1. What is “Tax”?

- A Tax is a **mandatory financial charge / levy** imposed upon a taxpayer (an individual or a legal entity) **by government** in order to fund various public expenditure.

   ![Types of Taxes]

   - **Direct Tax**: Taxable Person and the person effectively paying the tax are same. *E.g.* **Income Tax**.
   - **Indirect tax**: Taxable Person and the person effectively paying the tax are different. *E.g.* **GST** *(Tax on supply of goods and services)*

2. Deficiencies in Earlier Tax Laws

   - **Cascading effect** of taxes on account of – (i) levy of non-VATABLE CST and, (ii) inclusion of CENVAT in the value for imposing VAT.
   - **No CENVAT** after manufacturing stage
   - **Non-integration** of VAT & Service tax
   - **Double taxation** of a transaction as both goods and services.
   - **Non-inclusion** of several local levies in state VAT such as luxury tax, entertainment tax etc.

3. Concept of GST

   - **GST is a value added tax** levied on **manufacture, sale and consumption of goods and services**.
   - **GST Provides comprehensive and continuous chain** of tax credits from the producer / service provider up to retail level / consumer level.
GST in India

- Each Person will get credit for the taxes paid at earlier stage. The consumer will bear the final tax.
- Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system.
- GST does not differentiate between goods and services thus, the two are taxed at single rate.

4. Need for GST in India

- Concept of One nation, one market and One Tax
- Compete with global market as many countries are following GST regime.
- Deficiency in earlier indirect tax system
- Cenvat Credit of Excise and Service Tax were not available to retailers and VAT dealers
- Credit of CST were not available for dealers earlier.
- Difficulty in distinguish between goods and services specially in case of intellectual properties, drawings and designs, Restaurant Services, Software and Work Contract.

5. GST – A Cure for ills of Existing tax regime

- Comprehensive Tax Structure covering both Goods and services Tax (GST) addresses these problems. Simultaneously introduction of GST at both centre and state levels has integrated taxes on goods and services for the purpose of set off and relief from cascading effects.
- In GST Regime, major indirect taxes have been subsumed in the ambit of GST. The erstwhile concepts of manufacture or sale of goods or rendering of services are no longer applicable since the tax is now levied on “Supply of Goods or Services”.

CA Yachana Mutha Bhurat 09669357770 gst.yachana@gmail.com 1.2
6. **Major Taxes Subsumed and not Subsumed under GST are:**

<table>
<thead>
<tr>
<th>Taxes to be Subsumed under GST</th>
<th>Taxes not Subsumed under GST</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Central Taxes to be subsumed</strong></td>
<td><strong>States Taxes to be Subsumed</strong></td>
</tr>
<tr>
<td>Central Excise Duty</td>
<td>VAT / Sales Tax</td>
</tr>
<tr>
<td>Additional Excise Duty</td>
<td>Luxury Tax on lottery, Betting and Gambling</td>
</tr>
<tr>
<td>Service Tax</td>
<td>Octroi and Entry Tax</td>
</tr>
<tr>
<td>Additional Custom Duty (Commonly Known as Countervailing Duty)</td>
<td>Purchase tax</td>
</tr>
<tr>
<td>Central Sales Tax</td>
<td>States Surcharges and cesses so far they relate to supply of goods and services</td>
</tr>
<tr>
<td>Central Surcharges so far they relate to supply of goods and services</td>
<td>-</td>
</tr>
</tbody>
</table>

7. **Benefits of GST**

GST is a win-win situation for the entire country. It brings benefits to all the stakeholders of industry, Government and the consumer. It will lower the cost of goods and services, give a boost to the economy and make the products and services globally competitive.

- Creation of Unified national Market
- Mitigating Ills effects of Cascading
- Elimination of Multiple Taxes and Double Taxation
- Boost to "Make In India" Initiative
- Buoyancy to the Government Revenue
The significant benefits of GST are discussed hereunder:

- **Creation of unified national market**: GST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving the way for an integrated economy at the national level.

- **Mitigating ill effects of cascading**: By subsuming most of the central and state tax into single tax and by allowing a set off of prior stage taxes for the transactions across the entire value chain, it would mitigate the ill effects of cascading, improve competitiveness and improve liquidity of the businesses.

- **Elimination of multiple taxes and double taxation**: GST has subsumed majority of existing indirect tax levies both at Central and State level into one tax i.e., GST which is leviable uniformly on goods and services. This will make doing business easier and will also tackle the highly disputed issues relating to double taxation of a transaction as both goods and services.

- **Boost to ‘Make in India’ initiative**: GST will give a major boost to the ‘Make in India’ initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.

- **Buoyancy to the Government Revenue**: GST is expected to bring buoyancy (increase in revenue) to the Government Revenue by widening the tax base and improving the taxpayer compliance.

**8. Body of GST Law**

**GST in India will comprise of:**

- Central Goods and Service tax Act, 2017(CGST)
- State Goods and Service tax Act, 2017(SGST) (for 29 States and 2 union territories : Dehli and Pondicheery deemed to be states)
- Union territory Goods and Service tax Act, 2017(UTGST) (For Andaman and Nicobar, Lakshadweep, Dadra and Nagar Haveli, Damon and Diu and Chandigarh)
- Integrated Goods and Service tax Act, 2017(IGST)
- GST Compensation Act, 2017
9. **Framework of GST As Introduced In India**

- **Dual GST Model**

  India has adopted a *Dual GST model* in view of the federal structure of the country. Consequently, Centre and States simultaneously levy GST on taxable supply of goods or services or both which, takes place within a State or Union Territory. *Thus, tax is imposed concurrently by the Centre and States.* Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services. *GST extends to whole of India including the State of Jammu and Kashmir.*

- **Administration**

  *GST is a destination based tax* applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof.

- **Legislative Framework**

  *There is single legislation – CGST Act, 2017 for levying CGST.* Similarly, Union Territories without State legislatures [Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh] are governed by UTGST Act, 2017 for levying UTGST. States and Union territories with their own legislatures [Delhi and Puducherry] have their own GST legislation for levying SGST.

  Though there are *multiple SGST legislations*, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like are uniform in all the SGST legislations, as far as feasible. This is necessary to preserve the essence of dual GST.
**Classification of Goods / Services**

<table>
<thead>
<tr>
<th>Goods</th>
<th>Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>The goods are classified on the basis of HSN (Harmonised System of Nomenclature) under the GST.</td>
<td>A new scheme of classification of services has been devised wherein the services of various description have been classified under various sections, heading and groups.</td>
</tr>
</tbody>
</table>

**Registration under GST**

Threshold limit of aggregate turnover for exemption from registration and payment of GST for suppliers of services would be Rs. 20 lakhs and Rs. 10 lakhs (for States of Manipur, Mizoram, Nagaland and Tripura).

Threshold limits of aggregate turnover for exemption from registration and payment of GST for the suppliers of goods (exclusive) is increased to Rs. 40 lakhs (not applicable on all States).

Please refer to registration chapter for details.

**Composition Scheme**

In GST regime, tax (i.e. CGST and SGST/UTGST for intra-State supplies and IGST for inter-State supplies) is payable by every taxable person and in this regard provisions have been prescribed in the law.

However, for providing relief to small businesses making intra-State supplies, a simpler method of paying taxes and accounting thereof is also prescribed, known as Composition Levy.

**Manner of Utilisation of Credit**

- **Credit of IGST** – To be utilized for payment of IGST
- **Credit of IGST** – After utilization towards IGST, to be utilized for payment of CGST and UTGST in any sequence and any proportion.
- **Credit of CGST** – To be utilized for payment of CGST and IGST Sequentially.
- **Credit of SGST/UTGST** – To be utilized for payment of SGST/UTGST and IGST sequentially. ITC on account of SGST/UTGST should be utilized towards payment of IGST only after the ITC of CGST has been utilized fully.
- **Credit of CGST** – Cannot be utilized for payment of SGST and UTGST.
- **Credit of SGST/UTGST** – Cannot be utilized for payment of CGST.
After, ITC of IGST to be completely exhausted mandatorily

ITC on account of SGST/UTGST should be utilized towards payment of IGST only after the ITC of CGST has been utilized fully

- **Seamless Flow of Credit**
  - Since **GST is a destination based consumption tax, revenue of SGST ordinarily accrues to the consuming States.** The inter-State supplier in the exporting State is allowed to set off the available credit of IGST, CGST and SGST/UTGST (in that order) against the IGST payable on inter-State supply made by him.
  - The buyer in the importing State is allowed to avail the credit of IGST paid
on inter-State purchase made by him. Thus, unlike the earlier scenario where the credit chain used to break in case of inter-State sales on account of non-VATABLE CST, under GST regime there is a seamless credit flow in case of inter-State supplies too.

✓ The revenue of inter-State sale does not accrue to the exporting State and the exporting State transfers to the Centre the credit of SGST/UTGST used in payment of IGST.

✓ The Centre transfers to the importing State the credit of IGST used in payment of SGST/UTGST. Thus, inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre.

10. GENESIS OF GST IN INDIA

<table>
<thead>
<tr>
<th>Genesis of GST</th>
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</thead>
<tbody>
<tr>
<td><strong>Global Perspective:</strong></td>
</tr>
<tr>
<td>France was the First country to implement GST in 1954</td>
</tr>
<tr>
<td>At Present, more than 160 Counties have implemented it.</td>
</tr>
<tr>
<td><strong>Indian Perspective:</strong></td>
</tr>
<tr>
<td>Kelkar Task Force in 2004</td>
</tr>
<tr>
<td>GST Proposed in 2007-08</td>
</tr>
<tr>
<td>GST Revival in 2014—Constitution Amendment Bill</td>
</tr>
<tr>
<td>Constitution Amendment Act</td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
</table>

**State GST Act**

- Different Dates

**Roll Out from 1st July, 2017**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>01-07-2017</td>
<td>GST has been implemented cross India w.e.f 1st July 2017.</td>
</tr>
<tr>
<td>08-07-2017</td>
<td>GST in the state of Jammu &amp; Kashmir came into force w.e.f. 8th July 2017. On 8th July, 2017 CGST (Extension to Jammu &amp; Kashmir) Ordinance, 2017 and IGST (Extension to Jammu &amp; Kashmir) Ordinance, 2017 were promulgated making necessary changes in CGST Act and IGST Act and declaring that the said Acts shall be applicable to the state of J &amp; K also.</td>
</tr>
</tbody>
</table>

III. **Goods and Service Tax Portal**

- A **Common Portal** was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT Infrastructure.
Resultantly, Common GST Electronic Portal – www.gst.gov.in – a website managed by Goods and Services Network (GSTN) has been set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.

**Functions of GSTN Includes:**
- Facilitating Registration
- Forwarding the returns to central and state authorities
- Computation and settlement of IGST
- Matching of tax payment details with banking network
- Providing analysis of tax payers profile and
- Running the matching engine for matching, reversal and reclaim of input tax credit.

Snapshot of GST common portal is attached below:

12. **Constitutional Provisions**

- **Article 265:**
  - Taxes not to be imposed saved by Authorities of Law
  
  “No Tax Shall be levied or collected except by authority of law”

- **Article 245:**
  - Empowers Parliament to make law for whole or any part of territory of India.
  - Legislature of a state make law for whole or any part of state

- **Article 246:** Subject Matter of laws made by parliament and by the Legislature of States.
  - **List I : Union List**
    - This List enumerates the matters in respect of which the parliament has exclusive right to make laws
  - **List II : State List**
    - This List enumerates the matters in respect of which the legislature of any state has exclusive right to make laws
  - **List III :Concurrent list**
    - This List enumerates the matters in respect of which the Parliament and legislature of any state has exclusive right to make laws.
### Schedule VII

**List I (referred as Union List):**
This list enumerates the matters in respect of which the parliament has an exclusive right to make law.

**List II (referred to State List):**
This list enumerates the matters in respect of which the legislature of any state has an exclusive right to make laws.

**List III (referred as the concurrent List):**
This list enumerates the matters in respect of which both the parliament & Legislature of any state have power to make laws.

<table>
<thead>
<tr>
<th>Entry No</th>
<th>Items</th>
<th>Entry No</th>
<th>Items</th>
<th>Entry No</th>
<th>Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>82</td>
<td>Income Tax other than tax on agricultural Income</td>
<td>46</td>
<td>Agriculture Income Tax</td>
<td>17A</td>
<td>Forests</td>
</tr>
<tr>
<td>83</td>
<td>Customs duty including export duty</td>
<td>51</td>
<td>State Excise Duty on liquor, opium Etc.</td>
<td>25</td>
<td>Education</td>
</tr>
<tr>
<td>84</td>
<td>Duties of excise on the following goods manufactured or produced in India namely: (i) Petroleum Crude (ii) High Speed Diesel (iii) Motor Spirit (Commonly Known as Petrol) (iv) Natural Gas (v) aviation turbine fuel (vi) tobacco and tobacco products</td>
<td>59</td>
<td>Taxes on sales of (i) Petroleum crude (ii) High Speed Diesel (iii) Motor Spirit (Commonly Known as Petrol) (iv) Natural Gas (v) Aviation Turbine Fuel (vi) Alcoholic Liquor for human consumption. But Not including * Sale in course of inter - State trade or commerce or * Sale in the course of international trade or commerce of such goods.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>85</td>
<td>Corporation Taxes</td>
<td>62</td>
<td>Taxes on entertainment and amusements to the extent levied an collected by a Panchayats or a Municipality or a Regional</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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**CA Yachana Mutha Bhurat**

09669357770  
gst.yachana@gmail.com  
1.11
On the following products GST shall not be levied, till a date to be notified on the recommendations of the GST Council.

<table>
<thead>
<tr>
<th>Goods</th>
<th>Production</th>
<th>Sale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcoholic Liquor for Human Consumption (Completely outside GST)</td>
<td>State Excise</td>
<td>VAT / CST</td>
</tr>
<tr>
<td>Petroleum Crude</td>
<td>Central Excise</td>
<td>VAT / CST</td>
</tr>
<tr>
<td>High Speed Diesel</td>
<td>Central Excise</td>
<td>VAT / CST</td>
</tr>
<tr>
<td>Motor Spirit</td>
<td>Central Excise</td>
<td>VAT / CST</td>
</tr>
<tr>
<td>Natural Gas</td>
<td>Central Excise</td>
<td>VAT / CST</td>
</tr>
<tr>
<td>Aviation Turbine Fuel</td>
<td>Central Excise</td>
<td>VAT / CST</td>
</tr>
<tr>
<td>Tobacco and Tobacco Products</td>
<td>Central Excise</td>
<td>GST</td>
</tr>
</tbody>
</table>

- **Constitutional Amendment for GST: Insertion of new article Article 246A**

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

  (2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.
**Constitutional Validity: Insertion of new article**

- **Article 269A:**
  
  Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

- **“Article 279A”: Goods and Service tax Council**
  
  Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).

<table>
<thead>
<tr>
<th>1</th>
<th>Constitution of GST Council</th>
<th>Article 279A of the constitution empowers the President of India to constitute a joint forum of the Centre and State namely, Goods &amp; Service Tax Council (GST Council). The Provisions relating to GST council came into force on 12th Sept 2016. The President constituted the GST council on 15th Sept 2016.</th>
</tr>
</thead>
</table>
| 2 | Members of the GST Council | Chairperson - The Union Finance Minister  
Member - The Union Minister of State in charge of Revenue or Finance.  
Member - The Minister of charge of Finance or taxation or any other Minister nominated by each state department |
| 3 | Vice Chairperson | The state Finance Minister shall choose one amongst themselves as Vice Chairperson of the council for such period as the case may decide. |
| 4 | Role of GST Council | The GST Council shall make recommendations to the union and the states on:-  
(i) the taxes, cesses and surcharges levied by the Union, the states and the local bodies which may be subsumed in the goods and service tax: |
(ii) the **goods and services** that may be subjected to or **exempted** from the goods and service tax  
(iii) **model of goods and Service Tax Laws**, principles of levy, apportionment of Goods and service Tax levied on supplies in the course of inter-state trade or commerce under Article 269A and the **principles that govern the place of supply**  
(iv) the **threshold limit of turnover** below which goods and services may be **exempted from GST**  
(v) the **rates including floor rates** for a specified period, to raise additional resources during any natural calamity or disaster  
(vi) Special provision w.r.t **Special categories states (10 States)**  
(vii) Any other matter relating to the goods and services tax, as the council may decide  

<table>
<thead>
<tr>
<th>5</th>
<th>Effective date if levy of GST on Petroleum products</th>
<th>The GST council shall recommend the date on which the goods and service tax be levied on Petroleum crude, High Speed diesel, Motor Spirit, Natural gas and aviation turbine fuel.</th>
</tr>
</thead>
</table>
| 6 | Guiding Principles for GST council | While discharging the functions conferred by this article, the goods and Services shall be guided by the need-  
(i) For a **harmonised a structure** of goods and services, and  
(ii) For a development of a **harmonised national market** for goods and services. |
| 7 | Quorum | One half of the total number of Members of the Goods and Service tax Council shall constitute the quorum at its meeting. |
| 8 | Procedure | The GST Council shall determine the procedures in the performance of its functions. |
| 9 | Decisions to be taken by | Every decision of GST Council shall be taken at a meeting, by a majority of **not less than 3/4** of the weighted votes of the |
| GST Council | members present and voting, in accordance with the following principles namely:

(i) The vote of the central government shall have a weight of \( \frac{1}{3} \) of the total votes cast, and

(ii) The votes of all the states governments taken together shall have a weightage of \( \frac{2}{3} \) of the total vote cast, in that meeting.

| Settlement Disputes | The GST Council shall establish a mechanism to adjudicate any dispute:

(i) Between the Government of India and one or more states, or

(ii) Between the Government of India and any state or States on one side and one or more other states on the other side, or

(iii) Between two or more states, arising out of the recommendations of the council or implementation thereof. |