Goods and Service Tax (GST)

- The Constitution of India was amended by the Constitution **(one hundred and first amendments) Act, 2016.**
- The GST is imposed and collected by the Centre and the States under Article 246A of the Constitution.
- It is a **destination-based tax on the consumption of goods and services**.
- A **destination tax** is a tax that would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed a **place of supply**.

Evolution of GST

- The idea of moving to GST was first floated by the then-Union Finance Minister in his **2006-07 Budget speech**.
- Initially, it was proposed that GST would be implemented on April 1, 2010.
- The **Empowered Committee of State Finance Ministers (EC)**, which designed State VAT, was asked to develop a roadmap and structure for GST.
- In November 2009, the EC issued its **First Discussion Paper (FDP)** on the GST, based on internal and external discussions with the Central Government.
- This outlined the features of the proposed GST and has served as the foundation for discussions between the Centre and the states thus far.
- The **12th Finance commission under the Chairmanship of C Rangarajan** also recommended implementing the GST.
- It was recommended by **Kelkar Committee** setup in 2004 for **"Implementation of FRBM (Fiscal Responsibility & Budget Management Act, 2003)"**
- The government implemented GST on July 1st, 2017.

Features of GST:

- It is to be **levied at all stages right from manufacture up to final consumption** with credit of **taxes paid at previous stages available as set off.**
- In a nutshell, **only value addition is taxed** and the **burden of tax is borne by the final consumer.**

- It is a **dual GST**, with the Centre and States levying it at the same time on the same tax base.
- The Central GST (CGST) levied by the Centre on intra-State supply of goods and/or services is known as the **Central GST (CGST)** whereas the GST by the states is known as the **State GST (SGST)**.
- Similarly, the Centre levies and administers **Integrated GST (IGST)** on all inter-state supplies of goods and services.
- **CGST and IGST** are levied and administered by the **Centre**, whereas **SGST and UTST** are levied and administered by the **states and UTs**.
- A dual GST **complies with the Constitution's mandate of fiscal federalism**.

Taxes Subsumed by GST:

- The GST would replace the following taxes:

Central taxes that are subsumed under the GST are:

- Central Excise duty
- Duties of Excise (Medicinal and Toilet Preparations)
- Additional Duties of Excise (Goods of Special Importance)
- Additional Duties of Excise (Textiles and Textile Products)
- Additional Duties of Customs (commonly known as CVD)
- Special Additional Duty of Customs (SAD)
- Service Tax
- Central Surcharges and cess so far as they relate to supply of goods and services

State taxes that are subsumed under the GST are:

- State VAT
- Central Sales Tax
- Luxury Tax
- Entry Tax (all forms)
- Entertainment and Amusement Tax (except when levied by the local bodies)
- Taxes on advertisements
- Purchase Tax
- Taxes on lotteries, betting and gambling

- State Surcharges and Cess so far as they relate to supply of goods and services

Commodities Kept Outside GST:

- The Products and Services Tax (GST) is defined by Article 366(12A) of the Constitution, as amended by the 101st Constitutional Amendment Act, 2016, as a tax on the supply of goods or services or both, except for the supply of alcoholic liquor for human consumption.
- As a result, **alcohol for human use is exempt from GST** under the constitution's definition of GST.
- **Petroleum crude, motor spirit (petrol), high-speed diesel, natural gas, and aviation turbine fuel have all been temporarily prohibited.**
- The GST Council will determine the date on which they will be subject to GST.
- Furthermore, **power is exempt from the GST.**
- On imported items, customs duty and IGST will continue to be collected.
- Currently, **petroleum and tobacco products are exempt.**
- **Liquor excise duty, stamp duty, and power taxes** are all exempted as well.
- In the case of the aforementioned items, the present taxing structure (VAT and Central Excise) would be maintained.

Structure of GST:

- The government has categorised items into five major slabs for different goods and services - **0%, 5%, 12%, 18% and 28%**.
- Cess may be imposed on the items under the highest slab of 28%.
- GST Council examines issues relating to goods, services tax and makes recommendations to the Union, and the States on parameters like **rates, exemption list and threshold limits**.
- Necessities and food items are kept at the minimal rates of 0% and 5% and the luxury items and sin goods (such as tobacco, pan masala) are placed at the top bracket rate of 28%.
- Out of 1300 products and 500+ services, the majority of the products are placed in the 12% and 18% tax bracket.

GST Council:

- GST Council is **a non-profit organisation dedicated to decisions regarding GST.**
- As per, GST (Article 279A), the **President will appoint a council to administer and manage the GST.**
- It's **Chairman is India's Union Finance Minister,** while its members are ministers chosen by state governments.
- The **council is set up so that the centre has 1/3 of the voting power and the states have 2/3.**
- **A 3/4th majority is required to make a decision.**

Goods and Services Network (GSTN):

- **GSTN is registered as a not-for-profit company under the Companies Act.**
- It has been **formed to set up and operate the information technology backbone of the GST.**
- While the Central (24.5%) and the state (24.5%) governments hold a combined stake of 49%, the remaining 51% stake is divided among five financial institutions—LIC Housing Finance with 11% stake and ICICI Bank, HDFC, HDFC Bank and NSE Strategic Investment Corporation Ltd with 10% stake each.
- GSTN had awarded Infosys Ltd the contract to develop the hardware and software for GST.
- The idea behind GSTN was to set up an entity that is equidistant from both the Central government and the state governments, as it will advise both the Centre and the states on the information technology network.

GST (Compensation to States) Act, 2017:

- As per the **GST (Compensation to States) Act, 2017, loss of revenue to the states** on account of implementation of Goods and Service Tax is payable during the **transition period of 5 years**.
- The Act says that the financial year **2015-16 is to be taken as the base year** for calculating compensation amount.

- The projected **nominal growth rate of revenue** subsumed for a state during the transition period **shall be 14% per annum**.
- The government needs extra revenue to compensate the states, and so the **GST Council allowed the centre to impose additional cess for five years on certain goods** over and above the highest tax bracket of 28%.
- These goods on which cess will be levied include tobacco products, coal, motor vehicles, which include all types of cars, personal aircraft, and yachts.

National Anti-Profiteering Authority (NAA)-(Replace with Competition Commission of India – CCI):

- The National Anti-Profiteering Authority shall be a **five-member committee** consisting of a **Chairman** who holds or has held a post equivalent in rank to a Secretary to the Government of India; and **four Technical Members** who are or have been Commissioners of State tax or central tax.
- Additional Director General of Safeguards shall be the Secretary of the Authority.
- The Authority will determine the method and procedure for determining whether the reduction in rate or the benefit of the **input tax credit** has been passed on by the seller to the buyer by reducing the prices.
- The Authority shall **exist for 2 years** from the date on which the Chairman enters upon his office unless the Council recommends otherwise.
- The GST Council will constitute a Standing Committee and a **state-level Screening Committee on Anti-Profiteering**, Standing Committee comprises officers of the State and Central Government as nominated by it.

Composition Scheme:

- Taxpayers under the composition scheme of the GST will now have more relaxed rules with an increased turnover limit for the applicability, inclusion of service providers and reduced tax rates.
- This scheme is also applicable to the real estate sector with respect to under-construction, ready and affordable homes.

- The composition scheme is an alternative method of tax levy under GST designed to simplify compliance and reduce compliance costs for small taxpayers.
- The main feature of this scheme is that the business or person who has opted to pay tax under this scheme can pay tax at a flat %age of turnovers every quarter, instead of paying tax at a normal rate every month.

Eligibility:

- The composition scheme is applicable to manufacturers or traders whose taxable business turnover is up to ₹1.5 crore (₹75 lakh in case of North-Eastern States).
- A service provider can opt for the scheme if his taxable turnover is up to ₹50 lakh.
- Businesses with inter-State supplies, manufacturers of ice cream, pan masala and tobacco, and e-commerce players cannot opt for the composition scheme.

New Compliances under GST:

e-Way Bills:

- e-Way Bills are a type of electronic bill.
- By introducing "e-way bills," the GST created a centralised system of waybills.
- This system was started on April 1, 2018, for inter-state goods movement and on April 15, 2018, for staggered intra-state goods transit.
- Manufacturers, traders, and carriers can easily generate e-way bills for items moved from their point of origin to their point of destination using the e-way bill system.
- Tax authorities gain as well, as this technique reduces time spent at checkpoints and aids in the reduction of tax evasion.

E-invoicing:

- For enterprises with annual aggregate revenue of more than Rs.500 crore in any previous financial year, the e-invoicing system became effective on October 1, 2020.
- This system was also extended to those having an annual aggregate turnover of more than Rs.100 crore as of January 1, 2021.

- Every business-to-business invoice must be assigned a unique invoice reference number by uploading it to the GSTN's invoice registration page.
- The invoice is checked for accuracy and authenticity by the gateway.
- It then authorises the use of a digital signature and a QR code.
- e-Invoicing enables invoice interoperability and reduces data entry errors.
- Its purpose is to send invoice information directly from the IRP to the GST and e-way bill portals.
- As a result, it will reduce the need for manual data entry when filing GSTR-1 and will also aid in the preparation of e-way bills.

Reforms Brought About by GST:

- **National Market:** By combining a large number of Central and State taxes into a single tax, a common national market can be created.
- **Mitigation of cascading effects:** The GST significantly reduced the negative consequences of cascading or double taxation, paving the path for a common national market.
- **Reduced Tax Burden:** From the perspective of consumers, the main benefit would be a reduction in the overall tax burden on goods.
- **Increasing the competitiveness of Indian products:** Due to the entire neutralisation of input taxes across the value chain of manufacturing, the GST is making Indian products more competitive in both domestic and foreign markets.
- GST would be easier to manage due to its transparency and self-policing nature.

Advantages of GST:

For the Government:

- **Create a unified common market:** Will assist India in establishing a unified common national market. It will also help the "**Make in India" initiative and international investment**.
- **Increase the tax rate Compliance:** Improved compliance environment since all **returns must be filed online, input credits must be validated online**, and a paper trail of transactions must be kept at each level of the supply chain.

- **Discourage Tax evasion:** By eliminating rate arbitrage between neighbouring States and between intra-state and inter-state sales, uniform SGST and IGST rates will minimise the incentive for evasion.
- **Streamline Taxation:** By harmonising tax rules, procedures, and rates between the federal government and states, as well as between states.

For Overall Economy:

- **Will form a secure taxation system:** Bring greater certainty to the taxation system by establishing common procedures for taxpayer registration, tax refunds, uniform tax return forms, a common tax base, and a common system of classification of goods and services.
- **Lessen corruption:** Increasing the use of technology will eliminate the human interface between the taxpayer and the tax administration, which will help to reduce corruption.
- **Boost the secondary sector:** This will improve export and manufacturing activity, create more jobs, and so increase GDP through gainful employment, resulting in real economic growth; in the end, it will aid in poverty eradication by creating more jobs and financial resources.

For the Trade and Industry:

- A more straightforward tax system with fewer exemptions.
- Ease of doing business will improve.
- Reduction in the number of taxes.
- Certain sectors will no longer be subject to double taxes.
- Increasing the competitiveness of our products on the global market.
- Registration, returns, refunds, and tax payments have all been simplified and automated.
- Reduced average tax burden on goods and services supply.

For Consumers:

- **Visible prices:** Due to the smooth flow of input tax credits between the manufacturer, retailer, and service provider, the final price of items is supposed to be transparent.

- **Reduction in price:** Long-term reduction in the price of commodities and goods due to a reduction in the taxation's cascading effect.
- **Poverty eradication:** It is accomplished through increasing employment and financial resources.

For the States:

- **Broaden the Tax Base:** States will be empowered to tax the entire supply chain from manufacturing to retail, which will broaden the tax base.
- **More economic empowerment:** Giving states access to the fastest-growing sector of the economy, which was previously solely available to the federal government, will increase revenue and provide states access to the fastest-growing sector of the economy.
- **Enhancing Investments:** Because GST is a destination-based consumption tax, it will benefit consumers. Improve the country's overall investment climate, which will inevitably boost the country's development.
- **Boosting Compliance:** By minimising rate arbitrage between neighboring States and between intra-state and inter-state sales, nearly uniform SGST and IGST rates will minimise the incentive for evasion.

Issues Regarding GST:

- **All commodities are not covered:** Certain taxes, such as those on alcohol and tobacco, are still not covered by the GST.
- States claim that incorporating them will reduce revenue and deplete a valuable resource.
- However, some experts believe that the underlying explanation is a political-business alliance and high-profile lobbying.
- In addition, India's Finance Minister stated in parliament that a consensus on bringing alcohol and cigarettes under the GST framework is conceivable shortly.
- **GST Council:** There are concerns regarding how to identify which things will fall into which tax bracket and the criteria for determining which items will fall into which tax bracket. It could result in lobbying.

- The Finance Minister has responded by saying that the decision will be made by the GST Council only after full diligence and, most likely, by consensus.
- **Various tax brackets and rates:** Due to different tax rates and bands, the conceptual premise that GST stands for "One Nation, One Tax" is currently diluted.
- In response, the finance minister stated that because the target consumers of goods and services have varying capabilities, a system similar to the democratic lines must be implemented, in which higher-value consumers pay greater taxes.
- **The Central Government has taken away the power of the Parliament to levy taxes:** The Act gives the government the authority to announce CGST rates, subject to a cap.
- This means that the government can change rates up to a maximum of 20% without getting Parliament's permission.
- Parliament and state legislatures levy taxes under the Constitution.
- Though the plan to set rates through delegated legislation satisfies these criteria, the question remains whether it is proper to do so without first undergoing parliamentary examination and approval.
- **Confusion over consumption location:** Under GST, both the state and the federal government can tax services based on where they are consumed.
- Now the problem occurs because the general guideline for determining the recipient's location is his address on file; yet, there are particular requirements for various services such as telecommunications, real estate, transportation, and so on.
- This means that even if a service is used in numerous jurisdictions, the tax revenue is credited to the state where the beneficiary is registered or where his business is located.
- This could result in states with more registered offices paying a larger tax.
- **Anti-Profiteering Clause:** The government intends to establish an authority to determine whether or not there would be any reduction in tax rates when GST is passed on to consumers by businesses.

- This notion is not well received by industry and enterprises, who perceive it as a backdoor entry for inspector raj.