CHALLENGES OF GST REGIME IN THE PROSPERITY OF FEDERAL STRUCTURE OF INDIA

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INTRODUCTION:

In 1944 Central Government introduced the 'Central Excise' which took almost 6 decades to get settled law of taxation by several binding judgements of High Courts and Supreme Court (landmark case *Ujagar Prints*, 1989). Since 1994 State Governments introduced 'Service Tax' in India but still today several issues of Service Tax not yet solved and instead of solving problems of Service Tax, now the Central Government has introducing GST with objectives to eliminate 'multiple and cascading' taxation regime and to build 'Common Market' within India. The GST will revolutionize the way Indians do business and provide services on one side and on the other may end into an operational disaster and a policy nightmare towards Welfare State, Fiscal Federal Structure, State Revenue Rights, Constitutional Mandate and Diversity Spirit.

Federal structure is one of the basic structures of the Indian constitution. The Supreme Court observed in case of *Minerva Mills vs. Union of India* that the power of the Parliament to amend the Constitution is not the same as the power to destroy. Economic independence is the fundamental of Indian federalism. Taking away power of the states to tax items under the state list amounts to encroachment upon the basic structure of the Constitution and against the spirit of the founding fathers. Whatever Majority Govt. can't amend the Constitution to kill the basic structure.

If Central Govt. insists to the States Govt. to follow its taxation policy and tariffs or orders that the proceeds from the state list taxes are poured Central Pool, it is equal to encroaching on the state's fiscal autonomy and making dependent upon the Centre's sharing.

GST regime will resulted winding up the Sales Tax Departments of States the Indian Revenue Service (Customs and Central Excise) in process of unifying and integrating the revenue collection services of 28 States and Central Service into one GST collection agent.

State autonomy to face an economic challenge i.e. drought, flood, crop failure or initiate new social welfare schemes e.g.

Arogyasri, Mid-Day Meals, special sub-plans for weaker and scheduled sections will be stressed under a GST regime. MG Ramachandran was started the school lunch programme and NT Rama Rao started the 2 Rs. per kg rice scheme without depending upon Central sharing.

Devolution of compensation because permanent loss of revenue due to shift into GST regime of manufacturing states shall compensated by the Centre upto 100% for 5 years from implementation year to those state whose growth rate is below 14%, it mean those states who having growth rate more than 14% are excluded from the scheme of compensation form Centre, which is really disadvantageous, demoralising and create unrest into industrial states.

Likewise none of these states have come forward for linking of compensation towards the local bodies. Municipal Corporations and Panchayats are also denied of powers to collect taxes as GST will subsumed Octroi, Entry Tax, Betting tax, Cesses and Surcharges. The Mumbai Municipal Corporation collects every year over Rs 6,000 crores as Octroi duty. Maharashtra has not made any commitment towards compensation to the BMC this shows how the principles of decentralisation, division of power and sharing of revenue relations within Federal Structure will be endangers inclusive growth and also national integrity.

GST succeeded in Singapore due to City state run by single party and in Germany due to its tightly bond Unitary setup. If any country should be compared to India and its federalism then most suitable nation is the United States of America which does not have a GST.

OBJECTIVES OF THE STUDY:

- To understand GST challenges on the Federal Structure of India.
- To know challenges of GST on the State Revenue, Welfare & Prosperity Policies.

REVIEW OF THE LITERATURE:

The Union List or List-I is a list of 100 items (though last item is numbered 97) on which Parliament has exclusive power to legislate

- The State List or List-II is a list of 61 items (Initially there were 66 items in the list)
- The Concurrent List or List-III is a list of 52 items(though the last item

is numbered 47) concerned with relations between the Union and States

In case there is a conflict between the laws legislated by State Government and Central Government in respect of entries contained in the Concurrent list, a law made by Union Government prevails.

Article 246A of the Constitution, which was introduced by the Constitution (101st Amendment) Act, 2016 confers concurrent powers to both parliament and state legislatures to make laws with respect to GST. However, clause 2 of Article 246A read with Article 269A provides exclusive power to the Parliament to legislate with respect to inter-state trade or commerce.

In GST regime at the **Central** level, the following taxes are being subsumed:

a. Central Excise Duty,

b. Additional Excise Duty,

c. Service Tax,

d. Additional Customs Duty commonly known as Countervailing Duty, and

e. Special Additional Duty of Customs.

After implementing GST at the **State** level, the following taxes are being subsumed:

a. Subsuming of State Value Added Tax/Sales Tax,

b. Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States),

c. Octroi and Entry tax,

d. Purchase Tax,

e. Luxury tax, and

f. Taxes on lottery, betting and gambling.

On June 14, 2016, the Chief Minister of Tamil Nadu, Jayalalithaa, presented a 29-point memorandum of requests highlighting the State's demands on issues that touched upon financial allocations for Tamil Nadu and Union-State relations in India. Memorandum, which includes the position of the State on issue relating to Water Resources, Fisheries, Power, Agriculture, Goods and Services Tax, Public Distribution

System, Modernisation of Police Force, transport, rural development, textiles, health.

RESEARCH METHODOLOGY:

The present study is based only on secondary data.

Secondary Data:-Secondary data was collected from published and unpublished sources available from websites for all secondary data.

LIMITATION OF STUDY:

This study limited to the critical understanding of GST and its implications on the Federal Structure and State Revenue with special emphasis on Welfare Policy enshrined in the Constitution of India.

DATA ANYALISIS AND INTERPRITTION:

Why Opposition to GST:

The GST changes the way indirect taxes are collected in India, replacing things like octroi, service tax and excise duty with one flat rate instead. It is expected to be hugely beneficial for businesses, especially those that work across state lines, but because it is a destination tax – collected only where goods are consumed – manufacturing states are expected to take a major hit. Tamil Nadu has one of the biggest manufacturing bases in the country.

Tamil Nadu is concerned about the impact the proposed GST on the fiscal autonomy of States and huge permanent revenue loss to manufacturing and exporting State Tamil Nadu.

Tamil Nadu Chief Minister J Jayalalithaa had consistently claimed that the state's revenue loss under the GST would be as high as Rs 9270 crore. The Centre has promised to make up for all losses that states incur as a result of GST for the first five years, but because of Tamil Nadu's large manufacturing base, it is likely to continue losing money even afterwards.

GST Council as a constitutional body impinges on the legislative sovereignty of both the Parliament and the State Legislatures and completely jeopardizes the autonomy of the States in fiscal matters.

The GST Council, featuring representation from the Centre and the states, will decide on the tax rate and other taxation matters from here on. Tamil Nadu, however, felt that this jeopardises the autonomy of states in fiscal matters hence no statutory GST Council requires.

The decision making rule and voting weightage in the proposed GST Council are unacceptable. The GST Council will include all the states and the Centre, but New Delhi gets 33% of the votes and the rest will be divided equally among the states, no distinction is made amongst the States in voting weightage. Any decision will have to get a two-thirds majority this will give the Centre a veto over state decisions.

After implementation of GST major manufacturing States like Tamil Nadu, Maharashtra, Karnataka, Gujrat will permanently lose substantial revenue, due to the shift of the levy from point of origin to point of destination and also due to phasing out of Central Sales Tax and transfer of input tax credit on inter-State sales and inter-State stock transfers to the destination States.

FINDINGS OF THE STUDY:

Minor cascading of taxes is unavoidable in a federal structure like India. Unless we have single official languages or a single practicing religion, concept of 'Common Market' will not practically succeed in India. Whereas our cultural based is multiple religions and languages which developed India as 'Diversified Market' throughout history of commerce.

SUGGESTIONS AND RECOMMENDATIONS:

The Centre should only have one-fourth of the votes on the council, and that the weightage of each state – instead of being one state, one vote – should be proportional to its Rajya Sabha representation because changeover to GST has different implications for different States based on their size and reliance on own tax revenues.

State shall be free to set taxes on petroleum products and tobacco, etc which GST Bill only permits in part.

GST is a destination tax so that origin states (manufacturing ones) be allowed to retain 4% of the revenues earmarked for the Centre on inter-state transactions, to address concerns about harming successful states.

Petroleum and Petroleum Products must be kept outside GST permanently to gain revenue impact and environmental and social impact of high effective taxation on these items.

Provision of GST Council should be dropped any matter relating to GST must approved in parliament and state legislative sessions respectively in the interest of the people and welfare state policy.

If in case the GST Council is formed, the weightage of the vote of the Central Government should be reduced to one-fourth of the total votes cast and that of the States correspondingly increased to three-fourths. The weightage of each State's vote should be in proportion to the representation of the State in the Council of States (Rajya Sabha) because GST has different implications for different States based on their size and reliance on own tax revenues.

CONCLUSION:

Instead of pursuing an unachievable ideas of unified taxation from producer to consumer, the government should concentrate on rationalizing tax rates, removing harmful exemptions and incentives, driving healthy competition by further lowering customs duties, expanding the existing tax base by strengthening anti-evasion, audit and intelligence wings of taxation and work towards promoting a stable and integrated market which is driven by the states rather than imposed by the Centre.

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