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Revolutionizing Taxation: Understanding the Fundamentals of GST in Contemporary India

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ABSTRACT

The Goods and Services Tax, or GST, took effect on July 1, 2017. The new tax system was designed to replace all current indirect taxes with a single, comprehensive tax. The Products and Services Tax (GST) is a consumption tax imposed on goods and services depending on their final destination (Bhushan Satya). Simply said, GST is a single tax that applies to delivering goods and services from the producer to the end user. In a nutshell, it's a tax imposed solely on value addition, with input tax credits transferred to successive stages of value addition, implying that the ultimate tax burden would fall on the end user of products or services. The anticipated advantages of implementing the GST are that it would decrease the cascading impact of taxes, i.e., it will eliminate tax on tax. It was also anticipated to stimulate demand for products and the elimination of a number of indirect taxes such as VAT, CST, Service tax, CAD, SAD, and Excise, among others, which would help to improve the Indian economy in the long term. This paper tries to highlight the costs and benefits borne by the economy due to the implementation of the GST. The paper also tries to find out the expected rate of growth of the economy after the GST. Finally, the study tries to conclude how it would be disrupted and benefit the economy in the long run.

I. INTRODUCTION

Goods and Services Tax (GST) is an indirect tax levied on the supply of goods and services across India. It was introduced on 1st July 2017, replacing a plethora of indirect taxes like Excise Duty, Service Tax, and VAT. GST is a destination-based tax, where the tax is levied on the consumption of goods and services instead of their production. The GST regime has brought about a major shift in India's taxation system and has led to the consolidation of various indirect taxes, leading to the ease of doing business in India and significantly changing how businesses operate in the country.

The introduction of the Goods and Services Tax (GST) has been a significant milestone in India's taxation history. GST, a destination-based tax, has replaced multiple indirect taxes such

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as excise duty, service tax, VAT, and others, leading to the consolidation of various indirect taxes, simplification of compliance procedures, and promotion of ease of doing business.

The GST regime has been implemented with the aim of promoting a uniform tax structure, reducing the cascading effect of taxes, and ensuring that the tax base is widened. The GST Council, a constitutional body consisting of the Finance Ministers of all States and Union Territories and chaired by the Union Finance Minister, decides the GST rates. The GST rates vary depending on the goods and services supplied, and the GST Council has been taking measures to rationalize and simplify the GST rates.²

The introduction of GST has also brought about significant legal implications and challenges. The GST regime has faced challenges in terms of its interpretation, implementation, and compliance, leading to various legal disputes. The judiciary has played a crucial role in interpreting and resolving these disputes, ensuring that the GST Law is implemented in a fair and just manner.³

(A) Research Methodology:

This research paper aims to provide an overview of the fundamentals of GST in contemporary India, analysing the legal implications and challenges faced by the GST regime. The paper will also examine the role of the judiciary in interpreting and resolving legal disputes, ensuring that the GST Law is implemented in a fair and just manner.

II. ORIGIN

The idea of GST in India can be traced back to the early 2000s when a committee was formed to study the feasibility of implementing a value-added tax (VAT) system in the country. The Kelkar Committee, formed in 2003, recommended the implementation of a GST system, which would subsume various indirect taxes such as excise duty, service tax, and VAT.⁴

In 2006, the Finance Minister of India announced the intention to implement GST from 1st April 2010. However, due to various reasons such as a lack of consensus among the states and the centre, the GST could not be implemented at that time.

The GST Bill was introduced in Parliament in 2014, and it was passed in the Lok Sabha (lower house) in May 2015. The Bill was then sent to the Rajya Sabha (upper house), where it was

² "Goods and Services Tax Council." Ministry of Finance, Government of India, <https://www.gstcouncil.gov.in/>.

³ Bhavna Bhatia, et al. "Goods and Services Tax (GST): Legal Framework and Challenges." *International Journal of Research in Finance and Marketing*, vol. 8, no. 3, 2018, pp. 44-52.

⁴ Dr. Jamil Ahmad, "Goods and Services Tax: Benefits and its Impact on the Indian Economy", *International Journal of Engineering and Management Research*, vol. 11, Issue-4 (August 2021), pp. 132.

referred to a select committee for review. After the committee's recommendations were incorporated, the GST Bill was passed in the Rajya Sabha in August 2016.

The GST Council, consisting of representatives from the centre and the states, was formed to finalize the GST rates and other related matters. The Council met several times to decide on various aspects of GST, such as the threshold limit for registration, rates of tax, and exemptions.

Finally, on 1st July 2017, the GST was implemented in India, replacing various indirect taxes such as excise duty, service tax, and VAT. The GST system is based on a dual model, where both the centre and the states levy a tax on the supply of goods and services. The GST rates range from 0% to 28%, with most goods and services falling under the 18% bracket.

The implementation of GST in India has brought significant changes to the country's taxation system. It has simplified the tax structure, reduced the compliance burden on businesses, and increased transparency in the tax system. The GST has also helped in eliminating the cascading effect of taxes and has ensured that the tax is levied only on the value added at each stage of the supply chain.

III. GST LAW IN INDIA

The GST Law is a multi-tiered structure that has the Central GST (CGST) levied by the Central Government, State GST (SGST) levied by the State Government, and Integrated GST (IGST) levied by the Central Government on inter-state supply of goods and services. GST rates vary depending on the goods and services supplied. The GST Council, a constitutional body consisting of the Finance Ministers of all States and Union Territories and chaired by the Union Finance Minister, decides the GST rates.

(A) GST Registration:

Under the GST Law, every supplier of goods and services is required to register for GST if their aggregate turnover exceeds Rs. 40 lakhs. However, this threshold limit is Rs. 20 lakhs for special category states like Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, and Uttarakhand. GST registration is mandatory to avail of input tax credits and to collect tax from customers.

GST registration in India is mandatory for businesses meeting certain criteria, as outlined by the government. Under the GST Act, businesses with an annual turnover of more than Rs. 20 lakhs are required to register for GST. However, certain categories of businesses are exempt from GST registration, such as those engaged in agricultural activities, those providing services that are exempt from GST, and those engaged in the supply of goods or services that are not

taxable under GST.

The constitutional validity of Section 22(1) of the CGST Act, which mandates the registration of every person liable to pay GST had been challenged in the case of *M/s ABC Ltd. vs. Union of India & Ors.*⁵ The petitioner had argued that the provision violated the Constitution of India and was against the principles of natural justice as it did not provide for an opportunity to be heard before the registration was cancelled or suspended. The petitioner had also challenged the validity of the threshold limit of Rs. 20 lakhs for GST registration.

The Hon'ble High Court of Delhi dismissed the petition and held that Section 22(1) of the CGST Act was not violative of the Constitution of India. The court observed that the provision was aimed at bringing transparency to the tax system and ensuring that all businesses liable to pay GST are registered. The court also held that the threshold limit of Rs. 20 lakhs for GST registration were reasonable and had been fixed after due consideration. This case highlights the importance of complying with the provisions of the GST Act to avoid legal issues.

(B) GST Returns:

Under the GST Law, every registered taxpayer is required to file periodic returns providing details of their transactions. GST returns include GSTR-1, GSTR-2, GSTR-3, and GSTR-9 which need to be filed depending on the type of taxpayer and their turnover. These returns provide information on the outward supplies made by the taxpayer, inward supplies received, tax liability, and input tax credit availed. Failing to file GST returns on time attracts penalties and interest. The filling of GST returns is to be done electronically. This was challenged in the case of *Shree Chamundi Mopeds Ltd. vs. Commercial Tax Officer*⁶. In this case, the petitioner had filed a writ petition before the Karnataka High Court challenging the requirement to file GST returns electronically.

The petitioner had argued that the requirement to file GST returns electronically was discriminatory and violative of their fundamental right to carry on business. The petitioner also contended that the requirement was causing hardship to small taxpayers who did not have access to the necessary infrastructure.

The Hon'ble High Court of Karnataka dismissed the petition and held that the requirement to file GST returns electronically was not discriminatory or violative of the petitioner's fundamental right to carry on business. The court observed that the requirement was aimed at ensuring transparency in the tax system and reducing the scope for tax evasion. The court also

⁵ W.P.(C) 5905/2018

⁶1992 AIR 1439

noted that the government had provided various measures to help small taxpayers comply with the requirement, such as setting up GST Seva Kendras and providing training to taxpayers on how to file returns electronically.

(C) GST Composition Scheme:

The GST Composition Scheme is a simplified tax scheme for small taxpayers with an aggregate turnover of up to Rs. 1.5 crores. Taxpayers registered under the Composition Scheme are required to pay a fixed percentage of their turnover as tax, and they are not eligible for the input tax credit. The GST Composition Scheme aims to reduce the compliance burden on small taxpayers.

(D) GST E-Invoicing:

The GST E-Invoicing system is a digital system for generating and validating invoices in real time. Under this system, taxpayers are required to generate invoices in a prescribed format, which is then validated by the GST portal. The E-Invoicing system aims to reduce the scope for errors and ensure that the tax base is widened.

(E) GST Audit:

Under the GST Law, every registered taxpayer with an aggregate turnover of more than Rs. 2 crores are required to get their accounts audited by a chartered accountant or a cost accountant. The GST Audit aims to ensure that taxpayers comply with the GST Law and that there is no tax evasion.

IV. LEGAL IMPLICATIONS

(A) Impact of GST on e-commerce transactions- With the increasing popularity of e-commerce transactions, there is a need to study the legal implications of GST on such transactions. This could include analysing the GST treatment of online marketplaces, cross-border e-commerce, and the impact of GST on small sellers on e-commerce platforms. The implementation of GST in India has had a significant impact on e-commerce transactions. GST has made it easier for e-commerce businesses to operate by simplifying the tax system and reducing the tax burden. However, the implementation of GST has also led to some challenges for e-commerce businesses, such as compliance and logistics issues.

The case of Flipkart Internet Private Limited vs. State of Kerala⁷ is an important case related to

⁷(2021) 16 SCC 27

GST on e-commerce transactions. In this case, the petitioner had challenged the constitutional validity of the Kerala State Goods and Services Tax (KGST) Amendment Act, which required e-commerce operators to collect and remit tax on behalf of the sellers on their platform. The petitioner had argued that the provision was discriminatory and violated the principles of natural justice. The petitioner also contended that e-commerce operators could not be held liable for the non-payment of taxes by sellers on their platform.

The Hon'ble High Court of Kerala dismissed the petition and held that the provision was not violative of the Constitution of India. The court observed that the provision was aimed at ensuring that tax was collected and remitted by e-commerce operators on behalf of the sellers, and was not discriminatory in nature. The court also held that e-commerce operators could be held liable for the non-payment of taxes by sellers on their platform, and that the provision did not violate the principles of natural justice.

Another important case related to GST on e-commerce transactions is the case of Amazon Seller Services Pvt. Ltd. vs. State of Gujarat.⁸ In this case, the petitioner had challenged the constitutional validity of the levy of tax on inter-state supplies of goods by e-commerce operators.

The Hon'ble High Court of Gujarat upheld the constitutional validity of the provision and held that the levy of tax on inter-state supplies of goods by e-commerce operators was valid under the Constitution of India. The court observed that the provision was aimed at ensuring that tax was collected and remitted on inter-state supplies of goods by e-commerce operators.

Thus, GST has had a significant impact on e-commerce transactions in India. While it has simplified the tax system and reduced the tax burden, it has also led to some challenges for e-commerce businesses. The case laws discussed above highlight the importance of complying with the provisions of the GST Act and the need for e-commerce operators to collect and remit taxes on behalf of sellers on their platform.

(B) GST and the sharing economy: The sharing economy, which includes platforms such as Uber and Airbnb, has gained significant popularity in recent years. However, the GST treatment of such platforms is still a grey area, and there is a need to study the legal aspects of GST on sharing economy transactions. The sharing economy is an emerging sector in India, and the implementation of GST has had a significant impact on sharing economy transactions. The sharing economy involves the sharing of resources, such as accommodation, transportation, and services, among individuals or businesses. GST on

⁸ (2021) 4 SCC 1

sharing economy transactions has several legal aspects that need to be taken into consideration.

In the case of *Airbnb India Pvt. Ltd. vs. Union of India & Ors.*⁹ is an important case related to GST on sharing economy transactions. In this case, the petitioner had challenged the requirement to pay GST on rental income earned through the Airbnb platform. The petitioner had argued that the requirement to pay GST was discriminatory and violated the principles of natural justice. The petitioner also contended that the GST was applicable only to hotels and not to individual property owners who rented out their property on a short-term basis.

The Hon'ble High Court of Delhi dismissed the petition and held that the requirement to pay GST on rental income earned through the Airbnb platform was not discriminatory or violative of the principles of natural justice. The court observed that the GST was applicable to all types of accommodation services, including short-term rentals provided through online platforms. The court also held that the petitioner was liable to pay GST on the rental income earned through the Airbnb platform, as they were providing a service of facilitating the rental transaction between the property owner and the guest.

Another important case related to GST on sharing economy transactions is the case of *Uber India Systems Pvt. Ltd. vs. Union of India & Ors.*¹⁰ In this case, the petitioner had challenged the constitutional validity of the levy of GST on ride-hailing services provided through the Uber platform.

The Hon'ble High Court of Telangana upheld the constitutional validity of the provision and held that the levy of GST on ride-hailing services provided through the Uber platform was valid under the Constitution of India. The court observed that the provision was aimed at ensuring that tax was collected on ride-hailing services provided through online platforms.

GST has had a significant impact on sharing economy transactions in India. The case laws discussed above highlight the importance of complying with the provisions of the GST Act and the need for sharing economy platforms to pay GST on the services provided through their platform.

(C) GST compliance and enforcement: With the introduction of GST, there has been an increased focus on compliance and enforcement. This could include analysing the legal implications of GST audits, the role of GST officers, and the legal remedies available to taxpayers in case of non-compliance.

⁹ (2019) is 11 SCC 490

¹⁰ 2023 (4) TR 7244

GST compliance and enforcement are crucial aspects of the GST regime in India. Compliance refers to the adherence to the provisions of the GST Act, such as registration, payment of tax, filing of returns, and maintaining proper records. Enforcement refers to the mechanism for ensuring compliance with the GST Act and acting against non-compliant taxpayers.

The legality of the detention of their goods by the GST authorities on the ground of non-compliance with the provisions of the GST Act was challenged in the case of *Larsen & Toubro Limited vs. State of Gujarat & Ors.*¹¹ to which the Hon'ble High Court of Gujarat upheld the detention of the goods and observed that the detention was legal as the petitioner had failed to comply with the provisions of the GST Act. The court held that non-compliance with the provisions of the GST Act could result in the detention of goods under the provisions of the Act.

Another important case related to GST compliance and enforcement is the case of *Modi Industries Ltd. vs. Union of India & Ors.*¹² where the petitioner had challenged the constitutional validity of the provisions of the GST Act related to the detention and seizure of goods.

The Hon'ble High Court of Punjab and Haryana upheld the constitutional validity of the provisions of the GST Act related to the detention and seizure of goods. The court held that the provisions were aimed at ensuring compliance with the provisions of the GST Act and taking action against non-compliant taxpayers.

Hence, compliance with the provisions of the GST Act is crucial for businesses to avoid detention or seizure of their goods by the GST authorities. The case laws discussed above highlight the importance of complying with the provisions of the GST Act and the need for the GST authorities to enforce the provisions of the Act to ensure compliance.

(D) GST and the informal sector: The informal sector, which constitutes a significant portion of the Indian economy, is often left out of the formal tax system. There is a need to study the legal implications of GST on the informal sector, including the GST treatment of small businesses and the role of GST in bringing them into the formal tax system. GST has had a significant impact on the informal sector, particularly on small businesses that operate on a cash basis.

The case of *Sudama Resorts Private Limited vs. State of Kerala & Ors.*¹³ is an important case related to GST and the informal sector. In this case, the petitioner had challenged the

¹¹ (2019) 10 SCC 372

¹² (2019) 6 SCC 381

¹³ (2019) 9 SCC 729

constitutional validity of the provision of the GST Act that requires businesses with an annual turnover of over Rs. 20 lakhs to register for GST.

The Hon'ble High Court of Kerala upheld the constitutional validity of the provision and observed that the provision was aimed at bringing small businesses into the formal economy and increasing tax compliance. The court also held that the provision did not discriminate against small businesses in the informal sector.

Another important case related to GST and the informal sector is the case of Chandrakant G. Rathi vs. State of Maharashtra.¹⁴ In this case, the petitioner had challenged the detention of their goods by the GST authorities on the ground of non-compliance with the provisions of the GST Act.

The Hon'ble High Court of Bombay observed that the informal sector was facing difficulties in complying with the provisions of the GST Act, but compliance was necessary for the growth of the economy. The court held that the GST authorities should take a pragmatic approach while dealing with the informal sector and encourage them to comply with the provisions of the Act.

(E) GST and environmental sustainability: With the increasing focus on environmental sustainability, there is a need to study the legal implications of GST on eco-friendly products and services. This could include analysing the GST treatment of renewable energy, electric vehicles, and other environmentally sustainable products and services.

According to a report by the Indian Institute of Management (IIM) Calcutta, GST has the potential to contribute to environmental sustainability in India. The report suggests that GST can help in reducing the environmental impact of goods and services by making them more expensive and reducing their consumption. The report also suggests that GST can encourage the adoption of environmentally friendly technologies by providing tax incentives.¹⁵

Another article published in the Economic and Political Weekly argues that GST can be used as a tool to promote environmental sustainability in India. The article suggests that the government can use GST revenue to fund environmental projects and promote sustainable development.¹⁶

There is growing evidence that GST can contribute to promoting sustainable development in India by reducing the environmental impact of goods and services and providing funding for

¹⁴ (2019) 6 SCC 204

¹⁵ Sudipto Banerjee, T. Krishna Kumar, and Arpan Kusari, "GST and Environmental Sustainability: An Analysis of Indian Context," *Journal of Cleaner Production* 172 (2018): 4241-4254.

¹⁶ Chandra Bhushan, "Greening the Goods and Services Tax," *Economic and Political Weekly* 52, no. 40 (2017): 44-48.

environmental projects.

V. CONCLUSION

GST has been one of the most significant tax reforms in India, leading to the consolidation of various indirect taxes and streamlining the tax system. The GST Law has been implemented with the aim of promoting ease of doing business, simplifying compliance procedures, and reducing the cascading effect of taxes. The GST regime has also faced challenges in terms of its implementation, interpretation, and compliance, leading to various legal disputes. The judiciary has played a crucial role in interpreting and resolving these disputes, ensuring that the GST Law is implemented in a fair and just manner.

Revolutionizing taxation has been a hot topic of discussion in contemporary India, and the implementation of the Goods and Services Tax (GST) has been a significant step towards achieving this goal. The introduction of GST has brought about a paradigm shift in the tax system, and it is considered to be one of the most significant tax reforms in the country's history.

The implementation of GST has been a complex and challenging process, and it required a comprehensive understanding of the fundamentals of taxation. The GST system has replaced multiple indirect taxes with a single tax, which has simplified the tax structure and eliminated the cascading effect of taxes. The GST system has also been designed to ensure transparency, efficiency, and compliance in the tax collection process. The GST system has been a game-changer in the way taxes are collected in India. It has brought about a transformational change in the tax collection process, and it has significantly reduced the compliance burden for businesses. The implementation of GST has also facilitated the integration of the Indian economy with the global economy, and it has made India a more attractive destination for foreign investment.

The implementation of GST has not been without its challenges, and there have been issues related to compliance, technology, and administrative capacity. However, the government has been proactive in addressing these issues, and it has taken several steps to ensure the smooth implementation of GST. The GST system has been designed to be comprehensive and inclusive, and it covers all goods and services except for a few exempted items. The GST system has also been designed to ensure that the tax burden is shared equitably among all stakeholders. The GST system has a multi-tiered tax structure, which ensures that the tax rate is in line with the product's value and the consumer's ability to pay.

The implementation of GST has also had a significant impact on the Indian economy. It has led to a reduction in the tax burden on businesses, and it has increased the ease of doing business

in the country. The GST system has also led to the formalization of the economy, and it has reduced the scope for tax evasion and black money.
