LEGAL PROSPECTIVE ASPECT OF GST IN INDIA

[1,2]Priya Goswami and Dr. Monika Mishra
[1,2]Apex University Jaipur (Rajasthan)
Corresponding Author Email: goswamipriya109@gmail.com

Abstract*:* The Goods and Services Tax (GST) is an indirect tax that was introduced in India on 1 July 2017. It replaced many existing taxes like VAT, service tax, central excise duty, entertainment tax, and octroi. Tax policies are very important for the economy as they provide the government with revenue. They help improve both how efficiently the economy works and how fair the, and payment of GST. Businesses need to register for GST if their annual turnover exceeds the set threshold. They must issue GST-compliant invoices, keep accurate transaction records, and file regular returns, such as monthly, quarterly, and annual filings, depending on their distribution of wealth is. When it comes to income distribution, a good tax system should keep up with these issues and also work to collect enough tax revenue to fund public services and infrastructure. GST compliance involves following government regulations to ensure proper collection, reportingbusiness all filings are done within deadlines to avoid penalties. GST non-compliance can lead to structure. They must also pay GST on time, claim input tax credits for eligible expenses, and ensure financial, legal, and operational challenges that harm a business's profitability, reputation, and long-term success. GST compliance is a complex process, so it's advisable to seek help from professionals for business registration. Getting expert guidance can help reduce the risk of non-compliance, make the process smoother, and lay a strong foundation for your business's future. If you have any questions or need compliance support, reach out to our team of experts for assistance.

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Introduction

The Goods and Services Tax (GST) is an indirect tax that was introduced in India on 1 July 2017. It replaced many existing taxes like VAT, service tax, central excise duty, entertainment tax, and octroi. The aim was to simplify the tax system by unifying the way goods and services are taxed, removing the need for multiple taxes that were previously collected by both the central and state governments.

GST is a broad, multi-stage, and destination-based tax.

It is called broad because it has replaced most indirect taxes, except for some state taxes. It is multi-stage because it is applied at each stage of production, but it is returned to everyone except the final customer. Its destination-based nature means that the tax is collected where the product or service is used, not where it is produced, which is a major change from the old system.

History

The idea of reforming India's indirect tax system started in 1986 under V. P. Singh, the Finance Minister in Rajiv Gandhi's government, when the Modified Value Added Tax (MODVAT) was introduced.

Later, Prime Minister P. V. Narasimha Rao and Finance Minister Manmohan Singh started discussions about introducing a Value Added Tax (VAT) at the state level. In 1999, during a meeting between Prime Minister Atal Bihari Vajpayee and his economic advisory panel, which included three former RBI governors—I. G. Patel, Bimal Jalan, and C. Rangarajan—there was a proposal and endorsement of a single Goods and Services Tax (GST). Vajpayee then set up a committee under the Ministry of Finance of West Bengal, led by Asim Dasgupta, to develop a GST model.

Constitutional Vision and Legislative Reality

Article 265 of the Constitution says that no tax can be collected unless it is done by law.

This article gives the central and state governments the power to levy taxes as per the law. It also outlines the limits of their power, defined in Articles 245 to 255. Article 246 explains how taxes can be levied by the Parliament or state legislatures. It states that Parliament has the exclusive power over certain matters in the Union List, and both the Parliament and state legislatures can handle matters in the Concurrent List, while state legislatures have exclusive power over the State List.

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Because GST is a new kind of tax that allows both the central and state governments to tax the same transaction, special constitutional provisions were needed.

Also, since GST replaced many existing taxes, changes were needed in the State List and Union List of the Seventh Schedule. These changes were made through the Constitution (One Hundred and First Amendment) Act, 2016. The amendments included adding new articles (Article 246A, Article 269A, and Article 279A), updating the Union and State Lists, and making other necessary changes in other articles.

Judicial Prospective: GST Before the Courts

In the eight years since its introduction, GST has led to a lot of legal cases.

The judiciary has played a key role by interpreting rules, balancing the rights of taxpayers and the government, and shaping the legal understanding of fiscal federalism in India.

Judgments of GST Useable:

Union of India v. Mohit Minerals (P.) Ltd. [2022]: The Supreme Court ruled that the IGST on ocean freight in CIF contracts was not valid.

The court used the principles of not taxing services outside India and not taxing the same thing twice. It also stated that recommendations from the GST Council are not binding, affirming the federal nature of India.

Union of India v. VKC Footsteps India Ltd. [2021]: The court upheld a rule that denies input tax credit refunds in certain cases, showing judicial restraint in economic and legislative matters.

Skill Lotto Solutions (P.) Ltd. [2020]: The court confirmed the constitutionality of GST on lotteries and classified lottery tickets as goods, which was a clear statement of the legislature's authority under Article 246A.

Radha Krishan Industries v. State of Himachal Pradesh [2021] 127 taxmann.com 26/86 GST 665/48 GSTL 113 (SC): This case stressed that provisional attachment under Section 83 should not be applied in a rigid or mechanical way. It also confirmed that writ petitions under Article 226 can be filed when there's a violation of fundamental rights.

Central Board of Indirect Taxes and Customs v. Aberdare Technologies (P.) Ltd. (2025) 29 Centax 10 (S.C.): This case clarified that honest mistakes made by clerks or due to simple math errors should not lead to penalties, especially when there is no loss of government revenue.

Chief Commissioner of CGST v. Safari Retreats (P.) Ltd. [2024] 167 taxmann.com 73/106 GST 250/90 GSTL 3 (SC): This case recognized that buildings used for renting are considered business assets. It allowed input tax credit on construction-related capital expenses. This challenged the strict interpretation of Section 17(5).

Issues such as procedural fairness, the difference between concessional and vested rights, the structure of the federal government, and the balance between substantive and technical compliance remain complex and unresolved.

Review of literature

1. Lourdunathan F and Xavier P. 2017. This article discusses the Goods and Services Tax (GST), which the Indian government planned to implement on January 1st and was a significant governmental achievement. After the Rajya Sabha approved the Goods and Services Tax Bill, India became a major part of the global economy. The paper highlights the history, future potential, and challenges of implementing GST in India. It also provides a detailed discussion on the set-off of input tax credits, service tax set-off, and the inclusion of various taxes under the new system.

2. Seema Pandit. 2017. This essay looks at the impact of GST on small and medium-sized enterprises (MSMEs) in India. It examines both the opportunities and the difficulties that these businesses have encountered since the introduction of GST. The paper notes that although GST is a long-term plan, the literature generally highlights that compliance costs have gone up. The implementation process is expected to create more administrative hurdles and compliance costs. While it might not be feasible for MSMEs to fully adapt their business processes and systems to meet the new compliance requirements, they can still benefit from the GST policy.

3. Dr. Mukesh K. Sharma and Suniti Saini. 2019. This study, based on a survey of 50 businesses, explores the awareness of GST among small business owners and their views on the fairness of the tax system. It suggests that while GST is perceived as a fair system, it still needs improvement. The study aims to understand the real impact of GST and suggests that it may result in complex tax rates and increased product prices. Respondents were well-informed about the GST Act and the tax rates but expressed dissatisfaction with the rate structure. They agreed that GST has helped reduce corruption, but most felt that it would likely boost economic growth.

4. Nur Syazwani Mohammad Fadzillah and Zuhariah Husin. 2016. This study examines the implementation of GST in Malaysia, focusing on how the tax applies to goods and services. It looks at the impact of GST on prices and how taxpayer acceptance of the new system affects the overall economy. The goal of the study is to assess the level of acceptance by taxpayers. While the acceptance rate

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is somewhat high—below 50%—lowering the GST rate to 4% might help improve acceptance and reduce the negative impact of the new tax system. This could encourage more consumers to support the nation through their tax contributions.

5. Dr. Manisha Shinde. 2019. This paper discusses the rapid development of the Indian economy in a short period. It highlights the foundation of the GST implementation in India and its role as the most significant indirect tax change since 1947. GST is applied to the production, sale, and use of goods and services. The paper covers the history, objectives, and effects of GST on different sectors of the Indian economy. It also explores various possibilities and benefits of the new tax system.

Policies and methods of GST

Tax policies are very important for the economy as they provide the government with revenue. They help improve both how efficiently the economy works and how fair the distribution of wealth is. When it comes to income distribution, a good tax system should keep up with these issues and also work to collect enough tax revenue to fund public services and infrastructure.

Meryn R George and Tisa Maria Antony. The Goods and Services Tax (GST), along with other taxes, is very relevant because it has measures that affect Micro, Small and Medium Enterprises (MSMEs). It influences compliance processes and whether the burden of tax compliance has increased since the introduction of GST. Using a sample of 90 MSMEs, including manufacturers, service providers, and others, the study found that the implementation of GST has been beneficial to MSMEs. It also noted that sufficient facilitation measures are in place for GST compliance, but the overhead cost of compliance has gone up since the GST was introduced. Profits have not increased, and issues with network or server connectivity have impacted GST compliance.

Indian startups have grown rapidly over the past seven years, increasing from 445 in 2016 to 86,713 in 2022. The government supports both the MSME sector and these startups. In the five years since GST was introduced, the government has introduced significant measures to reduce the cost of GST compliance for MSMEs. However, to support MSMEs, which play a major role in India's economy, the government should offer more assistance.

Challenges of GST

GST compliance involves following government regulations to ensure proper collection, reporting, and payment of GST.

Businesses need to register for GST if their annual turnover exceeds the set threshold. They must issue GST-compliant invoices, keep accurate transaction records, and file regular returns, such as monthly, quarterly, and annual filings, depending on their business structure. They must also pay GST on time, claim input tax credits for eligible expenses, and ensure all filings are done within deadlines to avoid penalties.

GST compliance presents several challenges for businesses, especially in adapting to the new system and maintaining accurate reporting.

Challenges involve in GST:

1. Complex Filing Requirements and Tax Structure:

Businesses must file multiple returns each month, such as GSTR-1, GSTR-3B, and annual returns, which can be time-consuming and complex, especially for small and medium enterprises (SMEs).

The GST system includes multiple tax slabs, like 5%, 12%, 18%, and 28%, along with special rates such as 0.25% for rough precious and semi-precious stones and 3% for gold. This layered tax structure can be tough to navigate, causing confusion and increasing compliance costs.

2. Frequent Changes in Regulations:

The GST Council often updates rules and rates, requiring businesses to stay informed and adapt quickly, which is difficult, especially for smaller firms without dedicated tax teams.

3. Input Tax Credit (ITC) Reconciliation:

Claiming ITC requires matching purchase invoices with the supplier's data in the GST portal.

Any inconsistencies can result in denial of credit, adding administrative burden.

4. GST Tax Rates:

The multiple tax slabs and special rates in the GST system create difficulties in determining the correct tax rate for goods or services.

This complexity leads to confusion, higher administrative burdens, and the risk of errors, which can increase compliance costs and the chances of disputes.

5. Technological Challenges:

The GST system depends on technology, requiring businesses to use GST-compliant software and ensure timely data uploads.

Technical issues on the GST portal can disrupt filings and compliance.

6. E-Way Bill Compliance:

Businesses must generate e-way bills for the movement of goods, adding an extra layer of compliance.

Managing e-way bills and ensuring their accuracy and timeliness can be burdensome, especially for companies with high logistics demands.

7. Reconciliation with Vendors:

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Businesses must ensure their vendors are GST-compliant to claim input credits.
If vendors are not compliant, businesses risk losing credits, which adds pressure to manage vendor relationships carefully.

8. Penalties for Non-Compliance:
Failure to comply with GST filing can result in heavy penalties.
The GST regime imposes strict penalties for late filings, errors in returns, or non-compliance, which can be financially burdensome, especially for smaller businesses.

9. Awareness and Understanding:
Many businesses, especially smaller ones, find it hard to understand the complicated rules of GST.
This can cause mistakes and unintentional violations. To stay compliant, businesses need to invest in good accounting systems, regular training, and sometimes hire outside experts to make sure they follow GST rules properly.

Strategies to Avoid these Challenges:
To avoid GST compliance problems, businesses should take a proactive and organized approach.
Here are some effective strategies to manage GST compliance smoothly:
1. Keep detailed records of all transactions like invoices, receipts, and contracts. These records help in accurate GST reporting and claiming Input Tax Credit (ITC).
2. Use GST software that connects with your accounting system. This helps automate GST calculations, return filings, and reconciliation.
3. Regularly check your GST returns against the invoices and purchase records to ensure accuracy and proper ITC claims.
4. Stay updated on changes in GST rules, rates, and compliance requirements by following official updates or newsletters from GST authorities.
5. Work with GST consultants or tax experts to help you interpret regulations, handle audits, and manage complex compliance issues.
6. Plan for cash flow issues that may come from delays in receiving ITC. Look into financial planning or short-term financing options if needed.
7. Check if your business is eligible for the GST Composition Scheme, which simplifies compliance and reduces tax rates for small businesses, but be aware of the scheme’s limitations.
8. Submit GST returns by the deadlines to avoid penalties and interest charges. Set reminders or use automated tools to ensure timely submissions.
9. If you find any discrepancies or issues, address them quickly by contacting the GST authorities or consulting a tax professional.
10. Stay updated on sector-specific rules and notifications to avoid penalties and ensure compliance with those guidelines.

By following these strategies, businesses can better manage GST compliance challenges, operate more smoothly, and reduce the risk of penalties and disruptions.

Impact on Businesses:
1. Businesses that don’t follow GST rules, like filing returns late or reporting inaccurately, face fines and penalties.
2. If a business doesn’t pay its GST liability on time, it might have to pay interest on the overdue amount, which adds to the overall tax burden.
3. Non-compliance can lead to problems in claiming input tax credits.
4. It can result in severe legal issues, including audits, investigations, and lawsuits. In extreme cases, it may lead to the cancellation of GST registration.
5. A poor compliance record can damage a business’s reputation, leading to a loss of trust from customers and suppliers, which can hurt business performance.
6. Non-compliance can also affect a business’s credit rating, making it harder to get financing or favorable terms from suppliers.

Conclusion:
GST was introduced to simplify India’s tax system and improve economic efficiency. However, its implementation has created significant compliance challenges, especially for small and medium-sized enterprises (SMEs). These challenges include a heavy compliance load with frequent filings, cash flow issues due to delayed ITC, higher operational costs from hiring experts and buying software, and the complexity of dealing with frequent rule changes. GST non-compliance can lead to financial, legal, and operational challenges that harm a business’s profitability, reputation, and long-term success. GST compliance is a complex process, so it’s advisable to seek help from professionals for business registration. Getting expert guidance can help reduce the risk of non-compliance, make the process smoother, and lay a strong foundation for your business’s future. If you have any questions or need compliance support, reach out to our team of experts for assistance.

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https://ijioa.com/ cosmospub2023@gmail.com

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