

# Moving Towards A World-Class GST

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## Abstract

The paper analyses the present structure and operation of GST and makes a number of proposals to simplify the tax, reduce its cascading effects, lower the compliance burden on taxpayers, and improve revenue productivity. The important recommendations include (i) expanding the tax base and reducing the cascading effects by bringing petroleum products, electricity, potable alcohol, and real estate into the tax net immediately; (ii) replacing the multiple tax rates with a single rate on goods and services; (iii) making PAN the single GST identification number, and doing away with the State-based GST registration requirement to ease compliance burden; (iv) creating a GST Tribunal, or strengthening the present CESTAT as a National Indirect Taxes Tribunal, similar to the present ITAT, and making the AAR and the Appellate AAR truly independent bodies, not manned by departmental officers; (v) ensuring a uniform and consistent application of GST throughout the country; (vi) setting up an independent National GST Secretariat, headed by a Secretary-General represented by the Centre and the State Government officials, and a Tax Policy Advisory Committee co-opting external economists / tax experts to assist the national GST Secretariat in formulating Tax Policies; and (vii) working out a new formula for compensating the States for any loss of revenue for undertaking GST simplification based on the overall growth of the economy for a fixed period of time.

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## I Introduction

The Goods and Services Tax (“GST”) completed a tumultuous 4-year journey recently in India. The monthly GST collections hover around the INR 1 trillion mark. It remains to be seen how long the negative effect of the pandemic on the economy and the GST revenue collections would extend. It is hoped that the increases in collections are only on account of growth in economy and increase in compliance, and not on account of artificial restrictions of input tax credit through the blocking of credit by the authorities.

It has been noted time and again that the GST implemented by India, though simple as compared to the erstwhile indirect tax regime, is an unnecessarily complex one. While the initial idea was to implement one national GST, given the federal structure of our country and the demands raised by various states, a grand bargain was arrived at where a dual GST was adopted. The Centre and the State Governments now have equal tax jurisdiction across the goods and services, and have equal right to levy GST on supply of taxable goods and / or services on intra-State transactions i.e., on consumption of the goods and services in the destination state rather than the producing state. Unlike in the previous indirect tax regime -- where the taxable event for levying excise duty and for levying state VAT was different, and hence the tax bases were different (except at the first point of sale in certain cases) -- in the GST regime it is levied on a common base both by the Centre and the States.

Further, with regards to the inter-State transactions and transactions involving imports, an integrated GST (IGST) is levied by the Central Government, and such IGST proceeds are to be equally shared between the Centre and the States. While this looks very simple as a concept, it is being implemented in the same old structure, wherein a taxpayer having a pan-India presence still needs to obtain as many State / Union Territory (SGST / UTGST) registrations as may be relevant, and track all of them over and above the one Central GST (CGST) and IGST registration.

Furthermore, there is loss of input tax credit on account of complex place of supply provisions where businesses do not get to claim input tax credit of GST paid on expenses in the States where they do not have a GST registration (Example: hotel accommodation). This was the case in the erstwhile VAT regime as well, where the same taxpayer was required to follow each State’s VAT laws. However, an important silver lining is that the SGST laws and procedures are uniform across the country, unlike the erstwhile State VAT laws. Indeed, this has made life easier for taxpayers, and has reduced the anxieties and uncertainties surrounding the tax compliance procedures. However, payment of GST, filing of returns etc. remains to be undertaken State-wise rather than at one go -- a shadow of complexity overhanging from the erstwhile VAT era.

Realising the necessity to further simplify the GST, the GST Council has very recently set up 2 Groups of Ministers (“GoMs”), one for GST rate rationalisation, and the other for GST System reforms. The success of a tax system depends both upon the simplicity of structure as well as the ease of implementation. These should be the two guiding lights for the revision in the GST structure: to make it more business friendly, while at the same time ensuring that revenues of the Government are not affected. Greater tax collections should be a consequence of greater economic activity and not a result of higher rate of taxes (or higher rate of taxes on select goods). Therefore, the GST structure should ensure that the ease of doing business is maintained and facilitate greater economic activity.

This paper suggests a number of proposals that can make India's GST a simple one, paving the way for reducing the compliance burden on the taxpayers and enhancing the tax buoyancy of the overall revenues by simplifying the GST structure and procedures. By adopting the suggested best international practices, India can play a pivotal role in becoming a dominant player in the global value chain and accelerate economic growth, as the refined GST will attract new investments and make the Indian economy a counter magnet to China. There is a tremendous potential for increasing India's share in the global value chain with enhanced investment flows. These investments will generate greater employment opportunities in India and enhance the GDP growth and will also provide resiliency to the global economic system.

This paper proposes reforms related to the following seven key areas:

1. Widening of the GST net
2. Re-looking at the GST rate structure
3. Easing GST compliance
4. Bringing uniformity in interpretation of GST law and procedures
5. Revamping the GST dispute resolution mechanism
6. Setting up of an independent National GST Secretariat
7. Extending the levy of compensation cess until 2025.

With these reforms our GST system will achieve its true potential and truly become a world-class one.

## II Seven key reforms

### 1. Towards making GST comprehensive

While introducing GST in 2017, the GST Council took many decisions to arrive at a consensus; one such set of decisions was to keep certain products / services out of the GST net. Thus, petroleum products (*crude oil, natural gas, petrol, diesel, and aviation turbine fuel*), electricity, alcohol for human consumption, and real estate have been kept outside the ambit of the GST net. There have been numerous representations and arguments all these years to bring these sectors under the GST net. Keeping the end products out of the GST net and levying GST on the inputs, input services, and capital goods in manufacture of these products results in a huge cascading effect, leading to increased costs and loss for the manufacturers, and hence increased price for the end-consumers. Petrol, diesel, and electricity are glaring examples of such high input costs being recovered from consumers. Further, these are making our exports non-competitive, as -- unlike with domestic consumers -- these costs cannot be passed onto international buyers.

Petroleum products have hitherto been one of the largest sources of revenue for both, the Centre and the States. In the long-drawn deliberations for introducing GST, the Centre and the States agreed to keep the petroleum products out from the GST ambit for initial "few" years – a decision driven solely by the revenue implications. While one would have expected that the five petroleum products (crude oil, natural gas, petrol, diesel, and aviation turbine fuel) kept outside the purview of the GST would be brought under the GST ambit once the GST revenue stabilizes, it is important to note that the GST revenues have been unstable since the introduction of the tax, and the Covid-19 pandemic has made them even more unpredictable.

As the State Governments have been constitutionally assured of making good their possible loss on account of introduction of GST in the first five years from the date of implementation, they should not hesitate in agreeing to tax-structure-related decisions in this period. The GST paid on inputs, input services, and capital goods is not available to be set-off against the output excise / VAT levied on petroleum products. Further, the excise duty/VAT paid on petroleum products is not available as set-off against the final products/services, which attract GST, when petroleum products are in turn used as inputs for the manufacture of final products/provision of services under the GST regime. This results in significant cascading of taxes and increase in costs. These petroleum products form a very large percentage of the consumption basket, both for businesses as well as households. Lack of dependable public transport and infrastructure in many parts of the country has further increased the consumption of these products.

In the last couple of years, though the international prices of crude oil have stabilized at a relatively low level, the Centre and almost all the States have resorted to hiking their respective levies and have mopped up significant revenue. From a high price of around \$110 per barrel in 2012, the price of crude has been on a downslide, and is currently fluctuating between \$70-\$80 per barrel. It is interesting to note that in the last five years, while the international price of crude has been more or less stable (barring an exception in 2020), tax revenues for the Central and State Governments has been steadily rising. The Central Government's revenue from taxation of petroleum products has increased over the last few years. In FY 2016-17, it was around INR 2,732 billion, which increased to INR 3,343 billion in FY 19-20, and shot up to INR 4,538 billion (Provisional Estimate) in FY 20-21. Similarly, the State Governments' revenues increased from INR 1,896 billion to INR 2,211 billion during FY 19-20, and reduced to INR 2,177 billion (Provisional Estimate) during FY 20-21 (Petroleum Planning and Analysis Cell 2021).

The Centre should continue to play the important role of ensuring that co-operative federalism is functioning at its best. Petroleum products should be brought under the GST net. To protect the revenue concerns of the Centre and the States, a non-VATable cess can be levied over and above the GST, which can be divided amongst the Centre and the States. These levies will also play the role of "carbon tax" and promote de-carbonisation, thus helping our country achieve the Paris Agreement commitments. A suitable non-VATable cess also needs to be levied on coal to promote de-carbonisation (2018). The biggest beneficiaries of this change would be the businesses who use these petroleum products as inputs for their business activities (e.g., Aviation Turbine Fuel used by the airlines, petroleum products used by petrochemicals and pharmaceutical sectors etc). They should be allowed to claim input tax credits of the GST paid, thereby reducing the cost of operations. Bringing ATF within the levy of GST will also benefit the airline industry, which has been greatly affected by the Covid-19 pandemic, thus helping stabilize the functioning of this industry.

Furthermore, revenue loss if any incurred by the States from the inclusion of the petroleum products in the GST net can be met by the Centre with the proposed continuation of the compensation cess. Once this is done, electricity, real estate, and finally alcohol for human consumption should also be brought under the purview of GST. This would require amendment to the Constitution as currently the power to levy tax on alcohol is exclusive with the States. However, this would eliminate the inefficiencies and cost escalation once for all. The inclusion of electricity in the GST ambit would also be extremely beneficial to industry at large. The Task Force on Goods and Services Tax of the Thirteenth Finance Commission observed that the impact of the embedded taxes

in power generation and distribution could account for as much as 30% of the cost of power production and distribution (Thirteenth Finance Commission 2009). If electricity is brought under GST, it will substantially enhance cost efficiency across the board, as electricity is an input to almost all the trade and industry. This can have a positive impact, particularly on the labour-intensive textiles sector and other such sectors, boosting exports especially in those sectors where China is reducing its presence.

The GST revenues for the States have come under pressure during the pandemic, and it is imperative that the States have a few additional sources of revenue other than GST revenues in order to sustain their developmental agenda, as also to provide resources for extended support during natural calamities. Bringing real estate fully into the GST fold will also uplift the tax revenues significantly. The real estate sector is notorious for large, unaccounted money transactions. While the Real Estate Regulatory Authority ('RERA') regulations have been introduced a couple of years ago with an objective to provide transparency in the real estate sector, an end-to-end tracking of the money involved, right from the land owner to the sand supplier to the interior decorator is necessary to plug rampant tax leakage. The state-level stamp duty and related registration levies need to be subsumed in the GST. These measures will boost the housing sector, thereby providing employment to large numbers of skilled and unskilled workers. These reforms will also enable urban local bodies to mobilize higher amounts of property taxes.

While GST is levied on construction services and on various inputs like cement, steel etc, which are used in the construction industry, transactions in immovable property (post the construction stage) are not subject to a levy of GST. Therefore, the construction industry will also greatly be benefitted if the tax structure is streamlined, and all transactions connected to the real estate industry are fully brought under GST. Since the construction industry greatly contributes to the development of public infrastructure, streamlining the tax structure of such industry will greatly boost infrastructure and development.

The other assured way of widening the GST tax base of the States and that of the Centre is to completely do away with the GST exemptions. Exemptions force tremendous cascading of input taxes in the economy, as they become costs and thus adversely affect Indian manufacturing competitiveness in domestic as well as international markets. They also promote large-scale cash transactions, as nothing related to the exempted commodity gets tracked through the value chain. More than 400 GST exemptions (goods and services put together) exist currently, and this list needs to be pruned drastically in order to make the overall GST structure simpler and efficient. Ironically, the current GST exemption policy hurts micro and small enterprises much more, as they do not receive input credits. This could be one of the main reasons adversely affecting the recovery of the Small & Medium enterprises ('SMEs').

## **2. Simplifying the GST rate structure**

The GST rate structure designed 4 years ago was largely with the objective to keep the effective rate of taxes in the same range. The then prevalent cumulative tax rate (Excise duty + VAT) largely influenced the finalisation of the GST rate structure. As a result, we have a GST rate structure which

has 5 different rates besides the compensation cess on certain goods. This plethora of rates has made the Indian GST a complex one.

Analytically, for arriving at the appropriate GST rate, budget neutral rate (BNR) would have been a better criterion than the one that was adopted i.e., revenue neutral rate (RNR). As far as the government budget is concerned, GST affects both the revenues as well as the expenditure. Yet another relevant issue is the choice of the time horizon. Major structural reforms like GST are like capital expenditures that have upfront costs and yield results over a longer period. Hence, in arriving at an appropriate GST rate, the requirement of achieving budget neutrality in the first year itself is not useful. The burden on the budget due to GST reforms in the initial years should be treated as an investment made by the Government to introduce major structural reforms with long-term gains.

In most of the developed and emerging market economies, there is a single GST or VAT rate on all goods and services. The countries having a single rate and simple GST or VAT laws have been successful in optimizing the tax revenue and minimizing tax disputes. Out of all the countries who have implemented a GST or VAT in the last 2 decades, around 80 percent of those countries have chosen to have a single rate. A single GST rate for India has been an unmet goal, all through the discussions conducted before implementation. In fact, very early on in the GST debate, a single rate of 12% was recommended by the 13<sup>th</sup> Finance Commission. The ages-old tax policy of having a differential tax rate for “must have” and “nice to have” goods and services should be done away with. The revolutionary reform of introduction of a single GST rate with additional non-VATable taxes on few demerit goods is now required. This will simplify the GST design to a very large extent, putting to rest almost all the classification issues. A lower rate of GST would also mean less incentive to evade taxes. The genesis of the current GST frauds lies in the very structure of the GST rates, as high rates of GST make it lucrative to evade taxes. We have examples of successful standard single rate GST / VAT regimes, including Singapore, New Zealand, UAE, and Japan, to name a few. A single GST rate of 12% (6% for the Centre and 6% for the States / Union Territories) should be introduced at the earliest.

There is an increase in the consumption of digital goods and services, which will only increase in the future. A moderate tax rate of 12% will facilitate the growth and development of the digital economy, while at the same time ensuring adequate GST revenue collections. Though GST is not a progressive tax and having a single rate may result in higher effective taxes in relation to some items/services of essential/everyday consumption, the interests of the weaker sections of society can be protected by provision of direct subsidies, and should not be by way of having multiple GST rates.

The threshold rates for registration should also be increased, so that small businesses are outside the GST net and not subject to an unnecessary compliance burden. For small business, the cost of compliance is a significant part of their business costs, and increasing the GST threshold will alleviate this pain.

A reformed GST system can play yet another important role in our public finance. Currently, the vertical imbalance in the revenues accruing to the Centre and the States is even sharper in the case of the third tier, consisting of elected local bodies and panchayats. This imbalance is having a deleterious effect on India’s urbanization and the quality of local public goods, and thus further aggravating negative externalities for the environment and climate change (Kelkar 2019).

Post the introduction of GST, the Local Bodies that earlier had an independent tax revenue source in the form of octroi duty / entry tax on consumption of goods, today have to fully depend on the States for getting their share in the pie. Property tax is the main tax revenue for the local bodies now. The lack of funds with local bodies has been one of the key reasons for slow development in the projects undertaken by them. A steady source of income, *ab initio* from the consumption of goods and services, needs to be carved out for them without introducing any additional tax. This can be achieved by strengthening the State Finance Commissions in terms of their mandate, with their recommendations receiving acceptance similar to the Central Finance Commission.

This can be achieved by amending Article 266 of the Constitution to include a consolidated fund for Municipalities and Panchayats, and Articles 243H and 243X to ensure that revenue allocated by the Central and State Finance Commissions to Municipalities and Panchayats do not form part of the consolidated fund of the State but rather flow directly to the consolidated fund thus created. Once the Constitution is amended, the GST rate distribution can be 5% to the Centre, 5% to the States / Union Territories, and 2% to the Local Bodies. After a period of, say, 3 years of introducing the suggested GST reforms, the GST rate can be increased to 14% (6% to the Centre, 6% to the States / Union Territories, and 2% to the Local Bodies) to address the long term resource needs of the Centre, States, and Local Governments as well. This can be supplemented by increasing the exemption threshold limit for levy of direct taxes, which will protect the vulnerable sections of the society.

### 3. Easing GST Compliance

The current GST compliance requirement is to a large extent digitized and the introduction of e-invoicing in a phased manner is a step in the right direction. However, the Input Tax Credit (ITC) mechanism needs to be simplified to a large extent. The key highlight of any value-added tax system is ability of the tax payers to claim ITC of almost all the goods and services procured for supplying taxable goods and / or services. The tax paid on the input side ought to be available as a set-off against the liability on the output side. Such is the simple theory, which works wonders in other tax jurisdictions. A simple provision allowing input tax credits of almost everything (with a small negative list) that the businesses procure, and the expense of which is debited to P&L account, needs to be introduced to replace the existing complex ITC mechanism.

The e-invoicing mechanism is now mandatory for taxpayers who have more than INR 50 crore turnover. The plan is to make it compulsory for every taxpayer eventually. Most of the high-value transactions are now covered by the e-invoicing mechanism. It is therefore suggested that the generation of e-way bill for those who are covered by the e-invoicing mechanism be done away with. This will ease the burden of compliance for the taxpayers resulting in quicker turnaround of transport vehicles. All artificial restrictions of input tax credit, such as through blocking of credit and provisional attachments in the garb of protecting revenue, must be removed.

The India GST has been hailed as “one nation, one tax” since its inception. Indeed, the current GST is “one nation, one tax” in concept, in that there are no other taxes levied on supply of goods and services which are under the purview of GST, and State GST rates are now uniform across all the States and Union Territories. However, businesses operating in more than one State / Union Territory still have to obtain GSTIN for each of the States / UTs and file State / UT-wise GST returns on the

GSTN portal, using as many usernames and passwords as the number of States / UTs in which they operate. This has not helped in reducing GST compliance costs, and in fact in some cases the costs have gone up substantially, given the sheer number of state-wise reconciliations that are required to be performed, both month-on-month and annually.

This is an opportune time to design a single GST login and password, doing away with the need for businesses to use state-wise login and password for GST compliances on the GST portal. A taxpayer having pan-India operations should be able to access the GSTN portal with a single click for all the states. This one change itself will provide huge relief for making GST compliance more user friendly.

Currently, GST audits can be undertaken by both, the Central GST authorities as well as the State GST authorities. There has to be a mechanism in place to ensure that there are no 'Dual audits' undertaken for the same taxpayer, which may lead to unnecessary burden on the taxpayers. Either the current bifurcation of the taxpayers done between the Central GST Authority and the State GST Authorities should be followed for conducting GST audits as well, or a turnover threshold-based system may be designed to divide the GST audit activity between the Central GST Authority and the State GST Authorities (e.g. taxpayers having turnover above, say, INR 5 crore can be audited by the Central GST Authority, and those below INR 5 crore by the State GST Authorities).

Further, the audit program should be consistent across the country, and a National GST Audit Manual should be designed, which can be followed by audit officers from the Centre as well as from the States. The GST Council has already formed a Committee of Officers ('CoO') to have a joint & collaborative approach for GST Audit as well as capacity-building for audit. The CoO will ensure that their uniform practices are followed for GST Audit by the Centre and State tax administrations. The Terms of Reference ('ToR') for this CoO should be extended to include GST enforcement / intelligence initiatives as well.

#### **4. Bringing uniformity in interpretation of GST law and procedures**

Since the introduction of GST, there have been numerous advance rulings pronounced in each of the States, and at times there are conflicting views taken by various State GST Authorities on interpretation of the GST law. There was an announcement of setting up of a National Appellate Authority for Advance Rulings, which will introduce procedures for filing of appeals and rectification of orders. There is an urgent need for such a National Authority for Advance Ruling as the primary/first forum which will ensure uniform interpretation of the GST law. It is too much of a task for a taxpayer to first obtain the Advance Ruling from various States on the same issue, and then approach the National Appellate Authority for getting relief in the event of any adverse order.

#### **5. Revamp the GST Dispute resolution mechanism**

It is indeed unfortunate that despite the lapse of more than 4 years, there is no GST Tribunal functioning in the country. The existing provisions of the GST Tribunal were struck down by the Madras High Court, as the provisions were contrary to the binding decisions of the Supreme Court. These provisions have been drafted contrary to the mandate laid down by the Supreme Court on the minimum requirement for Tribunals. Needless to say, the Madras High Court had no choice but to



strike it down. Till date, no appeal has been filed before the Supreme Court. It is recommended that the GST Tribunal is constituted in accordance with the guidelines laid down by the Supreme Court. It is suggested that the CESTAT / ITAT pattern can be followed, with one Judicial Member and one Technical Member of each bench of the Tribunal. In the beginning, we can have four Tribunals in the four zones of Delhi, Bombay, Calcutta, and Chennai. The Benches of the Tribunal can be located in the same places where the current CESTAT is being located. It is further suggested that with the phasing out of Excise and Service Tax, the CESTAT can be renamed as National Indirect Taxes Tribunal (NITT). Therefore, it will deal with the GST, Customs, and other indirect taxes. The President of the Tribunal can be in Delhi, as is presently the case. Vacancies should be avoided, and the Members of the Tribunal must be appointed quickly in accordance with the guidelines laid down by the Supreme Court.

In the absence of the GST Tribunal, the High Courts have been overloaded with cases on indirect taxes, which should preferably be dealt with by a fully-functional Tribunal, with the High Courts confining themselves only to deciding 'substantial questions of law'.

The current Authority for Advance Rulings (AAR) system is not satisfactory, as approximately 80% or more of the rulings are in favour of the Department. This is because the persons giving advance rulings are Departmental officers, who are naturally afraid to take any independent views, in view of vigilance cases and other constraints. Further, for a serving officer, it is impossible to shed their bias in favour of Revenue Department. Thus, the AAR commands very little respect; everybody files an application with the AAR knowing that the claim will be dismissed. Similarly, the Appellate Authority for Advance Ruling is composed only of Revenue officials, and similarly does not command the confidence of the litigants. Under the Income Tax Act, the Authority for Advance Ruling was an outstanding body whose chairperson was a retired Supreme Court judge. The recent amendment has made the Authority a fully bureaucratic body. Therefore, applications will now be filed before the AAR fully knowing that no relief will be forthcoming, and one can straightaway go to the High Court.

If GST is to work efficiently, the dispute resolution mechanism through the AAR and Appellate AAR must be a truly independent and robust mechanism. The greatest beneficiary of such a system will be the Union of India itself. The absence of an independent dispute resolution mechanism leads to serious malpractices at the lower level. Greater clarity in laws and lesser disputes will be more beneficial for businesses as well as the Central Government/State Government. In the recent past, the GST Council has been classifying goods under one head or the other. Sometimes, the classification of the GST Council is contrary to existing Supreme Court/High Court decisions. Once the GST Council decides the classification, the assessee is helpless, and has to challenge it in writ petition. Any disputed classification should be subjected to a show-cause notice and adjudication by the appropriate authority, rather than forcing the taxpayer to resort to the High Courts again.

At present, the statutory provisions do not contain any time limit for investigation. Once a search or survey is done, there should be a 60- or 90-day limit to complete the investigation and take a decision whether or not to issue a show-cause notice. With computerisation, a 60-day period is more than sufficient to issue a show-cause notice. In exceptional cases involving tax evasion at multiple locations, a longer period of 90 days may be given. One of the most dangerous trends is the present practice of keeping the investigations pending and asking the assessee to deposit the disputed duty in

advance, even without a show-cause notice. In several cases, assesseees have been threatened with arrests and harassment. Thereafter, show-cause notice is not issued for several months and even years. This once again breaks the confidence of the industry in the system which is being rampantly abused in this manner. Even assesseees who are not involved in tax evasion have been subjected to such arm-twisting practices, whereby the assessee is asked to pay the duty without any show-cause notice or opportunity for hearing. There are multiple Supreme Court judgments stating that this is completely illegal. In order to restrain this practice, all investigation offices should be equipped with CCTV cameras and recording equipment, in accordance with the directions given by the Supreme Court<sup>1</sup>.

To ensure effective implementation of the GST regime, there is a requirement for change in approach/outlook of the tax authorities, wherein assesseees should be treated as consumers who pay significant taxes and contribute to the welfare of the nation. The relationship between the Government and the taxpayer should not be adversarial in nature. There are innumerable litigations pending across various High Court and even the Supreme Court on procedural issues, such as the non-transition of credit into the GST regime due to glitches in the GSTN. The Government should ensure that all procedural issues are clarified at the earliest, and that the assessee is not affected by technical/procedural glitches not attributable to the assessee themselves. The Government should play a more proactive role in resolving issues and preventing litigation, when the procedural irregularities are minor in nature or are for reasons not attributable to the taxpayer. While the Government should deal with cases of tax evasion with an iron hand, a more taxpayer-friendly approach -- if adopted by the Government -- will foster greater compliance, resulting in greater tax collections.

## **6. Setting up of an Independent National GST Secretariat**

The setting up of an independent National GST Secretariat, which is staffed by officials from the Central Government as well as from the State Governments, will go a long way to ensure that there is uniformity in the interpretation of the GST law across the country, and that no conflicting views are taken by the State GST Authorities. The National GST Secretariat should be headed by a Secretary-General at the same level as a Secretary to the Government of India. The Secretary-General should be appointed on a full-time basis. They can be from the All-India Services, or a distinguished professional from academia or industry. The tenure of the Secretary-General can be for a fixed period of, say, 3 to 5 years.

The National GST Secretariat should function as an independent arm of the GST Council, headed by the Secretary-General and aided by subject-matter experts. It can be further supported by specific consumption-related inputs from state economic intelligent units. This will enhance the analytical basis for decision-making regarding GST policy matters. The Centre and the States can share the expenses of the National GST Secretariat in the same proportion as the voting share in the GST Council meetings.

## **7. Extension to Levy of Compensation Cess**

After 4 years of the implementation of the GST, it now appears that agreeing to compensate the States for any GST revenue shortfall, that too at a 14% compounded growth rate for five years, was a tall order. With no linkage to the GDP growth rate during the same period, and keeping petroleum

products, electricity, alcohol (fully) and real estate (partially) out of the GST ambit, it was but expected that there would be a shortfall in the GST revenues. Adding to the woes was the blow from the Covid-19 pandemic, which took away the slight hope of revival, and now we are staring at an extension of the period for the levy of compensation cess.

The economy was showing high growth during the years 2015 and 2016, hence there was tinge of optimism in proposing a blanket 14% rate across the board for all the States. There were many States then for whom the tax revenues from those taxes subsumed into the GST were growing in single digits at best. A 14% guaranteed increase in revenues, that too at a compounding rate for five years, was like a windfall for these States. The Central Government perhaps should have adopted a differential approach depending upon the pre-GST tax revenues of the States and devised a band of compensation slabs.

The current levy of the compensation cess will come to an end in June 2022 (completion of 5 years from the GST implementation date). Beyond June 2022, the levy of the compensation cess should be restricted only to make good the additional loss suffered during the Covid-19 pandemic, and the revenue losses incurred for undertaking the proposed GST simplification / rationalization. The extension of the compensation cess can be restricted to a period of three years, i.e. until 2025, post which the GST rate can be increased from 12% to 14% to address the revenue needs of the Centre, States / Union Territories, and the Local Bodies. The formula for the quantum of the compensation cess should be linked to the overall annual growth rate in the economy.

Fiscal relations between the Centre and the States have been strained in the last couple of years owing to many factors. Agreeing to the revised formula for extension of the levy of compensation cess is a good opportunity for both the Centre and the States to showcase to the world the true spirit of co-operative federalism. Moreover, the States are required to be incentivized for making good the revenue losses on account of the Covid-19 pandemic, and to continue to be committed to tax reforms leading to improvement in the tax administration mechanism.

### III Summing up: Policy Initiatives for Consideration

Based on the above discussion, the following policy initiatives are suggested to make the GST structure simple which will enable realization of its true potential:

**Bring petroleum products, electricity, potable alcohol, real estate fully under the GST net:** Petroleum products, electricity, potable alcohol, and real estate should be brought under the GST net immediately, without any further delay. Wider the net, lesser the cascading of taxes which are otherwise levied on these products.

**Simplify the GST rate structure:** Scrap the current multiple GST rate structure and bring in a simple, easy to understand single GST rate structure for almost all goods and services with exception for demerit goods and services.

**Ease GST compliance:** Make PAN as the single GST identification number, and do away with the State-based GST registration requirement.

**Revamp GST Dispute resolution mechanism:** Create a GST Tribunal, or continue and strengthen the present CESTAT as a National Indirect Taxes Tribunal, on the lines of the present CESTAT or ITAT. The AAR and the Appellate AAR should be truly independent bodies and not manned by

Departmental officers. If an officer is a member of the AAR, they should not carry out executive functions, and should preferably be sent on deputation to an independent ministry such as the Ministry of Law. Every inspection, search, or seizure must result in either a closure report or in issuance of a show-cause notice in 60/90 days. Further, no demand should be made or duty collected without a show-cause notice.

**Set up an independent National GST Secretariat:** In order to have a uniform and consistent application of GST throughout the country, set up an independent National GST secretariat headed by a Secretary General represented by the Centre and the State Government officials. A Tax Policy Advisory Committee co-opting external economists / tax experts can also be formed to assist the national GST Secretariat in formulating Tax Policies.

**Extend levy of compensation cess:** Work out a new formula based on overall growth in the economy for compensating the States for recouping the additional tax losses on account of the Covid-19 pandemic and for making good the revenue losses incurred for undertaking proposed GST simplification / rationalization measures for a fixed period of time.

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## NOTES

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- <sup>1</sup> Supreme Court Case: Paramvir Singh Saini Vs. Baljit Singh (2021) 1 SCC 184 (SC)  
[https://main.sci.gov.in/supremecourt/2020/13346/13346\\_2020\\_33\\_1501\\_24909\\_Judgement\\_02-Dec-2020.pdf](https://main.sci.gov.in/supremecourt/2020/13346/13346_2020_33_1501_24909_Judgement_02-Dec-2020.pdf)