

Impact of GST on Economy of India with special refence to Mining Sector

History of taxation in India

It is imperative for any Government to levy taxes so as to generate funds for welfare of its people. In India too, though the history of taxation dates back to ancient times, formally, the history of sales tax is ascribed to the Government of India Act, 1935¹ which levied taxes on sale of goods and on advertisements. Initially, it was implemented in 1938 in the Central India. By the early 1940s, almost all the provinces and most of the princely States had introduced Sales tax in some or the other form.

Subsequently, after attaining Independence, the Constitution was framed, based more or less on the Government of India Act, 1935. The Constitution² was adopted in the year 1950 wherein separate powers were given to the Centre as well as the States. While certain taxes were the dominion of the Centre, the powers to levy taxes on the sale of goods, entry into local areas, professions, electricity etc. were accorded to the States. However, the power of the States to levy taxes on the sale of goods was limited to the sale within the State. In other words, the States were debarred from levying such tax when the sale or purchase took outside the State or in the course of import into or export outside the country.

The Taxation Enquiry Commission³ recommended continuation of sales tax as a source of revenue for the States, levy and administration of which must pertain to the State Governments. However, taxing the inter-State sales was said to be the prerogative of the Union, but the responsibilities pertaining to the same could be exercised through the State Governments and the revenue should appropriately devolve on them.

So as to give effect to the recommendations of the said Commission, the Sixth Amendment⁴ was brought about in the Constitution of India in 1956 whereby the powers to levy tax on inter-State sales were accorded to the Union of India and accordingly a new entry 92A was added to the Union List and entry 54 of the State List was subjected to the provisions of this new entry. Also, by adding these taxes to the list given in clause (1) of Article 269, it was provided that even though the tax levied on the inter-State sales would be levied in accordance with an Act of the Parliament, it would not form a part of the Consolidated Fund of India, but would accrue to the administering States themselves in accordance with the principles of distribution laid down by the Parliament of India. Thus, this arrangement continued right upto the year 2017 wherein the States respectively levied their Sales Tax (single point) or Value Added Tax (multiple points, with set off of Input Tax) on intra-State sale of goods while the Centre levied Central Sales Tax on the inter-state sale of goods. Apart from these, the States also levied certain other taxes like Entry Tax, Entertainment Tax, Luxury Tax, Electricity Duty etc. while the powers to levy tax on services and imports rested with the Centre.

¹ Government of India Act, 1935 @ <https://www.latestlaws.com/bare-acts/central-acts-rules/government-of-india-act-1935/>

² The Constitution Of India. Accessed @ https://legislative.gov.in/sites/default/files/COI_1.pdf

³ Report of the Taxation Enquiry Commission, 1953-54. Vol. III, @<https://dspace.gipe.ac.in/xmlui/handle/10973/41360>

⁴ The Constitution (Sixth Amendment) Act, 1956. Accessed @ <https://legislative.gov.in/constitution-sixth-amendment-act-1956>.

101st Constitutional Amendment, 2016 and Taxation Laws Amendment Act, 2017

However, there was a big paradigm shift in 2016 with the 101st amendment of the Constitution of India⁵ followed by the Taxation Laws Amendment Act, 2017⁶. Vide the Constitutional amendment, Entry number 54 of List-II i.e. The State List appended to the Seventh Schedule was amended as under:-

"54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods."

Levy of taxes on all other goods and services was made the subject of Concurrent List, meaning thereby, that both the Centre as well as the States can now levy taxes on goods and services. While State Goods and Services Tax (SGST) and the Central Goods and Services Tax (CGST) are levied on the intra-state supply of goods and services, Integrated Goods and Services Tax (IGST) is levied on the inter-state supply of goods and services. In GST, a large number of Central and State taxes have been subsumed so as to reduce the cascading effect. This model has been uniformly adopted by all the States and Union Territories of the country who have all implemented the adaptations of the model law and the tax rates thereof. Thus, it can be said that while the sovereignty of the States and UTs has been compromised, it is for the fulfillment of the larger federal dream of 'One nation, One Tax'.

In July 2022, we completed five years of GST era and even though the law and its procedures are still evolving, it is desirable to take stock of the pros and cons of the new model and also the impact it has had on the economy of India. I, therefore, embark to attempt the same through this paper. In addition, I have taken the specific example of how mining as a sector, has been affected by GST.

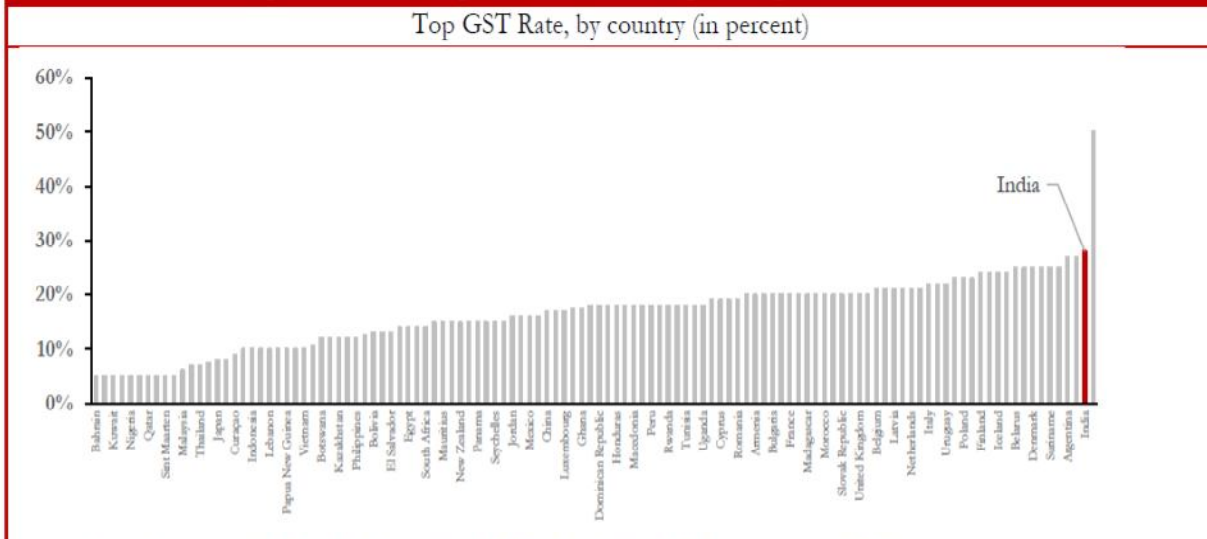
Introduction to GST in India

The Indian Goods and Services Tax (GST) system is among the most complex in the world with not only one of the highest tax rates but also one of the largest number of tax slabs, the World Bank has said. It added that India has the highest standard GST rate in Asia, and second highest in the world after Chile. "The tax rates in the Indian GST system are among the highest in the world. The highest GST rate in India, while only applying to a subset of goods and services traded, is 28 percent, which is the second highest among a sample of 115 countries which have a GST (VAT) system and for which data is available," the World Bank said in biannual India Development Update Report.

⁵ The Constitution (One Hundred and First Amendment) Act, 2016. Accessed @ <https://www.cbic.gov.in/resources/htdocs-cbec/gst/consti-amend-act.pdf>.

⁶ The Taxation Laws (Amendment) Act, 2017. Accessed @ <https://www.prsindia.org/sites/default/files/Taxation%20Laws%20%28A%29%20Act%2C%202017.pdf>.

Figure 1: India's top GST rate is among the highest in the world



Source: Ernst & Young Worldwide VAT, GST and Sales Tax Guide and World Bank Staff Calculations. Data refers to 2017.

Table 1: Standard GST/VAT rates (highest and lowest)

Region	Highest tax rate	Lowest tax rate
Europe	Hungary (27%)	Jersey, Channel Islands (5%)
North & Central America, Caribbean	Dominican Republic (18%)	Canada (5%)
Middle East and Africa	Madagascar/Morocco (20%)	Nigeria (5%)
Latin America	Uruguay (22%)	Paraguay (10%)
Oceania	New Zealand/Fiji/Samoa/Tonga (15%)	Niue (5%)
Asia (excl. ASEAN)	India (28%)	Taiwan-China (5%)
ASEAN	Philippines (12%)	Malaysia (6%)

Source: Ernst & Young Worldwide VAT, GST and Sales Tax Guide and World Bank Staff Calculations. Data refers to 2017.

Next, we assess how the number of different GST rates prevalent in the Indian system, and thus its complexity, compares internationally. What makes the Indian GST system more complex is the number of different GST rates applicable on different categories of goods and services. India currently has four non-zero rates: 5, 12, 18 and 28 percent. Apart from that, several items are taxed at zero percent while gold is taxed at 3 per cent. To make things worse, petroleum products, power, liquor and real estate have been kept outside the ambit of GST. According to the World Bank's biannual India Development Update Report, most countries in the world have a single rate of GST: "49 countries use a single rate, 28 use two rates and only five countries

including India use four rates," it said. The countries that use four or more rates of GST include Italy, Luxembourg, Pakistan and Ghana. Thus, India has among the highest number of different GST rates in the world. Figure 2 shows the number of countries and the number of GST rates (not including the zero rate) among the sample of 115 countries described previously.

Table 2: Number of countries and number of non-zero GST Rates

Number of non-zero GST Rates	Number of Countries
Single Rate	49
Two Rates	28
Three Rates	32
Four Rates	5
Five Rates	2

Composition scheme for SMEs n highest threshold for registration internationally –

However, while India has adopted the international model of taxation, we have a relatively higher fiscal threshold for businesses to fall under the full GST impact among all comparable countries. In fact, it is closer to the developed nations rather than the developing ones. It is worth having a glance over the same-

S.No.	Name of the country	Threshold	Threshold (in INR) (in lakh)
1.	Brazil	No threshold	-
2.	Argentina	No threshold	-
3.	Russia	No threshold	-
4.	China	CNY 5,000	0.57
5.	Canada	CAD 30000	17.82
6.	European Union	Euro 35000	28.02
7.	Australia	ASD 75000	38.40
8.	India	INR 4000000	40.00
9.	Japan	JPY10 million of taxable transactions	55.35
10.	UK (VAT)	GBP 85000	78.26
11.	Malaysia	RM 500000	87.64
12.	Singapore	SD 1million	577.23

Source : Worldwide VAT, GST and Sales Tax Guide, 2022

Within that too, we have further higher threshold for small and medium enterprises – this being exemplary of us being a welfare state and our policy and constant endeavour to promote the SMEs. This has led to a proportionately reduced tax base as compared to the other countries of the world.

GST collections

Inspite of all this and even the triple waves of the COVID-19 pandemic, the total GST collections in India have grown phenomenally, crossing the Rs.1.40 lakh crore mark for seven consecutive months. The half-yearly GST collections in FY 2022-23 were recorded at 32% more than the first half of FY 2021-22. The rise in GST on imports by 45% that is later distributed to states can be a major factor contributing to the rise in GST collections.

Higher Per Capita Income-earning states

It is a common economic theory that people who earn more will spend more. Not surprisingly, therefore, States with the highest per capita income of their population seem to have achieved higher GST collections. The uneven economic recovery with a larger impact on the lower income group due to the pandemic may be the reason for lower GST collection in these states this financial year. For instance, as per an RBI report, Goa has the highest state net domestic product per capita at Rs.4,35,959 in FY 2019-20. GST collections in Goa during the first half of FY 2022-23 posted a 20.97% growth. Similarly, states with high growth, such as Karnataka, Kerala and Haryana residents, have higher per capita income. Jharkhand, Madhya Pradesh, Chhattisgarh and Odisha, having a low per capita GDP, posted a low or negative growth rate in half-yearly GST collections.

Higher consumption states

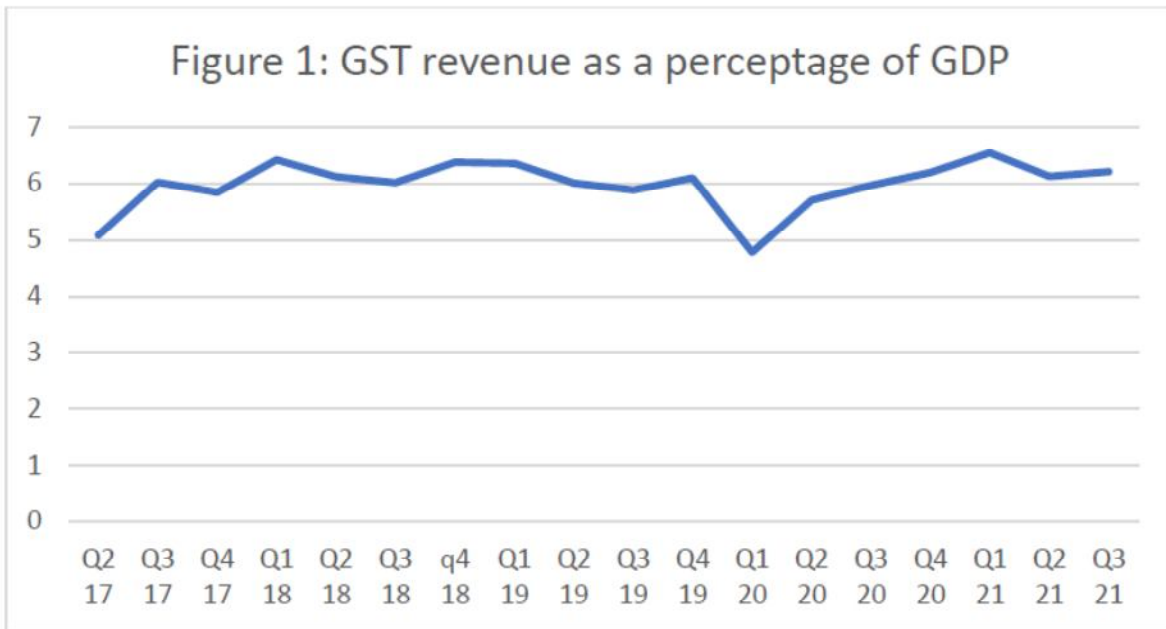
States with higher consumption levels of higher-taxed goods posted higher GST collections during the first half of FY 2022-23. For instance, Maharashtra saw a higher sale of passenger cars (taxed at 28%) at 2.76 lakh. It was followed by Karnataka, Gujarat and Uttar Pradesh, ranging between 1.78 lakh, as per the government's Vaahan portal. Maharashtra also saw the second-highest two-wheeler sales followed by Uttar Pradesh. Lifestyles have also impacted the state collections, with states consuming most luxury goods or services comparatively portraying a higher GST collection. The residents of Tamil Nadu, being cultural and conservative and leading a simple lifestyle, have adversely affected its GST collections. States such as Karnataka and Haryana have achieved higher GST collections since most residents splurge on high-value products. It also explains why tourism-rich states have seen a boom in GST collections during the first half of FY 2022-23, examples being Kerala, Goa, and Puducherry.

The following are the year-wise GST collections for the country as a whole as per the data released by the Press Information Bureau:-

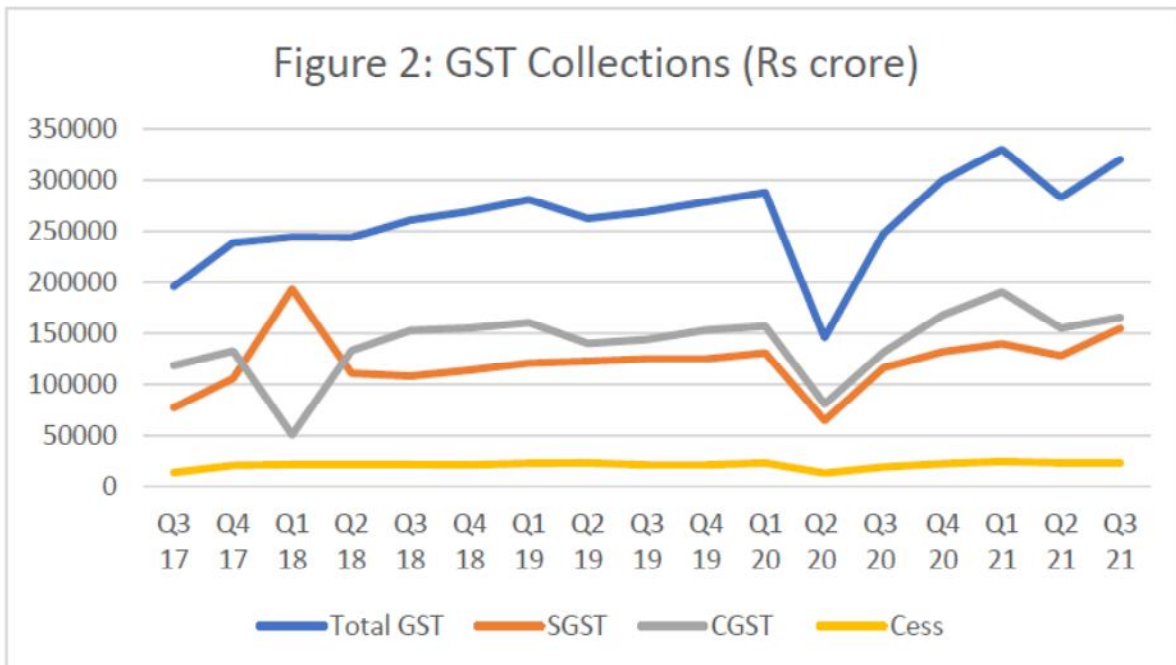
Year	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23 (Till Sept. 2022)
GST collection (in lakh INR)	7,19,078	11,77,370	12,22,117	11,36,803	8,10,816	8,93,334

As per Kavita Rao (Rao, 2022), the volatility in economic activity in the country and the resultant volatility in revenue collections implies that in order to understand the revenue performance of GST, one cannot look at the gross collections per say. Figure 1 below presents

the ratio of GST collections to GDP. As is evident from the figure, the ratio has remained around 6 percent or slightly higher for most of the period.



She further illustrates the trends in gross revenue collections in Figure 2 which shows that the revenue from SGST including IGST settlement seems to be consistently lower than the revenue attributable to Union government (here defined as all GST revenue net of Cess and SGST with IGST settlement). Staggering of the settlement process can be one reason for this observed difference between revenues to Union and state governments.



Reforms in tax structure-

All said and done, GST continues to be the greatest reforms in the history of Indian taxation. It would be worthwhile to note a few of its salient impacts on the overall taxation system of the nation.

Simplification of tax structure – With the implementation of GST, there is one uniform law and uniform tax rates on all goods and services all across the country which has not just enabled hassle-free flow of goods and services across the nation but also the seamless flow of credit, thereby reducing the costs incurred. Not just this, with the subsuming of so many (17) Central and State taxes into GST, the cascading effect of taxes has been largely nullified. Thus, we have taken a big leap towards the ideal dream of ‘One nation, one tax and one market’.

HSN and SAC - The GST tax rates are based on the Harmonized System of Nomenclature and Service Accounting Codes which are internationally followed for taxation of goods and services respectively. Thus, our taxation is now in sync with the international standards. To add to it, there is lesser possibility of interpretation issues as regards to the rate of tax on goods and services and hence lesser litigation.

eway bill and RFID – While the concept of way-bill still exists in the GST regime, it has been completely made electronic so as to facilitate the tax-payers. Moreover, it has been linked to RFID for the tax officials to keep a check on the same. In fact, a large number of cases of revenue pilferage have been detected based on the matching of the two or should I say, mismatching of the two data-sets. This, albeit the fact that the border check-posts are no longer in vogue.

Increased compliances – Although the number of compliances has increased in the GST regime, still the rate of compliance has improved, more so to ensure seamless flow of credits. As per the data provided by GST Council, the filing percentage of returns (GSTR-3B) is more than 90%. However, as per the World Bank report, there have been reports of increased administrative tax compliance burden on firms and a locking-up of working capital due to slow tax refund processing. High compliance costs are also arising because the prevalence of multiple tax rates. This implies a need to classify inputs and outputs based on the applicable tax rate.

Increase in exports:- Even though, exports under GST can be with or without payment of GST, it has reduced the customs duty on export of goods. Also, due to the subsuming of taxes and also the seamless flow of credit across the country, the cost of production in the local markets has also decreased. All these factors have contributed towards increasing the rate of exports in the country. Indian enterprises have become more competitive in expanding their businesses globally.

Challenges of GST in Indian Context:

Even though GST is the greatest of tax reforms, for the effective and successful implementation of the same, there are few challenges which have created bottlenecks in the smooth layout. Although Mehta and Mukherjee have discussed them at length in their Working Paper, some of them are as under:-

Complex compliances – In GST, not just the number but also the level of compliances has increased, thereby, making it difficult for small traders and SMEs, barely having access to computers, to fulfill them. The Comptroller and Auditor General, in its report no. 5 of 2022 for the year ended March 2021 observed “that owing to continuing extensions in the roll out of simplified return system, and delay in decision making, the originally envisaged system verified flow of ITC was yet to be implemented despite more than three years of roll out of GST. In the absence of a stable and simplified return system, one of the main objectives of roll out of GST i.e. simplified tax compliance system was yet to be achieved. Accordingly, Audit had recommended that a definite time frame for roll out of simplified return forms may be fixed and implemented as frequent deferments were resulting in delay in stabilisation of the return filing system and continued uncertainty in the GST eco-system.”

No matching of data of returns – In spite of having a complete electronic system in place, there does not exist auto-matching of data. Due to this, cases have been observed of large differences/discrepancies in liability between GSTR-1 and 3B and in input tax between GSTR-2A and 3B and also the setting off of liability though credit ledger rather than cash. Neither is there any alert mechanism for taxpayers in such cases not to the respective proper officers. The analytical tools and reports, even though they exist, are in multiplicity which are differently used across the country and discrepancies have been observed therein too. CAG in its report (ibid) notes “During analysis of pan-India data provided by GSTN, Audit noticed significant data inconsistencies between the taxable value and declared tax liability. Inconsistencies were also noticed between the CGST and SGST components of GST, and between ITC figures captured in GSTR-3B and GSTR-9 returns. Due to significant inconsistencies in the GST data, Audit could not establish the reliability of data, for the purpose of finding audit insights and trends in GST revenue, and assessing high risk areas such as tax liability and ITC mismatch at the pan-India level...Audit recommends that the Ministry should consider introducing appropriate validation controls (controls which prevent unreasonable data entries or alert the taxpayer to unreasonable data or both) supplemented by post-facto data analytics in respect of important data elements, where in data (such as tax amounts; taxable values; tax components, like CGST and SGST; validation of ITC and tax amounts, between the annual and monthly returns) is entered by the taxpayer. An effective review and follow up system needs to be developed at GSTN to review and address cases of data inconsistencies. In case of significant deviations, tax officers may be alerted to the inaccuracies and directed to take necessary action.”

RNR and Multiple rates – India, being the largest democracy of the world, the model of GST in the country has one of the maximum number of tax rates in the world with one of the highest tax rate (28%). In addition to the number of rates, the extent of exemptions and sales at a zero rate is a critical design parameter for a GST. While exemptions allow to ease the tax burden on items with a high social value, such as healthcare, they also reduce the tax base and compromise the logic of the GST as they can: reintroduce cascading where an exempted good or service is an input into another taxable good or service; create incentives for vertical integration to keep the exempt status; and raise compliance costs by making it necessary to allocate input taxes between exempt and non-exempt output when manufactured or traded together.

Complexity of law - The understanding of GST law, its procedures and its impact on business is still at emerging stage, and still many taxpayers are finding the locations and places they need to be registered in. Various provisions of GST are still ambiguous. Classification of goods and services in various cases is still not clear. Provisions for anti-profiteering, as well as the now deferred e-way bill, which tracks consignments across states, are unclear.

IT glitches - Various businesses are not yet mapped and so the accounting software and IT systems pertaining to the new tax provisions, to create a invoices of GST, and abstract required reports are therefore still not in place.

Staff with perfect required skill with efficient GST knowledge and their training subject are not easily available. A taxpayer requires to file manifold returns, a minimum of 37 in most cases for assesses, and this can increase multifold with business models which is impossible without adequately trained staff and robust IT mechanism.

Petroleum and Electricity are out of the ambit of GST, even when these products constitute nearly 35-40% of the economy. This is a serious demerit or deficiency of GST. Besides, even liquor is outside the purview. This has resulted into issues like blocking of credits, use of C-forms by GST taxpayers for purchase of non-GST goods and so on and so forth.

Friction between centre and states - Marching towards the federal dream, while the States had agreed to compromise their autonomy, the Centre had agreed to compensate their losses for five years even as the two agreed to take the decisions further ahead together at the level of GST council. However, the non-timely discharge of compensation to States has led to friction between the two. Moreover, now that the compensation to States has been done away with, it has further created shortfall in revenues for many of the States.

GST Appellate Tribunal – Last but not the least, even after five years of roll-out of GST, the second tier of appellate structure i.e. the GST Appellate Tribunal remains to be constituted and is itself engulfed in the tangles of litigation and conflicts. This has been causing harassment not just to the taxpayers but also causing unnecessary delay in the concluding of litigation proceedings and hence the settlement of law to an extent.

Impact on Mining Sector:-

Mining sector is an integral component of industrial development and economic growth in India. Current annual contribution of mining sector to Indian economy is around 3920 Billion INR which is equal to 3.92 Lac Crore. The mining industry's share in India was estimated at 2.6% of the GDP in 2018-19, down from 3% in 2011-12. Small quarries and traditional mineral acquiring and processing activities in India are mostly part of the informal sector, contributing up to 88 % of the total mining output and employing a large number of people living at low levels of income.

Table 1: Structure of the economy :Share of Broad Economic Activity sectors in Overall Gross Value Added (%)

Industry	2011-12	2016-17	2017-18
Agriculture, forestry and fishing	18.5	17.9	17.2
Mining and quarrying	3.2	2.3	2.3
Manufacturing	17.4	16.8	16.4
Electricity, gas, water supply & other utility services	2.3	2.5	2.7
Construction	9.6	7.8	7.8
Trade, repair, Accommodation	10.9	11.5	11.8
Transport, storage, communication & services related to broadcasting	6.5	6.7	6.4
Financial services	5.9	5.4	5.4

Real estate, ownership of dwellings & professional services	13.0	15.5	15.6
Public administration and defence	6.1	5.9	6.2
Other services	6.6	7.7	8.1
TOTAL GVA at basic prices	100.0	100.0	100.0

Source: Computed from National Accounts Statistics, 2019

India currently produces around 89 minerals under different groups, with fuel minerals, metallic minerals, non-metallic minerals, atomic minerals and minor minerals. The country has immense potential for mining resources and reserves and is currently among the top 10 global producers of many minerals. An estimate of volume of mineral production in India may be had from the graph below:-

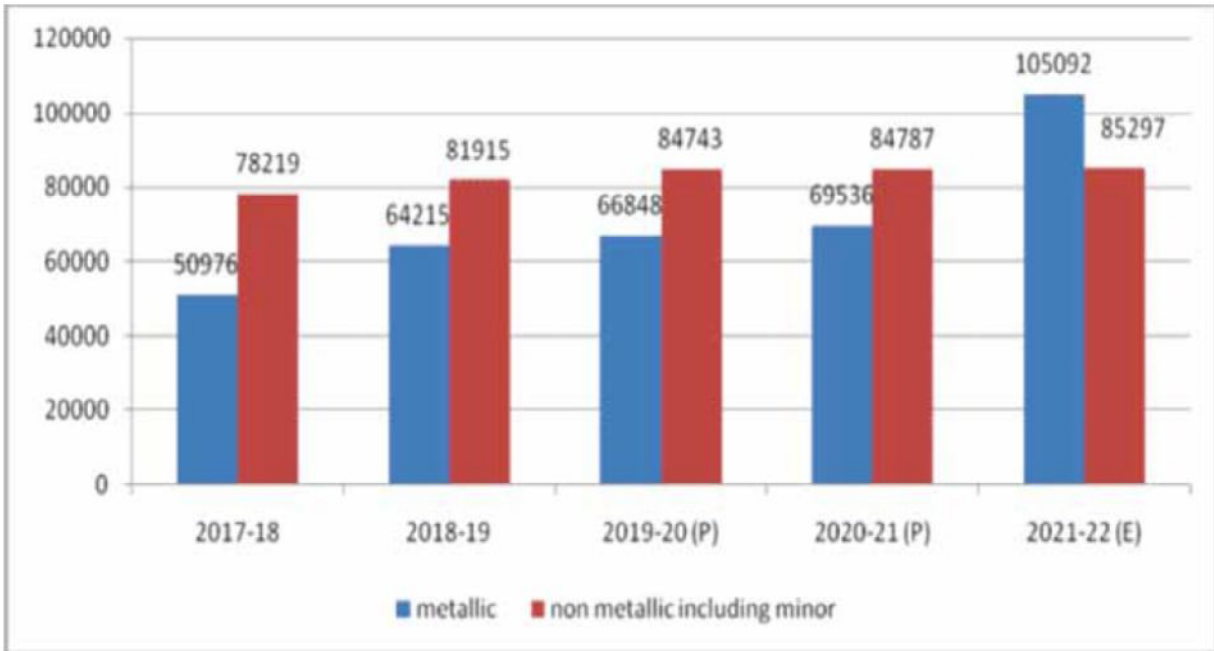


Figure 2.3: Value of Minerals Production (by groups) (excluding atomic & fuel minerals)

Source: Monthly statistics on mineral production of IBM.

During 2021-22, mineral production in India was reported from 21 States/Union Territories of which the bulk of value of mineral production (excluding fuel and atomic minerals, and minor minerals) of about 88.7% was confined to 4 States. Odisha is in leading position, in terms of estimated value of mineral production in the country and had the share of 47.2% in the national output. Next in order was Chhattisgarh with a share of 16.2% followed by Karnataka (14.31%), Rajasthan (11%) and Jharkhand (4.5%) in the total value of mineral production. The contribution of States/ UTs in the value of mineral production (excluding fuel and atomic minerals, and minor minerals) during 2021-22

estimated

is

pictorially

shown:-

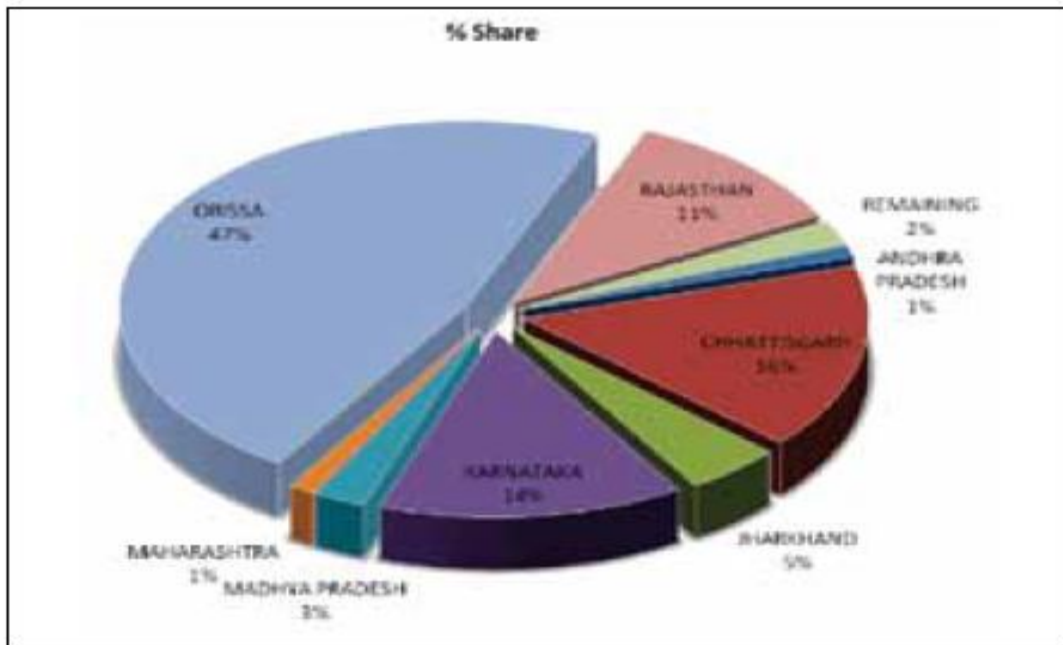


Figure 2.4: Share of States in Value of Mineral Production 2020-21 (Estimated) (Excluding Atomic & Fuel Minerals)

Source: Statutory returns submitted to IBM

In mining too, there is a large chunk that is contributed by informal sector, which is close to 22%. The following table illustrates the proportion of informal sector in various areas of the economy:-

Table 2- Share of formal/informal sectors across broad sectors to GVA

Industry	2011-12			2016-17			2017-18					
	Organised / formal	Unorganised/ Informal		Total	organised/formal	unorganised/informal		Total	organised/formal	unorganised/informal		Total
			Of which HH*							Of which HH*		
Agriculture, forestry and fishing	3.2	96.8	94.8	100.0	2.8	97.2	95.2	100.0	2.9	97.1	95.2	100.0
Mining and quarrying	77.4	22.6	22.6	100.0	77.4	22.6	22.6	100.0	77.5	22.5	22.5	100.0
Manufacturing	74.5	25.5	12.7	100.0	76.4	23.6	12.5	100.0	77.3	22.7	12.0	100.0
Electricity, gas, water supply & other utility services	95.7	4.3	3.2	100.0	95.0	5.0	5.0	100.0	94.7	5.3	5.3	100.0
Construction	23.6	76.4	76.4	100.0	26.6	73.4	73.4	100.0	25.5	74.5	74.5	100.0
Trade, repair, Accommodation and food services	13.4	86.6	56.0	100.0	13.4	86.6	55.8	100.0	13.4	86.6	55.8	100.0
Transport, storage, communication & services related to broadcasting	53.0	47.0	39.6	100.0	53.7	46.3	38.5	100.0	52.3	47.7	39.6	100.0
Financial services	90.7	9.3	0.0	100.0	88.1	11.9	0.0	100.0	88.1	11.9	0.0	100.0
Real estate, ownership of dwelling & professional services	36.9	63.1	57.2	100.0	46.8	53.2	46.7	100.0	47.2	52.8	46.0	100.0
Public administration and defence	100.0	0.0	0.0	100.0	100.0	0.0	0.0	100.0	100.0	0.0	0.0	100.0
Other services	58.8	41.2	22.6	100.0	52.7	47.3	24.4	100.0	52.1	47.9	24.3	100.0
TOTAL GVA at basic prices	46.1	53.9	45.5	100.0	47.3	52.7	43.6	100.0	47.6	52.4	43.1	100.0

Activities in the mining sector

In general, mining sector involves the following activities :

- Survey and Exploration of minerals
- Excavation of mines
- Demolition of mines
- Earth moving services
- Mining of minerals
- Handling of minerals extracted
- Transportation of minerals.

Before GST:- In the pre-GST regime, the mining sector incurred service tax and royalty as the procurement costs .The mining companies attracted service tax for the services relevant to the mining industry such as exploring ion, mineral product ion, handling, transportation etc. A manufacturer and/or service provider paying service tax on procurement of services was allowed to take credit of same and allowed to set it off against his Service tax or Excise liability. However, no credits were available to primary producers or miners, who were neither service providers nor manufacturers but simply traders. Exporters were allowed to claim a refund of tax paid on procurement in various forms. With effect from 01.04.2016, the negative list contained in section 66D was amended to exclude all services provided by Government from negative list and to bring them under levy. Further, these services were subjected to reverse charge requiring the recipient to pay tax. Since then, applicability of service tax over royalty paid by mining companies to State Governments towards mineral rights has been a subject matter of debate. The industry was of the view that royalty payable on mineral rights itself is in the nature of tax and service tax could not be levied on such tax amount.

In addition to the above, VAT was leviable on the ore/mineral so sold or traded. In case of miners, it was often collected at the nearest check-posts and in case of traders, at the time of sale of the respective ores/minerals. ITC was accordingly available.

After GST:-

The 101st Constitutional Amendment has deleted only the VAT, Entry Tax and Entertainment Tax from the state lists and Excise duty and Service Tax from the union list. As per Section 3, of the CGST Act, 2017 the Goods and Service Tax is levied on the supply of goods and services. Government continued the same tax policy as before for mining sector even under GST regime requiring the recipients to pay tax on royalty paid over mineral rights. Various supplies of services such as exploration, mineral production, handling, transportation and the supply of the minerals to consumers attract GST. Under GST, output tax is leviable at the time of supply of output of the mines, but at the same time the input tax cost incurred by the miners is allowed as credit. The same can be shown it the help of the following table under the GST regime:-

Particulars	Merchant Mining Sector		Mining Cum Manufacturing Sector	
	Tax levied	Cenvat credit Available	Tax levied	Cenvat credit Available
Supply of Services				
Exploration of Mines	✓	✓	✓	✓
Handling of Mines	✓	✓	✓	✓
Transportation of Mines	✓	✓	✓	✓
Grant for mining lease	✓	✓	✓	✓
Outward supply - Intrastate	✓	✓	✓	✓
Value Added Tax on outward supply	✓	✓	✓	✓
Outward supply - Interstate	✓	✓	✓	✓

As per Central Tax (Rate) notification no. 27/2018 read with 11/2017, GST at 18% is payable on royalties paid to State governments for the grant of mining leases, by the lessee under a reverse charge mechanism. GST paid under the reverse charge mechanism is eligible as an input tax credit (ITC) in the hands of the lessee. There are also ITCs for other expenses incurred in the course of business. Refunds of unused ITCs are available in respect of zero-rated supply (exports) or where ITC is accumulated due to a rate of tax on inputs that is higher than the tax on the output supply.

Under the Goods and Services Tax regime, import of goods into India from a place outside the Indian customs frontier is treated as supplies of goods in the course of inter-state trade or commerce. Accordingly, integrated goods and services tax (IGST) is levied on imported goods. However, an importer can claim input tax credit of IGST paid on imported goods. Export of goods from India to a place located outside India is also treated as a supply of goods in the course of inter-state trade or commerce. Accordingly, IGST is levied on exported goods. However, exports are considered as zero-rated supplies under GST. Therefore, the exporter can export goods with or without payment of GST and claim a refund of unused input tax credit as a

refund or rebate on GST paid in respect of inputs and input services used for exporting those goods. However, ITC refunds are not available if export duty is payable on the goods exported out of India. In certain cases where there is a short fall in the domestic supply, the government may also impose export duties to regulate the supply of minerals (such as iron ore, bauxite, and manganese). In these cases, the exporter cannot claim a refund of input tax credit.

Also, presently in case of export of goods i.e. minerals through sea port, the exporter shifts goods from mines situated at one state to the sea port at other state. The exporter has GST registration in both the states. During the shipment, the exporter charges IGST on supply of goods at 5% from it's one registration to other registration treating the transaction as supply as per section 7 (c), Schedule –I of the CGST Act,2017 read with section 25 (4) of the CGST Act,2017 as distinct person. During the whole journey from mines to port, the said export goods are also affected by other GST charge such as on Railway Freight, and other port services consumed at sea port in other state. The exporters bear the GST on all such transactions incurred and there is no scope either to utilize the Input credit or to make refund on input and input services used for export of goods under LUT. The exporter is not eligible to file refund under Section-54 (3)(ii) proviso, because the goods are subjected to export duty (30% for iron ore). Ultimately this unutilized input GST increased the cost of the product and thereby the product becomes uncompetitive in the international market. In pre GST regime, under direct export of goods even interstate movement, was exempted from duty both from central and state, because the intention of the Government was that the goods are to be exported not the service. So there was no tax on goods levied in central and state on direct exportation of goods even on inter-state movement. All the input service tax paid which is used in the export of goods was refunded to exporter.

Another major concern of the mining industry / government mining is of inverted duty structure. Reason being output tax on coal or other minerals is 5% whereas most of the input tax credit of goods as well as services is of rate 18% which gives rise to inverted duty structure and the amount is huge. Moreover, the refund of inverted duty pertaining to services is also not allowed. This results in blocking of capital.

Further, as per FAQ issued by CBIC, credit is not available if steel, timber and cement used are supplied for construction of an immovable property but if these goods are temporarily placed for protective purposes, credit will be available.

Registration under the GST Act

Every person whose aggregate turnover exceeds INR4 million must obtain GST registration. However, small mining leaseholders whose aggregate turnover does not exceed INR15 million in the preceding financial year are eligible to pay GST under the composition scheme. While being registered under the GST Act, the mining lease holders wanted to continue to being registered under the Central Sales Tax Act, 1956 taking benefit of the doubt of the provisions of Section 8(3b) that allowed concessional purchase of goods (still in the purview of CST Act i.e. petroleum goods and specially High Speed Diesel) for the purposes of mining, telecommunication and generation of power apart from manufacturing and resale of the said goods. This stand, however, was opposed by the States resulting into voluminous litigations. The

Government of India, however, amended the said Act with effect from 28th March, 2021 so as to limit the benefit of the said concessional purchase for the manufacturing and resale of the said goods only. Thus, there has arisen again this cascading effect of tax wherein the miners have to purchase HSD against payment of local VAT/CST and they are unable to claim ITC of the same.

However, taking note of the said issue, some of the States like Uttar Pradesh and Rajasthan have allowed concessional rate of VAT to miners purchasing HSD from within the State.

Returns under the GST Act

Mining Leaseholders are required to file the returns like GSTR-1, GSTR-3B just as other taxpayers whereas the Government company is supposed to deduct TDS on the services supplied to the private leaseholders and to file GSTR-7. The leaseholder recipient is allowed to take the benefit of such deduction of tax by the Government Company.

Comparison of erstwhile regime vis-à-vis GST on Mining Sector

A simple comparison erstwhile regime vis-à-vis GST on Mining Sector may be made with the help of the following table:-

SN	Basis for comparison	VAT	GST
1	Meaning	Consumption tax, that is levied on the value addition, at each stage of production/distribution of goods	GST is a destination based tax, charged on the manufacture, sale and consumption of goods and services.
2	Point of taxation	Sale of goods	Supply of goods and services
3	Payment Mode	Offline	Online
4	Registration	Compulsory, if turnover is greater than 10 lakhs	Compulsory, if turnover is greater than 40 lakhs.
5	Basis of taxation	Summary based	Transaction based
6	Revenue Collection	Seller state collects revenue	Consumer state collects revenue
7	Excise Duty	Levied on the manufacture of excisable goods.	Not levied.
8	Interstate sales	Input credit is not possible in case of interstate sales	Input credit can be availed in case of interstate sales.
9	Authority	<ul style="list-style-type: none"> Collected by respective state governments State governments have authority over the tax proceeds collected by such levy. 	<ul style="list-style-type: none"> Collected under SGST and CGST for every sale from the same state. Corresponding centre and state amount then gets bifurcated.

10	Input Tax Credit	<ul style="list-style-type: none"> • Taxpayers can claim the credit of tax by netting the VAT liability with input VAT on goods purchased and from output VAT on goods sold. • Corresponding centre and state amount then gets bifurcated 	<ul style="list-style-type: none"> • A taxpayer can claim the credit on supplies (Goods and Services) received by him to be used or intended to be used in furtherance of business operations. • Subsuming of taxes into one pot of GST has made available the usage of credits at one place to be used in the returns.
11	Compliances	<ul style="list-style-type: none"> • Movement of goods : • Different set of compliances for the movement of goods between states. • Preparation of various forms for moving the goods from one state to other. • Returns : • Different returns in different states. So many annexures return to be prepared. • Concept of auto-populated return for inward supplies as in GST was absent under VAT law. Because there was no technology and ideology which is present today in GST act present back then. 	<ul style="list-style-type: none"> • Movement of goods : • Unified set of compliances for movement of goods between states • Preparation of one e-way bill which is valid across India. • Simplified Returns : • Only three monthly returns. One for outward supply (GSTR1), other for inward supply (GSTR2) (Note: This return is an auto-populated one. This provision was not there under VAT act) and the last return is a consolidated return. (GSTR3)
12	Calculation	<ul style="list-style-type: none"> • Assume a specialist charged a 15% expense on products or services delivered worth Rs. 10,000. • Consequently, the output tax will be Rs. 10,000 x 15% = Rs. 1500. • By then, if the workplace supplies were purchased for Rs. 3000, paying 5% as Value Added Tax will add up to Rs. 150 (Rs. 3000 x 5%). • For this situation, the entire 	<ul style="list-style-type: none"> • Assume a specialist charged 18% expense on services delivered worth Rs. 10,000. • Consequently, the output tax will be Rs. 10,000 x 18% = Rs. 1,800. • If the workplace supplies were purchased for Rs. 3,000, paying 5% as GST will add up to Rs. 150 (3,000 x 5%). • For this situation, the sum

		sum, Rs. 1650 (Rs. 1500 Rs. 150), is to be paid as the duty paid on provisions from the charge on goods or services delivered under the VAT framework.	payable will be Rs. 1650 (Rs. 1800 - Rs. 150). <ul style="list-style-type: none"> This calculation of GST is not like VAT since GST is deducted from the expense paid on provisions of the goods or services delivered.
13	Validation	System will partly validate the returns, and full verification will be subject to assessments by state or central authorities.	Validation will take place on the system, and consistency checks will be carried out on input credit availed, tax payments, and utilisation.
14	Service Tax	Centre charges service tax on a list of services under the Finance Act on provision/payment basis.	State GST subsumes service tax depending upon rules relating to Place of Supply.
15	State VAT	All commodities apart from those exempt are taxed.	State GST subsumes this tax.
16	Excise Duty	Excise duty will be levied up to the point of manufacturing.	Excise duty will be replaced by Central GST and tax will be levied up to retail level.
17	Basic Customs Duty	Centre charges tax on imports under a separate act.	No change.
18	Special Additional Duty	Centre charges tax on imports separately.	This duty is subsumed by State GST.
19	Entry Tax	Entry tax is charged by certain states for inter-state transfers, detained as import in local area.	Entry tax is not applicable, but an additional 1% will be levied as tax on inter-state supply of certain commodities.
20	Central Sales Tax	CST is charged at a concessional rate of 2% so far as inter-state transfers are concerned against C-Forms. The full rate applicable otherwise ranges from 5% to 14.5%.	Integrated GST subsumes CST.
21	Cross Set-Off of Levy	Set-off of service tax and excise duty is permitted.	Set-off between State GST and Central GST is not allowed.
22	Advantages/ Disadvantages	<p>Disadvantages</p> <ul style="list-style-type: none"> Cascading effect of taxes It was not possible to claim Input Tax Credit (ITC) on service under VAT 	<ul style="list-style-type: none"> Advantages Removal of cascading effect of tax Simple online procedure Lesser compliances

		<ul style="list-style-type: none"> • Different VAT rates in different states • Different VAT laws in every states • Input of CST cannot be adjusted against VAT and vice versa 	<ul style="list-style-type: none"> • Defined treatment for e-commerce companies
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Conclusion:- Whereas the various activities of mining which were liable to service tax under the erstwhile regime at the rate of 15%, the supply of these services under GST is taxable at the rate of around 18%. Thus, there is an additional liability of 3%. However, with seamless credit available all across the net, tax cost forming part of the final product should decrease. Royalty paid on mineral is not subsumed under the GST, thus same is an additional cost for the business entity thereby leading to cascading effect. Thus, there is a pressing demand from miners across the country that the Royalty should be considered as part & parcel of GST so as to enable business entity to claim its set off against their GST liability to avoid cascading effect. To conclude, it can be said that the biggest advantage of GST for Mining is set off of GST paid. However, RCM mechanism on Royalty for Minerals is biggest pain point, as working capital gets blocked. It has been challenged time and again across the country and various High Courts have been taking different stands on the issue. Second issue is refund of credit lying in GST account. These are the issues that are creating a roadblock between the mining industry and the government and need to be addressed at the earliest for a smooth way forward.

Thus, having had an overview of the impact of GST on the Indian Economy as a whole and on the mining sector in particular, we can conclude in the words of Kavita Rao, “The period since the introduction of GST has been one of considerable turmoil in the economy. COVID 19 pandemic in its many waves has disrupted the economy and resulted in lower economic growth and slower growth in tax revenues. With the economic shocks, the revenue performance of the Union and States has been correspondingly poorer than in the pre-GST period. Further, the GST regime is soon going to complete five years in operation. Therefore, there are two big challenges the governments face in going forward: one, there is need to raise the level and the rate of growth of revenues to ensure that the regime provides adequate revenues in the medium term and second, in the short run, there is a potential shortfall of revenues for states which needs to be addressed in some manner to ensure short run viability. There is considerable discussion on the first aspect with a focus on the need for recalibration of the rates of tax for GST.”

Also, the coverage of the GST is determined by two factors. First, the number of different tax rates (including the introduction of tax exemptions) determines the extent to which different goods are covered. This design parameter is typically used to protect the consumption baskets of the poor and achieve other social objectives. The role of exemptions to reduce the burden on the poor as a policy instrument is also debatable. Exemptions typically for basic food items is a blunt instrument as it also benefits the not-poor who also need to consume food. The number of

different tax rates also determines the complexity of the GST, with multiple rates imposing additional costs on compliance for businesses as well as the tax administration and encouraging evasion. High cost of compliance imposed on businesses because of multiple rates can be a significant cost to the business which is then passed on to consumers in the form of higher prices. Second, the registration threshold determines the category of taxpayers that are covered by the system. This is thus an instrument that governments can use to relieve smaller firms from the burden of complying with a GST. As is the case in India, it is also possible to introduce a simplified system in lieu of exemptions for smaller firms which is administratively easier. The disadvantage of introducing registration thresholds and having a simplified and presumptive tax regime is that it inevitably fragments the tax system, which may reduce the tax base and provide an incentive for larger firms to mask their size and benefit from the reduced compliance burden. In addition, tax schemes that levy taxes on sales rather than value added provide incentives for sellers to reduce their taxable sales, and potentially promoting economic inefficiencies by disincentivizing business growth, integration and expansion.

Yet, all said and done, GST in India does not present a completely gloomy picture. As World Bank said "while international experience suggests that the adjustment process can affect economic activity for multiple months, the benefits of the GST are likely to outweigh its costs in the long run". "Despite the initial hiccups, the introduction of GST is having a far-reaching impact on reducing tax-related barriers to trade barriers, which was one of the primary goals of the introduction," it said. Therefore, we are optimistic that this reform towards One nation, one tax would indeed prove a big leap in the taxation history of the nation and usher forth a win-win era for both the taxpayer as well as the tax administration, for both the States as well as the Centre!!

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