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The Goods & Services Tax Debate in India: Concepts and Issues

The chequered but ongoing political efforts to introduce a uniform Goods & Services Tax (GST) throughout India should actually be seen through a larger economic prism. The current sense of urgency, regardless of the web of politics in which this move is caught, can be explained by a simple but important expectation. The GST can indeed be a game changer for trade among India's sub-national states, because the measure, as conceived, is likely to contribute at least one percentage point to the growth in the country's Gross Domestic Product (GDP).

S Narayan[1]

India is an integrated market only in name. The constitutional distribution of power that upholds the federal structure, divides responsibilities and jurisdictions into three broad categories: Central, State and Concurrent subjects.

Constitutional Distribution of Power between the Centre and the States in India

Centre	State	Concurrent
Defence, atomic energy, foreign affairs	Law & order	Education
Currency, foreign trade	Local government	Drugs & poisons

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Transport (rail, air, major ports)	Public health, sanitation	Economic & social planning
Telecom	Agriculture, forests, fisheries, irrigation	Electricity
Banking & Insurance	State transportation	Labour welfare
Industry, mines, etc.	Land revenue, state taxes	Newspapers, books etc.
Income tax, customs, central excise etc.		Ports

Source: Constitution of India

The citizen-centric responsibilities of education, health, police, judiciary, water and electricity devolve on the States. The States' share of expenditures on these areas casts a heavy burden on their budgets. To some extent, this is borne by the devolution of Central revenues to the States, determined by the constitutional mechanism of the Finance Commission. The current level of devolution makes available 42% of all Central revenues to the States. However, the States have to resort to revenue generation of their own, in order to meet the expenditures for their constitutional responsibilities.

State-level taxation has multiplied over the years. The major focus has been tax on sales of goods and excise on liquor. In 2005, a uniform Value Added Tax (VAT) regime was introduced by consensus among all the States, and has, with a few exceptions, proved to be quite stable. While the VAT regime takes care of transactions within States, there is significant disparity between them, and there is also the dual burden cast by the Central levies of excise and service tax. This last, service tax, has been a bone of contention between the States and the Centre, as the States are not allowed, under the Constitution, to levy taxes on services. The states have resorted to ingenious methods of adding to their revenues through a multiplicity of levies including entry tax for goods entering their borders. Some of these levies have had the effect of increasing inter-state transport, logistics and transaction costs for businesses, and accentuating the cascading effect of multiple taxes on the price of the final goods or service output.

The Goods and Services Tax (GST), as proposed, is expected to subsume all existing Central and State indirect taxes under one Value Added Tax, which would be levied on all goods and services. There is to be no differentiation between a good or a service, whether as an input or as a finished product. Under the GST, taxes paid on inputs would be deducted from taxes payable on the outputs produced. This input-credit set-off operates through the manufacturing and distribution stages of production. The tax will be collected only at the place of consumption. This design addresses the cascading of taxes. The GST will be a simpler and rational tax structure with an expected improvement in administration (simplicity and lower cost).

A recent Confederation of Indian Industry (CII)-Price Waterhouse Coopers (PwC) study (October 2015) pointed out that economic growth is closely correlated with the growth of the transport and logistics sector. Thus, over the last 10 years, the growth of road freight has been 9% per year, followed by airline cargo at 7% and railways at 6%. Despite that, logistics costs, created by the multiplicity of indirect taxes, are now 13% to 14% of the total cost of the freight being moved – among the highest in the world. The global average for freight costs is between 6% and 7% of the value of goods transported. To export or import a container full of merchandise in India costs 72% more than what it does in China. Checkpoints, weighbridges, overnight halts at inter-state or inter-city limits, multiple inspecting authorities and agencies and widespread graft have led to significant productivity losses. A streamlined national indirect tax system, the GST, if implemented properly, could add several percentage points to overall growth and productivity numbers.

A GST regime is likely to encourage voluntary tax compliance. A person in the supply chain will get credit only when tax is paid by the previous person, as there would be no distinction between goods and services, and a single GST to apply. Taxation of certain products like computer software will become easy.

The Goods and Services Tax is a multi-stage tax on domestic consumption. The GST is to be charged on all taxable supplies of goods and services except those specifically exempted. The payment of tax is made in stages by the intermediaries in the production and distribution process. Although the tax would be paid throughout the production and distribution chain, only the value added at each stage is taxed, thus avoiding double taxation.

In 2000, the then-National Democratic Alliance (NDA) government headed by Prime Minister Atal Behari Vajpayee set up a committee to devise a road map for India to move towards a unified GST. This committee was chaired by Asim Dasgupta, then Finance Minister of the Left-ruled Government of West Bengal. Members of the committee included finance ministers of all state governments. Presenting the Union Budget for fiscal 2007-08, then-Union Finance Minister Palaniappan Chidambaram announced that the Congress-led United Progressive

Alliance (UPA) Government of the day would succeed in rolling out a comprehensive GST from 1 April 2010.

To give concurrent taxing powers to both the Union (i.e., the Centre) and States, the UPA-II Government introduced Constitution (115th Amendment) Bill, 2011 (hereinafter CAB 2011) in the Lok Sabha (Lower House of Parliament) on 22 March 2011, seeking to amend the Constitution of India for the introduction of GST in India based on the model proposed by the Empowered Committee. The said CAB 2011 was referred to the Parliamentary Standing Committee (PSC) on Finance on 29 March 2011 for a detailed examination, and the Standing Committee tabled its report before Parliament in August 2013. However, the Bill lapsed with the dissolution of the Lower House in 2014.

Upon the formation of a new government, headed by Prime Minister Narendra Modi, the GST Bill was revised, based on the recommendations of the PSC on Finance Report 2013. The Union Cabinet gave its approval, and the Constitution (122nd Amendment) Bill, 2014 (hereinafter CAB 2014) was presented before the Lok Sabha on 19 December 2014. The Lok Sabha passed the CAB 2014 on 6 May 2015 by 352 votes to 37. The CAB 2014 was then referred to a Select Committee of the Rajya Sabha (Upper House of Parliament) for examination. The Select Committee, after accepting most of the clauses in the CAB 2014, submitted its Report to the Rajya Sabha on 22 July 2015, with certain recommendations in regard to a few clauses. The Union Cabinet approved the amendments to the CAB 2014, as per the recommendations of the Select Committee, on 29 July 2015, and the Bill, along with the Select Committee recommendations, was placed for discussion before the Rajya Sabha on 10 August 2015. However, the Rajya Sabha was adjourned *sine die* on the last day of the monsoon session (13 August 2015) without any business being conducted.

The government was trying to build consensus to enable the passage of the CAB 2014 in the Rajya Sabha prior to the winter session of Parliament. However, the CAB 2014 continued to be caught in the quagmire of politics and parliamentary arithmetic at the end of the winter session of Parliament – 26 November to 23 December 2015.

The key provisions of CAB 2014 are as follows:

1. GST to be structured on the destination principle, so that the tax-base shifts from production to consumption, whereby imports will be liable to tax and exports will be relieved of the burden of GST. Consequently, revenues will accrue to the State in which the consumption takes place or is deemed to take place.

2. Centre and States to levy GST on a common base (CGST & SGST)

3. Integrated GST (referred to as IGST which would be CGST plus SGST) on inter-state supplies/import of goods and services.

4. Taxes paid on input goods/services against CGST shall be allowed to be utilised as input tax-credit (ITC) against output tax liabilities under CGST, and same principle applies to SGST. Cross-utilisation of input tax-credit between the Central GST and the State GST would not be allowed, except in the case of inter-state supply of goods and services. Therefore, a taxpayer or exporter shall be required to maintain separate details in books of account for the utilisation or refund of credit.

5. In order to maintain uninterrupted credit chain, CST would be phased out in case of inter-state transactions of taxable goods. On such transactions, Centre would levy IGST, with appropriate provision for consignment or stock transfer of goods and services. The inter-state seller will pay IGST on value-addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The relevant information will also be submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds.

6. Exemptions –
    a. Petroleum products to be excluded for now and included later.
    b. Potable alcohol is excluded from definition of GST under Article 366 (12A). This has been done to accommodate State concerns

c. Taxes on sale and consumption of electricity are excluded from the GST as it is in the State List.
d. Transactions in real estate are excluded from the GST.
e. Recently Tamil Nadu Chief Minister, J Jayalalithaa (AIADMK – All India Anna Dravida Munnetra Kazhagam) has demanded that tobacco and tobacco products should also be left out of the GST.

7. For a period of two years or such period, as per recommendation of the GST Council (GC), an additional 1% origin-based extra levy on all inter-state transactions i.e., as an addition to IGST. Such tax is to be assigned to the States from where the supply originates. The selling States can claim input credit for this extra 1% levy, while the buying States cannot.

8. The following Central and State Taxes will be subsumed in the proposed GST.

	CENTRAL TAXES	STATE TAXES
1.	Excise Duty	VAT
2.	Excise Duty levied under the Medicinal & Toiletries Preparation Act	Entry Tax/Purchase Tax
3.	Countervailing Duty in lieu of Excise Duty	Luxury Tax
4.	Special Additional Duty of Customs	Tax on entertainment and amusement not levied and collected by Panchayat/Municipality/Regional Council/District Council
5.	Service Tax	Taxes on lottery, betting & gambling
6.	CST	State cesses & surcharges (relating to supply of goods & services)
7.	Surcharges & Cesses (relating to supply of good and services)	Octroi

9. GST Council (hereinafter GC): Section 279(a) of the CAB defines the composition and powers of the GC. The GC will be chaired by Union Finance Minister. Other members will be Minister of State (Finance) in charge of the Department of Revenue at the Centre; all State finance ministers (or deputies assigned by them). Minimum quorum has to be 50% of the above members. All resolutions, recommendations and rulings will have to be passed by a 75%-majority of the quorum. The GC will be appointed by the President within 60 days of the clearance of the CAB. Neither the Centre alone nor the States put together alone can change

decisions. The GC decisions are recommendations which will need to be ratified by Parliament and the State Legislatures. The GC may decide on modalities for dispute resolution.

10. GC to make recommendations on:

    a. Taxable base, exempt products;
    b. principles of levy, apportionment of IGST, principles governing the place of supply;
    c. threshold limit;
    d. rates including floor rates with bands of GST;
    e. special rate/s for specified period to raise additional resources during natural calamity;
    f. special provisions for Assam, Arunachal Pradesh, J&K, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, HP, and Uttarakhand;
    g. date for application of GST to petroleum products.

11. GST rates: GST rates to be decided by the GC. Revenue Neutral Rates (RNR) has been estimated by the National Institute of Public Finance and Policy (hereinafter NIPFP). Proposed Rate structure:
    a. exempt goods and services;
    b. 1% for precious metals and articles (Special rates under consideration);
    c. 12% for basic necessities;
    d. 27% Standard Rate (all other goods and services).

    These are combined CGST + SGST rates. NIPFP was asked to rework based on latest revenue data available for 2012-13 or 2013-14.

12. Compensation to States for five years for revenue losses arising out of implementation of GST based of GC recommendations.

I. COMPARISON BETWEEN THE CAB 2014 AND CAB 2011

A COMPARISON between CAB 2011 and CAB 2014		
	CONSTITUTION (115TH AMENDMENT) BILL, 2011. (UPA VERSION)	**CONSTITUTION (122ND AMENDMENT) BILL, 2014. (NDA VERSION)**
Coverage of GST	All goods or services except • alcoholic liquor for human consumption. • Petroleum crude, High speed diesel, Motor spirit, Natural gas, Aviation turbine fuel • Centre to impose additional levy on tobacco.	All goods and services, except • Alcoholic liquor for human consumption. • GST is to be levied on petroleum crude, high speed diesel, motor spirit, natural gas, aviation turbine fuel **at a later date.** • Centre to impose additional levy on tobacco.
Integrated GST	• Only centre to levy and collect tax. • Tax collected to be divided between the centre and the states	• Same as 2011 Bill. • **Apportionment of IGST: adds a provision that GC will make recommendations related to apportionment of IGST.** • **The GC will also make recommendations on formulation of the principles that govern the place of supply.**
Additional Tax (in interstate trade)	No provision.	**Tax (up to 1%) on the supply of goods in inter-state trade will be given to supply states, for two years or more.**
Restrictions related to imposition of tax on sale or purchase of goods listed in Article 366 of the Constitution	The Constitution imposed restrictions on states in taxation of goods that were declared by Parliament, by law, to be of special importance in inter-state trade or commerce, or certain other goods listed in Article 366 (definitions) - CAB 2011 removed goods listed under Article 366 from within its ambit; and - Specified that this provision was not to apply to a state law insofar as it imposed GST.	**Deleted the provision** **(Standing Committee noted that this change would address the states' concerns on loss of fiscal autonomy.)**
Levy of tax upon entry of goods or on intrastate trade (Amendments to List II of the Seventh Schedule to the Constitution)	CAB 2011 amended List II of the Seventh Schedule of the Constitution on four issues: - It allowed states to tax entry of goods into a local area for use of sale only to the extent levied by a Panchayat or Municipality; and - It gave state governments the power to levy taxes on the intrastate trade of: (i) petroleum crude; (ii) high speed diesel;	**CAB 2014 deletes the provision** - **It allowed states to tax entry of goods into a local area for use of sale only to the extent levied by a Panchayat or Municipality.**

	(iii) petrol; (iv) natural gas; (v) aviation turbine fuel; and (vi) alcoholic liquor for human consumption. - It omitted the entry related to taxes on advertisements other than advertisements published in newspapers and broadcast by radio or TV; - It replaced the entry on luxuries, including taxes on entertainment, amusement, betting and gambling. It was to only include taxes on entertainment and amusements to the extent levied and collected by a Panchayat/Municipality or a Regional/District Council. -	
Compensation to states	No provision.	**Parliament may by law and on GC recommendations provide for compensation to states for revenue losses arising out of the implementation of the GST for a maximum of five years.**
GST Council	• Quorum: One third of the total members of GC. • Decisions: By consensus • Functions: Recommendations on structure of GST, including: ○ Taxes, cesses, and surcharges to levied by the Centre, states and local bodies to be subsumed in GST; ○ Goods and services to be exempted; ○ Rates of GST; and ○ Any other matter relating to GST.	- **Quorum: One half of the total members of GC.** - **Decisions: by voting by majority of not less than 3/4th of the weighted votes in accordance with the following principles:** ○ **The vote of the central govt. is to have a weightage of 1/3rd of the total votes cast;** ○ **Votes of all state govts. Taken together are to have a weightage of 2/3rd of the total votes cast. (As was recommended by the Standing Committee to the 2011 Bill)** - **Functions:** Recommendations on structure of GST, including: ○ Taxes, cesses, and surcharges to levied by the Centre, states and local bodies to be subsumed in GST; ○ Goods and services **which may be subjected to** or exempted; ○ **Model GST laws, principles of levy, apportionment of IGST and the**

		principles that govern the place of supply; ○ **Threshold limit of turnover below which goods and services may be exempt;** ○ **Rates including floor rates with bands of GST;** ○ **Any special Rates for a specified period to raise additional resources during any natural calamity or disaster;** ○ **Special provision in respect of Arunachal Pradesh, J&K, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, HP and Uttarakhand.** ○ Any other matter.
Dispute Resolution	• GST Dispute Settlement Authority to determine disputes between centre and states. • Parliament may restrict jurisdiction of all courts other than Supreme Court.	• **Omits GST Dispute Settlement Authority.** • **GC to decide upon the modalities to resolve disputes. (As was recommended by the Standing Committee to the 2011 Bill)**

➢ Changes in CAB 2014 are in **bold.**

II. MAJOR CONCERNS AND PROBLEMS

There are several outstanding issues in the current provisions of the CAB 2014 and ambiguities in respect of its likely implementation that will have an impact on the pharmaceutical industry. Certain issues flagged below have to be addressed in order to obtain the Opposition's support for the passage of the CAB in the Rajya Sabha. These are being flagged and discussed below.

The task of formulating a unified GST that would merge rates of Central and State excise duty, Central service tax, State service tax and value-added tax and various other levies – like octroi, entry tax, way-bills, entertainment tax, luxury levies, gambling duties and so on – which are charged by States into one (or a few) GST rates, has so far proved elusive.

According to V Bhaskar and P S S Kailash Nath, writing in *The Economic and Political Weekly*, (September 2015), enacting a comprehensive GST by 1 April 2016 is not feasible. A merger of excise and service tax regimes could, instead be a second-best option. They write that the legal framework to create a pan-India GST is akin to “a tripod which needs all three legs to be stable”.

(i) GST Base not yet determined:

The GST Base is still unclear. While **petroleum and its products**, are included in the GST base, with the stipulation that no GST will be charged unless the GC agrees to do so, there are other products that have not been included at all. Opposition (read the Indian National Congress) is demanding the inclusion of potable alcohol to eliminate under-reporting of sales, cross-border arbitrage and revenue loss. Taxes on the sale and consumption of electricity are excluded but should be included in the GST as the exclusion will create fragmented markets for power and distort pricing. Further, the transactions in real estate should be included in the GST, as their exclusion will leave the sector, arguably the largest sink of untaxed money in India, to remain opaque and outside the ambit of tax laws.

(ii) Levy of 1 per cent extra charge under Section 18 of CAB:

The Congress and most regional parties are opposed to this 1 per cent extra levy. There are sound economic reasons to oppose this. This will indeed create fragmented markets and could, in some cases, make imports cheaper than local manufactures. It also goes against the philosophy of the GST to create greater inter-state market integration, and the fact that consuming States cannot claim input offsets while the producing States can, will increase disparities among the advanced industrialised states like Maharashtra and Tamil Nadu, and relatively backward ones like Uttar Pradesh and Bihar.

(iii) Revenue Neutral Rate (RNR):

Most States are worried that a uniform GST rate will reduce States’ share of financing. A government-commissioned report by the NIPFP recommends that the revenue neutral rate (RNR) for GST be 27%. The new NIPFP figure seems to be simply an addition of the existing excise duty rate of 12.5% and the existing service tax rate of 14.5% which equals 27%.

This is substantially higher than the 12% RNR proposed in 2000 by the Task Force on GST of the 13th Finance Commission. At the time, *The Economic and Political Weekly* editorialised that this was a ridiculously low rate, lower even than the 12.5% average state VAT already in place in India. The NIPFP had arrived at this figure in 2000 by adding a state RNR of 7% to a Central RNR of 5%.

There is still no consensus on what the GST rate (rates) could be. Various media reports have pegged the rates in a wide band ranging from as low as 13% to as high as 27% of the total value-addition. The RNR is a source of great discord among industry and States, exactly as the EPW editorial had predicted 15 years ago. Most opposition parties have asked the government to cut the RNR GST rate to 18%, and many States have different competing proposals of their own.

The report of the committee headed by the Chief Economic Adviser to the Government of India has suggested a GST rate of 17%-18%. The report suggests that revenue neutrality would be achieved even at 15%, but recommends a higher rate bearing in mind the concerns of the States. Yet, the RNR debate is largely academic and political. No RNR rate can be calculated till the GST base is properly defined, exemptions are factored in and State duties converge. This will be a difficult task.

(iv) Multiplicity of State Rates:

Even after India introduced the system of VAT in 2005, several States stayed out of it, only to enter later. However, even after that, there are several grades:

1. Zero Vat Items: include condoms, firewood, bangles, handicraft, equipment for the physically challenged etc.

2. 1% or 2% VAT rate: Implemented in a few States on precious stones, jewellery, bullion etc.

3. 4% to 5% VAT Items: Some States charge this on medicines, coffee, cotton, coir, edible oil, farm implements etc.

4. General VAT Items: For imported liquor, IMFL, cigarettes etc., some States (Maharashtra, Kerala, etc.) charge the highest VAT rate of 50% or more. Other goods not specifically singled out for different rates (general category goods) are charged at VAT rates ranging from 12.5% to 14%.

The bewildering number of rates and exemptions, and the lack of coordination among States in setting VAT rates for different items can be judged by two examples.
These are **Delhi**, India's richest State by per capita GSDP (Gross State Domestic Product) and **Maharashtra** which with 9.3% of India's population contributes the maximum (14.4%) to India's GDP and is the most-industrially developed state.

Both Delhi and Maharashtra have a Zero VAT rate for various essential items.

However, **Delhi's maximum VAT rate is fixed at 20% (which could rise to 30% if a recent Assembly resolution is converted into law)** for items like fuels, alcohol including IMFL, tobacco products and even aerated drinks.

At the other end, **Maharashtra's peak VAT rate varies between 40% (for wine) and 50% for imported foreign liquor**.

Maharashtra is a major wine-making State, and it has been a long-standing demand of the industry to lower the VAT rate. In addition, VAT on fuels varies widely and frequently, ranging from 22% plus Rs 1 per litre to 33.3% plus a fixed ad valorem duty per litre, during various years and administrations.

At another extreme, **West Bengal**, with 7.5% of India's population, contributes only 6.8% of national GDP. Its main functions are as a trade entrepot to the north-east and eastern States and as a provider of various services, including healthcare, for the entire eastern region of India, besides Bangladesh.

Given the trade-and-services-driven nature of its economy, one of the biggest sources of State revenue is entry taxes and way-bills imposed on the inter-state movement of goods. . **To secure West Bengal's consent to scrap these duties would require large offsets from the CGST and IGST.**

Given these wide differences and complexities, it will be practically impossible to calculate a RNR rate for all states. For the Centre plus States, assuming the CAB 2014 is passed, the RNR rate could be set within a band of 18% and 20%.

(v) State Compensation and Offsets:

If and when the GST is implemented, States will need to be compensated for revenue losses. This compensation mechanism has also not been determined. The Select Committee has suggested that States be compensated for a period up to five years from the date of implementation of the GST.

However, to avoid moral-hazard problems, i.e., States slackening their own revenue collection efforts after being assured of compensation, Bhaskar *et al* suggest a graded compensation system that begins the first year with 100% compensation of all revenues lost and tapers down to, say, 50% over the succeeding four years, giving the States an incentive to keep their revenue collection functions running smoothly.

(vi) Powers of the GC are ill-defined:

The powers of the GC have been defined vaguely and incompletely in the CAB 2014. It is unclear from the CAB 2014 whether the GC – formed by representatives of State and Central governments – can only "recommend" steps or whether it has powers of enforcement as well.

For example, there are two obvious sources of conflict that will recur repeatedly: conflicts between businesses/traders/suppliers/retailers and the State administrations; and conflicts between the Centre and the State governments.

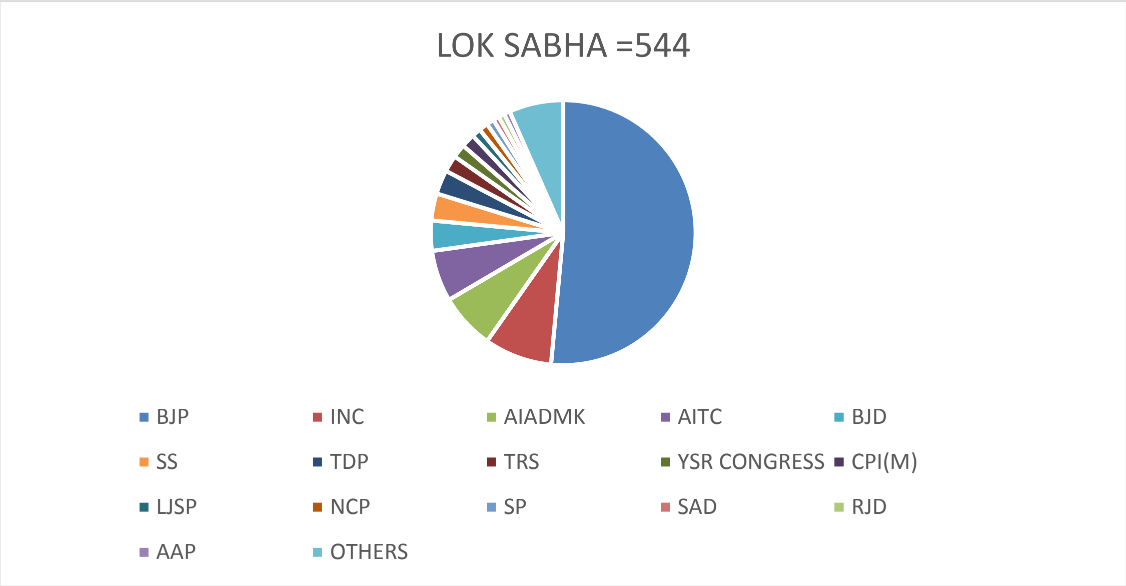
The GC's recommendation that the GST should be a destination-and-consumption-based value-added tax, is also not mentioned in the CAB 2014.

These errors and/or omissions in drafting are bound to create jurisdictional bottlenecks that could complicate tax disputes even further, unless the CAB 2014 is rewritten to give unambiguous powers to the GC.

III. THE POLITICAL DIMENSION

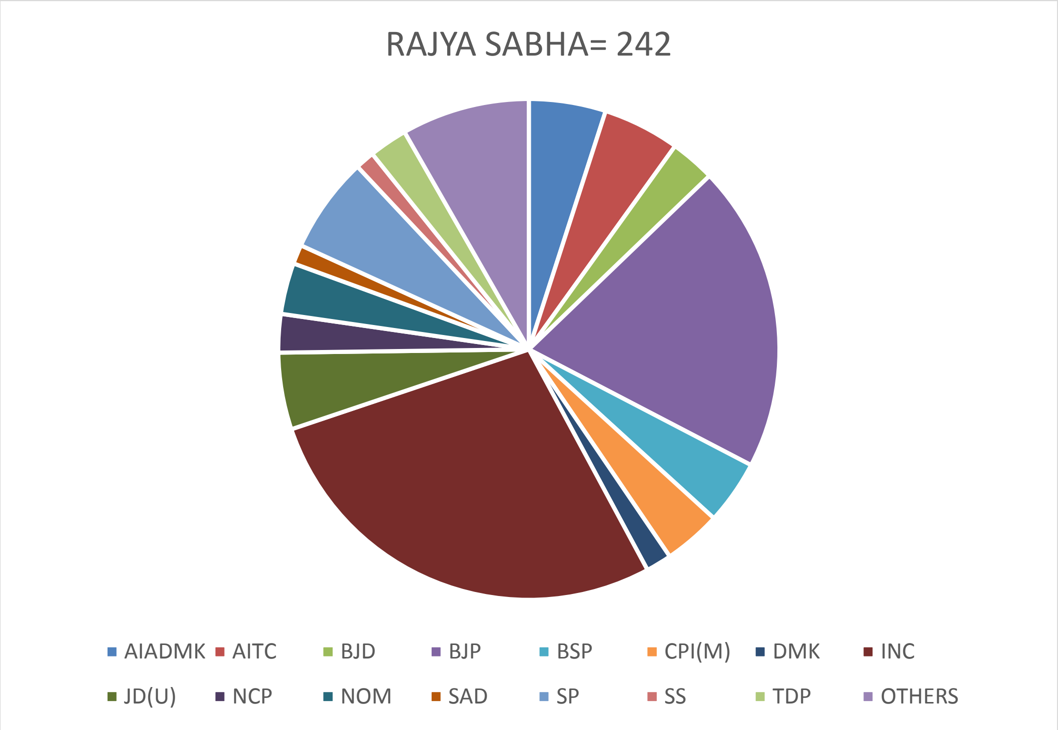
In order for the CAB 2014 to be passed in both Lok Sabha and Rajya Sabha, the Narendra Modi Government requires a 2/3rd majority of the members present and voting. The CAB 2014 is then required to be ratified by the legislatures of not fewer than half the number of the 29 States. Thereafter, after Presidential Assent the CAB 2014 will become an Act.

As mentioned earlier, the Lok Sabha passed the CAB 2014 on 6 May 2015 by 352 votes to 37 votes. The government obtained more than a 2/3rd majority. Currently, there are 544 members in the Lok Sabha. The majority mark is 273. However, if there are changes to the CAB 2014, it has to be presented to and adopted by the Lok Sabha once again.



The ruling party does not have the numbers in the Rajya Sabha to pass the CAB 2014. The total seats in the Rajya Sabha is 245. Apart from 12 members, who are appointed (nominated) by the President, each of the other 233 members is elected to the Rajya Sabha by the elected members of State Assemblies, by the single transferable vote method. Each Rajya Sabha Member has a six-year term, with one-third of the total members retiring every two years.

PARTY POSITION AS ON 8 DECEMBER 2015



The Numbers

Party Name	Number of Members
Congress	67
BJP	48
Samajwadi (SP)	15
AIADMK	12
TMC	12
JD(U)	12
BSP	10
CPM	9
Nominated	8
Independents &Ors	7
BJD	7
TDP	6
NCP	6
DMK	4
Shiv Sena	3
Akali	3
PDP	2
JD(S)	1
JMM	1

Kerala Cong (M)	1
INLD	1
IUML	1
CPI	1
BPF	1
Sikkim Dem Front	1
RJD	1
RPI	1
TRS	1
Total	242

Currently there are 242 in the Upper House. The majority mark is 122. The government requires 2/3rd majority of the members present and voting – i.e., 163 votes to pass the CAB 2014.

ALLIANCE POSITIONS (AS ON DECEMBER 8, 2015)

UPA	
CONGRESS	67
JD(U)	12
NCP	6
DMK	4
JD(S)	1
JMM	1
KC(M)	1
INLD	1
IUML	1
BPF	1
RJD	1
TOTAL	**96**

NDA	
BJP	48
TDP	6
SS	3
Akali	3
PDP	2
TOTAL	**62**

Serious concerns on the CAB 2014 remain:

1. While the Narendra Modi Government might concede to the Opposition's demands to remove the 1% extra levy on IGST, it faces other objections.

2. Apart from the role of the GC in the administration of the tax, there is no clarity as yet about the arrangements for dispute- and returns-settlements within and across States and between the States and the Centre.

3. Credit Suisse (7 December 2015, *Asian Daily*) pointed out that there was no clarity on mapping the 98-chapter excise schedules, numerous State VATs to the GST and hundreds of exemptions to the GST.

4. Credit Suisse pointed out that the Subramaniam Committee to set RNR rate said that the median rate would be 15-15.5%, with a 12% low rate, 17-18% standard rate and a 40% 'sin' rate for things like aerated drinks and luxury cars. However the definitions of most of these categories is not final – and is likely to be disputed.

5. Further the merger of all State-, Central- and local-levies will prove to be a huge challenge.

6. The lack of clarity on returns, exemptions and dispute settlement is a major drawback.

7. For the GST system to become functional, it will need "delegated legislation". This includes procedures defining Place of Supply (POS) rules, Integrated GST (IGST), registration, returns, refunds, redressal and so on.

8. Though the GC has been given the responsibility of drafting the model GST laws, the actual process of enacting the GST law by the Centre and States will entail much political manoeuvring on the part of the Central Government.

9. Credit Suisse also stressed that, with such ambiguities, it was impossible to weigh the sectoral outcomes on the GST implementation and did not realistically expect progress till April 2017.

Conclusion

Though desirable in general terms, political arithmetic and the deep flaws in the design of the GST and the CAB 2014 (which will be the overarching legislation) make the passage of the CAB 2014 practically impossible till the end of 2016, if at all.

The GST is a game changer for inter-state trade, and is likely to contribute at least one percentage point to the national GDP growth. It is also expected to lead to improved logistics, reduce time at the State-borders and quicken delivery schedules. Reduced bottlenecks at check-points will also reduce rent-seeking at these points. From all angles, the GST is desirable, and the hesitation seems to be political, rather than economic.

It is possible that the Congress and the Opposition parties want to deny the BJP credit for this major economic initiative. If true, it is a pity, because there is consensus among traders and industries that the GST would help improve economic activity. The arithmetic of the party composition in the Rajya Sabha seems to render the passage of the constitutional amendment bill difficult to negotiate.

There could be several alternatives. First, to implement the GST partially—this can be done geographically, excluding certain States, or by excluding disputed goods and services. It would be a little messy, but it would help demonstrate the benefits of the GST to the States. When Value Added Tax (VAT) was introduced a decade ago, some States did not participate in the first round. They quickly came into the fold, once they saw the revenue benefits of the VAT regime. Perhaps this could be a pointer.

Second, there is an alternative that could be borrowed from Australia. It is extremely difficult to make constitutional amendments in Australia, and when the GST was sought to be introduced, there was a similar impasse between the States and the federal government. They way-out that was found was an executive initiative. All taxes are federal taxes, but some have been assigned to the States, to be collected and retained by them. This could be a solution out of the logjam in India – to avoid a constitutional amendment when politics is not favourable.

Third, there is an operational urgency to set the Information Technology (IT) architecture in place so that transactions can occur seamlessly. Given the large number of goods and services, and the multiplicity of State agencies, this is a task that has to be undertaken, and in a time-bound manner.

The introduction of the GST this year (2016) is important from both the political and economic points of view. Now, it is to be hoped that negotiations among all the parties would lead to a resolution of doubts and a smooth passage of this legislation in the budget session.

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