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Legal Complexities and Judicial attitudes towards GST in India

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1. Introduction

The framers of the Indian Constitution anticipated the need for flexibility and adaptation over time, incorporating provisions for amendments through Article 368, which grants Parliament the authority to modify the Constitution and its procedures. This mechanism ensures the Constitution remains relevant in a dynamic socio economic and political landscape. During the period of Prime Minister Shri P. V. Narasimha Rao's in 1991, tax changes were crucial in bringing India's tax structure in line with global standards. These reforms aligned with the Liberalization, Privatization, and Globalization (LPG) program, aiming to modernize and competitively position the economy.

The implementation of the Goods and Services Tax (GST) was a transformative milestone in India's taxation system. Following the Constitution (One Hundred and First Amendment) Act, 2016, GST came into effect across the country on 1st July, 2017, as notified in the Official Gazette of the Government of India. The Goods and Services Tax (GST) in India is divided into four categories, each serving a specific purpose in the unified tax system:

1. The Central Goods and Services Tax (CGST) Act.

Governs intrastate supply of goods and services.

Subsumes central indirect taxes like Central Excise Duty and Service Tax.

Administered under the CGST Act, 2017, and amendments are made as necessary.

2. The Integrated Goods and Services Tax (IGST) Act.

Applies to intrastate supplies, complementing CGST.

Replaces state-level indirect taxes like Entry Tax, Luxury Tax and Entertainment Tax.

Governed by the SGST Act, 2017, specific to each state.

Taxes on petroleum products and VAT are not subsumed under GST.

3. The Union Territories Goods and Services Tax (UTGST) Act.

Similar to SGST but applicable in Union Territories without legislature (e.g., Andaman and Nicobar Islands, Chandigarh).

Administered under the UTGST Act, 2017.

4. The State Goods and Services Tax (SGST) Act Levied on interstate supplies, imports, and exports of goods and services. Ensures seamless input tax credit across state borders.

Revenue is shared between the Centre and the States/Union Territories under the IGST Act, 2017.

In combination with these laws the GST system includes another Central law, the Goods and Services (Compensation to States) Act. which provides the taxation of certain sales called the compensation cess to compensate the States for any loss of revenue that the new tax system may cause. The GST system requires coordination between the Center and States, thus any modifications must go through the GST Council, which includes finance ministers from both the State and Central governments. The new GST was intended to establish a consistent policy and administrative framework for taxing consumption across the country while imposing minimal tax-based trade constraints.

2. The Salient Features of GST In India

Under the Goods and Services Tax (GST) system, the concept of "supply" plays a central role, serving as the taxable event upon which liability arises. According to Sections 12 and 13 of the CGST Act, the timing of the supply determines when the GST becomes payable, ensuring clarity in tax liability. Key aspects include:

Definition of Supply: The term encompasses the transfer, exchange, or provision of goods, services, or both, forming the basis for GST applicability.

Revenue Allocation: Under the IGST Act, GST revenue is directed to the state where the goods or services are consumed. This principle, known as the place of supply, ensures that the consuming state's economy benefits from the tax. This framework aligns with GST's overarching goal of fairness, eliminating cascading taxes and promoting a seamless nationwide tax mechanism.

Destination Based Tax: - The Goods and Services Tax (GST) operates as a destination-based tax, meaning it is applied at the point of consumption rather than the point of origin or production. This ensures that the revenue generated through GST is collected by the state where the goods or services are consumed. This principle promotes fairness and reflects GST's aim to eliminate tax cascading while fostering seamless input tax credits across states. By being destination based, GST encourages an equitable distribution of revenue and strengthens the economic fabric of the consuming states.

Dual GST: - India's GST framework mirrors Canada's dual GST model, featuring two taxation components:

1. Central Goods and Services Tax (CGST)
2. State Goods and Services Tax (SGST)

These two taxes can be simultaneously applied to transactions within a single state, reflecting India's federal governance system. The 7th Schedule of the Constitution delineates specific responsibilities for both Central and State Governments regarding tax collection and administration. CGST and SGST are levied on all goods and services transactions across the country. The dual GST structure is designed to be a straight forward, transparent, and efficient tax system, with well-defined CGST and SGST rates set by the government to ensure minimal impact on the population. Since dual GST states i.e. both the Central and State Governments who can impose and collect taxes from the consumers on the same goods and services, therefore, there is a possibility of dispute and could be resolved by the GST Council.

Inter-State Supply: - When goods and services move across state boundaries, this is termed as inter state supply. The Integrated Goods and Services Tax (IGST) applies to all such transactions, where the supplier's location and the place of supply are in different states, Union Territories, or a combination of a state and a Union Territory. The Central Government collects the IGST and ensures its fair distribution:

50% of the IGST revenue remains with the Central Government as CGST.

The remaining 50% is allocated to the respective State Government where the goods or services are consumed. This mechanism ensures a smooth tax-sharing arrangement while adhering to the destination-based principle of GST.

3. Benefits of GST:

1. Consolidation of tax base
2. Easy compliance
3. Expected reduction of prices
4. Higher revenue efficiency for the consumer
5. It has improved competitiveness for Central and State Governments
6. Removal of cascading factor
7. Simple and easy to administer
8. Single and transparent tax proportionate to the value of goods and services

4. Impact of GST on Indian Economy:

Before the implementation of GST in India, the indirect tax system was characterized by a multiplicity of taxes with varying rates at both the central and state levels. This fragmented structure led to complexity, inefficiency, and challenges for businesses, with tax rates differing across states. It often became a source of inconvenience for trade and industry. In contrast, GST introduced a unified tax mechanism featuring:

A uniform tax exemption list,
Standardized tax rates on goods and services, and
Harmonized collection procedures.

GST embodies the principle of 'One Nation, One Tax', fostering the creation of a common national market. It marked a significant shift from the fragmented, old tax regime to a streamlined, efficient system, eliminating cascading effects of taxation. Some people liken this transformation to a change in substance while retaining the form, symbolized by the phrase "the bottle is the same, but the quality of material is replaced."

5. Impact of Constitutional provisions in the context of GST in India:

Before 2017, India's taxation power was strictly partitioned. the Centre taxed manufacturing (Excise) and services, while States taxed the sale of goods (VAT). GST required these powers to overlap. To fix this, the 101st Amendment inserted **Article 246A**, which granted "simultaneous power" to both Parliament and State Legislatures to make laws regarding GST. This ended the old "watertight compartment" approach to taxation. The amendment introduced three "pillars" into the Constitution to make GST functional:

- **Article 246A (The Foundation):** Insertion of new article 246A which makes enabling provisions for the Union and States with respect to the GST legislation. It further specifies that Parliament has exclusive power to make laws with respect to GST on interstate supplies (IGST).
- **Article 269A (Revenue Sharing):** Directs that GST on inter-state trade is collected by the Government of India but apportioned between the Union and the States based on recommendations from the GST Council.
- **Article 279A (The Governance):** This created the GST Council. For the first time, a constitutional body was formed where the Union Finance Minister and State Finance Ministers sit together to decide tax rates, exemptions, and thresholds. This provision establishes the framework for GST on inter-State trade or commerce. Such supplies are subject to Integrated Goods and Services Tax (IGST), which is collected by the Government of India and later apportioned

between the Union and States based on the recommendations of the GST Council. It also empowers Parliament to create laws that define the principles for determining the place of supply, ensuring clarity on when goods, services, or both qualify as inter-State transactions. This aligns with the destination based nature of GST, supporting smooth tax allocation across states.

The Constitution (101st Amendment) Act, 2016 has brought the following important changes in the Constitution whose impacts in the context of GST are hereby explained below:

Amendment of Article 248: Before 2016, Article 248 gave Parliament absolute "residuary powers" (under Entry 97 of List I) to tax any matter not specifically listed in the State or Concurrent Lists. Since GST is a new tax that didn't fit neatly into the old lists, the amendment was necessary to ensure that Parliament's residuary power does not override the new, special provisions of Article 246A.

Amendment of Article 249: GST is not explicitly mentioned in the Union List or the State List. Instead, it was granted a unique "concurrent" status through the insertion of Article 246A. Because GST does not sit in the State List, the original text of Article 249 would not have allowed Parliament to override state jurisdictions on GST in the national interest. The amendment explicitly bridges this gap. It allows Parliament to step in and make laws concerning GST for the whole or any part of India if the Rajya Sabha agrees that it is in the national interest. This ensures that even though GST is shared between the Centre and States, a mechanism exists to enforce national uniformity if an emergency or critical national interest arises.

Amendment of Article 250: The original text of Article 250 would technically not have granted Parliament the authority to override state GST laws during an emergency. This amendment explicitly extends Parliament's emergency legislative domain to include GST. During an emergency, national security, financial stability, and streamlined administration become paramount. This amendment ensures that Parliament can unilaterally alter tax rates, compliance rules, or distribution metrics concerning GST to facilitate rapid resource mobilization without facing legislative friction from states.

Amendment of Article 268: One of the primary goals of the GST regime was to replace a multitude of central and state indirect taxes with a single, unified tax on the supply of goods and services. This specific deletion was a critical clean-up measure required to dissolve the older, fragmented indirect tax structure and transition seamlessly into the Goods and Services Tax (GST) regime. Duties of excise on medicinal and toilet preparations were heavily taxed under separate rules (governed by a 1955 Central Act).

To prevent double taxation and ensure a flawless credit chain, these duties needed to be completely subsumed into the overarching GST net.

Article 268A: Omitted by the (101st Amendment) Act, 2016 of the Constitution of India, s. 7 (w.e.f. 16-9 2016). It was inserted earlier by the (88th Amendment) Act, 2003, s. 2 of the Constitution of India.

Article 268A was a temporary rule created to manage service tax in India, but it was deleted because of the Goods and Services Tax (GST). Before GST, the government wanted a clear way to tax the growing service sector (like banking or mobile recharges). The 88th Amendment added Article 268A to let the Central government create the tax, while letting both the Centre and the States collect and share the money. However, this rule was never actually activated by the government.

When India decided to bring in the GST, the old system had to be cleared out. GST treats both goods and services under one single tax system. Because a newly added rule (Article 246A) gave both the Centre and the States equal, joint powers to tax services, the old Article 268A became useless and was officially deleted by the 101st Amendment.

Amendment of Article 269: In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.

Article 269A : This provision establishes the framework for GST on inter-State trade or commerce. Such supplies are subject to Integrated Goods and Services Tax (IGST), which is collected by the Government of India and later apportioned between the Union and States based on the recommendations of the GST Council. It also empowers Parliament to create laws that define the principles for determining the place of supply, ensuring clarity on when goods, services, or both qualify as inter-State transactions. This aligns with the destination based nature of GST, supporting smooth tax allocation across states.

Article 270: This amendment ensures provisions for the distribution of GST collected by the Union Government between the Union and the States. It strengthens the cooperative federal structure of India by allocating GST revenues in a manner that aligns with the recommendations of the Goods and Services Tax Council.

Article 271: This amendment focuses on restricting Parliament's authority to impose surcharges on goods and services falling under Article 246A, which governs GST. By doing so, it ensures that transactions already subjected to GST remain free from any additional surcharges. This measure upholds the streamlined and unified tax structure envisioned under GST, preserving its integrity and preventing multiple layers of taxation within its framework.

Article 279A: The introduction of this Article establishes the framework for the constitution and mandate of the GST Council. The GST Council plays a crucial role in shaping India's Goods and Services Tax (GST) system, acting as a collaborative body where the Central and State Governments deliberate on GST rates, exemptions, and policies. It ensures cooperative decision-making to create a unified and efficient tax structure across the nation.

Amendment of Article 286: Before GST, Article 286 restricted states from taxing sales that took place "outside the state" or during imports/exports. This created decades of fierce litigation over the exact physical or legal location where a sale officially took place.

The amendment to Article 286 of the Constitution made significant changes to align the terminology with the GST framework: By substituting "sale or purchase" with "supply," the location of title transfer became irrelevant. "Supply" is a continuous economic event defined by the location of the consumer. This killed off complex legal arguments regarding where a contract was signed or where the ownership of the goods actually passed.

By inserting "or services or both" into Article 286(1)(b), the Constitution officially stripped states of any power to tax international services. This ensured that zero-rating (tax exemption) on exports remained uniform nationwide, protecting India's massive IT and service export economy from local state levies.

The amendment to Clause (2) of Article 286 was enacted through Section 13 of the Constitution (101st Amendment) Act, 2016. By substituting the phrase "sale or purchase of goods takes place" with "supply of Goods or of Services or both", the Constitution redirected its core restriction to match the mechanics of the Goods and Services Tax (GST). Originally, Article 286(2) empowered Parliament to formulate principles to determine when a "sale or purchase of goods" took place outside a state or in the course of import/export. Because GST also applies to services, this amendment expanded Parliament's power. It authorizes Parliament to formulate "Place of Supply" rules for services alongside goods.

Before GST, the central government could label certain essential raw materials (like iron, steel, coal, and cotton) as "Declared Goods" or goods of special importance. If Parliament did this, individual states were legally strictly limited on how much local sales tax they could charge on those specific items. This was done to make sure states did not make vital national resources artificially expensive for the rest of the country. Clause (3) of article 286 has been omitted entirely With the arrival of GST, keeping this clause would have caused major legal conflicts. If Clause (3) were kept, Parliament could bypass the GST Council and unilaterally put a cap on tax rates for certain goods. This would

violate the team spirit (cooperative federalism) that the GST is built on. These amendments reflect a shift in focus from the traditional concept of "sale or purchase" to "supply", which is central to the GST system. This ensures consistency and clarity within the taxation provisions.

Article 366: The amendment to this Article specifically excludes Alcoholic Liquor for human consumption from the scope of GST, ensuring that it remains outside the purview of the unified tax system. Additionally, the definition of services has been formalized as part of this amendment, providing clarity in the categorization and treatment of services under the GST framework. These changes streamline Article 368 the application of GST while retaining separate taxation for specific categories like alcoholic liquor. This amendment introduces a special procedure requiring the Ratification of the Bill by the legislatures of at least one-half of the States, alongside the usual voting method for constitutional amendments. This ensures that any modification to the GST Council structure or mandate gains adequate approval from state legislatures, reflecting the cooperative federal nature of GST governance in India. It strengthens the approach between the Centre and States in managing GST-related matters.

The amendments to the Sixth Schedule of the Constitution were made through Section 16 of the Constitution (101st Amendment) Act, 2016 to prevent conflicts with the new Goods and Services Tax (GST) rules.

The Sixth Schedule deals with the administration of special tribal areas in the four North-Eastern states of Assam, Meghalaya, Tripura, and Mizoram should be self-governing. If Parliament had allowed GST to completely take over entertainment taxes in these areas, the tribal councils would have lost a major way to make their own money. Clause (e) acts as a legal shield, ensuring they can still collect this specific local tax directly to fund their own schools, roads, and hospitals. This modification brings additional clarity and provisions to the taxation framework by protecting Tribal Self-Reliance from the "GST Wave".

Amendment of Seventh Schedule and Compensation to States for loss of revenue on account of introduction of Goods and Services Tax. Parliament, upon recommendations from the Goods and Services Tax (GST) Council, is required by law to ensure compensation to States for any revenue losses arising from the implementation of GST. This provision guarantees financial support to States for a period of five years, helping them adapt to the new tax structure and mitigate any immediate fiscal impacts. It reinforces the cooperative federalism embedded in India's GST framework.

The constitutional structure has withstood legal and political scrutiny, but its implementation has been uneven. The GST Council, which was created as a federal

consensus-building body, has mainly functioned smoothly, although disputes have emerged, particularly over compensating cess, rate rationalisation, and state fiscal autonomy. These contradictions reflect a larger push and pull between cooperative federalism and fiscal autonomy.

6. Judicial Initiatives in matters relating to GST:

Judicial initiatives are crucial for promoting justice and human rights in defence of the nation's citizens. The judiciary serves as the backbone of legal interpretation, ensuring the progressive application, protection, and enforcement of Fundamental Rights and the Directive Principles of State Policy, as outlined in India's Constitution. GST has resulted in a large amount of litigation over the last eight years. The judiciary has emerged as an important arbiter, interpreting crucial statutory provisions, balancing taxpayer rights and revenue interests, and establishing constitutional theory in the framework of fiscal federalism.

Judicial intervention in Goods and Services Tax (GST) cases in India has become a critical check on administrative power, primarily through the Writ Jurisdiction of High Courts under Article 226 and the Supreme Court. While courts generally prefer that taxpayers exhaust "alternate remedies" like statutory appeals, they intervene in cases of natural justice violations, lack of jurisdiction, or constitutional invalidity.

The year 2025 witnessed several landmark rulings in the field of Goods & Service Tax, with courts and tribunals adjudicating upon a wide spectrum of issues. From the Supreme Court's reaffirmation of substance over form decisions clarifying the scope of exemptions, taxability, and scope, these rulings have significantly influenced tax positions adopted by taxpayers and the Revenue alike.

7. Key Areas of Judicial Intervention in GST related matters:

- **Union of India v. Mohit Minerals (P.) Ltd**. **[2022]** The Supreme Court struck down the IGST levy on ocean freight in CIF contracts, invoking the principles of non-taxation of extraterritorial services and double taxation. The judgment also held that GST Council recommendations are persuasive and not binding, a landmark affirmation of India's federal character.
- **Union of India v. VKC Footsteps India Ltd. :** The Court upheld Rule 89(5), denying ITC refund on input services under the inverted duty structure, reaffirming judicial restraint in matters of economic and legislative design.

- **Skill Lotto Solutions (P.) Ltd.:** Upheld the constitutionality of GST on lotteries and categorised lottery tickets as "goods," affirming Legislature's competence under Article 246A.
- **Radha Krishan Industries v. State of Himachal Pradesh**: Emphasised that provisional attachment under Section 83 must not be exercised mechanically, and reiterated the maintainability of writ petitions under Article 226 in cases involving violation of fundamental rights.
- **Central Board of Indirect Taxes and Customs v. Aberdare Technologies (P.) Ltd. (2025) 29 Centax 10 (S.C**.): Clarified that bona fide clerical or arithmetic errors should not lead to penal consequences, especially where there is no loss of revenue—establishing an important safeguard for taxpayers.
- **Chief Commissioner of CGST v. Safari Retreats (P.) Ltd. [2024]** : Recognised that buildings used for leasing constitute business assets, and allowed ITC on construction-related capital expenses in such cases—challenging the restrictive interpretation of Section 17(5).

Arrest and Coercive Measures: The Supreme Court in Radhika Agarwal (2025) established that while authorities can arrest before a formal assessment, they must record "reasons to believe" based on concrete evidence.

Courts have affirmed the right to seek anticipatory bail for GST offenses and mandated that CrPC safeguards (e.g., being informed of grounds, legal representation) apply to GST arrests.

Protection of Input Tax Credit (ITC): **Bona Fide Errors**: The Supreme Court in Aberdare Technologies (2025) ruled that taxpayers have a right to rectify genuine/clerical mistakes in returns (GSTR-1 and GSTR-3B) and that software limitations cannot be used to deny legitimate ITC.

Supplier Default: Judicial rulings (e.g., Shanti Kiran India) have "read down" provisions to protect bona fide purchasers from ITC denial solely because a registered seller defaulted on tax remittance, provided there is no evidence of collusion.

ITC Blocking: The judiciary has intervened to limit the blocking of ITC under Rule 86A, often capping it at the 10% pre-deposit amount required for an appeal.

Natural Justice and Procedural Fairness: Courts frequently quash orders passed without a personal hearing, a reasoned/speaking order, or proper service of notice (merely uploading to the portal is often deemed insufficient).

The right to cross-examine third-party witnesses whose statements form the basis of a tax demand has been upheld as an indispensable component of natural justice.

Recovery and Attachment: Judiciaries have quashed provisional attachments of bank accounts and property where they were used as "drastic measures" without following due process or recording justification.

Recovery notices issued before the expiry of the appeal period (generally 3 months) have been declared premature and legally unsustainable.

Limits on Intervention

Alternate Remedy: Courts generally dismiss writ petitions if the taxpayer has not approached the Appellate Authority (Section 107), unless there is a manifest illegality.

Policy and Tax Rates: The judiciary generally refrains from ordering GST rate cuts (e.g., for air purifiers), viewing such fiscal policy as the exclusive domain of the GST Council under Article 279A

8. GST related issues in Rural India:

The implementation of GST in India (July 2017) marked a shift toward a formal, digitised economy. However, for the nearly 65% of India's population residing in rural areas, the transition has been fraught with "digital exclusion." The legal framework of the CGST Act, 2017, assumes a level of technological proficiency and internet stability that remains inconsistent across India's 600,000+ villages.

Under Article 279A, the GST Council holds the power to recommend tax rates. A primary legal concern for rural states has been the erosion of fiscal autonomy. Rural economies, heavily dependent on agriculture and allied services, often face a revenue gap when local "mandi" taxes were subsumed into GST. Although the GST (Compensation to States) Act, 2017 initially bridged this gap, the transition to a post-compensation era in 2025 has forced rural-heavy states to aggressively pursue enforcement, often leading to aggressive "search and seizure" actions under Section 67.

Input Tax Credit (ITC) and the Unorganised Sector:

The backbone of the rural economy consists of micro-enterprises and small-scale farmers.

The Supplier Compliance Burden: Under Section 16(2), a buyer can only claim ITC if the supplier has paid the tax. In rural supply chains, where many sub-dealers are small or semi-literate, a single "broken link" in the digital chain leads to ITC blockage for the entire value chain.

Inverted Duty Structure: Agriculture traditionally suffered from higher taxes on inputs (pesticides, machinery) than on outputs (raw produce is mostly 0%). The 2025

Rationalisation addressed this by slashing rates on tractor parts and solar pumps to 5%, but legal disputes remain regarding the "refund of unutilised ITC" for previous years.

Procedural Hurdles: Sections 122 & 129 Rural traders often face heavy penalties under Section 122 (tax evasion) and Section 129 (detention of goods in transit) due to clerical errors in e-way bills. High Courts have recently taken a lenient view of rural "bona fide" errors. In Sterling & Wilson (2026), the court ruled that minor distance discrepancies in e-way bills due to rural road diversions should not attract maximum penalties.

9. Impact of GST 2.0 (September 2025 Reforms):

The 54th and 55th GST Council meetings introduced pivotal changes for the rural sector: Farm Mechanisation: Reducing GST on tractors and harvesters from 12% to 5% has lowered the "entry cost" for technology-led farming.

The 30-Day Rule: A new legal mandate requires e-invoices to be reported within 30 days. For rural SMEs with intermittent electricity or internet, this "hard validation" poses a risk of total compliance lockout.

10. Conclusion:

The implementation of the Goods and Services Tax (GST) was a transformative milestone in India's taxation system. The new GST was intended to establish a consistent policy and administrative framework for taxing consumption across the country while imposing minimal tax-based trade constraints. GST embodies the principle of 'One Nation, One Tax', fostering the creation of a common national market. It marked a significant shift from the fragmented, old tax regime to a streamlined, efficient system, eliminating cascading effects of taxation. Some people liken this transformation to a change in substance while retaining the form, symbolized by the phrase "the bottle is the same, but the quality of material is replaced."

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The legal landscape of GST in rural India is moving from "stabilisation" to "refinement." While rate cuts have provided relief, the legal system must evolve to recognize "technological inability" as a valid defence against procedural penalties. True tax equity will only be achieved when the digital requirements of the GST portal match the physical realities of the rural landscape.