



GST and the Indian Federal Structure: A Test of Fiscal Sovereignty and Cooperative Federalism

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ABSTRACT :

The introduction of the Goods and Services Tax (GST) in India was a constitutional revolution disguised in fiscal language, not just a legislative change. GST arrived on the chariots of ambition and economic pragmatism, promising efficiency, uniformity, and a single national market. As implementation came to an end, however, the result was not only a simplified tax system but also a subtle yet profound realignment of power within the Indian federal system. The undercurrents of this change are explored in this article, which shows how the GST has changed the boundaries of fiscal sovereignty, reshaped the relationship between the Centre and the State, and prompted a new investigation into the essence of Indian cooperative federalism. This paper aims to not only analyse but also to awaken—provoking a deeper understanding of what it means to be a federation in the twenty-first century—through constitutional scrutiny, seminal rulings, and comparative perspectives.¹

Keywords: GST, Indian Federalism, Fiscal Sovereignty, Cooperative Federalism, Article 246A, Article 279A, Constitution of India, GST Council, Centre-State Relations, Tax Autonomy

I. Introduction

At certain points in a country's history, quiet is more powerful than catchphrases. The July 2017 introduction of the Goods and Services Tax (GST) was anything but quiet. Fanfare, festivities, and proclamations of a "new India"—a single market bound by a single tax vision—were all part of it.² Like a festival, the Parliament was illuminated. There were speeches. It was said that history had just been written.³ And maybe it was. However, something much more significant started to happen—almost imperceptibly—as the fireworks faded and the PowerPoints were packed away. India's federal structure's foundations, which had been carefully balanced over many years, had been pushed. With grace, not with force. A rethinking of fiscal power, a renegotiating of sovereignty between the Union and the States, and a subtle transition from competition to cooperation—or perhaps compliance—were all part of the GST.⁴ Federalism has always been stitched with central threads in India's Constitution, like a well-tailored garment.⁵ India's diversity necessitated decentralisation, but the frailty of independence demanded unity, as the framers understood.⁶ Political pressures, economic realities, and judicial interpretation have all contributed to the evolution, bruising, and maturation of this federal balance over time. However, no other reform since the Constitution's draughting has put this balance to the test as much as the GST.⁷ There is a paradox at the core of GST. Despite its claims of cooperation, it operates through a Council in which the Centre and States are supposed to share power, although some contend that the balance is not fair.⁸ Although it binds states to a uniformity that frequently stifles individual fiscal agency, it asserts that states are empowered through consensus.⁹ Although it purports to simplify taxes, it may have actually reduced the intricacy of state autonomy to a silent compliance.¹⁰ This essay is neither a celebration of national homogeneity nor a lamentation of state sovereignty. It's an invitation to consider how tax reform has evolved into a federal test. It investigates whether the constitutional amendments that established Articles 246A and 279A strengthened central supremacy or promoted cooperative governance.¹¹ It examines the GST Council's organisational structure and operations, the ramifications of the *Mohit Minerals*¹² ruling, the financial consequences of COVID-19¹³ and other crises, and the implications for India's federal soul. Above all, this article aims to remind the reader that taxes in a federation are never solely about money. It has to do with voice, power, and the type of democracy we decide to adopt.

II. The Constitutional Foundations of Indian Federalism

The Indian Constitution is fundamentally about striking a balance between the Centre and the States, between unity and diversity, and between ambition and accommodation. Its federal structure is the most delicate place to tell this story. The framers purposefully decided against adopting a traditional federal model like that of the United States because they were drawn in the wake of Partition and with the subcontinent still haunted by the threat of secession. Rather, they created a "federation sui generis," a model specifically designed to accommodate India's distinct political climate.¹⁴ Indian federalism is structurally supported by the division of legislative, executive, and financial powers among three levels—Union, State, and Concurrent Lists under the Seventh Schedule—despite the absence of the word "federation" in the Constitution.¹⁵ Although it recognises the existence of States, Article 1

affirms that India is a "Union of States," not a federation of equal partners, thereby reaffirming the notion that the Union's existence is indivisible and sovereign.¹⁶ But historically, the Centre has benefited from fiscal federalism, which provides the financial foundation for this balance. States have been responsible for the majority of public service spending, while the Union has had the majority of the authority to raise revenue.¹⁷ Mechanisms like the Finance Commission under Article 280 and grants-in-aid provisions under Article 275 helped to partially alleviate this asymmetry.¹⁸ Nevertheless, states frequently found themselves politically and financially dependent in spite of such mechanisms.¹⁹ It is impossible to overestimate the importance of taxes in this constitutional discussion. Taxation is an expression of sovereignty as well as a means of raising money. Taxation, economic policymaking, and public welfare funding are examples of constitutional authority rather than administrative choices.²⁰ When a state gives up its ability to impose taxes, it is giving up more than just a financial instrument; it is giving up some of its independence.

Value Added Tax (VAT), luxury tax, entertainment tax, and purchase tax were among the topics that States had sole authority over prior to the introduction of the GST. These taxes were frequently vital lifelines for State budgets.²¹ On the other hand, the Centre had jurisdiction over service tax and excise taxes. The 101st Constitutional Amendment, which added Article 246A, upended this obvious vertical division and granted the Centre and States concurrent authority to enact GST laws.²² On the surface, it seemed cooperative, but underneath were more profound changes. The GST Council is a special institutional mechanism that governs the GST, in contrast to other taxing authorities. This body, which was created in accordance with Article 279A, was intended to represent the idea of "collective wisdom."²³ However, because of its voting system, which gives the Centre a one-third vote and the States a two-thirds vote, no decision can be approved without the Center's approval.²⁴ The GST Council institutionalised consensus by arithmetic in a federation where it should ideally be organic.²⁵ Form does not always equate to substance, as this section serves as a reminder of a basic constitutional truth. Despite the cooperative federalism that guided the draughting of Articles 246A and 279A, their operationalisation has generated ongoing discussions. When one party has the ability to veto the process, is consensus truly consensus?²⁶ When power is distributed unevenly, is it really shared? Most importantly, can cooperative federalism endure in the absence of a mutually respectful culture? The implementation of the GST was a constitutional recalibration of Indian federalism, not just a legislative act. It rewired the delicate balance of fiscal authority between the Centre and the States around a new axis: the GST Council. One of the most important constitutional issues of our day is whether this axis can bear the weight of true cooperation.

III. The Evolution and Structure of GST

Prior to the introduction of the Goods and Services Tax, India's indirect tax system was like a patchwork quilt, with inconsistent stitching, inefficiencies, and a heavy burden of escalating taxes. As fiscal islands, each state imposed its own entertainment taxes, purchase taxes, VAT regimes, and entry taxes. In the meantime, the Centre used excise taxes, service taxes, and customs levies to run its own independent silos. The end effect was a labyrinth that was confusing for taxpayers, expensive for companies, and ultimately backward for customers.²⁷ The case for a single tax was strong, almost too strong to resist. The idea was to eliminate tax-on-tax, increase compliance, lower litigation, and establish a smooth national market by implementing a single, destination-based, value-added tax that absorbed several indirect taxes.²⁸ However, the path to GST was far from straight; it took more than 20 years and was characterised by institutional development, political squabbling, and ideological opposition.

A. The Long Road to Reform

The Kelkar Task Force on Fiscal Responsibility and Budget Management's 2003 report, which strongly advocated combining the central and state taxes into a single GST, is the first official reference to a comprehensive GST for India.²⁹ The target rollout date of April 1, 2010 was announced by then-Finance Minister P. Chidambaram in 2006, but political agreement was still elusive.³⁰ Over the ensuing ten years, GST evolved into a federal contestation battlefield as well as a symbol of reform. The significance of fiscal cooperation and tax structure rationalisation was emphasised by successive Finance Commissions, especially the 13th and 14th.³¹ However, the process gained momentum in 2014 under a new political regime, which may have been the most important turning point. After lengthy negotiations, the Constitution (122nd Amendment) Bill, 2014 was finally passed in 2016, resulting in the enactment of the Constitution (101st Amendment) Act, 2016.³² With the introduction of Article 246A by this Amendment, Parliament and State Legislatures now have the simultaneous authority to enact GST laws.³³ Additionally, it established the GST Council, a special federal body tasked with recommending important GST decisions, under Article 279A.³⁴ The Central GST Act, the State GST Acts (for each State), the Integrated GST Act (for interstate supplies), the Union Territory GST Act, and the GST (Compensation to States) Act are the five main statutes that govern the GST.³⁵

B. The GST Council: A Laboratory of Federal Experimentation

An unprecedented development in Indian constitutional law is the GST Council, which is frequently referred to as the "federal chamber" of indirect taxation. The Council represents cooperative fiscal governance and is made up of the Union Finance Minister (as Chairperson), the Union Minister of State for Finance, and the Finance Ministers of all States.³⁶ Nonetheless, the Union has de facto veto power due to its voting system, which gives the Centre a third of the vote and the States the other two thirds.³⁷ In actuality, the underlying asymmetry raises questions regarding the substantive autonomy of the States, even though decisions are supposed to be made by consensus.³⁸ In terms of operations, the Council has received praise for holding regular meetings, settling conflicts quickly, and bringing the country's finances into harmony. However, detractors contend that it frequently excludes States from important decisions, especially during economic shocks like COVID-19, when the Center's unilateral actions have undermined the cooperative spirit.³⁹

C. Key Features of the GST Framework

1. **Destination-Based Taxation:** GST is imposed at the point of consumption rather than the place of origin under destination-based taxation. This guarantees that the state receives money where the goods or services are ultimately used, not where they are made.⁴⁰ Although this encourages equity among consumer states, it may deter industrialisation in producing states, which raises concerns about equity in long-term

development.

2. **Dual GST Model:** India uses a dual GST model, in which the Centre (through CGST and IGST) and the States (through SGST) impose GST on the same transaction, in contrast to most other nations that only have one GST.⁴¹ This keeps both levels of government's fiscal identities intact, but it also makes auditing and administration more difficult.
3. **Input Tax Credit Mechanism:** The strong input tax credit system of GST, which enables companies to claim credits on inputs used to produce taxable supplies, is one of its main benefits.⁴² But there have been challenges with the implementation—technical issues, mismatched returns, and refund delays have resulted in ongoing compliance bottlenecks.
4. **GST Compensation:** The Centre pledged to reimburse States for any revenue shortfall for five years, based on an annual growth benchmark of 14%, in order to allay concerns about revenue loss.⁴³ The GST (Compensation to States) Act of 2017 established this law. However, there are now major federal tensions as a result of the Center's unwillingness to fill gaps during emergencies like COVID-19.⁴⁴

Even though the GST structure is elegant in theory, it is a compromise in practice. It is a system that promises consensus but is based on asymmetry; it strives for harmony but struggles with injustice. Like the Indian Constitution, the GST framework is neither set in stone nor flawless. It is changing as a result of judicial actions, economic necessity, and political will.

IV. Judicial Perspectives on GST and Federalism: Reaffirming the Constitutional Compass

Courts serve as sentinels of the federal balance in a democracy governed by a written Constitution, not merely as judges of legality. Judicial scrutiny was inevitable when the GST regime was introduced, especially given its intricate cooperative-federal mechanisms. India's constitutional courts have entered this debate over time, not only to resolve tax disputes but also to shed light on more significant issues pertaining to autonomy, sovereignty, and the essence of federalism. The Supreme Court's ruling in *Union of India v. Mohit Minerals Pvt. Ltd.*⁴⁵ has arguably had the most profound impact on fiscal governance. This case changed our understanding of the constitutional framework of the Integrated Goods and Services Tax (IGST) and reaffirmed that cooperative federalism is a binding constitutional ethic rather than just rhetoric.

A. Mohit Minerals: A Landmark in Fiscal Jurisprudence

The validity of a GST levy on ocean freight in situations where Indian importers entered into contracts on a Cost, Insurance and Freight (CIF) basis—where the foreign exporter covered the shipping costs—was at issue in the *Mohit Minerals* case. Despite the importer's lack of a contract with the foreign shipping line, the tax authorities attempted to impose IGST on the importer through the Reverse Charge Mechanism.⁴⁶ The Supreme Court ruled that the levy was unconstitutional, highlighting how the CGST Act's composite supply principle was broken by the tax. More significantly, though, the Court established a constitutional theory that changed the GST Council's recommendations from legally binding directives to suggestive, non-binding advice.⁴⁷ This was a significant clarification. Despite the fact that Article 279A made the GST Council a powerful decision-making body, the Court ruled that its recommendations were not legally binding, citing the fundamental provisions of the Constitution that support the federal nature of government.⁴⁸ According to the statement, "Indian federalism is a dialogue between cooperative and competitive federalism... This balance is preserved through the autonomy of the States within the constitutional framework."⁴⁹ The Court issued a warning against a reading that would reduce the States to the Center's administrative branches.

B. Beyond Mohit Minerals: Judicial Reaffirmation of State Autonomy

The judiciary had voiced concerns about the weakening of fiscal federalism even prior to *Mohit Minerals*. The Kerala High Court maintained the legality of the Kerala Flood Cess in *State of Kerala v. Unni*, but stressed that states must stay within the constitutional bounds established by the GST regime.⁵⁰ The Court took a nuanced stance, refusing to subjugate the States to the Centre or allow a parallel tax system. In *TVL. Transtonnelstroy-Afcons Joint Venture v. Union of India*, the Madras High Court more recently noted administrative overreach and underlined that GST compliance procedures shouldn't be used as instruments of coercion or constitutional circumvention.⁵¹ These decisions point to a subtle but developing trend: courts are now more inclined to consider the wider implications of GST-related laws on constitutional principles in addition to their legality.

C. The Doctrine of Cooperative Federalism as Constitutional Principle

Cooperative federalism is no longer just a catchphrase. It has developed into a constitutional doctrine as interpreted by Indian courts, a legal framework that requires constant assessment of the distribution of power.⁵² The Supreme Court reiterated that federal cooperation must be based on communication rather than dominance by deeming the GST Council's rulings recommendatory. This signifies a change in perspective: constitutional courts are now in charge of upholding both federal morality and legality. Not only did the Court settle a tax dispute in *Mohit Minerals*, but it also established a new federal ethic and served as a reminder to the country that state dignity must never be sacrificed for harmony.

V. GST Compensation Disputes and the Tensions of Fiscal Sovereignty

In addition to putting a strain on India's healthcare system, the COVID-19 pandemic rocked the country's fiscal federalism. States faced a huge revenue shortfall as economic activity collapsed. Enshrined in Section 7 of the GST (Compensation to States) Act, 2017, the GST compensation guarantee was intended to act as a buffer against inflation.⁵³ However, in 2020, the Centre offered States the opportunity to borrow from the market after announcing

that it was unable to cover the shortfall due to "acts of God."⁵⁴ This action was constitutional, not just administrative. States contended that the Centre had disregarded its statutory duty, especially West Bengal, Punjab, and Kerala.⁵⁵ The discussion exposed a disturbing fact: in times of crisis, cooperative federalism is put to the test not by idealistic principles but rather by who is responsible for the financial burden. Ironically, the GST Council turned into a conflict theatre. Meetings became contentious. Center-State divisions replaced consensus. The harm was done, both monetarily and philosophically, even though states reluctantly agreed to borrow money. This episode revealed a sobering fact: the Centre controls the purse strings. States continue to be economically vulnerable in a Union-dominated economy despite statutory commitments. In addition to being a revenue problem, the compensation crisis served as a reminder that without political will, federal promises are meaningless.

VI. Comparative Insights: GST and Federalism in Other Jurisdictions

Despite having a distinct constitutional foundation, the Indian GST framework has similarities with other systems around the world. Comparing federations such as Australia, Canada, and Brazil teaches valuable lessons about success and caution.

A. Australia: Consensus-Based Fiscal Federalism

Introduced in 2000, Australia's Goods and Services Tax is administered at the federal level, but the Commonwealth Grants Commission's recommendations determine how the money is allocated to the States.⁵⁶ Prior to the implementation of the GST, an intergovernmental agreement was established based on consensus. Notably, disagreements are resolved by the Council on Federal Financial Relations, a strong, formalised body.⁵⁷ In contrast, the Centre maintains more influence through voting shares at the GST Council of India, which lacks this decisional parity.

B. Canada: Asymmetric Federalism at Work

Each province in Canada is free to decide whether or not to join the federal Harmonised Sales Tax (HST) system. For instance, in addition to GST, Quebec also manages its own sales tax.⁵⁸ This flexibility is a prime example of asymmetric federalism, which maintains subnational autonomy even in the face of a harmonised tax system—something that India's Constitution currently forbids after the GST.

C. Brazil: Insights from Federal Deadlock

Brazil's federal consumption tax system is extremely fragmented, with federal and state taxes overlapping.⁵⁹ Political deadlock and opposition from strong states have long caused attempts to reform into a single GST to fail. The lesson is clear: India's model may be flawed, but reforms might never succeed in the absence of a constitutional framework such as the 101st Amendment. These parallels show that, in spite of its tendency towards centralisation, India's GST is still an impressive constitutional experiment in cooperative fiscal governance, even though it needs to change to allow for true autonomy and fair communication.

VII. Conclusion: Strengthening Fiscal Sovereignty and Federal Harmony

With all of its complications and difficulties, the Indian GST regime represents a tremendous attempt to maintain the essence of federalism while achieving a unified market. Instead of removing state boundaries and streamlining the tax system, the system has exposed long-standing conflicts between the federal government and the states over fiscal power, autonomy, and revenue sharing. The historic cases that were discussed, particularly Mohit Minerals and the GST compensation case, highlight how weak this fiscal union is in the face of practical challenges. Nevertheless, the Indian GST framework provides priceless insights in spite of these difficulties. The need for continuous reform is indicated by the system's resilience during the COVID-19 crisis, the lessons learnt from international comparisons, and the court's affirmations of cooperative federalism. Deeper constitutional empowerment of the States within the GST system is desperately needed; this could be achieved, perhaps, by additional amendments that permit more adaptable revenue-sharing arrangements and a stronger, impartial GST Council. The GST framework must change along with the Indian economy and new issues to maintain a dynamic balance between Union authority and State autonomy and to reflect the country's dedication to federal equity and fiscal efficiency. The ambitious GST experiment runs the risk of causing more division rather than unity in the absence of this recalibration. In summary, cooperation, not coercion—discussion, not domination—is the key to the future of Indian federalism in the context of the GST. If India is to achieve the full potential of a genuinely federal and cooperative tax system, the long road ahead is still worth taking.

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