



CONCEPT PAPER

GST Model for India - Suggestions

1 Background

- 1.1 India is on a growth trajectory with the economy growing at higher and higher rate, year on year. Economic liberalization and sectoral reforms have been the chief contributors to this growth. Tax reforms too have kept pace and India has moved from the origin based system of taxation of goods to destination based system; introduced taxation of services and moved to a more robust system based on value added principles. The tax reform process is also gaining ground with experience and exposure and the pace of reform is now faster.
- 1.2 After achieving, what many considered as an almost impossible task, of moving from sales tax system for taxation of goods at state level to more modern system of value added tax at the state level, now is the time to move to consolidation of taxes on goods and services and achieve true value added tax system (also referred to – as Goods and Service Tax) encompassing both goods and services at all levels. This, as compared to the earlier task of moving to value added tax system, is an even greater challenge in the political and constitutional structure of the country. But, given the resolve of the states to have a fairly simple to comply and less burdensome system of taxation, India will achieve the target set by Finance Minister of introducing a comprehensive Goods and Services Tax (GST) by 2010.

2 Scope of this Concept Paper

- 2.1 This Concept Paper suggests GST Model for the country that could be adopted in short term and identifies issues that arise in designing and implementation of comprehensive GST in India.

3 Design Alternatives

- 3.1 There are variety of models for taxation of goods and services. All models either adopt one of the following principles or are derived from a combination of:
 - Origin based single point levy (e.g. excise duties)
 - Destination based single point levy (e.g. retail sales tax)
 - Destination based multi point levy with input tax credit mechanism (e.g. GST/VAT).



- 3.2 The models may be comprehensive covering all goods and services or be selective, applicable only to specified goods and/or services.
- 3.3 The model may provide for levy of taxes at all stages or only at specified stages of value chain from manufacture to consumption. The stage at which tax is imposed may also vary between commodities and services.
- 3.4 All these combinations result in wide variety of models adopted across countries. Different countries adopt different models for taxing goods and services to suit their own situations. Vast majority of countries, during last 50 years, have moved to destination based system for taxation of goods and services. Some start at the origin and follow the goods through its journey from origin to destination e.g. countries in the European Union, Australia, Canada whereas some levy tax at retail level (e.g. USA). More than 100 countries have adopted Value Added Tax (VAT) system with input tax credit mechanism covering transactions from origin (manufactured or imported into the country) to destination (final consumption). The VAT system adopted by countries varies from what could be described as “classic” VAT system encompassing all transactions of sale/supply of goods and services in the economy at all levels, from manufacturing to consumption, to modified versions applicable only to select goods and/or services, applied upto different stages of value chain.
- 3.5 The design of model depends a great deal on the nature of activities in the economy, level of growth of economy, sizes of businesses, political structure, constitutional powers, stage of advancement of the economy and like. No one model can be said to be ideal for all countries.
- 3.6 Thus, India will have to design its own model to suit its own requirements especially, given the federal structure of governance and the provisions of Constitution.

4 India’s Current Model

- 4.1 India currently has a mixed system of taxation of goods and services; it is not “classic” VAT or GST system although the taxes on goods are described as “VAT” at both Central and State level on goods and it has adopted value added tax principle with input tax credit mechanism for taxation of goods and services.
- 4.2 Until introduction of Modvat (now CENVAT) Scheme in 1986 in Central Excise Duty, that duty was an origin based single point taxation system on manufacture of goods with some exceptions where set off scheme was used to reduce cascading effect of taxes. At that time, at State level, variety of schemes were used like origin based single point system, multi point system with set off, last point (retail level) system and so on. This was, again, not standard even within a state. States adopted different systems for different commodities too. Even now, with introduction of State VAT, there is combination of origin based (Central Sales Tax) and destination based multi point system of taxation. CENVAT is only at manufacturing level and does not go upto retail level.



- 4.3 Similarly, there was no union level tax on services till introduction of Service Tax in 1994 although, there was and there continues selective levy by States of Service Tax on specified services like entertainment tax, electricity duty. Even now, Union Service Tax is not comprehensive; it is levied on large number of select services and there is no comprehensive Service Tax at State Level. The “VAT” at Union as well as State Level is on goods only except that at the Union level there is input tax credit mechanism between CENVAT and Service Tax.
- 4.4 Principal differences between the current structure and classic VAT are:
- Two separate VAT systems operate simultaneously at two levels, Centre and State, and tax paid under one is not available as set off (input tax credit) against the other
 - Tax on services and on goods is under separate legislations at Centre Level
 - There is no comprehensive taxation of services at the State level – few services are taxed under separate enactments.
 - Imports in the country are not subjected to VAT
- 4.5 Current structure of indirect taxes is, thus, in a sense, dual one where tax on activity of manufacture and provision of services is collected by Union Government and that on sale of goods is collected by State Governments (refer Annexure 1). Relevant provisions of Constitution are in Annexure 2.
- 4.6 Finance Commission determines the overall and individual share of states in the taxes collected by Union. The overall share of states in taxes at present is 30.5 % ¹of the total taxes collected by Union Government from all taxes i.e. direct and indirect.

5 GST – Alternative models and issues

- 5.1 Design of a GST model involves three key components:
- Determination of the system – origin based, destination based, single point, multi point and so on
 - Identification of activities and/or goods and services to be covered under each system
 - Determination of level of government imposing and collecting GST.
- 5.2 There is a fair degree of consensus in India so far as system is concerned; we have adopted and are moving towards consolidation of goods and services tax under destination based multi point system of taxation. Also, there is fair degree of consensus so far as coverage of activities and goods and services are concerned; we will, like most

¹ Recommendations of the Twelfth Finance Commission – www.indiabudget.nic.in



other countries, continue to have customs duty which would not be rebatable and rest of the principal taxes i.e. CENVAT, State VAT and Service Taxes would form part of proposed GST.

- 5.3 Few other issues remain to be addressed like whether stamp duty should also become part of GST, which are other taxes being levied by each of the states and to determine whether they should become part of GST or remain out of it. Stamp duty, being more in the nature of tax on property, rather than on transaction, ought to remain outside GST as is the position in other countries. However, to the extent, stamp duties are imposed on agreements involving sale of goods and/or provision of services (e.g. agreement for works contract in the State of Maharashtra), the same ought to be removed. Similar other issue relates to octroi duty which is currently levied by various municipalities and, in some cases, by states on entry of goods in the local area for use, consumption or sale therein. This also ought to be merged with GST and a mechanism to transfer resources to local authorities from out of the total revenues of the states needs to be worked out.
- 5.4 This Concept Paper thus addresses the third key component on which consensus building is in progress. This component of the design is relevant for a country having federal structure of governance (e.g. Canada, Brazil or, for that matter, even European Union).
- 5.5 There are three alternatives in this context:
- GST at Union Government Level only (Alternative I)
 - GST at State Government Level only (Alternative II)
 - GST at both, Union and State Government Levels (Alternative III)
- 5.6 Canada has GST at Union Level extending to all goods and services covering all stages of value addition. In addition, there is tax at province (state) level in different forms which include VAT, Retail Sales tax and so on. European Union (EU) nations (each one is independent nation but, part of a Union and have agreed to adopt common principles for taxation of goods and services) have adopted “classic” VAT. If we consider EU as a country equivalent and member nations as state equivalents, EU has only State Level VAT with special rules for intra-community (inter-member state) transactions.
- 5.7 In Indian context, an additional dimension is added by the provisions of Constitution which specifically reserve power to impose tax on specific activities to specific level of government e.g. tax on import of goods can be imposed by Union government only whereas tax on sale of goods involving movement of goods within the state can be imposed by State Governments only.

6 Analysis

6.1 *Alternative I : GST at Union Level Only*



This Model envisages principal indirect taxes on goods and services to be levied by Union Government only. No such taxes to be levied by State Governments leading to only one GST throughout the country.

Pros

- Ideal structure from business perspective – greater stability and facilitation of decision making – also, businesses will have to deal with only one tax authority and comply with only one tax- there will be significant reduction of compliance costs
- Excellent from consumer perspective as the consumer will know exactly how much is the indirect tax burden in the goods and service consumed by it
- Cascading effect can be removed to a large extent as there will not be taxes at two levels leading to improved competitiveness
- Feel good factor for any one doing business with the country

Cons

- Near impossibility of achieving the structure – will require modification of Constitution
- States may not agree to give up power of taxation and depend on the Union for resources
- Entire infrastructure developed for taxation at both levels will have to undergo huge change

6.2 *Alternative II : GST at State Level Only*

This Model envisages levy of GST by State Governments only meaning only State specific GST across the country and no GST by Union Government.

Pros

- Reduction of cascading effect of taxes as there will not be tax at two levels.

Cons

- Amendment(s), will be required in Constitution which may be supported by industrial and large states and opposed by smaller states which do not have significant source of revenues
- Businesses will have to comply with tax laws of each State – not worse off than current situation but not better off as well except that they will not have to deal with



Central Level taxation which is the current position. At the same time, decision making will be impacted and may affect business stability

- Governments, both local and Union will not find it workable as it will require complete change in its finances and allocation of resources - entire distribution of taxes will need to undergo changes - Centre can retain entire direct tax collection and States may retain indirect taxation collection . But, that too will not be workable as revenue collection by each state will vary depending on the level of activities in each state and need for support to states – redistribution of taxes will become an issue
- There may be unhealthy competition among states using local tax structure as a tool to attract investments within the states, which may be at the cost of other states. This could lead to retaliatory measures by other states.
- Entire infrastructure for taxation will have to undergo change as States will need additional resources whereas Union’s infrastructure will be freed up.

6.3 *Alternative III : GST at both levels*

This model envisages GST at two levels operating parallelly – one, at Union Level and another at State Level.

Pros

- Achievable in the short term
- No significant change required in the current structure of indirect taxation although, some amendments may be required to the Constitution
- Partial removal of cascading effect of taxes
- No change required in infrastructure of tax departments at the Union and State levels

Cons

- Not ideal model – tax would continue to be at two levels and compliance costs may not reduce significantly
- Constitutional amendments may be required – principal one being extension of CENVAT to the consumer level and granting authority to states to impose taxes on services



- Uncertainty of states changing laws, rates of taxation and like will continue affecting business sentiments
- Taxation of services at state level especially services provided nation wide (e.g. telecommunication service, transportation service) will pose challenge.

6.4 Suggested GST Model

We suggest that Alternative III - GST at two levels – Union and State operating parallelly be adopted to begin with this reform process. Although, it is not ideal Model, we recommend the same to – kick start the move to GST as:

- It is the most workable model especially taking into consideration the changes required in the Constitution and achievability in the short term.
- This Model builds on the current structure of taxation of goods and services and does not envisage drastic changes in the broad mechanism for levy and collection of taxes.
- It results in allocation of taxes between Union and States and between states based on fair and transparent criteria of consumption within a state.

6.5 Implementation Imperatives

This implementation of this suggested Model will require following steps:

- **Constitutional Amendments :**
 - Consolidate separate entries in the Constitution empowering Union and State Governments to impose taxes on manufacture and sale of goods and services into one entry which empowers both Union and State Governments to impose tax on sale and supply of goods and services (Refer Annexure 2 for relevant entries).
 - Alternatively, modify Constitution only to the extent required immediately specifically, to extend CENVAT to consumer level and to authorize states to collect and retain tax on services.
- **Amend CST law** to introduce VAT on import of goods and **introduce import VAT** – tax on imports is within the jurisdiction of Union Government and Union Government could appropriate it to the State Governments. This collection would need to be allocated to the states where the goods move on importation since that is the state where the sale will take place and which will give credit for import VAT against output VAT.



- **Consolidate taxes on services** imposed under different enactments by State Governments e.g., duty on entertainment, and electricity, luxury tax.
- **Consolidate taxes on goods and services at each Union Level and State Level**

This will require many steps, significant ones being:

- bringing into effect provision empowering State Governments to collect and retain Service Tax; determination of services which could be taxed at both levels and those which could be taxed only by Union Government. Ideally, all services ought to be taxed at both levels as services are used by businesses for making sales or providing services which could be taxable at either or both levels and non availability of input tax credit could lead to cascading. At the same time, considering difficulties of developing structure or taxation of services which are nationwide such that there is no double taxation or no taxation is extremely tough task and, therefore, to begin with, some services like telecommunication, transportation, banking and financial services could be retained at the Union level
 - enacting comprehensive GST law (Standard draft could be used at both levels) consolidating CENVAT and Service Tax at Union Level and State VAT and taxes on various services at the state level
 - determination of tax system for sales and services involving inter-state movements. A Concept Paper on these issues is under development at Fiscal Law Committee.
 - Determination of GST rate at Union and State Levels – Current standard rate of 16 % adopted for CENVAT can be lowered and possibly brought down with extension of CENVAT to consumer level due to additional revenue to be generated from subsequent value addition which is currently not captured although, some part of it is already captured under Service Tax. Similarly, the standard rate of State VAT of 12.5 % could be reduced as additional resources will be generated from taxation of services.
 - Developing standard system of classification to be adopted by both Union and States - the current system adopted for Customs and CENVAT may be adopted by the States with separate list of items of local nature which may not find place in Customs or CENVAT classification list.
 - Determination of exemption threshold – the threshold at Union level, is currently Rs 200 lakhs (SSI Exemptions) whereas that for services is Rs 8 lakhs and at state level it is, generally, Rs. 5 lakhs.
- Consequential changes in determination of share of States in Union Tax collection may also be required.



Annexure 1

Broad overview of current structure of principal Indirect Taxes

1. Import of goods into India

Imports are subjected to customs duty which is imposed and administered by Union Government.

Customs duty has different components; the principal ones being Basic Customs Duty and Additional Customs Duty. Current rate of Basic Customs Duty is 10%. Additional Customs Duty is equivalent to CENVAT (Central Value Added Tax) imposed and administered by Union Government. This component is creditable against CENVAT if imported products are used for manufacture of Cenvatable goods in India and against Service Tax if imported goods are used in providing taxable services. The standard rate of CENVAT is 16 %.

Imports are not subjected to import VAT as of now since VAT is imposed by State Governments and State Governments do not have power to impose tax on imports; that power is with the Union Government only.

2. Manufacture in India

The activity of manufacture is subjected to CENVAT levied and administered by Union Government.

CENVAT has a VAT mechanism and is creditable against CENVAT and Service tax. As CENVAT is imposed by the Union Government, the rate of tax is uniform across the country (16 %) and no complications are created by movement of goods throughout the country. Export of goods outside India is freed of CENVAT and import of goods is subjected to CENVAT (See 1 above).

3. Sale of goods in India

This activity, to the extent the sale involves intra-state movement, attracts state VAT (applicable in major states except state of Uttar Pradesh which has yet to transition to VAT system, it continues with the system of Sales Tax). This is a modified form of classic VAT. The principal difference is that it covers goods only. VAT paid in one state is creditable against VAT paid on purchase of goods within the same state only. The standard rates of VAT are 4% and 12.5% with few exceptions where goods are exempt or where higher rate of 20% applies.

There is reasonable degree of uniformity in classification and rate of tax across India and differences do exist.



If the transaction of sale involves movement of goods from one state of India to another state, it constitutes inter-state sale and is subject to Central Sales Tax (CST). CST is a Union levy but is administered by states and the revenue is retained by the state from which the movement of goods originates. It is an origin based levy. The standard rate of CST for sales to registered dealers in other states is 3% (reduced from 4% with effect from 1.4.2007 and will be reduced by 1% every year hereafter). All other states (direct to consumers) attract the VAT rate applicable in the originating state.

Many destination states i.e. the states receiving goods from another state, impose Entry Tax (often equivalent to VAT rate) on the goods entering the state for sale, consumption or use within the state. This Entry Tax is creditable against VAT when goods are sold in the state.

States have physical barriers to check entry of goods in the states.

Import of goods into India is not subjected to state VAT (see 1 above). Export of goods outside India is freed from VAT by different mechanisms.

4. Provision of services

These are subjected to Service Tax which is imposed and administered by the Union Government.

Service Tax is creditable against CENVAT (levied on manufacture of goods and) Service Tax. It is not creditable against state VAT. The standard rate of Service Tax is 12% and is same across the country.

Specific services are subjected to tax by states principal being entertainment which is taxed fairly heavily by states and rates vary from state to state.



Annexure B
Relevant Articles of Constitution

<p>245. <i>Extent of laws made by Parliament and by the Legislatures of States.—</i></p>
<p>(1) <i>Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.</i></p> <p>(2) <i>No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.</i></p>
<p>246. <i>Subject-matter of laws made by Parliament and by the Legislatures of States.—</i></p>
<p>(1) <i>Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the “Union List”).</i></p> <p>(2) <i>Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the “Concurrent List”).</i></p> <p>(3) <i>Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the “State List”).</i></p> <p>(4) <i>Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.</i></p>
<p>248. <i>Residuary powers of legislation.—</i></p>
<p>(1) <i>Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.</i></p> <p>(2) <i>Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.</i></p>
<p>249. <i>Power of Parliament to legislate with respect to a matter in the State List in the national interest.—</i></p>
<p>(1) <i>Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that</i></p>



Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

- (2) *A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein:*

Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

- (3) *A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.*

265. *Taxes not to be imposed save by authority of law.—*

No tax shall be levied or collected except by authority of law.

Distribution of Revenues between the Union and the States

268. *Duties levied by the Union but collected and appropriated by the States.—*

- (1) *Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected—*

(a) *in the case where such duties are leviable within any Union territory, by the Government of India, and*

(b) *in other cases, by the States within which such duties are respectively leviable.*

- (2) *The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.*

268-A *Service tax levied by Union and collected and appropriated by the Union and the States –*

- (1) *Taxes on services shall be levied by the Government of India and such tax shall be collected and appropriated by the Government of India and the States in the manner provided in clause (2).*



(2) The proceeds in any financial year of any such tax levied in accordance with the provisions of clause (1) shall be –

- (a) collected by the Government of India and the States;*
- (b) appropriated by the Government of India and the States,*

in accordance with such principles of collection and appropriation as may be formulated by Parliament by law.

269. Taxes levied and collected by the Union but assigned to the States.—

(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

Explanation.—For the purposes of this clause,-

- (a) the expression "taxes on the sale or purchase of goods" shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;*
- (b) the expression "taxes on the consignment of goods" shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.*

(2) The net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

(3) Parliament may by law formulate principles for determining when a sale or purchase of, or consignment of, goods takes place in the course of inter-State trade or commerce.

270. Taxes levied and distributed between the Union and the States.—

(1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268 and 269, respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).



(2) Such percentage, as may be prescribed, of the net proceeds of any such tax or duty in any financial year shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax or duty is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3).

(3) In this article, "prescribed" means, —

- (i) until a Finance Commission has been constituted, prescribed by the President by order, and**
- (ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.**

271. Surcharge on certain duties and taxes for purposes of the Union.—

Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

274. Prior recommendation of President required to Bills affecting taxation in which States are interested.—

(1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression “agricultural income” as defined for the purposes of the enactments relating to Indian income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this article, the expression “tax or duty in which States are interested” means—

- (a) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or**
- (b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.**

276. Taxes on professions, trades, callings and employments.—

(1) Notwithstanding anything in article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be



invalid on the ground that it relates to a tax on income.

- (2) *The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two thousand and five hundred rupees per annum.*
- (3) *The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.*

286. *Restrictions as to imposition of tax on the sale or purchase of goods.—*

- (1) *No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—*
- (a) *outside the State; or*
- (b) *in the course of the import of the goods into, or export of the goods out of, the territory of India.*
- (2) *Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).*
- (3) *Any law of a State shall, in so far as it imposes, or authorises the imposition of,—*
- (a) *a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce; or*
- (b) *a tax on the sale or purchase of goods, being a tax of the nature referred to in sub-clause (b), sub-clause (c) or sub-clause (d) of clause (29A) of article 366,*
- be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.*

287. *Exemption from taxes on electricity.—*

Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is—

- (a) *consumed by the Government of India, or sold to the Government of India for*



consumption by that Government; or

(b) consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway,

and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

288. Exemption from taxation by States in respect of water or electricity in certain cases.—

(1) Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

Explanation.—The expression “law of a State in force” in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

(3)

301. Freedom of trade, commerce and intercourse.—

Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

302. Power of Parliament to impose restrictions on trade, commerce and intercourse.—

Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest.



303. Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.—

(1) *Notwithstanding anything in article 302, neither Parliament nor the Legislature of a State shall have power to make any law giving, or authorising the giving of, any preference to one State over another, or making, or authorising the making of, any discrimination between one State and another, by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule.*

(2) *Nothing in clause (1) shall prevent Parliament from making any law giving, or authorising the giving of, any preference or making, or authorising the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India.*

304. Restrictions on trade, commerce and intercourse among States.—

Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law—

(a) *impose on goods imported from other States or the Union territories any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and*

(b) *impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:*

Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President.

366 Definition –

In this Constitution, unless the context otherwise requires, the following expressions have meaning hereby respectively assigned to them, that is to say-

(12) *'goods' includes all materials, commodities and articles;*

(28) *“taxation” includes the imposition of any tax or impost, whether general or local or special, and “tax” shall be construed accordingly;*

(29-A) *"tax on the sale or purchase of goods" includes-*

(a) *a tax on the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;*

(b) *a tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;*



- (c) a tax on the delivery of goods on hire-purchase or any system of payment by installments;*
- (d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash deferred payment or other valuable consideration;*
- (e) a tax on the supply of goods by any unincorporated association or body of person to a member thereof for cash, deferred or other valuable consideration;*
- (f) a tax on the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration;*

and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;



Relevant Entries in Lists I and II as contained in the Seventh Schedule to the Constitution:

Movement or Activity	Levied by Centre under Entry of List I of Seventh Schedule to the Constitution	Levied by States under Entry of List I of Seventh Schedule to the Constitution
GOODS		
Movement		
Import into India	83 [<i>Duties of customs including export duties.</i>]	
Export out of India	83	
Stock transfer from a State	92B [<i>Taxes on the consignments of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.</i>]	
Stock transfer to a State	92B	
Stock transfer to a State		52 [<i>Taxes on the entry of goods into a local area for consumption, use or sale therein.</i>]
Bring within the limits of a city etc		
Activity		
Extraction/mining		50 [<i>Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.</i>]
Manufacture or production	84 [<i>Duties of excise on tobacco and other goods manufactured or produced in India except— (a) alcoholic liquors for human consumption; (b) opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol or any</i>	51 [<i>Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in</i>



	<i>substance included in sub-paragraph (b) of this entry.]</i>	India:— <i>(a) alcoholic liquors for human consumption;</i> <i>(b) opium, Indian hemp and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.]</i>
Sale Interstate	92A [<i>Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.</i>]	
Sales within a State		54 [<i>Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I.</i>]
Export sale	83	
Import sale	83 [<i>Duties of customs including export duties.</i>]	
Sale or purchase of newspapers and advertisements therein	92 [<i>Taxes on the sale or purchase of newspapers and on advertisements published therein.</i>]	
Consumption or sale of electricity		53 [<i>Taxes on the consumption or sale of electricity.</i>]
Tax and advertisements (other than newspapers)		55 [<i>Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television.</i>]



Tax on vehicles		57 [<i>Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of entry 35 of List III.</i>]
Animals and boats		58 [<i>Taxes on animals and boats.</i>]
SERVICES		
Specific		
Carriage of goods or passengers by railway, air or sea	89 [<i>Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.</i>]	
Railway fares and freights	89 [<i>Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.</i>]	
Transactions in stock exchange and future markets	90 [<i>Taxes other than stamp duties on transactions in stock exchanges and futures markets.</i>]	
Carriage of goods and passengers by road or inland waterways		56 [<i>Taxes on goods and passengers carried by road or on inland waterways.</i>]
Profession, trade and callings and employment		60 [<i>Taxes on professions, trades, callings and employments.</i>]
Luxuries, entertainment, amazeament, betting and gambling		62 [<i>Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.</i>]
Others		
Within India	92C/97 [<i>Taxes on Services / Any other matter not enumerated in List II or List III including any tax not mentioned in either</i>	



	<i>of those Lists.]</i>	
Outside India	92C/97	
From outside India or import	92C/97	