

Standing Committee Report Summary

The Constitution (115th Amendment Bill), 2011 (GST)

- The Parliamentary Standing Committee on Finance (Chairperson: Mr. Yashwant Sinha) submitted its 73rd Report on the Constitution 115th Amendment Bill (Goods and Services Tax), 2011 on August 7, 2013.
- The Bill seeks to amend the Constitution to provide for the introduction of a Goods and Services Tax (GST). It allows both Parliament and state legislatures to frame laws with respect to GST without providing for Parliamentary supremacy. The Bill envisages the harmonisation of the indirect tax regime by subsuming a number of taxes currently levied by the centre and state (such as service tax, state VAT, etc) by introducing a dual levy on the supply of goods and services, one by the centre and one by the state.
- Further, the Bill proposes the establishment of a GST Council which will recommend harmonised tax rates, and a GST Dispute Settlement Authority which will look into disputes regarding these rates. Parliament will have exclusive power to levy GST on imports and inter-state trade. The Committee made the following observations:
 - **Design of the GST:** The Committee noted that the implementation of GST would allow the centre and states to avoid multiple layers of taxation. As per the Committee, this requires a broad consensus among all the states with respect to the design and implementation of the GST, and the centre should play a pro-active role in this regard. The implementation of the GST should be preceded by adequate groundwork on the experience of other countries and a credible study on the impact of the GST regime on state revenues.
 - **Compensation mechanism:** No structured mechanism has been formulated to attend to the concerns of states regarding loss of revenue upon adoption of GST. The Committee recommended the incorporation of a well-defined and permanent compensation mechanism to ensure that states do not suffer revenue losses. For this purpose, it recommended the creation of a GST Compensation Fund under the administrative control of the GST Council.
- **Integrated Goods and Services Tax (IGST):** Under the Bill the existing Central Sales Tax (CST) will be replaced by the Integrated GST. The centre will have exclusive authority to levy taxes on inter-state trade and imports. It will act as a clearing house and transfer the tax thus collected to the state government of the buyer (destination state). The Committee made the following observations with regards to the proceeds of IGST, the Modified Bank Model, and the revenue concerns regarding the “destination” principle:
 - While, in principle, IGST transactions would be revenue neutral, in practice, it is possible to have a positive balance at the end of the fiscal year. Suitable provisions should be made in the Bill for distribution of the remaining proceeds of IGST once the accounts are settled.
 - The Modified Bank Model as proposed by the Task Force on GST set up by the 13th Finance Commission could be considered instead of the IGST Model. Under the Modified Bank Model the centre and states jointly identify a nodal bank to receive the collection of the state and centre GST and work as a clearing house.
 - Since the destination-based IGST model favours consumer states more than producer states, centre should ensure that the model does not act as a disincentive for manufacturing states.
- **Flexibility for states:** The Committee made the following observations with regards to retaining state autonomy under the Bill:
 - **Declared Goods:** In order to ensure that no unilateral decision is taken by the centre with respect to goods exempted from the GST, the Bill should be amended so that Parliament can specify restrictions and conditions of taxes “on the recommendation of the GST Council”.
 - **Flexibility in raising taxes:** A new sub-clause should be added to give Parliament and state legislatures more flexibility in raising taxes in

exceptional circumstances, and the centre to levy surcharges and cess when required.

- **Special category states:** Exceptions with regards to Jammu and Kashmir, North-eastern States and other special category states, etc should be included in the Bill.
- **Floor rate:** States should be allowed to increase their GST rate within a narrow band with a pre-determined floor rate. The threshold limit on turnover for small-traders, etc should also be left to the GST Council.
- **GST Dispute Settlement Authority:** The Committee was of the view that the creation of a GST Dispute Settlement Authority should be omitted from the Bill as this proposed body would override the supremacy of Parliament and the state legislatures. Instead the GST Council should be the body to address disputes.
- **Harmonised tax structure:** The Bill states that the GST Council will be guided by the need for a harmonised structure of GST and for the development of a harmonised national market. The Committee felt that the word “harmonised structure” should be clarified, and it should be emphasised that it is a guiding principle and not obligatory in nature.
- **Consensus:** The Bill specifies that decisions of the proposed GST Council will be made by consensus of all members, but does not define “consensus”. The Committee interpreted this as a “unanimous decision” and felt that a consensus is unlikely due to different socio-economic interests of states. It recommended the amendment of the above clause to provide for voting instead.
- **Entry tax:** The Bill proposes to amend the State List to allow for the collection of octroi, entertainment tax, etc by a Panchayat or a Municipality. The Committee suggested that the entry tax be subsumed in the GST. States should collect the entry tax and distribute it to the local bodies.
- **IT infrastructure:** A well-designed IT infrastructure across the country is a pre-requisite for realising the benefits of GST. The Committee recommended that the central government provide technical assistance and capacity building at the state level.
- **Monitoring:** A GST Monitoring/Evaluation Cell should be created to function under the aegis of the proposed GST Council and to evaluate, on a continuous basis, the immediate impact of the GST on key aspects like GDP, inflation, retail prices paid by final customer, etc.
- **Delegated legislation:** The Committee was of the opinion that specific aspects related to rates, exemptions, exclusions, thresholds, etc should not ideally be included in a Constitution (Amendment) Bill. It should be included in the by-laws and rules.

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