

Framework of GST Laws

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Understanding GST

Concept of GST

- ❑ It is a **destination based tax on consumption of goods and services**. It is proposed to be levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. In a nutshell, **only value addition will be taxed and burden of tax is to be borne by the final consumer.**
- ❑ Destination based tax on consumption would mean, **the tax would accrue to the taxing authority which has jurisdiction over the place of consumption** which is also termed as place of supply.

GST – Modus Operandi

Types of GST

Taxes subsumed

Exclusions from GST

Laws under GST

GST

Intra State Supplies

CGST

SGST

Inter State Supplies

IGST

- ❑ It would be a dual GST with the Centre and States simultaneously levying it on a common tax base. The GST to be levied by the Centre on intra-State supply of goods and / or services would be called the Central GST (CGST) and that to be levied by the States would be called the State GST (SGST). Similarly Integrated GST (IGST) will be levied and administered by Centre on every inter-state supply of goods and services.
- ❑ If a chartered accountant having place of business in Hyderabad provides a service to a client located in Hyderabad, then he has to charge two taxes namely CGST and SGST on the same value.
- ❑ If a chartered accountant having place of business in Hyderabad provides a service to a client located in Bangalore, then he has to charge IGST instead of CGST and SGST on the same value. The component of SGST in IGST shall be shared by the central government to the respective state government where the supply is consumed/deemed to be consumed.

Taxes subsumed under GST

Union Levies	State Levies
Central Excise Duty	VAT/Sales Tax
Service Tax	Entertainment tax (unless levied by local bodies)
Additional Excise Duties	Luxury Tax
CVD (levied on imports in lieu of Excise Duty)	Taxes on lottery, betting and gambling
SAD (levied on imports in lieu of VAT)	Entry tax not in lieu of Octroi
Excise duty on Medicinal & Toilet Prep's	Surcharges and Cesses
Surcharges and Cesses	
Central Sales Tax	

Exclusions from GST

- ❑ Alcohol for human consumption;
- ❑ Petroleum Products – Petroleum Crude, Motor Spirit (Petrol), High Speed Diesel, Natural Gas, ATF;
- ❑ Electricity

The existing tax regimes will continue in respect of taxation of the above items.

Laws under GST

- ❑ Central Goods and Services Tax Act, 2017;
- ❑ State Goods and Services Tax Act, 2017 (Each State shall have separate law);
- ❑ Integrated Goods and Services Tax Act, 2017;
- ❑ Union Territory Goods and Services Tax Act, 2017;
- ❑ Goods and Services Tax (Compensation to States) Act, 2017

Various Aspects of GST

GST Council

Administration

Levy and Collection

Time of Supply

Valuation

Tax Invoices

E-Commerce Operators

Refunds

Anti – Profiteering

Compensation Cess

- ❑ A GST Council would be constituted comprising the Union Finance Minister (who will be the Chairman of the Council), the Minister of State (Revenue) and the State Finance/Taxation Ministers.
- ❑ Quorum is 50% of the total members. Decision shall be taken only if there is 75% majority.
- ❑ GST council is responsible for harmonization on different aspects of GST between the Centre and the States as well as among States and make recommendations to the Centre/State on:
 - ❖ *the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;*
 - ❖ *the goods and services that may be subjected to or exempted from GST;*
 - ❖ *the date from which GST is leviable on excluded items;*
 - ❖ *model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;*
 - ❖ *threshold limit of turnover below which GST shall not be applicable;*
 - ❖ *Others*

- ❑ One of the key decisions taken by GST council is to provide a single interface to the assesseees. Hence, all administrative control is divided as under.
- ❑ **If the turnover of the tax payers is less than Rs 1.5 Crore:**
 - ❑ 90% of the tax payers – the State shall be having the administration responsibility
 - ❑ 10% of the tax payers – the Centre shall be having the administration responsibility
- ❑ **If the turnover of the tax payers is more than Rs 1.5 Crore:**
 - ❑ 50% of the tax payers – the State shall be having the administration responsibility
 - ❑ 50% of the tax payers – the Centre shall be having the administration responsibility
- ❑ The division of tax payers between the Centre and State shall be decided by GSTN and will be known to the taxpayer on his dashboard at the GST portal.

- ❑ The charging section under CGST is Section 9, which states that there shall be a tax called the central goods and service tax on all intra-state supplies of goods or services or both on the value determined under Section 15 and at such rates, not exceeding 20% as may be notified. Similar section shall be there in SGST. For all inter-state supplies, IGST Act, 2017 shall be the governing act.
- ❑ The charging section makes it abundantly clear that the tax (whether CGST/SGST/IGST/UTGST) is on supplies. And as seen from earlier slides, the taxable event under GST laws is 'Supply'. Hence, it is very important to understand the scope of supply in order to appreciate the GST laws.
- ❑ The scope of 'Supply' is laid under Section 7 of the CGST & SGST Act. Section 20 of IGST Act leads us back to Section 7 of CGST Act to understand the ambit of 'Supply'. Now, let us proceed to understand the term 'Supply'.

Understanding Supply:

Section 7 – For the purposes of this Act, the expression ‘Supply’ includes -

All forms of supply of goods or services for a consideration in course or furtherance of business

Import of services for a consideration

Schedule I

Schedule II

Schedule III

Notified activities undertaken by CG/SG/LA as Public Authorities

includes

Supply

does not include

Un

Sup

'Business' includes:

- a. Any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not for pecuniary benefit;*
- b. Any activity or transaction in connection with or incidental or ancillary to sub-clause (a);*
- c. Any activity or transaction in nature of (a), whether or not there is a volume, frequency, continuity or regularity of such transaction;*
- d. Supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;*
- e. Provision by club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;*
- f. Admission, for a consideration, of persons to any premises;*
- g. Services supplied by a person as the holder of office which has been accepted by him in the course or furtherance of his trade, profession or vocation;*
- h. Services provided by a race club by way of totalizator or a licence to book maker in such club;*
- i. Any activity or transaction undertaken by CG/SG/LA in which they are engaged as public authorities*

Understanding Supply – Importation of Services:

Importation of services:

- ❖ Importation of services is included in the expression of 'supply';
- ❖ On importation of services, IGST has to be paid;
- ❖ If importation of services is for consideration, then situation will be covered under Section 7(1)(b);
- ❖ If importation of services is not for consideration and from related persons or from any other establishment outside India, then situation will be covered under Entry (d) of Sch I;
- ❖ Importation of services shall be considered as supply whether such importation happens whether or not in the course or furtherance of business

2(11) of IGST Act

import of services – means the supply of any service, where –

- ☐ supplier of service is located outside India;
- ☐ Recipient of service is located in India;
- ☐ place of supply of service is in India

Understanding Supply – Schedule I:

Schedule I: Activities to be treated as Supply even if made without Consideration:

1. Permanent Transfer/Disposal of Business Assets ***where ITC has been availed on such assets;***
2. Supply of goods or services between related persons, or between distinct persons as specified in Section 25, when made in furtherance of commerce or business;
3. Rule 6(7) of Determination of Value of Supply Rules provide the value of taxable services provided by such class of service providers as may be notified by the Govt as referred to Entry 2 in Schedule I between distinct persons as referred to in Section 25, **other than those where ITC is not available under Section 17(5) shall be deemed to be Nil**
4. Further, gifts not exceeding Rs 50,000/- in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both

Understanding Supply – Goods vs Services:

- ❖ As discussed in the previous slides, when there is a dual tax model on each transaction, that is to say when CGST and SGST has to be charged on each transaction, why is there still necessity to make a distinction between Goods and Services?

- ❖ Goods – means every kind of moveable property other than money and 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 contract of supply – 2(52)

Services – means anything other than goods, money and securities but includes activities relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged – 2(102)

services even under the GST framework.

- ❖ Further, the rate of taxes for goods and services are different. Hence, there has to be a statute which clearly lays as to what are the transactions that are to be treated as goods and services.

Understanding Supply – Schedule II:

Schedule II: Activities be treated as Supply of Goods or Services:

Schedule II

Supply of Goods

Transfer of Goods with Title

Transfer of BAs for the purposes of business

Supply of Services

Transfer of Goods without Title

Transfer of BAs for the purposes other than business

Treatment or Process

Land & Building

Declared Services

Understanding Supply – Schedule II:

Schedule II: Activities be treated as Supply of Goods:

Supply of Goods

Any transfer of title in goods – 1(a)

Any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon a payment of full consideration as agreed

Where goods forming part of assets of a business are transferred or disposed of by or under the directions of person carrying on business so as no longer to form part of those assets, whether or not for consideration, such transfer or disposal – 4(a)

Supply of goods by unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration

Understanding Supply – Schedule II:

Schedule II: Activities be treated as Supply of Services:

Supply of Services

Any transfer of right in goods or of undivided share in goods without transfer of title thereof

Any lease, tenancy, easement, license to occupy land

Any lease or letting out building including commercial, industrial or residential complex for business or commerce, either wholly or partly

Any treatment or process which is applied to another person's goods

Understanding Supply – Schedule II:

Schedule II: Activities be treated as Supply of Services:

Supply of Services

Where, by or under the direction of a person carrying on a business, goods held or used for the purpose of business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of business, whether or not for a consideration, the usage or making available of such goods

Renting of Immovable Property

Construction of complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where entire consideration has been received after issuance of CC or after its first occupation whichever is earlier

Understanding Supply – Schedule II:

Schedule II: Activities be treated as Supply of Services:

Supply of Services

Temporary transfer or permitting the use or enjoyment of any IPR

development, design, programming, customization, adaption, upgradation, enhancement, implementation of information technology software

Agreeing to the obligation to refrain from an act, or to tolerate an act or situation or to do an act

Transfer of right to use any goods for any purpose (whether or not for specified period) for cash, deferred payment or other valuable consideration

Understanding Supply – Schedule II:

Schedule II: Activities be treated as Supply of Services:

Supply of
Services

Composite
Supplies

works contract as defined in 2(119) – means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of **any immovable property** wherein transfer of property in goods (whether as goods or in some other form) is involved in execution of such contract

Supply, by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (other than liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration

Understanding Supply – Does Not Includes:

Notwithstanding to anything contained in sub-section (1) –

- a. Activities or Transactions specified in Schedule III; or*
- b. Such activities or transactions undertaken by CG/SG/LA in which they are engaged as public authorities, as may be notified by Government*

shall be treated as neither a supply of goods nor a supply of services

Understanding Supply – Schedule III:

Schedule III: Activities or Transactions which shall be treated as neither supply of goods/services:

Services by an employee to employer in course of or in relation to his employment

Services by any court or Tribunal established under any law for time being in force

Functions performed by Members of Parliament/State Legislature/Panchayats/Municipalities/Local Authorities

Duties performed by any person who holds any post in pursuance of provisions of constitution in that capacity

Schedule III

Understanding Supply – Schedule III:

Schedule III: Activities or Transactions which shall be treated as neither supply of goods/services:

Duties performed by any person as Chairperson/Member/Director in a body established by CG/SG/LA and who is not deemed as an employee before commencement

Services of funeral, burial, crematorium or mortuary including transportation of deceased

Sale of land and, subject to clause (b) of Paragraph 5 of Schedule II, sale of building

Actionable Claims, other than lottery, betting and gambling

Schedule III

Understanding Supply – Activities by CG/SG/LA:

Activities or Transactions undertaken by CG/SG/LA:

- ❖ The term 'business' covers the supplies made by CG/SG/LA in which they are engaged in public authorities;
- ❖ Hence, by virtue of Section 7(1)(a), supplies made by CG/SG/LA in the capacity of public authorities will be subjected to GST.
- ❖ **However, in light of Section 7(2)(b), the Government on recommendations of council might notify certain supplies neither to be supply of goods nor services.**

Understanding Supply – 7(3):

Power to notify treatment of transactions:

Subject to provisions of Section 7(1) and 7(2), the Government on recommendation of GST Council, specify by notification, the transactions that are *to be treated as*:

- ☐ *Supply of Goods not as a Supply of Services;*
- ☐ *Supply of Services and not as a Supply of Goods;*

Taxability of Composite & Mixed Supply – Section 8:

- ❖ Let us take an example, where goods are packed and transported with insurance. Here there are two supplies namely supply of goods and supply of services that is insurance. The question before us whether the supply has to be treated as supply of goods or supply of services?
- ❖ In order to solve such instances, the concept of 'composite supply' has been introduced. As per Section 2(30) of CGST Act, **'composite supply' means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.**
- ❖ **2(90) deals with the definition of 'principal supply' which means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary**
- ❖ Section 8 deals with taxation of composite supply which states that a composite supply comprising of two or more supplies, one of which is a principal supply, shall be treated as supply of such principal supply. Hence, in the above example, since supply of goods is principal supply, the transaction shall be treated as supply of goods.

Taxability of Composite & Mixed Supply –

Section 8:

- ❖ Let us take another example, where supply of package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit for a single price. The question for consideration is what rate of tax should be applied?
- ❖ In order to solve such instances, the concept of 'mixed supply' has been introduced. As per Section 2(74) of CGST Act, **'mixed supply' means two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.**
- ❖ Section 8(b) deals with taxation of mixed supply which states that a mixed supply comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax. Hence, in the above example, the package attracts the rate of tax which is highest among the supplies made.

Valuation – Section 15:

- ❑ The charging section under CGST is Section 9, which states that there shall be a tax called the central goods and service tax on all intra-state supplies of goods or services or both on the value determined under Section 15 and at such rates, not exceeding 20% as may be notified. Similar section shall be there in SGST. For all inter-state supplies, IGST Act, 2017 shall be the governing act.
- ❑ Valuation is dealt by Section 15. The value of a supply of goods or services or both shall be the transaction value, which is the price paid or payable for said supply of goods or services or both where the supplier and recipient of the supply are not related and the price is the sole consideration of the supply.
- ❑ If the supplier and recipient of the supply are related persons or if the price is not the sole consideration of the supply, then valuation has to be decided based on the valuation rules called Determination of Value of Supply (draft rules notified).

Time of Supply – Section 12 & 13:

- ❑ We have understood that value of supply = transaction value * Notified Rate. Now, it is important to understand when such CGST/SGST/IGST has to be paid. The point of taxation that is to say when tax has to be paid has been dealt by Section 12 and 13.
- ❑ Section 12 deals with the time of supply of goods and whereas Section 13 deals with time of supply of services. There are separate provisions for determining time of supply under normal circumstances and instances where tax has to be paid under reverse charge mechanism.
- ❑ The time of supply of goods that is the liability to pay tax on goods shall arise at the earliest of the following:
 - ❑ *date of issue of invoice by the supplier or the last day on which he is required to issue an invoice for such supply or*
 - ❑ *date on which supplier receives the payment with respect to the supply*

Time of Supply – Section 12 & 13:

- ❑ The time of supply of services that is the liability to pay tax on services shall arise at the earliest of the following:
 - ❑ *date of issue of invoice (if invoice is issued within the prescribed time) by the supplier or the date of receipt of payment by supplier;*
 - ❑ *date of provision of service (if invoice is not issued within the prescribed time) or the date of receipt of payment by supplier;*
 - ❑ *date on which the recipient shows the receipt of services in his books of account, in case the above provisions do not apply.*

Tax Invoice – Section 31:

- ❖ Every registered person supplying taxable goods shall issue an invoice containing particulars (as per Rule 1 of Invoice Rules) before or at the time of:
 - removal of goods for supply to the recipient, where supply involves movement of goods;
 - delivery of goods or making available thereof to the recipient, in any other case.
- ❖ In case of continuous supply of goods, where successive statement of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.
- ❖ Every registered person supplying taxable services shall issue an invoice, before or after the provision of service but within an prescribed period (30 days – as per Rule 2 of Invoice Rules).
- ❖ In case of continuous supply of services, where due date of payment is ascertainable from contract, the invoice shall be issued on or before the due date of payment. Where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when supplier receives payment. Where payment is linked to completion of an event, invoice shall be issued on or before date of completion of that event.

Tax Invoice – Section 31:

- ❖ A registered person supplying exempted goods or services or both or paying tax under Section 10 shall issue, instead of tax invoice, a bill of supply (as per Rule 4 of Invoice Rules). A registered person may not issue a tax invoice if the value of goods/services/both supplied is less than Rs 200/-.
- ❖ A registered person shall, on receipt of advance payment with respect to any supply of goods/services/both, issue a receipt voucher or any other document evidencing receipt of such payment (as per Rule 5 of Invoice Rules) and consequently if no supply is being done, the supplier shall issue as refund voucher.
- ❖ A registered person who is liable to pay tax under Section 9(3)/9(4) shall issue an invoice in respect of goods/services/both received by him from the supplier who is not registered as on the date of receipt of goods/services/both. Further, the recipient has to issue a payment voucher at the time of making payment to supplier.

Tax Invoice – Section 31:

- ❖ In case where supply of services ceases under a contract before the completion of supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of supply made before such cessation.
- ❖ Notwithstanding anything contained, where goods being sent or taken on approval for sale or return are removed before supply takes place, the invoice shall be issued before or at time of supply or six months from the date of removal, whichever is earlier.

E-Commerce Operators:

- ❖ The phrase **electronic commerce** has been defined vide Section 2(44) of CGST Act which means the supply of goods or services or both including digital products over digital or electronic network.
- ❖ The phrase **electronic commerce operator** has been defined vide Section 2(45) of CGST Act which means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
- ❖ The government shall notify certain categories of e-commerce operators who are engaged in **supply of services** to pay tax on services provided vide such platform. If the e-commerce operator does not have physical presence in India, any person representing such operator shall be required to pay tax.
- ❖ E-commerce operator either in goods or services shall not be eligible for the benefit of composition scheme under Section 10.

- ❖ Every e-commerce operator shall be liable for obtaining registration and he is not eligible for the basic exemption limit under Section 22.
- ❖ Every e-commerce operator shall collect an amount at such rate not exceeding 1%, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by operator.
- ❖ **Net value of taxable supplies** shall mean the aggregate value of taxable supplies of goods or services or both other than the services notified under Section 9(5), made during any month by all registered persons through the operator reduced by aggregate value of taxable supplies returned to the suppliers during the month.

- ❖ The claim of refund of tax or interest or any other amount paid by him has to be made by way of an application to a specialized agency of UNO or any MFIO notified under United Nations (Privileges and Immunities) Act, 1947, or to the Consulate or embassy of foreign countries or any other class of persons in the country in which supply was received.
- ❖ Zero rated supply is defined vide Section 16 of IGST Act. It means export of goods or services or both or supply of goods or services or both to a SEZ developer or unit. It is a supply which is made to a unit or person who is eligible for drawback benefits.
- ❖ A person claiming refund of credit at the end of tax period may claim such refund in return furnished under Section 39. It is a refund which is made to a person who has not passed a declaration certifying incidence of tax has not been passed would suffice.
- ❖ On receipt of application, if proper officer is satisfied, he can refund whole/part of the amount claimed and make an order grant the refund within 60 days from the date of application.

- ❖ In case of any claim for refund on account of zero rated supply of goods or services or other than such category of registered persons (to be notified), refund of 90% of ITC [excluding provisionally accepted ITC] shall be granted on submitting the application. The balance can be granted after verification of documents.
- ❖ The refund shall be granted in the following situations:
 - refund of tax paid on zero rated supplies or inputs or input services used in making zero rated supplies;
 - refund of unutilized input tax credit as per Section 54(3);
 - refund of tax paid on supply which is not provided either wholly or partially and for which invoice has not been issued or refund voucher has been issued;
 - refund of tax paid in pursuance of Section 77 [Tax wrongfully collected and paid to CG/SG];
 - tax/interest/any other amount paid by applicant where incidence is not passed;
 - tax/interest borne by such class of applicant notified by CG/SG on recommendation of GST Council.

- ❖ Let us understand the concept of anti-profiteering by taking an example. A builder engaged in construction of residential complexes is selling a flat at Rs 1 Crore as on 30.06.17. The current rate of VAT for construction of residential complexes is 1.25% and service tax is 4.5% leading to a total of 5.75%. The builder is eligible for credit only on service tax paid on input services and excise duty paid on capital goods. He is barred from taking credit either of VAT paid or excise duty paid on inputs like cement, steel and others.
- ❖ Assuming the appointed day being 01.07.17 and also assuming the proposed rate of GST for builders is finalized at 12% with full eligible input tax credit. That is to say the rate of tax has increased by almost 100% from the rate of tax in the existing regime (that is 5.75% to 12%). The question before us now is, how the end consumer benefits out of GST?

- ❖ We have to understand that the builder is now eligible to take credit of excise duty and VAT paid on inputs which are lying in the opening stock, work in progress and finished goods according to the transitional provisions. Assuming 10% is the value of land, 30% is the value of services in Rs 1 Crore, then Rs 60 lakhs represents the value of materials.
- ❖ Taking the average rate of duty on inputs at 20% (14.5 – VAT + 12.5 – ED), the value of credits involved in Rs 60 lakhs materials, would be Rs 12 lakhs (60 lakhs *20%). That is to say the amount of Rs 12 lakhs which was not eligible as credit hitherto, now becomes eligible under GST.
- ❖ Therefore the revised price of the flat shall be Rs 88 lakhs instead of Rs 1 Crore. Hence the new rate of tax shall be applied on Rs 88 lakhs instead of Rs 1 Crore. There would be minor difference in the tax payable before GST and post GST.

- ❖ Now, if such benefit is not passed on to the consumers, then the anti-profiteering measure would be made applicable.
- ❖ As per Section 171, any reduction in rate of tax on any supply of goods or services or benefit of input tax credit shall be passed on the recipient by way of commensurate reduction in prices. The CG, by notification constitute an authority or empower an existing authority to examine whether the input tax credits availed by a registered person or reduction in tax rate have actually resulted in commensurate reduction in prices.
- ❖ Hence, it is necessary to quantify such credits which are eligible now and accordingly the benefit has to be passed to the ultimate consumers.

- ❖ One of the key reasons that the states has agreed to partner with the center for GST is the compensation agreed to be paid by the center in case if the states fall short of their revenue from taxes which are subsumed into GST. The states have made sure that the compensation payable by center is constitutionally safeguarded by placing the provisions in the GST laws.
- ❖ As a result of such deliberation, The Goods and Services Tax (Compensation to States) Act, 2017 has taken birth. The highlights of such act are dealt hereunder.
- ❖ Each state shall be eligible for a compensation as determined in light of the provisions of the above act for a period of 5 years.
- ❖ The compensation shall be payable if the revenue from existing taxes which are subsumed into GST is less than taxes collected by state under GST laws. Revenue from existing taxes shall be taken from a base year that is 2015-16.

Compensation Cess:

- ❖ The projected nominal growth rate of revenue subsumed for the 5 year period shall be 14%. That is to say if the revenue from subsumed taxes is Rs 100 for the 15-16, then the quantum of subsumed taxes for year 18-19 shall be Rs 148.15 $[100 (1+14\%)^3]$. The actual revenue collected by state under GST laws shall be taken. If there is a shortfall the compensation becomes payable, otherwise no payment is to be made to such state.
- ❖ The compensation payable to each state shall be calculated provisionally at the end of two month period. The provisional compensation shall be the difference between the projected nominal growth rate revenue shall be taken provisionally at a pro-rata basis the actual collections further reduced by any compensation paid to the state for the preceding two month period.
- ❖ The final compensation shall be paid/adjusted when the final tax figures on a complete year basis as certified by CAG arrives. If a state has got additional compensation, the same shall be adjusted against future payments.

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- ❖ The compensation payable to each state shall be calculated provisionally at the end of two month period. The provisional compensation shall be the difference between the projected nominal growth rate revenue shall be taken provisionally at a pro-rata basis the actual collections further reduced by any compensation paid to the state for the preceding two month period.
- ❖ The final compensation shall be paid/adjusted when the final tax figures on a complete year basis as certified by CAG arrives. If a state has got additional compensation, the same shall be adjusted against future payments.

Compensation Cess:

- ❖ Where no compensation is due to be released in a financial year, and in case any excess amount has been released to a state in previous year, this amount shall be refunded by State to Central Government and such amount shall be credited to a fund named 'Goods & Services Tax Compensation Fund'.
- ❖ There shall be levied a goods and services tax compensation cess on all intra and inter state supplies for the purpose of providing compensation to the states for loss of revenue arising on account of implementation of goods and services tax act. The said cess shall be in force for a period of 5 years or for such period as may be prescribed by the council.
- ❖ The said cess shall not be applicable on supplies made by a taxable person who has decided to opt for composition scheme.
- ❖ The rates of cess are specified in Schedule to the Act. The cess cannot be levied in excess to such rates specified in the Schedule.

- ❖ The cess shall be on the basis of value, quantity or such basis as specified in the schedule. If the cess is levied on the basis of value then the value has to be reckoned as per Section 15 of CGST Act. In case of imported goods the cess has to be levied on the said goods at the point of time they are imported under Section 12 of Customs Act and value determined under the Customs Tariff Act.
- ❖ Every taxable person making a taxable supply has to pay such cess, file such returns in such forms along with other returns and apply for refund of cess in such form as may be prescribed.
- ❖ **The cess paid on inward supplies on goods or services or both and cess charged on import of goods and cess payable on reverse charge basis shall be utilized only towards payment of said cess on supply of goods and services leviable under this act.**

Compensation Cess:

S.No	Description of Goods/Services	Tariff Heading & Others	Maximum Rate
1	Pan Masala	21	135% ad valorem
2	Tobacco & manufactured Tobacco Substitutes, including tobacco products	24	4,170 per 1000 sticks or 290% ad valorem or a combination not exceeding sum of the above
3	Coal, briquettes, ovoids and similar solid fuels manufactured from coal, lignite, whether or not agglomerated, excluding jet, peat (including peat litter), whether or not agglomerated.	27 01/02/03	4,000 per tonne
4	Aerated Waters	22	15% ad valorem
5	Motor Cars and other motor vehicles principally designed for the transport of persons (other than motor vehicles for the transport of ten or more persons, including the driver), including station wagons and racing car	8703	15% ad valorem
6	Any other supplies		15% ad valorem

Thank you!!!

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