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Emerging Issues on GST

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Abstract

In the present globalized scenario, goods and services tax or GST as it is known is all set to be a game changer for the Indian economy. GST has far reaching consequences and implications and effects especially on the attainment of cost effectiveness. This is a concept which revolutionizes the face of fiscal federalism in the country and there could be a fundamental deviation from the existing powers relating to tax structure between centre and states. GST would repeal the powers to work out and impose excise duties, custom, VAT, SERVICES TAX, sales tax and purchases tax which are under the purview of centre or states. A sound, effective and easy GST regime should be implemented to all sectors of the economy. The main purpose of the GST is to bring to end existing tax administration.
Thus going forward on all transactions in business of goods and services, only one tax will apply, it is GST. GST is comprising of CGST and SGST. IGST would be applied instead of SGST for interstate transactions.
For successful implementation of GST, it is necessary that the government at both centre and state levels, agree to merge all their taxes into CGST/SGST.

KEY WORDS- GST, INDIRECT TAX, CGST, SGST, IGST.

Introduction/genesis of GST in India-

GST is an Indirect Tax which has replaced many Indirect Taxes in India. The Goods and Service Tax Act was passed in the Parliament on 29th March 2017. The Act came into effect on 1st July 2017. GST is one indirect tax for the entire country. There are 3 taxes applicable under GST: CGST, SGST& IGST.

- CGST: Collected by the Central Government on an intra-state sale (Eg: Within Rajasthan)
- SGST: Collected by the State Government on an intra-state sale (Eg: Within Rajasthan)
- IGST: Collected by the Central Government for inter-state sale (Eg: Maharashtra to Rajasthan)

In the pre-GST regime, tax on tax was calculated and paid by every purchaser including the final consumer. This tax on tax is called Cascading Effect of Taxes. GST avoids this cascading effect as the tax is calculated only on the value-add at each stage of transfer of ownership.

Goods and services are divided into five tax slabs for collection of tax - 0%, 5%, 12%, 18% and 28%. Petroleum products and alcoholic drinks are taxed separately by the individual state governments.

In GST act GST rate applicable by HSN system. HSN (Harmonized System of Nomenclature) is an 8-digit code for identifying the applicable rate of GST on different products as per CGST rules. If a company has turnover up to RS. 1.5 Crore in the preceding financial year then they need not mention the HSN code while supplying goods on invoices. If a company has turnover more than 1.5 Cr but up to 5 Cr then they need to mention the 2 digit HSN code while supplying goods on

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invoices. If turnover crosses 5 Cr then they shall mention the 4 digit HSN code on invoices and also Known As GST Invoice.

Existing Indirect Tax Structure in India/ pre GST tax structure of India

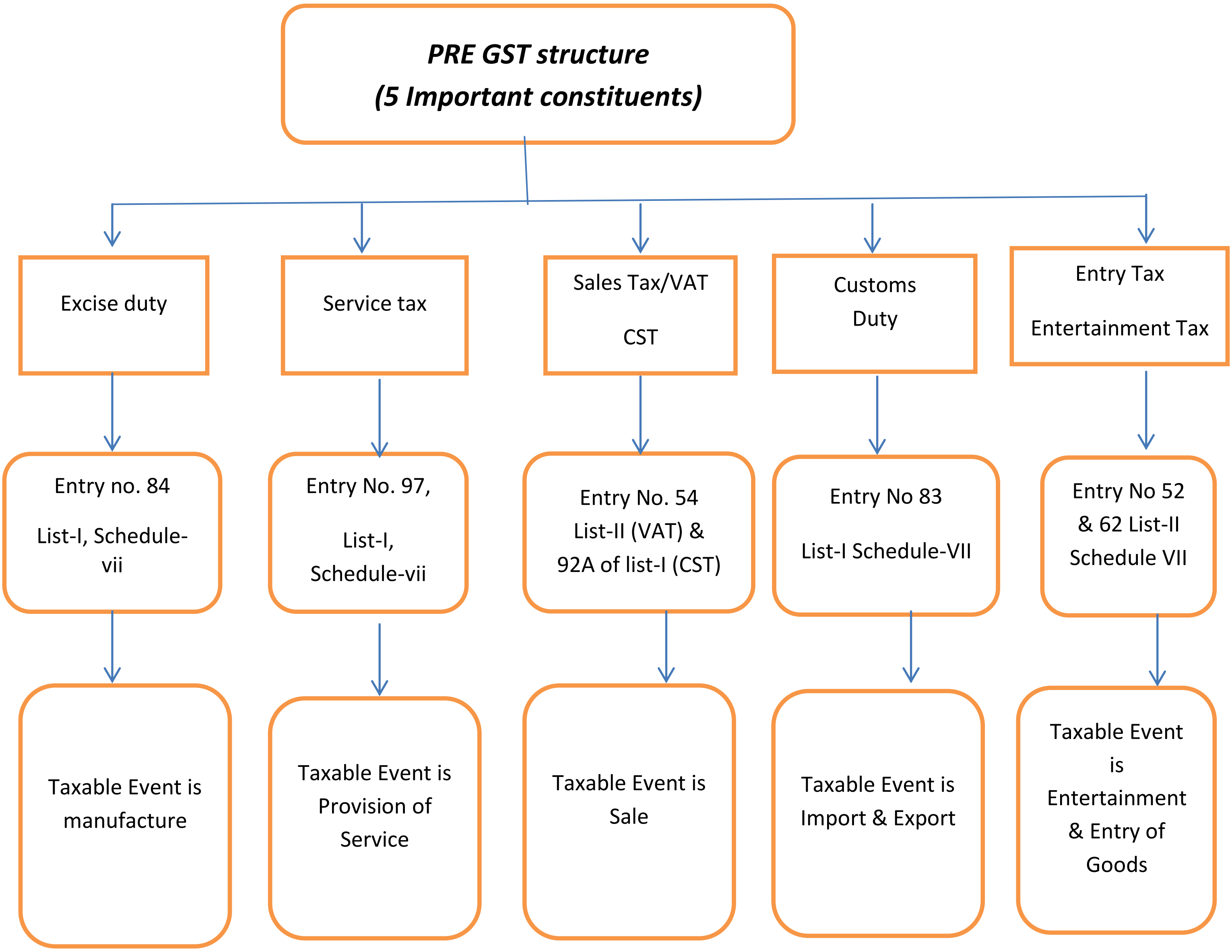
State tax

• State VAT / Sales Tax • Central Sales Tax • Purchase Tax • Entertainment Tax (other than those levied by local bodies) • Luxury Tax • Entry Tax (All forms) • Taxes on lottery, betting & gambling • Surcharges & Cesses

Central taxes

Central Excise duty • Additional duties of excise • Excise duty levied under Medicinal & Toiletries Preparation Act • Additional duties of customs (CVD & SAD) • Service Tax • Surcharges & Cesses

- **PRE GST TAX structure of India**



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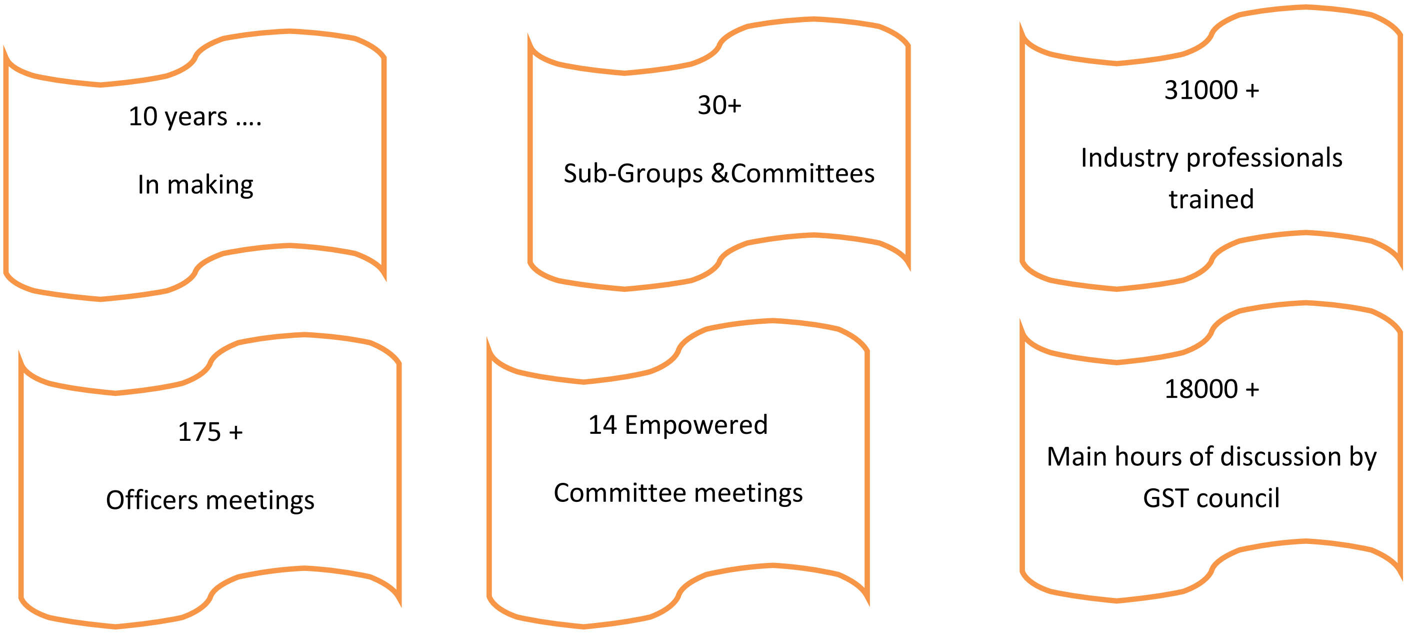
Literature review

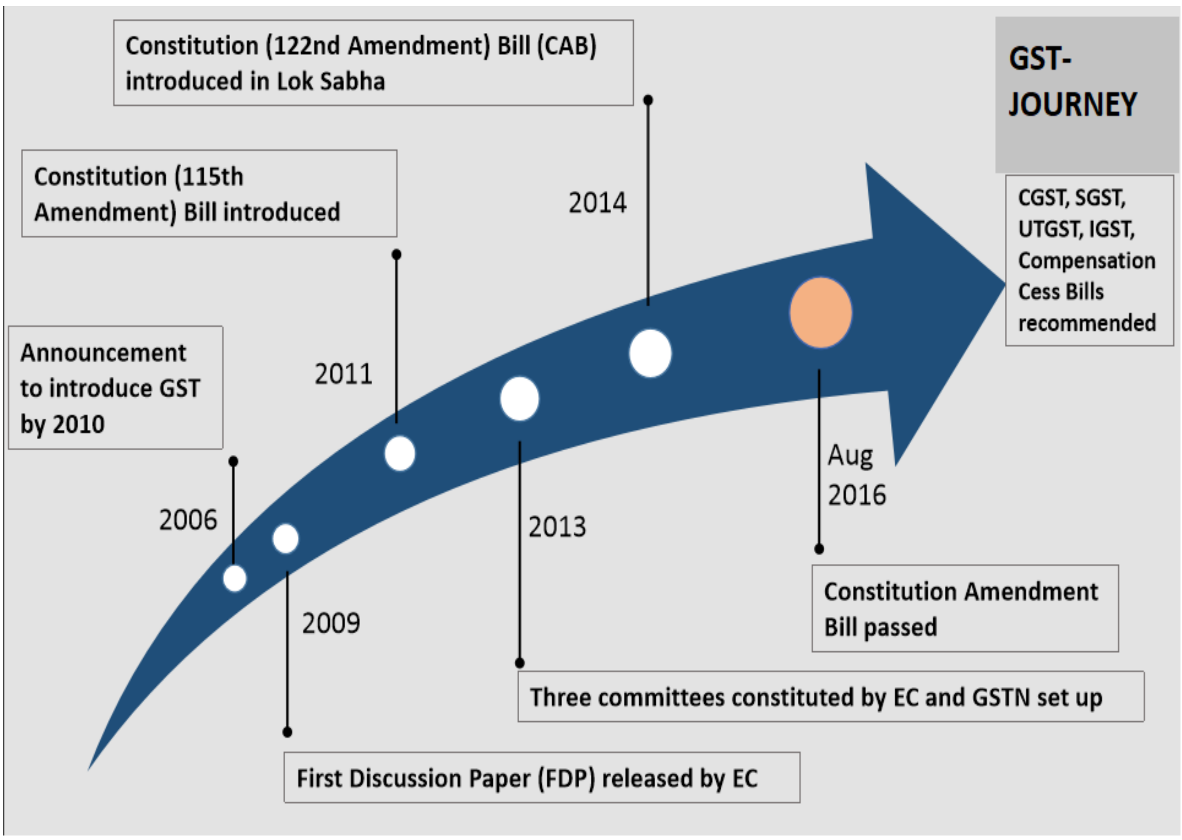
- 2000: In India, the idea of adopting GST was first suggested by the AtalBihari Vajpayee Government in 2000. The state finance ministers formed an Empowered Committee (EC) to create a structure for GST, based on their experience in designing State VAT. Representatives from the Centre and states were requested to examine various aspects of the GST proposal and create reports on the thresholds, exemptions, taxation of inter-state supplies, and taxation of services. The committee was headed by AsimDasgupta, the finance minister of West Bengal. Dasgupta chaired the committee till 2011.
- February 2005: The finance minister, P. Chidambaram, said that the medium-to-long term goal of the government was to implement a uniform GST structure across the country, covering the whole production-distribution chain. This was discussed in the budget session for the financial year 2005-06.
- November 2006: ParthasarthyShome, the advisor to P. Chidambaram, mentioned that states will have to prepare and make reforms for the upcoming GST regime.
- February 2007: The 1 April 2010 deadline for GST implementation was retained in the union budget for 2007-08.
- February 2008: At the union budget session for 2008-09, the finance minister confirmed that considerable progress was being made in the preparation of the roadmap for GST. The targeted timeline for the implementation was confirmed to be 1 April 2010.
- November 2009: The EC that was headed by AsimDasgupta put forth the First Discussion Paper (FDP), describing the proposed GST regime. The paper was expected to start a debate that would generate further inputs from stakeholders.
- February 2010: The government introduced the mission-mode project that laid the foundation for GST. This project, with a budgetary outlay of Rs.1,133crore, computerised commercial taxes in states..
- March 2011: The government led by the Congress party puts forth the Constitution (115th Amendment) Bill for the introduction of GST. Following protest by the opposition party, the Bill was sent to a standing committee for a detailed examination.
- August 2013: The report created by the standing committee is submitted to the parliament. The panel approves the regulation with few amendments to the provisions for the tax structure and the mechanism of resolution.
- December 2014: India's new finance minister, ArunJaitley, submits the Constitution (122nd Amendment) Bill, 2014 in the parliament. The opposition demanded that the Bill be sent for discussion to the standing committee.
- February 2015: Jaitley, in his budget speech, indicated that the government is looking to implement the GST system by 1 April 2016.
- May 2015: The LokSabha passes the Constitution Amendment Bill. Jaitley also announced that petroleum would be kept out of the ambit of GST for the time being.
- June 2016: The Ministry of Finance releases the draft model law on GST to the public, expecting suggestions and views.
- August 2016: The Congress-led opposition finally agrees to the Government's proposal on the four broad amendments to the Bill. The Bill was passed in the RajyaSabha.
- September 2016: The Honourable President of India gives his consent for the Constitution Amendment Bill to become an Act.
- 2017: Four Bills related to GST become Act, following approval in the parliament and the President's assent:
    - Central GST Bill
    - Integrated GST Bill
    - Union Territory GST Bill
    - GST (Compensation to States) Bill

The GST Council also finalised on the GST rates and GST rules. The Government declares that the GST Bill will be applicable from 1 July 2017.

The Effort and work Done-



The journey of GST IN INDIA is as follow-



Objectives of the Study

1. To study the inexplicit opinions among the Manufactures, traders and society about the Goods and Services Tax (GST).

2. To study about the Challenges of Introduction of Goods and Service Tax (GST in India).

3. To Study on Prospects in Implementation of Goods and services Tax (GST) in India

Main Features of the GST Act

- GST to be levied on supply of goods or services
- All transactions and processes only through electronic mode – Non-intrusive administration
- PAN Based Registration
- The GST Council
- Registration only if turnover more than Rs. 20 lac
- Option of Voluntary Registration
- Deemed Registration in three days
- Input Tax Credit available on taxes paid on all procurements (except few specified items)
- Credit available to recipient only if invoice is matched – Helps fight huge evasion of taxes
- Set of auto-populated Monthly returns and Annual Return
- Composition taxpayers to file Quarterly returns
- Automatic generation of returns
- GST Practitioners for assisting filing of returns
- GSTN and GST Suvidha Providers (GSPs) to provide technology based assistance Separate electronic ledgers for cash and credit
- Tax can be deposited by internet banking, NEFT / RTGS, Debit/ credit card and over the counter
- Cross utilization of IGST Credit first as IGST and then as CGST or SGST /UTGST
- Concept of TDS for Government Departments
- Concept of TCS for E-Commerce Companies
- Refund to be granted within 60 days
- Provisional release of 90% refund to exporters within 7 days
- Interest payable if refund not sanctioned in time
- Refund to be directly credited to bank accounts
- Comprehensive transitional provisions for smooth transition of existing tax payers to GST regime
- Special procedures for job work
- System of GST Compliance Rating
- Anti-Profiteering provision

The GST Council-The Council is a quasi – judicial body of States and the Centre, represented by the State Finance Ministers or Taxation Ministers and the Finance Minister of India. The key role of this Council is to make recommendations on various provisions of GST Laws to the State and the Centre.

GST Council – Constitution

- Consists of Finance Minister,
- the MOS (Finance) and the Minister of Finance / Taxation of each State
- Chairperson – Union FM
- Vice Chairperson - to be chosen amongst the Ministers of State Government
- Quorum is 50% of total members
- Decision by 75% majority
- Council to make recommendations on everything related to GST including laws, rules and rates etc.
- Threshold limit for exemption to be Rs. 20 lac (Rs. 10 lac for special category States)

- Compounding threshold limit to be Rs. 50 lac – not available to inter-State suppliers, service providers (except restaurant service) & specified category of manufacturers
- Government may convert existing Area based exemption schemes into reimbursement based scheme
- Four tax rates namely 5%, 12%, 18% and 28% , Some goods and services would be exempt
- Separate tax rate for precious metals
- Cess over the peak rate of 28% on specified luxury and sin goods
- To ensure single interface – all administrative control over 90% of taxpayers having turnover below Rs. 1.5 cr would vest with State tax administration 10% of taxpayers having turnover below of Rs. 1.5 cr. would vest with Central tax administration taxpayers having turnover above Rs. 1.5 cr. would be divided equally between Central and State tax administration

Challenges of implementation of GST in India

- constitutional amendment
- all state to come on same platform
- uniformity of taxes through out India
- public consensus
- administration challenges
- Lack of Clarity on GST Provisions (Rules and Regulation**) -** Various provisions of GST are still ambiguous. Categorisation of goods and services in various cases is still unclear. Provisions for anti-profiteering, as well as the now-deferred e-way bill, which tracks consignments across states, are unclear
- Increased compliance, with increase in the number of returns to be filed annually-Businesses will need to file multiple returns, a minimum of 37 in most cases for assesses, and this can increase multifold in accordance with business models. Clients will need to ensure timely compliance by registered suppliers to ensure there is no loss of input credit. This will necessitate correct data and reports to fill accurate GST returns
- Preparedness of IT Systems**-**
  Various businesses are yet to map the accounting software and IT systems in line with the new tax provisions, to create GST invoices, and extract required reports. Tax and accounting professionals jointly need to ensure that their clients' current systems are compatible with their GST Service Provider (GSP).
- Lack of skilled resources and need for re-skilling
  With GST rates and their complexities only recently becoming a part of our policy framework, skilled staff with updated GST subject knowledge and training are not easily available. This has placed an additional work load on personnel across industries, and created an urgent need for additional GST-skilled resources to ensure swift implementation
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WHY GST: BENEFITS

Benefits toTrade:

1. Reduction in multiplicity of taxes
2. Mitigation of cascading/ double taxation
3. More efficient neutralization of taxes especially for exports
4. Development of common national market
5. Simpler tax regime
6. Fewer rates and exemptions
7. Distinction between Goods & Services no longer required

Benefits to Consumers

1. Simpler Tax system
2. Reduction in prices of goods & services due to elimination of cascading

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3. Uniform prices throughout the country
4. Transparency in taxation system
5. Increase in employment opportunities

Benefits for Centre and State Governments:

1. Simple and easy to administer
2. Better controls on leakage
3. Consolidation of Tax base
4. Higher Revenue Efficiency

Benefits Others

1. One nation one tax
2. Not only a tax reform but business reform
3. One process one nation
4. Good and simple tax

Issues that are yet to be considered?

- **Multiple GST tax rate structure [Clauses 9 and 10, Central GST Bill, 2017]**

  The Central GST Bill, 2017 allows the central government to notify rates at which CGST will be levied, subject to a cap of 20%. Further, businesses with turnover less than Rs 50 lakhs may choose to pay tax at a flat rate notified by the government (known as composition levy), which will be capped at 2.5%.

- **No Parliamentary approval needed for CGST rates?**

  The Central GST Bill, 2017 allows the central government to notify CGST rates, subject to a cap. This implies that the government may change rates subject to a cap of 20%, without requiring the approval of Parliament. Under the Constitution, the power to levy taxes is vested in Parliament and state legislatures. Though the proposal to set the rates through delegated legislation meets this requirement, the question is whether it is appropriate to do so without prior parliamentary scrutiny and approval.

- **Against the idea of the GST?**

The Central GST Bill, 2017 provides for the centre to notify CGST rates, allowing for a multiple tax rate structure. The goods and services to be taxed at different rates will also be notified by the government. It may be argued that such a structure may be against the idea of a levying GST at a single rate on all goods and services.

- **GST on services consumed across multiple states [Sections 2(14), 2(15), 12, Integrated GST Bill, 2017]**

Currently, services are taxed by the centre, and therefore the state where they are finally supplied and consumed does not matter for levying service tax. Under GST, states will also have the power to tax services, along with the centre. This means that states will levy SGST in case of intra-state supply of services, while the centre will levy IGST in case of inter-state supply of services and apportion a share of the revenue to the state which is the recipient of the service.

For example, a company A located in Mumbai advertises its products in the Patna edition of a newspaper, which has its registered office in Delhi. In this case, one may argue that the service is being finally consumed in Bihar. However, as the recipient of services is in Mumbai, the tax would accrue to Maharashtra.

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- **Anti-profiteering authority [Section 171, Central GST Bill, 2017]**

The Central GST Bill allows the central government to set up an anti-profiteering authority by law, or designate an existing authority to carry out the functions. The authority will be responsible for ensuring that the reduction of tax rates on account of implementation of GST results in a commensurate reduction in prices. It may be argued that this may allow the government to monitor and control prices of all goods and services, which may interfere with the idea of these prices being determined based on their demand and supply in the market.

- **Sharing of un-utilised money?**

The rationale behind sharing un-utilised money in the GST Compensation Fund with the Centre and among states being different from Finance Commission formula is unclear [Section 10, GST (Compensation to States) Bill, 2017]

Conclusion:-

It can be concluded from the above discussion that GST will provide relief to producers and consumers by providing wide and comprehensive coverage of input tax credit set-off, service tax set off and subsuming the several taxes.

Electronic processing of tax returns, refunds and tax payments through 'GSTNET' without human intervention, will reduce corruption and tax evasion. Built-in check on business transactions through seamless credit and return processing will reduce scope for black money generation leading to productive use of capital, Therefore It is necessary on the part of the government to educate, conduct proper training, continuous seminars and workshop on GST is need of the hour. Thus, necessary steps should be taken.

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