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LEGAL AND BUSINESS ENVIRONMENT

(Notes as per Punjab Technical University Syllabus)

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UNIT – II

Constitutional framework of taxation:

Indian Tax Structure

Tax structure in India is a three tier federal structure. The central government, state governments, and local municipal bodies make up this structure. Article 256 of the constitution states that "No tax shall be levied or collected except by the authority of law". Hence, each and every tax that is collected needs to backed by an accompanying law.

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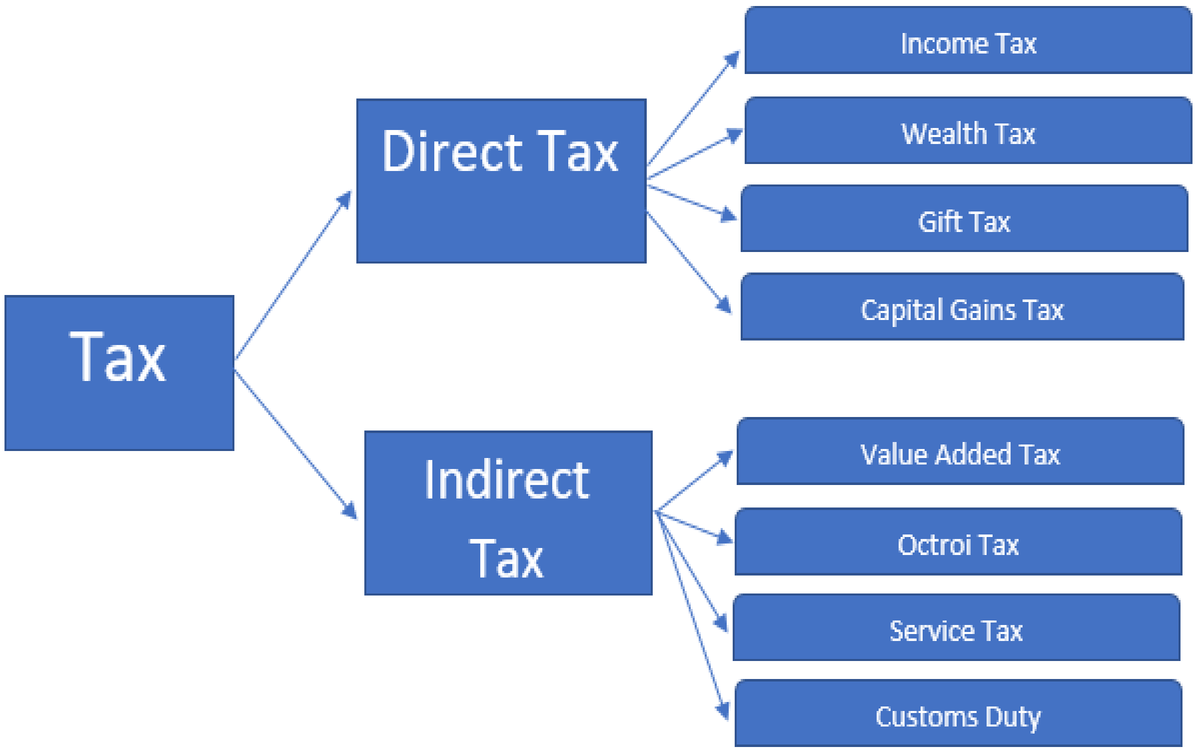
Interestingly, the tax system in India traces its origin to the prehistoric texts such as Arthashastra and Manusmriti. As proposed by these manuscripts, the taxes paid by farmers and artisans in that era would be in the form of agricultural produce, silver or gold. Based on these texts, the foundation of the modern tax system in India was conceptualized by the Sir James Wilson during the British rule in India in the year, 1860.

However, post-independence the newly-established Indian Government then soldered the system to propel the economic development of the country. After this period, the Indian tax structure has been subject to a host of changes.

Tax System in India:

The **tax system in India** allows for two types of taxes—

1. Direct Tax
2. Indirect Tax.



The **tax system in India** for long was a complex one considering the length and breadth of India. Post GST implementation, which is one of the biggest tax reforms in India, the process has become smoother. It serves as an all-inclusive indirect tax which has helped in eradicating the cascading effect of tax as a whole. It is simpler in nature and has led to upgraded the productivity of logistics.

Direct Tax:

Direct Tax is levied directly on individuals and corporate entities. This tax cannot be transferred or borne by anybody else. Examples of direct tax include income tax, wealth tax, gift tax, capital gains tax.

Income tax is the most popular tax within this section. Levied on individuals on the income earned with different tax slabs for income levels. The term 'individuals' includes individuals, Hindu Undivided Family (HUF), Company, firm, Co-operative Societies, Trusts.

Indirect Tax:

Indirect taxes are taxes which are indirectly levied on the public through goods and services. The sellers of the goods and services collect the tax which is then collected by the government bodies.

- **Value Added Tax (VAT)** – A sales tax levied on goods sold in the state. The rate depends on the government.
- **Octroi Tax**– Levied on goods which move from one state to another. The rates depend on the state governments.
- **Service Tax**– Government levies the tax on service providers.
- **Customs Duty**– It is a tax levied on anything which is imported into India from a foreign nation.

Tax Collection Bodies:

The three bodies which collect the **taxes in India** have clearly defined the rules on what type of taxes they are permitted to collect.

- **The Central Government:** income tax, custom duties, central excise duty.
- **The State Governments:** tax on agricultural income, professional tax, value- added tax, state excise duty, stamp duty.
- **Local Bodies:** property tax, water tax, other taxes on drainage and small services.

GST (Goods and Services Tax)

In India, the three government bodies collected **direct and indirect taxes** until 1 July 2017 when the Goods and Services Act (GST) was implemented. GST incorporates many of the indirect taxes levied by states and the central government. What does the GST mean for your money?

Some of the taxes GST replaced include:

- **Sales Tax**
- **Central Excise Duty**
- **Entertainment Tax**
- **Octroi**
- **Service Tax**
- **Purchase Tax**

It is a multi-stage destination-based tax. Multi-stage because it is levied on each stage of the supply chain right from purchase of raw material to the sale of the finished product to the end consumer whenever there is value addition and each transfer of ownership.

Destination-based because the final purchase is the place whose government can collect GST. If a fridge is manufactured in Delhi but sold in Mumbai, the Maharashtra government collects GST.

A major benefit is the simplification of **taxation in India** for government bodies.

GST has three components:

- **CGST-**Stands for **Central Goods and Services Act**. The central government collects this tax on an intrastate supply of goods or services. (Within Maharashtra)
- **SGST:** Stands for **State Goods and Services Tax**. The state government collects this tax on an intrastate supply of goods or services. (Within Maharashtra)
- **IGST:** Stands for **Integrated Goods and Services Tax**. The central government collects this for inter-state sale of goods or services.

FEATURES OF EXCISE DUTY

An excise or excise tax (sometimes called an excise duty) is a type of tax charged on goods produced within the country (as opposed to customs duties, charged on goods from outside the country). It is a tax on the production or sale of a good. This tax is now known as the Central Value Added Tax (CENVAT).

It is mandatory to pay duty on all goods manufactured, unless exempted.

Types of excise duty There are three different types of central excise duties which exist in India which are as follows:

1. **Basic** - Excise Duty, imposed under section 3 of the 'Central Excises and Salt Act' of 1944 on all excisable goods other than salt produced or manufactured in India, at the rates set forth in the schedule to the Central Excise tariff Act, 1985, falls under the category of basic excise duty in India.
2. **Additional** - Section 3 of the 'Additional Duties of Excise Act' of 1957 permits the charge and collection of excise duty in respect of the goods as listed in the schedule of this act. This tax is shared between the central and state governments and charged instead of sales tax.
3. **Special** - According to Section 37 of the Finance Act, 1978, Special Excise Duty is levied on all excisable goods that come under taxation, in line with the Basic Excise Duty under the Central Excises and Salt Act of 1944. Therefore, each year the Finance Act spells out that whether the Special Excise Duty shall or shall not be charged, and eventually collected during the relevant financial year.

Goods which are excisable

The term 'excisable goods' means the goods which are specified in the first schedule and the second schedule to the Central Excise Tariff Act, 1985, as being subject to a duty of excise and includes salt.

Liability to pay excise duty

The liability to pay tax excise duty is always on the manufacturer or producer of goods.

There are three types of parties who can be considered as manufacturers:

- Those who personally manufacture the goods in question
- Those who get the goods manufactured by employing hired labour
- Those who get the goods manufactured by other parties

Consequence of evading payment of excise duty

Under the different sections of the central excise act, the fines for evading tax can range from twenty-five to fifty per cent of the amount of duty evaded. When you look at the amount of excise you may have to pay, this is a rather large amount and along with the financial repercussions, you also have to encounter a tarnished image.

➢ Advantages of GST

GST benefits in India will assist the Government as well as the consumers in the long run in creating a win-win situation for both. Some of the advantages of GST in India are enlisted as follows:

- **Mitigation of Cascading effect:**

Under the GST administration, the final tax would be paid by the consumer for the goods and services purchased. However, there would be an input tax credit structure in place to ensure that there is no slumping of taxes. GST is levied only on the value of the good or service.

- **Abolition of Multiple Layers of Taxation:**

One of the advantages of GST is that it integrated different tax lines such as Central Excise, Service Tax, Sales Tax, Luxury Tax, Special Additional Duty of Customs, etc. into one consolidated tax. It prevents multiple tax layers imposed on goods and services.

- *Resourceful Administration by Government:*

Previously, the management of indirect taxes was a complicated task for the Government. However, under the GST establishment, the integrated tax rate, simple input of tax credit mechanism and a merged GST Network, where information is available, and administration of resources are well- organized and straightforward for the Government.

- **Enhanced Productivity of Logistics:**

The restriction on inter statement movement of goods has reduced. Earlier logistic companies had to maintain multiple warehouses across the country to avoidstate entry taxed on interstate movements.

- **Creation of a Common National Market:** GST gave a boost to India's tax to Gross

Domestic Product ratio that aids in promoting economic efficiency and sustainable long – term growth. It led to a uniform tax law among different sectors concerning indirect taxes. It facilitates in eliminating economic distortion and forms a common national market.

- **Ease of Doing Business:** with the implementation of GST, the difficulties in indirect tax compliance have been reduced. Earlier companies faced significant problems concerning registration of VAT, excise customs, dealing with tax authorities, etc. The benefits of GST have aided companies to carry out their business with ease.

- **Regulation of the Unorganized Sector under GST:** it has created provisions to bring unregulated and unorganized sectors such as the textile and construction industries to name a few under regulationwith continuous accountability.

- **Reduction of Litigation:** GST aids in reducing litigation as it establishes clarity towards the jurisdiction of taxation between the Central and State Governments.GST provides a smooth assessmentof tax.

- **Tackling Corruption and Tax Leakages:** with the GST online network portal, the taxpayer can directly register, file returns and make payments of the taxes without having to interact with tax authorities. A mechanism has been devised to match the invoices of the supplier and buyer. This willnot only keep a check on tax frauds and evasion but also bring in more businesses into the formal economy.

There are various benefits of GST in India as listed above. However, a tax reform of such magnitudecomes with its teething problems.

➢ Disadvantages of GST:

- **IT Infrastructure:** since GST is an IT-driven law, it cannot be sure whether all the states in India are currently equipped with infrastructure and workforce availability to embrace this law. Only a few states have implemented this E- Governance model. Even today some states use the manual VAT returns system.

- **Higher Tax Burden of SME's:** earlier the small and medium enterprises had to pay excise duty only on a turnover that exceeded Rs. 1.5 crore every financial year. However, under the GST administration, businesses whose turnover exceeds Rs 40 lacs are liable to pay GST.

- **Increase Burden of Compliance:** The GST administration states that companies are required toregister in all the states they operate in. This increases the burden on the business for excessive paperwork and compliance.

• **Petroleum Products don't fall under the GST Slab:** petrol and petroleum products have not been included in the scope of GST until now. States levy their taxes on this sector. Tax credit for inputs willnot be available to these industries or those related industries.

• **Coaching of Tax Officers:** there is inadequate training that is provided to the Government officers for practical usage and implementation of such systems since the GST administration heavily banks oninformation technology.

GST in India was a sweeping reform and benefits of GST and has changed the way businesses are conducted. Businesses are being included in the formal economy through GST implementation. GSTand its benefits have provided long term returns for the Indian economy on a large scale which have been welcomed as a new change by all the stakeholders.

Other Government Bodies:

For a smooth implementation of the **Indian tax system**, there are bodies dedicated to it. Popularly known as the revenue authorities.

- **CBDT:** The Central Board of Direct Taxes is a part of the revenue department under the Ministry of Finance. It has a two-fold role. One, it provides important ideas and inputs for planning and policy with regard to direct tax in India. Second, it assists the Income Tax department in the administration of direct taxes.
- **CBEC:** The Central Board of Excise and Customs deals with policy formulation with regard to levy and collection of customs and central excise duties and service tax.
- **CBIC:** Post GST implementation, the CBEC has been renamed as the Central Board of Indirect Taxes & Customs (CBIC). The main role of CBIC is assisting the government in policy-making matters related to GST.

Benefits of Taxes:

While paying taxes may not be a pleasant feeling, however, it is prudent to understand that tax paid by every single individual contributes towards the country's administration and resources required for its economic progress.

- It promotes savings as well as investments. If an individual makes certain set of investments, a part amount of the same would be tax exempted, thereby enabling him or her to pay reduced amount of taxes.
- Paying tax also works as a proof that you are not only disciplined in filing your tax returns but also helps at the time of loan application. This is because at the time of purchasing a home loan, the bank requires proof of whether the applicant has filed his or her taxes regularly.