenues are earmarked for specific environmental purposes, such as funding environmental conservation projects, supporting renewable energy initiatives, or financing pollution control measures. It provides a dedicated source of funding for environmental conservation efforts while creating economic incentives for environmentally responsible behaviors.

This chapter explores the concept of environmental taxation and its significance, with a focus on the role of cess in India. It emphasizes how cess plays a vital role in addressing environmental issues and promoting sustainability in the country.

A. Man and Environment

As residents of this planet, it is our duty to take care of and safeguard the ecosystem that has been entrusted to us. But in recent years, people have gone beyond the bounds of acceptable conduct and have taken part in harmful environmental activities. It is important for each and every one of us to not only be aware of the environmental concerns that exist, but to also prioritize them in our decision-making process. We need to bring our environmental consciousness from the back of our minds to the forefront of our choices and actions.

Our daily decisions, including those we make regarding consumption, habits, mode of transportation, and trash disposal, all have an effect on the environment. Therefore, developing an environmental mindset and making conscious efforts to reduce our ecological footprint is the need of the hour. It means being mindful of the resources we use, minimizing waste, conserving energy, supporting sustainable products and practices, and advocating for policies and initiatives that promote environmental protection.

In our interactions with the natural environment, we have a moral duty to act with consideration, compassion, and responsibility while honouring the "polluter pays" maxim. The premise behind the "polluter pays" approach is that people who contribute to pollution or environmental deterioration should be held accountable and responsible for the costs incurred. This principle highlights the need to hold people responsible for environmental degradation accountable for the results of their actions, including the price tag associated with mitigating and repairing the harm they have created. Adopting a structure for environmental taxes based on the polluter pays concept might encourage moral conduct, advance sustainability, and more fairly distribute the costs of environmental damage. It highlights the importance of accountability, stewardship, and responsibility towards the environment and our natural resources, showing a common commitment to protect our world for the present and future.

Understanding that our actions have consequences beyond our immediate surroundings and considering the long-term impacts of our choices on the environment and future generations is crucial. Therefore, bringing environmental concern to the forefront of our minds and incorporating it into our daily decision-making process is vital for protecting our planet. It requires individual responsibility, mindfulness, and a proactive approach towards adopting sustainable practices and promoting environmental awareness.

B. Significance of Environmental Taxation

India should prioritize environmental taxes for a number of reasons. India's economy is among the fastest-growing in the world, but the nation is also grappling with serious

environmental issues like air and water pollution, deforestation, and climate change. Introducing environmental taxation can assist in resolving these issues in a number of different ways.

First off, environmental taxes aid in internalising the environmental costs associated with economic activity. There are costs to society as a whole when people or companies carry out actions that have a negative impact on the environment, including producing greenhouse gases or polluting waterways. This means that the full cost of the activity is not being paid by the people who are responsible for it because these costs are usually not reflected in the price of the goods or services being produced. Environmental taxes put a price on these harmful environmental effects, which in turn encourages people and corporations to lessen their environmental impact.

Environmental initiatives and programmes may benefit financially from environmental taxes. India has a number of environmental initiatives and programmes designed to cut pollution and advance sustainable development, however these programmes and projects need funding. Environmental taxes may offer a steady stream of income that can be utilised to finance these programmes, so assisting in ensuring their long-term viability. Many environmental projects, such as the investigation and creation of new technologies, financial investments in renewable energy sources, or the restoration of natural habitats, can be financed using the money raised through environmental taxes. Additionally, this money can be utilised to lower other taxes, including income taxes, which will benefit society even more.

Innovation and competitiveness can also be encouraged by environmental taxes. Environmental taxation encourages people and businesses to create innovative techniques and methodologies that are more ecologically friendly by imposing taxes on practices that have negative environmental impacts. This may result in the formation of new markets and industries that can promote economic expansion and the creation of jobs while also minimising negative environmental effects. The government can provide an economic incentive for people and companies to adopt more environmentally friendly practises by taxing activities that have a negative impact on the environment. This could result in the formation of new markets and sectors that can promote economic expansion and the creation of jobs while also having a positive influence on the environment.

Market failure can be addressed through environmental taxes. Market forces by themselves might not always be enough to tackle environmental issues. For instance, there is a collective problem in the case of climate change, where various stakeholders might not have enough

incentive to lower their emissions because the rewards of doing so are shared by society as a whole. By placing a price on carbon emissions, environmental taxation can assist to address this issue by encouraging people and corporations to reduce their emissions, which helps the larger purpose of lowering global greenhouse gas emissions. For instance, air pollution is a major issue in many Indian cities, but there are little incentives for people and companies to cut their emissions. The government can encourage people and companies to reduce their pollution levels by enacting tax on emissions, which can assist in addressing the market failure.

International cooperation can be encouraged via environmental taxes. Since environmental problems frequently have a worldwide reach, coordinated international action is often necessary. Countries can show their dedication to fixing environmental difficulties and can lay the groundwork for international collaboration on environmental issues by enacting environmental levies.

Climate change in India can be addressed with the use of environmental taxes. The economy and environment of India are seriously threatened by climate change because it is one of the world's top producers of greenhouse gases. The government can encourage people and businesses to cut their emissions by enacting a tax on carbon emissions, which will aid in addressing the issue of climate change.

International cooperation on environmental issues can be encouraged with the use of environmental taxes. Several international environmental treaties, including the Paris Agreement on climate change, include India as a signatory. India may show that it is committed to addressing environmental issues by enacting environmental levies, which will also support global efforts to address climate change and other environmental problems.

C. Green Cess

Cess is a type of tax that the government imposes for a particular use; unlike other taxes, it is designated for that use and cannot be used for general government spending. Cess is often assessed as a proportion of the total cost of goods or services and is used to finance a variety of programmes and activities. Green cess, which is expressly intended to promote ecologically beneficial activities and prohibit actions that hurt the environment, is one sort of cess that has grown in popularity in recent years. In order to encourage people and businesses to adopt environmentally friendly practises, green cess plays a critical role in advancing sustainable development. The government can provide a financial incentive for people and companies to switch to cleaner, more sustainable practises by raising the cost of environmentally harmful

activities like the emissions from fossil fuels. This can facilitate the shift to a more sustainable economy and lessen the total environmental effect of economic activity.

Green cess is essential on a worldwide scale because it can help address some of the most important environmental issues of our day, such climate change and air pollution. Green cess can contribute to a reduction in greenhouse gas emissions, an improvement in air quality, and the preservation of natural resources by providing incentives for people and enterprises to adopt more sustainable activities.

D. Green cess in India

India faces serious environmental problems, and green cess is essential for the nation to deal with them. India has some of the most polluted cities in the world, and the nation faces serious problems with deforestation, air and water pollution, and climate change. By providing funds for environmental activities and establishing an economic incentive for people and businesses to adopt more sustainable practises, green cess can assist to address these issues. Green cess is crucial for Indian landscape since it might aid in sustaining the nation's expanding renewable energy sector. Green Cess can assist in providing funds for the study, creation, and application of renewable energy technology. India has established high goals for the development of renewable energy. This might lessen the nation's reliance on fossil fuels and advance the development of a more sustainable energy future.

E. Tax and cess

Although tax and cess are both ways that the government collects money, they differ significantly in certain major ways. Tax is a mandatory financial fee that the government imposes on people, businesses, and other entities. It is typically based on people's earnings, profits, or the cost of the goods or services they use. Tax money is typically utilised for a variety of government expenses, such as health care, infrastructure, defence, and social welfare programmes.

On the other hand, a cess is a particular kind of tax that is imposed for a particular reason. Cess is often assessed as a proportion of the total cost of goods or services and is used to finance a variety of programmes and activities. The money obtained from the cess has a specific use in mind and cannot be utilised for general government spending. Cess can be levied on a variety of products, services, or endeavours, and the money it generates is typically used to finance particular initiatives, such the Clean Energy Cess, Swachh Bharat Cess, or Education Cess.

The main distinction between a tax and a cess is that a tax is imposed to raise money for

general government spending, whereas a cess is imposed for a particular objective. Tax money, on the other hand, can be used for any government expense; however, cess revenue is set aside for a certain use only and cannot be utilised for any other purpose.

III. INTERNATIONAL MEASURES FOR ENVIRONMENTAL TAX

Environmental challenges such as pollution, climate change, and natural resource depletion have necessitated the implementation of robust policy measures beginning at international levels. One such important policy approach is environmental taxation, which involves levying taxes or cess on certain goods, substances, or activities that have a negative impact on the environment. This approach aims to internalize the costs of environmental degradation and promote sustainable practices. It plays a crucial role in shaping the framework for environmental taxation, providing guidelines, regulations, and incentives to promote environmental conservation and sustainability. In the Indian context, the imposition of cess or tax for the environment has gained significance as a means to generate revenue for environmental protection and conservation efforts.

This chapter provides an overview of the international measures that emphasize the importance of levying cess or tax for the environment, with a special focus on the Indian context. It explores the legal framework, policy objectives, and implications of environmental taxation, highlighting the role of cess as a key instrument in addressing environmental challenges and promoting sustainability in India

A. International agreements that cater to environmental tax imposition that India has ratified

Well-designed fiscal policies should form the centerpiece of efforts to promote greener economies². India has become a signatory to several international agreements that mandate the enactment of laws and imposition of environmental taxes or charges by the ratifying countries through their legislations. Over time, India has ratified numerous fundamental conventions and agreements, demonstrating its commitment to making a positive environmental impact. The following six agreements and conventions are just a few examples among the many that India has ratified, highlighting their significance.

B. UNFCCC

At the 1992 Rio de Janeiro Earth Summit, the United Nations Framework Convention on Climate Change (UNFCCC) was ratified. The UNFCCC's goal is to maintain atmospheric

² Ian W.H. Parry, John Norregaard & Dirk Heine, *Environmental Tax Reform: Principles from Theory and Practice to Date*,

greenhouse gas concentrations at a level that would fend off dangerous human involvement with the climate system. In order to help developing nations combat climate change, rich countries must also offer them financial and technological support. The UNFCCC has three key goals to accomplish this objective:

1. Reducing greenhouse gas emissions: According to the UNFCCC, lowering greenhouse gas emissions from human activity will stabilise the atmosphere's concentration of these gases. National targets and promises to cut greenhouse gas emissions are used to achieve this.
2. Climate change adaptation: According to the UNFCCC, climate change will have a considerable influence on the economy, society, and environment. As a result, it seeks to encourage and assist adaptation pertaining to the effects of climate change by taking steps to lessen the susceptibility of communities and nations to its effects.
3. Technological development and transfer: The UNFCCC seeks to stimulate collaboration in development and research, demonstration, and the spread of ecologically sound technologies, as well as to promote their development.

To combat the same, the UNFCCC has built a framework that includes transferring technology and financial resources to underdeveloped nations. Additionally, it encourages public education and awareness of climate change challenges. The treaty encourages nations to utilise economic tools, such as taxes and carbon trading programmes, to decrease greenhouse gas emissions even if it does not mention environmental taxation specifically. According to Article 3(3) of the treaty, industrialised nations must use "economic instruments and other suitable measures" in order to "encourage the development and diffusion of environmentally friendly technologies." Parties must implement measures to support sustainable development and incorporate climate change considerations into their pertinent social, economic, and environmental policies and actions, according to Article 4.3 of the Convention. This could involve the application of financial tools like taxes, levies, and fees.

C. Paris Agreement

The United Nations Framework Convention on Climate Change (UNFCCC) ratified the Paris Agreement as an international treaty in 2015. (UNFCCC). By limiting the global temperature increase this century to well under 2 degrees Celsius above pre-industrial levels and pursuing measures to further restrict the temperature increase to 1.5 degrees Celsius, it seeks to enhance the response. The following are the principal goals of the Paris Agreement:

1. Reduction of greenhouse gas emissions: According to the Paris Agreement, efforts should be made to keep the temperature increase to 1.5°C over pre-industrial levels and to keep it

well below 2°C. This will be accomplished through each nation's nationally determined contributions (NDCs), which include emission-reduction goals and plans of action.

2. Climate change adaptation: The Paris Agreement emphasises the significance of mitigating the effects of climate change and calls for further international cooperation, action, and assistance in this area.

3. Technology development and transfer: The Paris Agreement aims to stimulate collaboration in research and development, demonstration, and dissemination of these technologies, as well as to support the development and transfer of ecologically sound technology.

4. Finance: The Paris Agreement aims to expand financial flows compatible with the goal of limiting global temperature increase and acknowledges the need for financial resources to support the agreement's implementation, particularly in developing nations.

5. Accountability and transparency: The Paris Agreement creates a framework for accountability and transparency to make sure that nations are carrying out their obligations and that the agreement's aims can be tracked.

The Paris Agreement also asks for stronger participation from non-state actors in climate action, such as corporations, local governments, and civil society organisations. The agreement recognises the value of market mechanisms, such as environmental taxes and carbon pricing, in decreasing greenhouse gas emissions. The execution of these market-based strategies is made easier and encouraged by a system established in Article 6 of the agreement. A framework for reducing greenhouse gas emissions and promoting sustainable development is established in Article 6.2 of the Agreement, and it may involve both market-based and non-market approaches, such as carbon pricing. India ratified the Paris Agreement by depositing an instrument of ratification at the UN on October 2, 2016.

D. Kyoto protocol

The Kyoto Protocol is a global accord that was added to the United Nations Framework Convention on Climate Change in 1997. (UNFCCC). In order to address climate change, the protocol's major goal is to minimize greenhouse gas (GHG) emissions. To achieve this, industrialized countries were given legally obligatory deadlines to reduce their GHG emissions by an average of 5.2% below 1990 levels between 2008 and 2012. A system of emissions trading was established by the Kyoto Protocol, allowing nations to exchange carbon credits. This made it possible for nations with carbon reductions that fell short of their goals to sell their extra credits to nations who couldn't reach their goals. A 1997 international agreement called the Kyoto Protocol has the goal of lowering greenhouse gas emissions. The

agreement includes a mechanism known as the Clean Development Mechanism (CDM), which enables wealthy countries to finance projects in developing nations to reduce their pollution in order to reach their emission reduction targets. Environmental levies may be used to fund these initiatives according to a specific clause in the CDM.

Since the Kyoto Protocol was the first legally enforceable agreement on reducing GHG emissions, it represented a significant milestone in the worldwide effort to tackle climate change. The protocol has drawn criticism, meanwhile, for its exclusive focus on wealthy nations and for letting nations meet their carbon objectives by using offsets rather than actual emissions reductions. The Protocol does not specifically mention environmental taxation, but it did establish the Clean Development Mechanism (CDM), a market-based mechanism for reducing greenhouse gas emissions that allowed developed countries to obtain emission reduction credits by funding clean development initiatives in developing nations.

Through the Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto Protocol) Implementation Act of 2002, India ratified the Kyoto Protocol.

E. Montreal Protocol

An international environmental agreement known as the Montreal Protocol was signed in 1987 to address the problem of ozone depletion in the Earth's atmosphere. The protocol's primary goal is to gradually phase out the manufacture and use of ozone-depleting chemicals (ODSs), such as halons, hydrochlorofluorocarbons, and CFCs. Given that it has significantly decreased ODS production and consumption, the Montreal Protocol has been quite effective in fulfilling its goals. By the middle of this century, the ozone layer is anticipated to return to its pre-1980 levels. The convention also established a multilateral fund to offer poor nations financial and technical support as they phase out ODSs. The Montreal Protocol has been effective in resolving the ozone depletion problem, but it has also had important side effects in terms of reducing climate change. ODSs are strong greenhouse gas emitters as well, and their phase-out has decreased GHG emissions.

Globally, the Montreal Protocol is recognised as one of the most effective international environmental agreements and serves as a role model for other environmental issues facing the world today. A global agreement to conserve the ozone layer by banning the manufacture and consumption of ozone-depleting compounds was adopted in 1987 as part of the Montreal Protocol. The Multilateral Fund, a financial tool included in the agreement, gives money to developing nations to support their efforts to phase out ozone-depleting compounds. Taxes

and levies on the use or creation of ozone-depleting chemicals are just one possible source of funding for the fund.

According to the Protocol, Parties must take action to gradually reduce the production and consumption of ozone-depleting chemicals, including by using financial incentives like taxes and levies (Article 4). With the Ozone Depleting Substances (Regulation and Control) Rules of 2000, India ratified the Montreal Protocol.

F. Basel convention

The United Nations Environment Programme (UNEP) adopted the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in 1989 to deal with the issue of managing hazardous waste and reducing its negative effects on human health and the environment. The agreement aims to minimise the development of hazardous wastes, promote environmentally sound management of hazardous wastes, and regulate the transboundary movements and disposal of hazardous wastes. The goal is to safeguard both the environment and human health from the damaging impacts of hazardous waste.

The Basel Convention outlines protocols for the transboundary transportation of hazardous wastes and is applicable to the movement of hazardous waste across international borders. Parties are required to make sure that hazardous wastes are managed sustainably, taking into account the best methods and technology currently in use. The import of hazardous waste from non state actors to the agreement must likewise be prohibited by the parties. By encouraging the use of more environmentally friendly production techniques and the use of safer substitutes, the Basel Convention works to reduce the development of hazardous waste. Additionally, it fosters the sharing of knowledge and expertise among parties to enhance their hazardous waste management systems, as well as the establishment of national and regional plans for the management of hazardous wastes.

The convention contains provisions for the creation of funding sources, such as taxes or fees on the generation or disposal of hazardous waste, to assist its implementation. The Hazardous Wastes (Management, Handling and Transboundary Movement) Rules of 2016 allowed India to ratify the Basel Convention.

G. Stockholm convention

A global convention known as the Stockholm Convention on Persistent Organic Pollutants (POPs) was adopted in 2001 with the intention of preventing POPs from having a negative impact on human health and the environment. POPs are a class of chemicals that bioaccumulate in living things, are persistent in the environment, and can have negative

impacts on both human health and the environment. The elimination or restriction of POP production, usage, and release, as well as the discovery and use of POP substitutes, are the goals of the Stockholm Convention. The convention mandates that parties take action to prevent the discharge of POPs into the environment and to advance ecologically responsible POP waste management.

The Stockholm Convention includes 28 POPs, including industrial chemicals like PCBs, pesticides like DDT and chlordane, and unintended byproducts of industrial processes like dioxins and furans, that have been determined to pose the highest risk to human health and the environment. With some exceptions for usage where no substitutes are available, the convention requires parties to take action to stop or limit the manufacture and use of these POPs. The Stockholm Convention encourages parties to share knowledge and expertise and fosters the development and use of safer POP substitutes. The convention also mandates that the parties report on their implementation status and work together to monitor and assess the effectiveness of the actions taken. By banning or restricting POP manufacture, use, and release, as well as encouraging the creation and use of safer substitutes, the Stockholm Convention seeks to protect both human health and the environment from the negative impacts of POPs. The treaty has provisions for creating a funding mechanism to support its implementation, which may involve levies or taxes on the manufacture or use of POPs. India ratified the Stockholm Convention on Persistent Organic Pollutants with the 1989 Hazardous Chemicals Manufacturing, Storage, and Import Regulations.

IV. ENVIRONMENTAL TAX: AN ENDEAVOR ON THE PART OF INDIA

India is facing significant environmental challenges, including pollution, deforestation, and depletion of natural resources. Environmental taxation is considered necessary to internalize the external costs of environmental degradation by imposing taxes on activities that harm the environment. This provides economic incentives for individuals, businesses, and industries to adopt environmentally friendly practices and reduce their negative impacts on the environment. It also generates revenue for environmental protection and conservation efforts, promotes sustainable practices, and helps address environmental issues effectively.

In addition to the international measures mentioned earlier, this chapter conducts a comprehensive analysis of four environmentally-related taxes, with a primary focus on three taxes levied by different states in India, as well as one tax levied by the central government. These taxes have been introduced to address specific environmental challenges and promote sustainable practices within the respective jurisdictions.

A. Significant Indian legislation that deal with environmental taxation

While there are various legislations, including state enactments, that pertain to environmentally-related taxes, the following list includes significant legislations that address this issue.

- Indian Constitution: Article 48-A of the Indian Constitution directs the state to protect and improve the environment and to safeguard forests and wildlife. Article 51-A(g) imposes a fundamental duty on every citizen to protect and improve the natural environment.
- Indian Environmental Protection Act, 1986: As mentioned earlier, the Indian Environmental Protection Act, 1986 includes several provisions related to taxes, cesses, fines, fees, and other economic instruments to promote environmental protection.
- Water (Prevention and Control of Pollution) Act, 1974: This law provides for the prevention and control of water pollution and includes provisions for imposing penalties, including fines, on industries for non-compliance.
- Air (Prevention and Control of Pollution) Act, 1981: This law provides for the prevention and control of air pollution and includes provisions for imposing penalties, including fines, on industries for non-compliance.
- Forest (Conservation) Act, 1980: This law provides for the conservation of forests and includes provisions for imposing penalties, including fines, on individuals and industries for violating forest conservation laws.
- National Green Tribunal Act, 2010: This law provides for the establishment of the National Green Tribunal, which has the power to hear cases related to environmental protection and to impose penalties, including fines and compensation, on industries for environmental violations.
- Goods and Services Tax (GST) Act, 2017: The GST Act includes provisions for levying a tax on goods and services, including those that have an impact on the environment.
- Energy Conservation Act, 2001: This law provides for the efficient use of energy and includes provisions for imposing penalties, including fines, on industries for non-compliance with energy conservation standards
- National Clean Energy Fund (NCEF): The NCEF was established in 2010 to promote the development of clean energy technologies and includes provisions for collecting and utilizing funds through a clean energy cess on coal.

B. Clean environment (energy) Cess, 2016

The Clean Environment (Energy) Cess, 2016 is a legislation enacted in India to promote clean energy and environmental sustainability. It was first presented in 2010 as a part of the Finance Act, and it was then modified in 2016. The primary objective of this law is to discourage the use of fossil fuels and encourage the transition towards renewable sources of energy. The Cess is levied on the production of coal, lignite, and peat, as well as the import of these fuels into India.

1. Overview

The Clean Environment (Energy) Cess is aimed at mitigating the negative impacts of fossil fuel usage on the environment, such as air pollution, climate change, and other environmental degradation. In order to tax coal, lignite, and peat, which are important contributors to carbon emissions, the Clean Energy Cess was implemented in 2010. The producers or importers of coal were responsible for collecting the cess, which was imposed at a rate of Rs. 50 per tonne of coal, lignite, and peat. Initially the Cess was placed at Rs 50 per tonne of carbon and had then eventually increased to Rs 400 per tonne, due to the Finance Bill 2016³. The revenue generated from the Cess is intended to be utilized for funding various initiatives related to clean energy, renewable energy, and environmental protection. This includes investments in research and development of clean technologies, promoting renewable energy projects, and supporting measures for environmental conservation and sustainability.

An amendment was introduced to the Clean Energy Cess in 2016 to change its name to the Clean Environment Cess and to broaden its application to include other goods such coal rejects, tar, and other fossil fuels. Also, the cess was raised to 200 rupees per tonne of coal or other designated fuels. After the amendment, the money raised from the Clean Environment Cess was to be put to use funding and promoting clean energy projects, enhancing air quality, aiding in efforts to adapt to and mitigate climate change, and other environmental preservation measures.

The Cess is levied at a specific rate per metric tonne of coal, lignite, or peat produced or imported, and the rates are determined by the Central Government of India. The Cess is collected and administered by the Central Board of Indirect Taxes and Customs (CBIC), on behalf of the Department of Revenue, Ministry of Finance, Government of India and the proceeds are credited to the Consolidated Fund of India. The law also mandates that the Cess should not be passed on to the consumers and must be absorbed by the producers or importers.

³ The 'Carbon Tax Package': An Appraisal of its Efficiency in India's Clean Energy Future by Ipshita Chaturvedi

The Clean Environment (Energy) Cess, 2016 is a significant step towards promoting cleaner and more sustainable energy practices in India. It reflects the country's commitment to addressing environmental concerns associated with fossil fuel usage and transitioning towards a greener and more sustainable energy future.

2. Rationale behind Selection

The choice of this cess was driven by several factors. Firstly, it represented a pioneering attempt by the Government of India to introduce an ecotax at the national level. The imposition of this cess on polluting fossil fuels aimed to generate additional funds for measures to reduce carbon emissions and pollution, making it a significant environmental policy initiative.

Moreover, the method of collection for this cess was unique. The responsibility for assessing and paying the cess on the specified goods rested with the producer, and the deadline for payment was set for the 5th of the second month following the month in which the removals were made. This distinctive mechanism for collection added an interesting dimension to the study, as it differed from traditional tax collection methods and could have implications for compliance and revenue generation.

Another intriguing aspect was the lack of records regarding the utilization of funds collected through this cess. It was unclear whether the funds formed part of the consolidated fund or if provisions existed for a separate fund. To address this uncertainty, an online Right to Information (RTI) request was filed on March 2, 2023, exercising the right to know under the RTI Act 2005. The aim was to seek answers to the relevant questions related to the cess and clarify doubts about the allocation and utilization of the funds collected.

3. RTI Questions

- i. The total amount of cess collected through the Clean Environment (Energy) Cess, 2016, for the past 3 financial years from 2019-2020, 2020-2021, 2021-2022
- ii. The amount utilized from the total collection of Clean Environment (Energy) Cess, 2016 for the above said financial years
- iii. Name of the respective projects funded by the Clean Environment (Energy) Cess, 2016
- iv. Whether the unutilized amounts were carried forward to the next financial years?
- v. What was the statement of object and reasoning in the Parliamentary Debates concerning Clean Energy Cess, 2010?

4. Response Received

After submitting the RTI request on 09-03-2023, it was conveyed that the request had been transferred to another department. Subsequently, the request was transferred three more times within the department, with the last transfer dated 10-03-2023. However, since then, there has been no communication from their end providing any information that could address the queries raised in the request.

C. Sikkim ecology fund and environmental cess Act, 2005

The Sikkim Ecology Fund and Environmental Cess Act, 2005 is a legislation enacted in the Indian state of Sikkim with the aim of promoting environmental conservation and sustainable development in the region. The cess levied shall first be credited to the Consolidated Fund of Sikkim and the State Legislature may only by appropriation made by law in this behalf credit the proceeds of this collection to this fund from time to time, for being utilized exclusively for the purpose of this Act.

1. Overview

The Act provides for the imposition of environmental cess on certain activities such as hydropower generation, mining, and commercial activities, among others, which may cause environmental degradation in Sikkim. The collected cess is then utilized to finance environmental conservation initiatives, promote sustainable development, and support programs related to ecological restoration, conservation of natural resources, and preservation of the unique ecology of Sikkim. The Act also provides for the monitoring and enforcement of environmental regulations, including the collection and utilization of the environmental cess, and imposes penalties for non-compliance.

The Act's main goal is to create a Sikkim Environment Fund to finance various projects and programmes for the state's sustainable development, environmental preservation, and ecological balance. The money will be put to use for things like reforestation, water and soil conservation, ecological restoration, environmental education, and public awareness campaigns.

The Sikkim Ecology Fund and Environmental Cess Act, 2005 reflects the commitment of the state of Sikkim towards environmental conservation, sustainable development, and promoting a harmonious relationship between human activities and the natural environment. It serves as a mechanism to generate funds for environmental protection and conservation efforts, and to ensure that activities with potential environmental impacts contribute towards mitigating their adverse effects and promoting sustainable practices in the state of Sikkim.

2. Rationale behind Selection

The enactment and imposition of levies or cesses, like the Sikkim Ecology Fund and Environment Cess Act in 2005 for the protection and preservation of a state's natural resources can play a crucial role in the ecological ideology and perspective of a state. Such levies can generate revenue that can be utilized for various conservation and sustainable management initiatives, contributing to the overall environmental well-being of the state and the nation as a whole.

States like Nagaland, Mizoram, and Meghalaya in northeastern India are known for their rich forest resources and biodiversity. These states are home to diverse flora and fauna, including many endangered species. Imposing levies or cesses on the extraction or utilization of forest resources in these states can generate revenue that can be used for afforestation, habitat restoration, wildlife conservation, and community-based conservation initiatives. This can help in protecting and preserving the unique forest ecosystems of these states, conserving their biodiversity, and maintaining ecological balance.

Similarly, states like Maharashtra, Karnataka, and Andhra Pradesh are known for their mineral resources such as coal, iron ore, bauxite, and limestone. Imposing levies or cesses on the extraction or utilization of mineral resources in these states can generate revenue that can be used for environmental remediation, reclamation of mined areas, and promotion of sustainable mining practices. This can help in mitigating the adverse environmental impacts of mining and ensuring the sustainable utilization of mineral resources for the benefit of the present and future generations.

The revenue generated from such levies or cesses can also be utilized for promoting sustainable livelihoods for local communities dependent on natural resources. This can include initiatives such as community-based conservation, eco-tourism, and sustainable agroforestry practices, which can provide economic incentives for local communities to actively participate in conservation efforts and become stewards of their natural resources.

It's important to note that the imposition of levies or cesses should be done in a transparent and accountable manner, with proper mechanisms for monitoring, reporting, and utilization of the revenue generated. The participation and involvement of local communities, indigenous peoples, and other stakeholders in decision-making processes related to the utilization of the levies or cesses can ensure that the benefits are equitably distributed and contribute to the sustainable management of natural resources.

3. RTI Questions

- i. The total amount of cess collected through the Sikkim Ecology Fund and Environment Cess Act in 2005, for the past 3 financial years from 2019-2020, 2020-2021, 2021-2022
- ii. The amount utilized from the total collection of Sikkim Ecology Fund and Environment Cess Act in 2005 for the above said financial years
- iii. Name of the respective projects funded by the Sikkim Ecology Fund and Environment Cess Act in 2005
- iv. Whether the unutilized amounts were carried forward to the next financial years?
- v. What was the statement of object and reasoning in the Assembly Debates concerning Sikkim Ecology Fund and Environment Cess Act in 2005?

4. Response Received

A response was received through registered post stating that the RTI request had been duly transferred to another department.

Through means of the State Finances Audit Report for the year ended 31 March 2021, it was found that the cess that was collected during 2018-19 and 2019-20 that was totally amounting to Rs. 7.95 crore was in fact only collectively transferred in the year 2021. Moreover, the state had not spent the cess collected under the enactment for the above mentioned years including 2020-21. To obtain a more recent data as to the fund collection and allocation, the RTI Request was duly filed to which in response it was duly transferred without any reversion.

D. Goa cess on goods and substance causing pollution (green cess) Act, 2013

The Goa Cess on Goods and Substances Causing Pollution (Green Cess) Act, 2013 is a legislation enacted in the Indian state of Goa with the aim of mitigating pollution and promoting environmental conservation. The act imposes a cess, also known as the "Green Cess," on certain goods and substances that are known to cause pollution or have a negative impact on the environment under the concept of the 'Polluter pays principle'.

1. Overview

The Green Cess is levied on goods and substances such as coal, coke, petroleum, and timber, among others, at specific rates defined by the Act. The funds collected through this cess are intended to be utilized for environmental protection and conservation measures, including initiatives related to pollution control, waste management, and sustainable development in the state of Goa. The green cess is applicable to a variety of goods and substances, including coal,

motor spirit, diesel, petrol, aviation turbine fuel and other petroleum products. The cess is estimated as a portion of the price of the goods or substances, and the money it brings in is set aside for particular environmental preservation and restoration projects.

The act also outlines the procedure for assessment, collection, and utilization of the cess, including provisions for registration, filing of returns, and penalties for non-compliance. The Goa Cess on Goods and Substances Causing Pollution (Green Cess) Act, 2013 reflects the state's commitment to addressing environmental issues and promoting sustainable development through the imposition of the Green Cess on goods and substances that are known to have a detrimental impact on the environment⁴.

2. Rationale behind Selection

The Goa Cess on Goods and Substances Causing Pollution (Green Cess) Act, 2013, is a significant enactment that aims to eradicate or control pollutants in the state of Goa, India. The Act imposes a cess on goods and substances that are produced or imported into the state, with the collected amount being utilized for environmental protection and pollution control initiatives. The application of this cess in other states across India, particularly coastal states like Tamil Nadu, Kerala, Maharashtra, Andhra Pradesh, and others, can have several benefits.

Coastal states in India, such as Tamil Nadu, Kerala, Maharashtra, and Andhra Pradesh, are known for their rich biodiversity, marine resources, and fragile coastal ecosystems. These states are home to numerous vulnerable and endangered species, including marine mammals, turtles, corals, and mangroves. However, these coastal states also face significant environmental challenges, including pollution from industrial, agricultural, and urban sources, as well as overexploitation of marine resources.

The application of cess similar to the Goa Green Cess in these coastal states can generate revenue that can be used for pollution control measures, coastal and marine conservation initiatives, and restoration of degraded ecosystems. This can include investments in wastewater treatment plants, solid waste management systems, pollution monitoring and enforcement mechanisms, and conservation of critical coastal habitats. The revenue generated can also be utilized for awareness and education programs to promote sustainable practices among industries, communities, and individuals, contributing to a cleaner and healthier coastal environment.

Additionally, the revenue generated from the cess can be used for the conservation of marine

⁴ Government of Goa, 'The Goa Cess on Products and Substances Causing Pollution' <<http://dstegoa.gov.in/green-cess.html>> as- sessed 20 December 201 6.

resources, including measures such as regulation of fishing practices, establishment of marine protected areas, and conservation of coral reefs and mangroves. These initiatives can help in maintaining the ecological balance of coastal ecosystems, conserving biodiversity, and supporting sustainable livelihoods for coastal communities dependent on marine resources.

Furthermore, the application of cess for pollution control and environmental protection can also promote innovation and adoption of cleaner technologies by industries and businesses. The revenue generated can be utilized for research and development of cleaner production methods, renewable energy technologies, and sustainable waste management practices. This can contribute to the transition towards a greener and more sustainable economy, creating opportunities for green jobs and fostering economic growth with reduced environmental impacts.

It's important to ensure that the utilization of the cess is done in a transparent and accountable manner, with proper monitoring, reporting, and stakeholder engagement. The participation of local communities, civil society organizations, and other stakeholders can ensure that the revenue generated is effectively utilized for pollution control and environmental protection, leading to tangible on-ground impacts. Proper implementation, transparency, and stakeholder engagement are crucial for ensuring that the revenue generated from the cess is effectively utilized for the protection and preservation of the environment, benefiting not only the state imposing the cess but also other states that can learn from and replicate such initiatives.

3. RTI Questions

- i. The total amount of cess collected through the Goa Cess on Goods and Substances Causing Pollution (Green Cess) Act, 2013, for the past 3 financial years from 2019-2020, 2020-2021, 2021-2022
- ii. The amount utilized from the total collection of Goa Cess on Goods and Substances Causing Pollution (Green Cess) Act, 2013 for the above said financial years
- iii. Name of the respective projects funded by the Goa Cess on Goods and Substances Causing Pollution (Green Cess) Act, 2013
- iv. Whether the unutilized amounts were carried forward to the next financial years?
- v. What was the statement of object and reasoning in the Assembly Debates concerning Goa Cess on Goods and Substances Causing Pollution (Green Cess) Act, 2013?

4. Response Received

Post transferring the RTI Request within departments, the answer to the first question, which

was as to cess generated for the past 3 financial years from 2019-2020, 2020-2021, 2021-2022 was duly answered by the SPIO, stating that it was Rs. 70,34,54,850/-. The questions two to four were then subsequently transferred to another department.

E. Gujarat green Cess Act, 2011

The Gujarat Green Cess Act, 2011, was passed with the intention of levying a tax on the consumption of electricity derived from non-renewable sources. The money raised from this cess was to go towards funding various initiatives aimed at advancing the use of renewable energy sources, safeguarding the environment, and reducing the negative effects of non-renewable energy sources.

1. Overview

The Act calls for the imposition of a cess on the usage of electricity produced in the state of Gujarat using coal, lignite, or gas. The state government periodically sets the cess rate, and the money it collects is credited to the "Gujarat Green Cess Fund."

The main goals of the Gujarat Green Cess Act, 2011, are to promote the use of renewable energy sources and decrease the consumption of non-renewable energy sources. The money raised from this cess will be used to promote the use of renewable energy sources including wind, solar, and biomass as well as to lessen the negative environmental effects of non-renewable energy sources.

2. Rationale behind Selection

The Gujarat Green Cess stands out as a unique and innovative approach to environmental taxation, as it imposes a cess on electricity generation from non-renewable sources.

Unlike traditional forms of taxation, this cess specifically targets electricity generation from non-renewable sources, such as fossil fuels. By imposing a cess on such generation, the government aims to incentivize the shift towards renewable energy sources and discourage the use of polluting and finite resources.

The potential for generating additional revenue through this type of cess is significant. As electricity demand continues to rise in India, particularly in non-renewable energy-dependent states like Gujarat, the cess can contribute to the state's coffers, providing much-needed funds for environmental conservation, pollution control measures, and renewable energy promotion. The revenue generated can be utilized to finance various initiatives aimed at reducing carbon emissions, promoting sustainable practices, and mitigating the adverse impacts of non-renewable energy generation on the environment and public health.

Furthermore, if implemented on a national level throughout India, the Gujarat Green Cess could have widespread benefits. It could encourage other states to adopt similar innovative approaches to environmental taxation, fostering a broader shift towards renewable energy sources and promoting sustainable development across the country. The revenue generated from such a cess could also contribute to the national exchequer, helping to finance critical environmental conservation projects, research and development in renewable energy technologies, and other measures aimed at mitigating climate change and protecting the environment.

3. RTI Questions

- i. The total amount of cess collected through the Gujarat Green Cess Act, 2011, for the past 3 financial years from 2019-2020, 2020-2021, 2021-2022
- ii. The amount utilized from the total collection of Gujarat Green Cess Act, 2011 for the above said financial years
- iii. Name of the respective projects funded by the Gujarat Green Cess Act, 2011
- iv. Whether the unutilized amounts were carried forward to the next financial years?
- v. What was the statement of object and reasoning in the Assembly Debates concerning Gujarat Green Cess Act, 2011?

4. Response Received

The RTI request was filed using registered post, following the proper procedure to obtain information. However, the response received was in the negative, stating that the information sought was incomplete. Despite the meticulousness in filing the RTI request, providing all the required details and adhering to the guidelines, the response received was unexpected.

This was surprising, because the RTI questions were of the same format when it was catered to the previous 3 cess acts of different states, including one directed to the centre.

V. THE WORKING OF THE GREEN TAX REGIME IN INDIA

The chapter critically examines the existing fragmented environmental tax system in India and delves into its drawbacks. It thoroughly analyzes the current framework of environmental taxes in India, which are implemented at various levels of government and are often scattered across different laws and regulations. It discusses the limitations in terms of revenue generation and effectiveness in addressing environmental challenges. The chapter critically evaluates the drawbacks of the existing system and emphasizes the need for a more integrated and cohesive approach to environmental taxation in India to ensure its effectiveness in

promoting sustainability and addressing environmental issues.

A. Absence of a uniform set of laws

Analysis of the aforementioned ideas reveals the necessity of a thorough legislative framework for environmental taxation. Even though the relevant environmental issue may be prominent in numerous jurisdictions, a straightforward analysis indicates that different legislation in various states has unique purposes. For instance, the Gujarat Green Cess Act aims to charge an environmental fee for the use of fossil fuels. Although the Act's goal is admirable, it has a disadvantage in that it only applies to Gujarat. The Sikkim Environment Fund and the Goa Cess on Products and Substances Causing Pollution (Green Cess) Act are likewise subject to this restriction.

To elaborate on this, it is essential to understand that environmental challenges cut across state lines and demand a coordinated solution. The fact that these legislation only apply to certain states may lead to a fragmented and inconsistent environmental tax system nationwide. By ensuring uniform and coordinated application throughout all states, a comprehensive legal framework for environmental taxation would address environmental problems on a national scale.

A strong environmental tax system can also be a powerful tool for promoting sustainable behaviours, encouraging the use of renewable energy sources, reducing pollution, and raising money for environmental conservation initiatives. India can effectively address environmental issues and advance sustainable development by taking a holistic strategy at the national level.

B. Lack of proper utilization of funds

Upon filing RTI requests, it was revealed that, except for the state of Goa, no responses were received regarding the amount collected and utilized under the respective cess acts. Furthermore, the state audit report of Sikkim in 2021 highlighted that funds collected for the previous two fiscal years were only transferred to the consolidated fund in 2021. This administrative delay and lack of transparency in the utilization of funds reflect a concerning trend. It raises doubts about the efficacy and accountability of the cess acts in achieving their intended objectives.

Such lethargy and lack of promptness in administering these cess acts result in their failure to achieve their intended goals. Moreover, there is a risk that the collected funds may be diverted for other purposes, such as revenue expenditure, instead of being utilized for the intended purpose of environmental conservation and restoration. This misappropriation of funds can undermine the effectiveness of the cess acts and hinder their potential impact in addressing

environmental challenges.

To ensure the success of environmental cess acts, it is imperative to establish robust mechanisms for timely and transparent collection, utilization, and monitoring of funds. This requires strict adherence to accountability and transparency principles, along with effective oversight mechanisms to ensure that the collected funds are utilized for their designated purpose. Only then can these cess acts fulfill their intended objectives and contribute to meaningful environmental conservation efforts in the respective states and the country as a whole.

C. Under utilization of funds

There is a lack of available data on the remaining amount of funds at the end of each financial year and how they are utilized. In cases where the remaining funds are not carried forward to the next year, the fate of these excess funds remains unclear. It is often observed that such unutilized funds are not put towards the intended cess objectives, but instead, they may be pocketed or diverted for other purposes. This defeats the entire purpose of collecting cess for a specific environmental issue.

The absence of transparent and accountable mechanisms to track the utilization of cess funds creates a significant gap in ensuring that the collected funds are utilized for their designated purpose. It raises concerns about the potential mismanagement, misappropriation, or misuse of funds that are meant to address pressing environmental challenges.

To ensure the effectiveness of cess collections and utilization, it is imperative to establish robust systems for monitoring and reporting on the utilization of funds. This includes regular and transparent reporting of the remaining funds at the end of each financial year, their utilization, and any carry-forward mechanisms that may be in place. Additionally, there should be strict oversight and accountability mechanisms to ensure that the collected funds are used exclusively for their intended cess objectives and not for any other purposes.

By promoting transparency, accountability, and efficient utilization of cess funds, the objective of environmental conservation and restoration can be better achieved. It is crucial to ensure that cess collections are utilized in a manner that aligns with the intended objectives, and any misappropriation of funds is prevented to effectively address the environmental challenges faced by the respective states and the country as a whole.

VI. CONCLUSION AND SUGGESTIONS

This chapter provides an overview of the key findings and implications of the analysis on

environmental taxation in India. It reflects on the significance of environmental taxation as a policy tool for addressing environmental challenges and promoting sustainability. It also critically examines the drawbacks of the existing fragmented environmental tax system in India, including inconsistencies, overlaps, and gaps in the tax structure, which limit its effectiveness.

A. Conclusion

According to the Organisation for Economic Co-operation and Development (OECD)⁵, India is identified as one of the countries with relatively low levels of environmental taxes compared to other member countries. The OECD conducts comprehensive assessments of environmental tax policies and provides rankings based on various indicators, such as the share of environmental taxes in total tax revenue or GDP. India's position as the fourth lowest country in terms of charging environmental taxes suggests that the country has relatively lower rates or levels of taxation on activities that have negative impacts on the environment, such as pollution or resource extraction.

Based on the findings, the paper offers recommendations for a new environmental tax regime in India. Firstly, it suggests the need for a more integrated and cohesive approach to environmental taxation, with a clear and comprehensive framework that consolidates and harmonizes the existing environmental taxes. This would streamline the tax structure, reduce complexities, and ensure consistency in environmental taxation policies.

Additionally, incorporating principles of equity, fairness, and transparency in the design and implementation of environmental taxes impacts different stakeholders. It also emphasizes the importance of revenue utilization for environmental protection and conservation efforts, and encourages the establishment of dedicated funds for this purpose. Furthermore, there is the persisting need for periodic review and evaluation of the environmental tax regime to assess its effectiveness and make necessary adjustments to achieve desired environmental outcomes.

All in all, the paper calls for a holistic and integrated approach towards environmental taxation in India, with a well-designed, coordinated, and transparent tax regime that addresses environmental challenges, promotes sustainability, and ensures equitable outcomes for all stakeholders. A comprehensive and uniform national environmental tax regime in India would ensure a fair and consistent approach to addressing environmental pollution, irrespective of geographical location, and promote sustainable and responsible industrial practices throughout

⁵ The OECD defines environmental taxes quite broadly as any compulsory, unrequited payment to general government levied on tax bases deemed to be of particular environmental relevance.

the country. It is important to note that any environmental tax should be carefully designed, taking into account the specific socio-economic and environmental context of India, and should be accompanied by robust monitoring, enforcement, and compliance mechanisms to ensure its effectiveness and fairness.

B. Suggestions

Based on the analysis and clear limitations of the current fragmented environmental taxation laws in India, it is crucial to establish a consistent and unified national environmental tax regime that applies to all states. This would address the gaps and inconsistencies in the current system, ensuring a more cohesive and effective approach towards environmental protection and sustainability.

1. Types of Taxes

a) Pollution Based Tax

A unified national environmental tax regime in India could include a pollution-based tax that is levied on industries, power plants, and other polluting activities based on the amount and type of pollution they generate, regardless of their location within the states. This means that a chemical power plant producing significant pollution in Uttar Pradesh would be taxed the same as a similar plant in Tamil Nadu, regardless of their geographical location. This approach would ensure that the focus is on the actual pollution generated, rather than the location of the polluting activity.

b) Resource Extraction Tax:

Another approach could be to implement a resource extraction tax on industries involved in the extraction of natural resources, such as minerals, oil, and gas. This tax would account for the environmental impact associated with the extraction and use of these resources, which is often overlooked under state-exclusive laws. Currently, some industries take advantage of the varying laws and regulations in different states to evade environmental taxation. However, a resource extraction tax that applies uniformly across the country would prevent such evasion. It would ensure that industries extracting natural resources are held accountable for the environmental damage caused by their activities, regardless of the state in which they operate.

c) Waste Generation and Disposal Tax:

India's large population generates a significant amount of waste, and effective waste management is critical to address the environmental and health impacts associated with waste disposal. By imposing a tax on waste generation and disposal, businesses, and individuals

would be motivated to adopt practices that minimize waste generation, promote recycling, and ensure proper waste disposal. This tax would incentivize waste reduction, recycling, and proper waste management practices across all states. The waste generation and disposal tax could be designed to reflect the environmental impact of different types of waste, such as solid waste, e-waste, and hazardous waste. The tax rates could be structured to encourage waste reduction and recycling, while also penalizing improper waste disposal practices. This would create a financial incentive for businesses and individuals to adopt sustainable waste management practices, such as investing in waste reduction technologies, setting up recycling facilities, and promoting circular economy initiatives.

d) Transportation-related Taxes:

In India, there is already a form of transport-related tax known as the "green tax" which is levied by each state separately, and the rates and criteria vary significantly. Expanding on this concept, a comprehensive national environmental tax framework could include levying taxes on fossil fuels, vehicles, and transportation services to encourage the adoption of cleaner and more sustainable transportation options. For instance, higher taxes could be imposed on vehicles that are not compliant with emission standards or those that contribute significantly to pollution. In contrast, lower or waived taxes could be offered to electric vehicles, public transportation, and non-motorized transportation options like bicycles or pedestrians.

A uniform national framework for transportation-related taxes would help streamline and harmonize the existing fragmented green tax practices across different states in India. It would promote consistency, transparency, and accountability in taxation policies, while also ensuring that the environmental impact of transportation is adequately addressed at a national level.

e) Land Use and Conservation Tax:

Taxes could be levied on activities such as deforestation, conversion of agricultural land for non-agricultural purposes, and other activities that degrade natural habitats. Such taxes would serve as economic incentives to discourage harmful practices that contribute to deforestation and habitat destruction, while encouraging more sustainable land use practices. They could be designed in a way that the rates are higher for activities that cause more significant environmental damage, and lower or waived for activities that promote conservation and biodiversity protection. The revenue generated from such land use-related taxes could be utilized to support efforts such as afforestation, reforestation, habitat restoration, and conservation initiatives. It could also be used to invest in sustainable agriculture practices, agroforestry, and other measures that promote responsible land use and natural resource

management.

2. Revenue Allocation and Incentives:

As discussed earlier, the current scenario with cess acts in India often leads to the collected funds being diverted to purposes other than their intended objectives. To ensure that the revenue generated from environmental taxes is used effectively, it could be allocated towards funding environmental protection measures, research and development of cleaner technologies, and conservation efforts.

Additionally, incentives in the form of tax breaks, grants, and subsidies could be provided to promote the adoption of cleaner technologies, energy efficiency, and other sustainable practices. This would help incentivize businesses and individuals to invest in environmentally friendly practices and contribute to the overall goal of protecting the environment and promoting sustainability. It is crucial to ensure that the revenue from environmental taxes is used transparently and efficiently to achieve the intended environmental objectives, and that appropriate mechanisms for monitoring and accountability are in place to prevent any misuse or diversion of funds.

3. Monitoring and Enforcement:

It is essential to establish a strong monitoring and enforcement system to ensure that the environmental tax regulations are complied with. This can include regular audits, inspections, and penalties for those who fail to comply. Furthermore, stakeholder engagement, which involves consulting with industry, civil society, and other relevant stakeholders, should be an integral part of the design and implementation of the environmental tax. This will help ensure that there is buy-in from all stakeholders, transparency in the process, and effective implementation of the tax. It is crucial to involve diverse perspectives and feedback from different stakeholders to address concerns, promote understanding, and foster cooperation in the implementation of the environmental tax framework.

Implementing a uniform environmental tax regime would also help avoid a situation where industries or power plants relocate to states with lax environmental regulations to escape higher taxes, a phenomenon known as "pollution havens." This would prevent a race to the bottom, where states compete to attract industries with weaker environmental standards, resulting in uneven environmental protection across the country. Furthermore, a unified environmental tax regime would simplify compliance and enforcement, as businesses would only need to navigate one set of regulations and tax rates, reducing administrative burden and potential loopholes.

VII. BIBLIOGRAPHY

Research Papers

- Robertson C Williams, *Environmental Taxation*, SSRN.COM (2016)
- Ian W.H. Parry, John Norregaard & Dirk Heine, *Environmental Tax Reform: Principles from Theory and Practice to Date*, 12 IMF WORKING PAPERS 1 (2012)
- Arjun Pal, *Green Taxation - Its Impact and Necessity in India*, RESEARCHGATE (2020)

Journals

- The “Carbon Tax Package”: An Appraisal of its Efficiency in India’s Clean Energy Future on JSTOR, JSTOR.ORG (2016)
- RAJAT VERMA, *Ecotaxes: A Comparative Study of India and China*
- Environmental Law and Practice in India: Overview | Practical Law, PRACTICAL LAW (2016)
