



CURRENT AFFAIRS



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A grand tax bargain in danger of coming apart (The Hindu, GS-3)

Context:- After four years of enactment, the Goods and Services Tax (GST) remains substantially unrealised. There is a Issue in the GST that tries to avoid cascading but continues to be a not very transparent multi-rate system with associated difficulties in computing and assessing tax liability, tax burden and tax incidence. When the period of five years of compensation ends in 2022 it may need a new GST2.0.

What is GST and what are its benefit:-

- GST is a destination based indirect tax which subsumes some of the state and centre indirect tax.

What is the effect of GST on indian market as a whole?

- It subsumes the indirect taxes thereby integrating India's market into a national market.
- It nullifies the cascading of taxes.
- Making indian products more competitive.
- It is simple to administer.
- It helps in controlling the leakage.
- High Revenue efficiency.

Issues with tax structure:-

- There are design flaws in the tax structure, here we see nearly 45% to 50% of commodity value is outside the purview of the GST and petrol and petroleum products are one of them.
- States which export minerals or have inter-State transfers and fossil fuel extractions are not getting revenue as the origin States and need a compensation mechanism.
- The pre-existing threshold level of VAT has been tweaked, which has led to an evaporation of tax base incentivising, enabling evasion and misreporting.
- Retail establishments and Most trading (however small) are out of the fold of the GST.
- Irrespective of whether Input Tax Credit (ITC) is required or not in retail establishments, the burden can be passed off to the consumer.
- Exemptions from registration and taxation of the GST have eroded the GST tax base as compared to the tax base of the pre-existing VAT.
 - Exemptions are purely distortionary and also provide a good chance to remain under the radar, thereby directly increasing evasion or misclassification.
- Multiple rates are charged at different stages, it goes against the lessons of GST history.
- Most of the countries around the world have a single rate but India stands out and is among the five countries to have four rates/slabs.

- Petroleum products such as diesel, petrol are the name of few that remain outside the purview of GST, and have helped the Centre to increase cesses and decrease central excise, in what would otherwise have been shareable with the States.
- Compliance with GST return (GSTR-1) filing stipulation and the resultant tax information is not up to date and sometimes it shows a lag..
- There are fraudulent claims of Input Tax Credit (ITC) are quite high because of a lack of timely reconciliation, though it has come down by two thirds.
- According to the National Institute of Public Finance and Policy paper tax evasion is at least 5% in minor States and plus 3% in the major States.

How Centre holds the hand in case of GST:-

- The fundamental weakness of the GST is its political architecture which is asymmetrically tilted in favour of the Centre rather than the state.
- There is no particular body which adjudicates the issues between centre and state, though the original Constitution (115th Amendment) Bill 2011 (GST Bill) had a provision for such an institution.
- Central government has one-third vote weightage and States have two-thirds of total votes.
- States have equal voting rights regardless of size and stake.
- With the support of small States whose total GST collection is not more than 5% of the total collection plus their Budget is mostly underwritten by the central government, These two things make the cocktail and tilt the game hugely in the Centre's favour.

Swarn Singh

Recusal of Judges

GS PAPER-2, Separation of powers between various organs dispute redressal mechanisms and institutions.

SOURCE- THE HINDU

Context:

Chief Justice of India (CJI) N.V. Ramana has recused himself recently from hearing a petition which was filed by the Andhra Pradesh government against the Telangana government for depriving its citizens of their legitimate share of water for drinking and irrigation purposes.

The reason behind the move:

The Chief Justice stated that he recused himself from hearing because he hailed from both the states i.e Andhra Pradesh and Telangana.

Background:

State of Andhra Pradesh has accused the state of Telangana for refusing to follow the decisions taken on the issue of river water management in the Apex Council constituted under The Andhra Pradesh Re- organisation Act of,

2014. The former state is arguing that its neighbour has ignored the directions of Krishna River Management Board which is constituted under the 2014 Act and on the directions of the Central government.

What is Judicial Disqualification or Recusal?

Judicial Recusal can be defined as the act of abstaining from participation or maintaining neutrality in an official work such as a legal proceeding etc due to a conflict of interest and activity of the presiding court official, administrative officer, and judicial magistrate.

Grounds for Recusal of Judges:

1. If the judge is biased in favor of one party, or against another, or that a reasonable objective observer would have a thought that he might be.
2. Interest in the concerned issue, or relationship with another person who is interested in it.
3. Concerned jurist has a background or experience, such as the judge's earlier work as a lawyer.
4. Jurist has personal knowledge about the parties or the facts of the particular case.
5. If the judge has a Ex parte communications with lawyers or non-lawyers.

Are there any laws in this regard

There are no defined rules given on recusals by the Judges any time:

- However, In taking oath of their office, judges, both of the Apex Court and of the high courts, have to promise to perform their duties, to deliver justice, “without fear or favour, affection or ill-will” to the citizens of India.

What has the Supreme Court say on this?

According to the opinion of Justice J. Chelameswar, Supreme Court Advocates-on-Record Association v. Union of India (2015) stated that “Where a judge has a pecuniary or vested interest, no further inquiry and observation as to whether there was a ‘real threat’ or reasonable suspicion of bias essential to be undertaken”.

Concerns/issues associated with recusal:

1. It permits litigants to cherry-pick judges of their choice, which impairs judicial fairness and righteousness.
2. It can undermine both independence and fairness and enhance the questions on impartiality of the judicial magistrate.
3. There are no rules and obligations to determine when the judges or judicial magistrate could recuse it. There are only different interpretations of the same issues.
4. Recusal may affect and obstruct and delay the proceedings of the Courts.

Khyati Khare