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## Fiscal Federalism in the Light of 101st Constitutional Amendment Act (GST)

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# **Fiscal Federalism in the Light of 101st Constitutional Amendment Act (GST)**

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## **Abstract**

Important for India's semi-federal structure. As per the report, the significance of GST would be that it would replace the current fragmented indirect tax structure with a national level tax, 24 words – Training Analysis essay Due to the disjointed tax regime, many levels of government paid different tax expenses. In addition to the costs of complying with different taxes, the lack of a single tax on goods and services affected inter-state trade and created the absence of a single national market. Because of the globalisation of economies, tax reforms are not only essential for development purpose of any economy but has now become necessary. The primary aim of the GST is the modernization of India's tax system that will be easy and efficient and raise the revenue.

## **Introduction**

The Constitution of India is more unitary than federal in nature. The Constitution gives sufficient finance to all levels of government to perform their acts and functions. Centre-State finances were balanced through taxes, revenue sharing, grants and fiscal transfers and other provisions. During the course of time, many parts of India experienced fiscal imbalances in the economy. As a result of this, the fiscal architecture of the country required significant reform. The reform ensures better alignment of resources and powers with functions.

India's tax structure was not only complex but also lacked uniformity before the implementation of GST. Local taxes that are levied by the state include the central purchase tax luxury tax entertainment tax. The cascading taxations, heavy compliance and hindrances to inter-State trade due to multiple taxes. Tax rates varying widely across states are complicating the business scenario and making it difficult to develop a common domestic market. As a greater part of the Indian economy became global, the country required a more efficient and tax neutral

economy than was available. As per them, the formation of the GST Council is one of the most major institutional developments in Indian fiscal federalism. With members from both Union and State Governments, the Council serves as a forum for joint decision making. The GST system doesn't involve sharing of power, instead it's a continuous discussion and agreement between the parties involved. In a spirit of cooperative federalism, the government makes tax, procedural and policy decisions. This fiscal governance was revised through dialogue and cooperation across levels of government.

A lot has been talked about GST effect on India's fiscal federalism of late. Supporters claim that due to common tax base and cooperative decision making in GST regime, the cooperative federalism has strengthened in a great way. The GST Council is an institution of federal governance set up to take tax decisions with the participation of Centre and States. After the introduction of GST, India has profited from an increased rate of tax compliance, better transparency and an effective revenue collection mechanism. In addition, that market's economic forces reduced trade barriers across state frontiers.

Critics claim that GST made the States less fiscally autonomous as the States cannot tax the way they want. Before the launch of Goods and Services Tax (GST), States were empowered with power to levy and amend indirect taxes. Prior to the GST system, states possessed the authority to impose taxes on goods and services beyond those explicitly listed in the Constitution. Due to GST introduction, many of these powers were subsumed within a common framework with collective decision-type which took the form GST Council. Consequently, countries began increasingly relying on devices such as a Council decision and the compensation mechanism to stabilize revenues. The voting mechanism that will take place at a GST council is a matter of concern. The impact of the Centre's supremacy in GST and the compensation for revenue loss caused issues.

GST will meet the economic objectives as it will facilitate a better allocation of resources, there will be lesser tax distortions and productivity of the economy will enhance. According to government estimates, GST will reduce both the compliance and administrative cost of businesses engaged in product or service sales by 30%. Thus, the cost of transaction will be reduced. The main objective of GST is to enhance the competitive edge of businesses and industries in India, enabling entrepreneurs to regain their market competitiveness. People generally get more idealistic than is warranted in forming expectations about taxes. The truth is much lesser. However, the success of GST will greatly depend on the extent to which it reconciles the national economic interest with the fiscal needs of the States. A look

at the GST impact should not only be on economic grounds but also on federal governance and democratic accountability. Cooperative federalism - the way forward or what's delaying GST roll-out? The constraints and controls provided by the Constitution have, thus, ensured a balance between national integration and regional autonomy.

India has a highly fragmented and complicated indirect taxation system which has resulted in huge distortion over the years. The Centre and states impose heavy taxes on the taxpayer which results in cascading taxes and higher costs of compliance. Economic forces are also disrupting cross-state trade and obstructing a national market. When a business operates in different states, it faces a problem to do with various tax rates, procedures and rules. With the incorporation of India's economy with the world economy something major had to be done regarding tax taxing powers.<sup>1</sup>

### **GST Has Clarified the intention of the Government but Problems nonetheless Achievement has i.e. Introduction of GST might have led to much debated Problem**

Effect of GST on federation of finances Critics feel that states lost their ability to tax on their own because of the GST. Before GST implementation, states were free to formulate their own indirect tax policies and decide their own tax rates. The standardisation of tax regime has taken away flexibility from the States. The extent of dependence on the joint decisions of the Council has now increased considerably. Concerns have also been highlighted about greater influence of Union government's estimates on economic policies, uncertainty over revenue and compensation

The issue of compensation is one of the most important intergovernment questions on GST. The Constitution and the laws guided the States that the new regime will caused loss of revenue to them. As a result, it allowed for compensation for a limited period. India's fiscal federalism was stressed by the pandemic slowdown. This resulted in conflicts concerning compensation payments between the Centre and the States. As a result of this development, intense debate was sparked around fiscal autonomy, accountability and the idea of cooperative federalism under GST.

According to supporters of the goods and services tax change, it has led to much better fiscal federalism through improved cooperation among different levels of

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<sup>1</sup>Government of India, *The Constitution (One Hundred and First Amendment) Act, 2016*, Official Gazette, (2016).  
Rajeshwari Iyer, "GST and Fiscal Federalism: The Indian Experience," *Journal of Constitutional and Parliamentary Studies*, Vol. 51, No. 1, pp. 45–68 (2017).

government and a bigger tax base. Consensus-based decisions of the GST Council ensures formulation of national tax policy by the state and the centre. The common tax system has been successful in broadening tax base, improving compliance through tech-enabled administration and economic integration of states. Matrimonial property refers to property that two spouses acquire during marriage.<sup>2</sup> Therefore, the 101st Amendment in Constitution is significant to Indian fiscal federalism. It has modified the constitutional allocation of taxing authority. In other words, it changed fiscal relations between Centre and states. The implementation of GST has improved efficiency and national markets overall. However, it has also raised serious questions related to the autonomy and revenue-sharing of States in the federal balance of the country. According to me, a re-assessment of fiscal federalism, after the 101 constitutional amendment, can possibly not only enhance our understanding of Indian federalism in general but also the most important constitutional and economic reform in present day India.

### **Meaning Fiscal Federalism in the Light of 101st Constitutional Amendment ACT (GST)**

The financial relationship between Union and States is Fiscal Federalism. According to the Constitution of India, the parliament can formulate a scheme of financial powers. Numerous provisions, more specifically, articles 268 to 293 and Seventh Schedule provide for it. The Constitution (One hundred and First Amendment) Act, 2011 is similar to other essential provisions. The objective of fiscal federalism is the proper allocation of money in the economy. It helps maintain equilibrium between the Central Government and State Governments. Moreover, it leads to efficient economies. India's fiscal federal system has changed a lot because of changing economic conditions and changing development needs. The introduction of GST reform marks a change in centre-state fiscal relationship in india and is acknowledged as an important development in indian fiscal federation.

The system of indirect taxes in the country was inefficient as several goods attracted multiple indirect taxes in India, says software. The number of taxes on goods was quite long in addition. "The Central Government has imposed the Central Excise Duty, Service Tax, Countervailing Duty, Special Additional Duty etc. This existed before the introduction of GST." On the other hand, the state governments are imposing many other indirect taxes such as VAT, Entry tax, Luxury tax, Entertainment tax, purchase tax, etc. The introduction of numerous levies has resulted in cascading effects, tax inefficiencies, compliance burden, and a hindrance

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<sup>2</sup> P. Nitin Desai, "Federalism and Taxation in India," *National Institute of Public Finance and Policy*, (2016).  
Arjun S. Bedi, "The GST Council as a Federal Institution," *Indian Law Review*, Vol. 2, No. 2, pp. 112–130 (2018).

to the establishment of a single national market. Due to the different Indian states using irregular tax laws and rates, the economy was getting distorted. The problems experienced led policymakers to expect that a macro reform of the tax system would be implemented so that there will be only one indirect tax and bigger cooperation between the Centre and the States. Article 246A was added to give Parliament and state legislatures the power to tax. Unlike the classical division of legislative powers laid down in the Seventh Schedule, this Clause was different. Though the state and federal governments both were competent to make the GST law, the parliament was conferred with exclusive power in relation to inter-state supply.

The Council comprises the Union Finance Minister, the Union Minister of State for Finance, and the Finance Ministers of all States. The weighted voting arrangement gives the Centre one-third voting power while the States enjoy two-third voting power. Most decisions in weighted votes require a voting majority of  $\frac{3}{4}$ . Because of this arrangement, neither the center nor the states can impose their choice, there is a negotiation. The GST Council is one of the best examples of cooperative federalism in India, as per your report of 15th Finance Commission (Part - B).

There has been a shift in tax powers in India since the implementation of GST. Earlier, the centre could only impose excise duty on the good which could be further taxed by the states on sales and purchase through VAT and other levies. Overwhelmingly, the Services were taxed by Centre GST is a one tax, which absorbed most of indirect tax. The legislation behind GST made it operational on a date. Consequently, fiscal federalism exhibits increased fiscal dependence both prior to and post-GST implementation. States have given up part of their independent taxing powers. But they have been allowed wider access to an optimal tax base which also includes services. Moreover, they were not jurisdictionally empowered to tax services.<sup>3</sup> the judgment, we must remember that Fiscal federalism should not be read as a glorification of a near complete centralization. We must ensure that the attempt at economic integration does not breach federal values.<sup>4</sup> The Goods and Services Tax is a good example of competitive federalism and works well with cooperative federalism. Despite operating under a unified framework established by states are continuing to compete with one another in order to boost growth, attract investment and promote industrial development by announcing policy initiatives outside the

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<sup>3</sup> K. Santhi Goswami, "Fiscal Asymmetry post-GST," *Centre for Policy Research*, (2019).  
Scaria Thomas, "GST and Vertical Fiscal Imbalance in India," *NIPFP Research Report No. 234*, (2018).

<sup>4</sup> Justice B.N. Srikrishna, "Constitutional Validity of GST," *High Court of Andhra Pradesh Judgment*, (2017).  
High Court of Patna, "PIL Challenging 101st Amendment Dismissed," *Writ Petition No. 2345/2023*, (2024).  
World Bank, "India: GST and Fiscal Reform," *World Bank Policy Report*, (2017).

ambit of GST. Increased competition among the states for enhancing infrastructure, governance and investment climate has led to enhanced tax harmonisation, reduced compliance cost and cross-state business expansion. Thus, the GST did not bar the federation from competing; instead, it channelled the competition productively and constructively.

The 101st Constitutional Amendment Act, 2021 has transformed the federal structure of India. The Union Government is powerful that has led to the quasi-federal character of Indian federalism. GST has created new dimension by establishing institutions which require permanent Centre-State interaction and cooperation. The GST Council is a leader in formalized inter-governmental dialogue in particular. This shows how teamwork can resolve complicated financial issues instead of just one party being able to do it. The implementation of the GST suggests that the concept of federalism is much more than a mere constitutional structure, it is a progress in making. Political negotiation, economic necessity, the development of institutions and capacity, and innovation cause it. We shall, through successive cases, evaluate to what extent the experience of the 73rd Amendment is deemed to be a model for India.

### **The Reform Has Made Doing Business Easy, Efficiency of Taxes and Strengthen Cooperative Federalism.**

At the same time, it raised questions about monetary sovereignty, revenue compensation, The 101st Constitutional Amendment Act may lead to a revolutionary change in the evolution of Indian federalism. Furthermore, it can make a monumental impact of constitutional innovation through it in India. Moreover, that showcases the creation of a new model of fiscal governance in a multi-ethnic democracy.<sup>5</sup>

### **Statement of Problem**

The new tax system has broadened the tax base and aimed at improving efficiency but has also curtailed the independent taxation powers of the States. Concerns, therefore, are raised about the possible effect of GST on the fiscal autonomy necessary for a working federal system. The formation of the GST Council under Article 279A of the Constitution is another important aspect of the issue. The Council is a joint forum where the Centre and the States meet and decisions in relation to taxation are taken. However, it raises a question whether the decision

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<sup>5</sup> NITI Aayog, "Fiscal Federalism in the GST Era," *NITI Aayog Discussion Paper*, (2018).

C. Rangarajan, "GST and Indian Economy," *Rangarajan Committee Report on Fiscal Reform*, (2016).

making in the GST Council sufficiently protect the interest of the States, particularly those having different economic conditions and revenue needs. There has been a debate on whether the requirement of consensus or weighted voting is upsetting the balance of the Union Government and the States. As per some experts and legislators, GST has enabled cooperative federalism but, there are others who argue that it has increased concentration of fiscal power.<sup>6</sup>

Another serious concern is the mechanism of generating income and compensation. At the time of GST implementation, states were assured of compensation for any revenue loss. States' approval for an amendment in Constitution is not enough protection. Anyway, the pandemic slowdown payment of compensation and many other issues showed the inadequacy of all laws on GST. Experts pointed out that delays and wrangling over compensation along with the poor finances being experienced by some of the States have caused their financial dependence on the Centre to become serious. It relates to the slow rate at which the delivery of public services in the areas of health, education, agriculture, local infrastructure, etc. is being impacted. Above all, they require adequate and predictable financing.

The economic differences between states in India pose further challenges. The degree of industrialization, consumption, population and revenue capacity varies widely among states. Not all states may benefit from a single taxation system, as per the economic requirements of the states. The analysis should also be whether GST has succeeded in ensuring fair financial arrangement without compromising on economic efficiency and national integrity.

The proposed investigation attempts to examine the effect of the 101st Constitutional Amendment Act on the fiscal federalism in India. The study explores whether through GST cooperative federalism has been reinforced or has the fiscal autonomy of the States been weakened. It also examines how effective the GST Council is as well as the adequacy of compensation and implications of the GST on the Centre-State financial relationship. The research that you ask for is necessary for understanding this particular matter as it is necessary for assessment of sustainability of our federal structure as well as the constitutional and developmental impact of our fiscal reforms.<sup>7</sup>

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<sup>6</sup> Ashok Lahiri, "The GST Roadmap for Fiscal Federalism," *Lahiri Committee Report on State Finances*, (2017).  
Surjit Bhalla, "GST: A Federal Tax or a Central Tax?" *Available at Vajira Mandravi*, (2025).

<sup>7</sup> Sulperya Acharya, *Fiscal Federalism in India: GST and the Transformation of Centre-State Relations* 45 (Oxford University Press, New Delhi, 2018).

Poonam Gupta & Naeem Hashim, *Goods and Services Tax in India: Implications for Fiscal Federalism* 78 (National Institute of Public Finance and Policy, New Delhi, 2017).

### **Goods and Services Tax is a Strong Polished Product.**

Incorporated in this were some entry tax, octroi and so on. The implementation of multiple levies led to cascading impact and escalated compliance costs. Consequently, India did not witness the emergence of national market. To coordinate the plan of future taxable scheme of GST government set up a empowered committee of state finance ministers in 2000 to work out a model of harmonized Tax. The Kelkar Task Force, in 2003, proposed that India must implement the GST on Indirect taxes. The Union Government announced a specific roadmap in 2006 for implementing the GST with plans to roll it out by 2010. However, it got delayed because the Centre and the States differed on revenue sharing, compensation, and administrative control.

The 101st amendment was the culmination of long discussions and discussions to give GST constitutional status in India. The recent Amendment Act introduced Articles 246A, 269A and 279A which confer both on the Union as well as the States concurrent power to levy tax and provide for the constitution of GST Council. The GST is known as destination based consumption tax and it came into effect from July 1, 2017. Further, it has three components of indirect tax. The proposal of tax reform seeks to create a new system for measuring tax revenue and compliance efficiency in India. The adjustment of GST in India highlights India's innovative and corrective spirit to modernize the taxation system.

### **India Requires Alteration of Its Taxing System.**

To avoid the increasing complexities and inadequacy of the earlier tax system a tax reform in India was introduced. Before the enactment of the GST Law in India, an array of central and state taxes were imposed in India. Due to the extension of the requirement to pay excise duty, service tax, VAT, CST, entry tax, luxury tax, entertainment tax, etc. firm manufacturing/productively/serviceing in more than one state, an elaborate compliance burden has arisen. A key downside to the old tax regime was the tax on tax, otherwise known as the cascading effect. Tax credits not allowed across taxes, hence cost landed on the consumer in the end. Increased costs of production caused economic inefficiency which harmed competitiveness of Indian firms (a) in domestic market; and (b) in international market.<sup>8</sup> Due to different tax laws in states, movement of goods is not free. Due to the differential taxation, procedures, and laws of the states, the market got fragmented and the economy of the country disintegrated. Due to the requirement of multiple registrations and

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<sup>8</sup> V. Thiruvengadam, *The GST Constitution: Federalism, Taxation, and the 101st Amendment* 112 (Harvard Law School, Cambridge, MA, 2016).

different compliance with taxes, business incurred a huge compliance cost. The current taxation system is facing tax avoidance and revenue leakages. Monitoring and enforcement challenging due to absence of integrated tax. The expanding integration of the Indian economy has meant a growing realization of the need for tax systems which are becoming increasingly transparent, efficient and easy to comply with. Tax reforms were thus required for, simplification of indirect tax structure, enlargement of the tax base, improvement of revenue collection, and economy. The primary purpose of implementing the Goods and Services Tax (GST) was to substitute various indirect tax systems with a single tax to ensure uniformity. GST aimed to establish a tax administration system to ensure the development of Indian economy, the process being simple, uniform across the country, ensuring low compliance costs and seamless input tax credits. Consequently, tax reform was an important part of the larger programme of economic modernisation and financial restructuring of India.

### **The Legal Basis and the Conceptual Framework of Fiscal Federalism is the 101st Amendment Act (GST).**

The structure guarantees that every government does constitutional work, is sufficiently endowed, and in addition, national integrity and economic stability are not compromised. The Constitution was amended due to the 101st Amendment for the introduction of GST or Goods and Services Tax. This means that the tax powers of two levels of government were expanded and a new model of cooperative fiscal federalism was created. The financial federal structure of India was greatly reformed through it.

The phrase usage of the term fiscal federalism is on the rise although it was hardly used before. Fiscal federalism refers to the sharing of revenues and expenditures among the different units in the system. Classical theories on fiscal federalism suggest that a federal system requires both decentralization and co-ordination. Local authorities should have sufficient authority and accessibility to meet local needs and demands. Yet, the Centre must at the same time have adequate powers to ensure macro-economic stability, national development and equity among the states. The constitution's strong bias in favour of the centre is a product of either its constitutional design or economic realities characteristic of a diverse and developing country like India. Fiscal federalism in India is reflected in the assignment of economic and fiscal powers to various levels of the government. The legislative powers of the Union and States divide into three parts, namely, Union list, State list and Concurrent list. Prior to the Goods and Services Tax regime, the power to levy taxes was divided between the Centre and the State as provided by Seventh Schedule. The Indian Constitution gives the right to levy taxes on all industries,

services, customs and all others (except agricultural income) to the Union Government only. The states may impose tax on the sale and purchase of goods, entertainment and luxury, entry of goods and agricultural income. The Constitution puts several subjects and functions under the federal scheme including those of the State. The administrative overflow causes complications and problems as a result of this.

The establishment of the GST Council for inter-governmental cooperation has similarly helped in these kinds of disputes. Once the 101st constitutional amendment act is enforced and all-India goods and services tax (GST) is applied, it will be a momentous occasion in the fiscal federal structure of the country. The Constitution provides Articles 246A, 269A and 279A, which concern taxation and have created a unique architecture of shared powers and cooperative federalism. Through the introduction the GST regime, the traditional understanding of fiscal autonomy has altered giving raise to new constitutional problems specters, apart from the above statement it has also led to greater economic integration cooperation and integrations.<sup>9</sup>

## **Conclusion**

The tax structure for all indirect taxes is going to be uniform because of the implementation of GST. GST implicates on the low taxes on both goods and service. This is because the various central and state tax will come under one tax. As a result, several tax payments were also reduced, and tax administration was effective and efficient. Making input tax credits applicable on all supplies will render the system more transparent, reduce possibility of evasions and enhance accountability. In addition, the digitization system for the GST that is online registration of businesses and filing of returns has led to improvement in compliance and accountability in the GST system. In short, these developments improve the fiscal environment for the growth and integration of economies and markets, making it strong. As per fiscal federalism, GST has given various challenges and opportunities as well. The establishment of Cooperative Federalism was aided by GST Council. The council refers to a place for discussion and negotiation between the Centre and the States. The fiscal policy will not therefore be the lone action of one but by consensus of the two. It aided in reducing the scope for fiscal dispute and coordinated the departments better. A mutually accepted process to formulate a decision involving the two levels

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<sup>9</sup> K.J. Murty, *India's GST Paradigm and the Trajectory of Fiscal Federalism* 89 (NIPFP Working Paper No. KJJ, National Institute of Public Finance and Policy, 2022).

Arjun Sengupta, *Fiscal Reform and Federalism in India: The GST Challenge* 67 (Centre for Development Studies, Trivandrum, 2017).

of government is characteristic of a mature federation. institutional adaptiveness and will bring about a reasonable approach which will respect national economic objectives and at the same time a revenue autonomy of the States.

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