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CA/CMA FINAL
INDIRECT TAXES
Handwritten 7.0

Features
- Relevant for Jan/May 26
- As per New ICAI SM
- All Amendments Upto 30 June 2025 Covered

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PART B CUSTOMS

CA RIDDHI BAGHMAR

GST in India – An Introduction

* What is Tax ?

• A Pecuniary burden laid upon individuals or property owners to support the Govt., a payment exacted by legislative authority.

• It is not a voluntary payment or donation, but an enforced contribution.

TAX

DIRECT TAX

* The person paying the tax to the Government directly bears the incidence of the tax.
* Progressive in nature - high rate of taxes for people having higher ability to pay.

↓

Burden of Tax borne by the person himself

Eg: Income Tax

INDIRECT TAX

* The person paying the tax to the Government collects the same from the ultimate consumer. Thus, incidence of the tax is shifted to the other person.
* Regressive in nature - All the consumers equally bear the burden, irrespective of their ability to pay.

↓

Burden of Tax shifted to another person.

Eg: GST, Custom Duty

* Framework of GST in India : Dual GST

Due to country's federal structure, dual GST model is adopted. i.e. Centre + State/UT concurrently impose taxes.

* GST is a destination based tax on consumption of G/S/B.

Tax revenue would accrue to the place of consumption state/UT.

* Genesis of GST in India

GST was launched on "1/7/2017"

- France was the first country to implement GST
- Presently> 160 countries have adopted GST
- **Genesis of GST In India:**

2000:- The then P.M mooted the concept of GST and set up a committee

2006-07:- Union Finance Minister P. Chidambaram announced in budget that GST be introduced from 1 April 2010

December 2014: The **Constitution (122nd Amendment) Bill** was Introduced in Lok Sabha

6th May 2015:- Lok Sabha Passed the Bill

3rd Aug 2016:- Rajya Sabha Passed the Bill

8th Sept 2016:- President Assent

The **Constitution (101st Amendment) Act** was enacted

Sept. 2016:- 1st GST council meeting

April 2017: - GST Council recommends C/S/I/U/cess bill

April 2017:- CGST/SGST/UTGST/ comp. Cess Act passed

May 2017: - GST Council recommends all the rules

30th June 2017:- All states except J & K passed their SGST Act

8th July 2017:- SGST Act passed by J&K; CGST and IGST ordinances promulgated to extend GST to J & K.

Presently. GST Applicable to **whole of India**

* Concept of GST:

1. Value added Tax
2. Continuous chain of tax credits
3. Burden borne by final consumer
4. No Cascading of taxes

* States and UTs for GST Purpose

28 States + 3 UTs with legislature
- Delhi
- J&K
- Puducherry

↓

$\boxed{\text{CGST + SGST}}$

5 UTs without Legislature (ALL CD)

A - Andaman & Nicobar
L - Lakshadweep
L - Ladakh
C - Chandigarh
D - Dadra & Nagar Haveli and Daman & Diu

Other - Other Territory (Eg: EEZ)

↓

$\boxed{\text{CGST + UTGST}}$

* Special Category States in GST:
(NO ASTHMA in Uttrakhand and J&K)

N - Nagaland
A - Assam
S - Sikkim
T - Tripura
H - Himachal Pradesh
M - Manipur, Mizoram, Meghalaya
A - Arunachal Pradesh
U - Uttrakhand
J - Jammu & Kashmir

Classification under GST

Harmonised System of Nomenclature (HSN) For Goods

Scheme of Classification of Services For Services

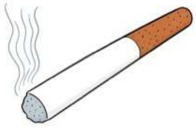
* Taxes Subsumed in GST :

Central Taxes
- Excise
- Service Tax
- CVD & Special CVD
- CST
- Surcharges and cesses relating to supply of Goods and services

State Taxes
- Luxury Tax
- Tax on lottery, betting and gambling
- Purchase Taxes
- VAT/ sales Tax
- Tax on advertisement
- Entertainment Tax (except by local bodies)
- Surcharges and cesses relating to supply of Goods and services

* Taxes not subsumed in GST :

Alcoholic liquor for Human consumption & un-denatured extra neutral alcohol or rectified spirit used for manufacture of Alcoholic liquor for Human consumption	Outside GST (Power to tax remains with States) State excise + VAT (intra) / CST (inter) 
HM NAP · High Speed Diesel · Motor Spirit · Natural Gas · Aviation Turbine Fuel · Petroleum Crude	GST council to decide the date from which GST will be applicable Central excise + VAT (intra) / CST (inter)
· Entertainment Tax (By Local Bodies)	Power still remains with local bodies

· Tobacco 	Central excise Duty + GST
· Opium, Indian Hemp, Other narcotics 	State excise Duty + GST
· Real Estate sector  (Sale / Purchase of immovable property)	Out of GST (Stamp Duty, Property Tax)

* GST Common Portal:

- www.gst.gov.in [Common portal for all services] → Website managed by GSTN (→ Sec 8 company) (Goods and Services Network)

- www.ewaybillgst.gov.in [portal for e-way bill generation] →
  - National Informatics Centre
  - Ministry of Electronics and Information Technology
  - Government of India

- www.einvoice1.gst.gov.in (Invoice generation portal for e-invoices) → Managed by GSTN

* GSP/ASP:

GSTN ⟷ GSPs (GST Suvidha Providers) ⟷ Taxpayers

GSPs ⟷ ASPs ⟷ Taxpayers

ASPs (Application Suvidha Providers)

GSP is an additional channel being made available for facilitating the tax-payers for performing some of the functions* and use of their services is optional. GSPs may take help of ASPs who act as a link between taxpayers and GSPs.

* Functions include :
- Return filing
- Quick monitoring of GST compliances
- Reconciliation of Purchase Register with auto populated data

* Compensation cess :

To provide for compensation to the states for the loss of revenue arising on account of GST implementation. Imposed on specific luxury items or demerit goods
Eg: Tobacco, pan masala, motor cars, aerated waters, etc.

* Constitutional Provisions :

Constitution of India

- Preamble
- 25 Parts (Containing 448 Articles)
- 12 Schedules

Article 246 : - Respective authority to Union and state Government for levying tax.

Seventh Schedule to Article 246:-

Union List
List I
- Income Tax
- Custom Duty
- Excise Duty
- CST
- Any other Not in II/III

State List
List II
- Taxes on agricultural income
- Excise on alcohol opium & narcotics
- VAT
- Luxury entertainment, betting, gambling

Concurrent list
List III
- Criminal Law
- Stamp Duties

Need for constitutional Amendment ?

To enable integration of various taxes in GST and to empower both Centre and State to levy and collect it.

* Article 246A : Simultaneous power with Parliament and State legislature to make laws with respect to GST.

Exception: Parliament has exclusive powers with respect to interstate supplies

* Article 279A : GST Council

President constitutes the council (33 members)

Chairperson : Union Finance Minister

2 Members (Union)	31 Members (Minister incharge of finance or taxation or any other minister nominated by each state)
1. Chairperson 2. Union minister of State incharge of Revenue or finance	Choose vice-president among themselves

• For Quorum : Half (i.e. 17) members

• Decision : Majority not less than 3/4th of members present and voting

weights → 1/3rd Centre, 2/3rd State } ∴ No Decision unless CG Assents

* Council shall make recommendation to Union/States on:

- Taxes/Cesses/surcharge to be subsumed in GST.
- Goods/service to be subject to/exempted from GST.
- Model laws, principles of levy, apportionment of IGST
- Threshold limits
- Rates of GST
- Special provisions with respect to SCSs.
- Special Rates to raise additional resources during calamities/disaster.
- Any other matter as council may decide

• Council shall also recommend the date from which GST to be levied on HMNAP.

Important Terms

- Taxable event : Any transaction or occurence that results in a tax consequence.

In GST, one comprehensive taxable event : SUPPLY

- Person:
  - An individual
  - A HUF
  - A company
  - A firm
  - A Limited Liability Partnership
  - An association of persons or a body of individuals, whether incorporated or not, in India or outside India
  - Any corporation established by/under any Central, State or Provincial Act or Government company as defined in section 2(45) of Companies Act, 2013
  - Any body corporate incorporated by or under the laws of a country outside India
  - A co-operative society registered under any law relating to cooperative societies
  - Trust
  - A local authority
  - Central Government/ State Government
  - Society as defined under the Societies Registration Act, 1860
  - Every artificial juridical person, not falling above

- Sec 2(52) : Goods

Means: every kind of movable property

Other than: Money & Securities

But includes: Actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply



* **Money:**

(i) Indian legal tender, foreign currency, cheque, promisory note, bill of exchange, letter of credit, draft, pay order

(ii) Any other instrument recognised by RBI.

(iii) But shall not include currency held for its numismatic value.

[Circular: Money includes commercial paper and Certificate of deposit].

* **Securities**
  - → shares, stock, bond, debentures, Mutual Fund
  - → Govt. securities
  - → Rights / Interest in securities

Securities Include: Derivatives, Forward, Futures } But, GST leviable if settled by delivery

* **Actionable Claim:**

means a claim to any debt (other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant) which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent.

• Specified Actionable Claim [sec 2(102A)]: means the actionable claim involved in or by way of –

(i) Betting (ii) Casinos (iii) Gambling (iv) Horse Racing
(v) Lottery (vi) Online Money Gaming

• Sec 2(102) : Services

Means – anything
Other than – Goods, money & securities

But includes : activities relating to the use of money or conversion by cash or by any other mode from one form, currency or denomination to another form, currency or denomination for which separate consideration charged.

* Services include facilitating transactions in securities.

• Related Person : (SoFa COPES)

So Sole Agent / Sole Distributor
Fa Family → Spouse / Children – Always
→ Parents / Grand Parents / Brother / Sister – If dependent
C Control (2 entities controlled by same person)
O Officer / Director in one another's business
P Legally recognised Partners
E Employer and employee
S Shares ≥ 25% (including third person holding in both of them)

• Associate Enterprises shall have same meaning as assigned to it in sec 92A of Income Tax Act, 1961.