

## GST COUNCIL AS A MODEL OF COOPERATIVE FEDERAL ADMINISTRATIVE MECHANISM

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### ABSTRACT

The Goods and Services Tax (GST) Council refers to a relevant institutional innovation in the federal system of India, which reflects the concept of cooperative federalism in the fiscal policy and administrative management. The Council was instituted under Article 279A of the Constitution and is a joint decision-making body that has a representative of the Union and the States. This paper examines the GST Council as a model of federated administrative authority, decision-making by consensus and fiscal coordination, discussing its constitutional design, voting strategy, judicial interpretation, and practical issues as to whether this Council strengthens federal balances or somewhat centralizes fiscal authority in the quasi-federal Indian system.

### INTRODUCTION

Goods and Services Tax (GST) can be considered as a turning point in the fiscal and administrative federal set up in India. The GST replaced a multiplicity of indirect taxes imposed by both the Union and the States, and was enacted under the Constitution (One Hundred and First Amendment) Act, 2016, and restructured the financial and administrative interface between the two levels. At the core of this reform is the GST Council, which is constituted under the Article 279A of the Constitution and which is envisioned as a constitutional institution to institutionalise cooperation in federalism in taxation.

GST Council is an example of a new form of federalism whereby both the Union and the State actors participate in the policy making process in a defined voting system. The Council is an organisation which runs on a policy of consultation, consensus-building

and shared sovereignty unlike the traditional hierarchical fiscal models. The substantive decision-making body is the Union Finance Minister who acts as Chairperson and the State Finance Ministers are the members. Such a structure is an indication of the paradigmatic change in competition or coercive federalism to collaborative administration paradigm.

Notably, the GST framework replaces differentiated powers in taxation with harmonised decision-making machine. Although the critics believe that the States have lost a large part of fiscal autonomy, the supporters believe that the Council enhances transparency, standardization, and economic integration throughout the country. The judicial approval of the collaborative nature of the GST regime especially where the federal case is reviewing the recommendations of the Council has also had an effect on the federal discourse.

As a result of this, the GST Council turns out to be a tool of the constitution, which attempts to bring together unity and diversity, centralisation and state role, harmonisation and fiscal federalism in the Indian administrative environment.

### MAIN BODY

Introduction of the Goods and Services Tax (GST) in India was one of the most complex fiscal and administrative changes ever attempted in the country since the same achieved independence. The amendment was enacted under the Constitution (One Hundred and First Amendment) Act, 2016 and restructured the federal architecture to create a harmonised indirect taxation system through which a myriad of central and state taxes was superseded. The focal point of this reform

is the GST Council that was established under the Article 279A of the Constitution and can be regarded as an illustrative experiment of cooperative federalism. Unlike the traditional adversarial federal relations, the Council is a deliberative, consensus-based and constitutionally stipulated conglomeration that incorporates the interests of both the Union and the states in taxation management. As a result, the GST Council has transformed itself into a constitutional forum rather than a fiscal coordination tool that reacts to center-state administrative relations in India.

Article 279A will require the GST council to be composed of a Union Finance Minister as Chairman, the Union Minister of State of Finance, and the Finance Ministers of all the states. The construction of the constitution makes sure that the decision-making power does not become monopolised in the hands of the Union or it will not become watered down among the states. In the Council, voting is subject to a weighted majority of three quarters of the votes cast, the Union having one-third of the weight and the states, in common, two-thirds of the weight. The formula reflects the spirit of collective sovereignty and

does not allow the Union or the states to make decisions unilaterally. This is a departure in historical history of fiscal federalism whereby Parliament retained major taxation authority under Article 246 with the Seventh Schedule. In contrast, harmonised administrative intervention and integration of legislative efforts across jurisdictions is a functional requirement of GST regime, which strengthens the principle of cooperative federalism as a functional requirement.

Judicial interpretation and political practice have influenced the development of the idea of cooperative federalism in the Indian constitutional system. In *S.R. Bommai v. The Supreme Court* found federalism to be one of the fundamental aspects of the Constitution, indicating that states are not simply appendages of the Centre, Union of India. This principle is applied in the sphere of fiscal activities by the GST Council. The harmonised taxation requires similarity in the rates, exemptions, compliance procedures, and dispute-resolving procedures. The GST framework requires a joint decision making unlike in the past when the Union and the States collected excise, service tax and VAT independently. The Council suggests the rates of tax, the threshold limits, model GST laws, special rates during natural calamities and other administration modalities. Despite a debate over its binding quality of the recommendations, jurisprudential clarity has been achieved in 2022 which strengthens the constitutional basis of the engagement by cooperation.

In *Union of India v. The Supreme Court, Mohit Minerals Pvt. Ltd.* reasoned that, the suggestions of the GST council are not binding but persuasive and that Indian federalism is a dialogue between cooperative and competitive aspects. The Court made it clear that powers of Parliament and the state legislatures are overlapping under Article 246A, and the influence of the Council is advisory so as to ease harmonisation. This interpretation, instead of weakening the power

of the Council, enabled its collaborative nature and ensured that the force is based on the political agreement and not forced dominance. The ruling reiterated that fiscal federalism in India is not dominating negotiated constitutionalism but negotiated constitutionalism.

The GST Council functions administratively, in a strong secretariat, several standing committees, and technical groups which are represented by Union and state officials. These processes allow constant consultations and coordination of operations. The dual GST model, where the Central GST (CGST) and the State GST (SGST) is enforced needs to be enforced simultaneously. The two administrations have cross-empowered their officers so that there are no conflicts in jurisdiction during the implementation process. This is the sort of cross-empowerment that is the working model of administrative federalism, that is, cooperation is not only at the policy-making level, but also at the ground level. Institutionalised co-ordinated governance is further institutionalised at the shared digital infrastructure, especially with the Goods and Services Tax Network (GSTN). Its technological footprint allows filing of tax in real time, verification of compliance and sharing of revenue hence, doing away with structural duplication.

The financial consequences of the operation of the GST Council imply the implications of the relations of the centre-states. The GST (Compensation to States) Act, 2017, has established the Five-Year Compensation Mechanism which ensures that the states are compensated on the revenue losses they experience due to GST implementation. This was critical in getting the state approval to the constitutional amendment. In the COVID-19 pandemic, there has been some controversy over the lack of compensation. However, despite the tensions, it was in the Council that the dialogue and solution were the most important. The discussions

concerning borrowing mechanisms demonstrated how that the differences within a cooperative federal system could be solved on an institutionalized level as opposed to a political one. Therefore, the Council has proved to be strong in its coping with fiscal stress and maintaining constitutional balance.

Another change is that the GST Council is a shift away towards the previous Planning Commission-based model of fiscal coordination. The GST Council is a constitutional body as opposed to the former Planning Commission which was constitutionally unrecognised and prone to attract criticism because of its centralisation of fiscal discretion. Its suggestions are based on orderly voting and decision making and not executive directive. The legitimacy and transparency of intergovernmental fiscal relations are increased through this institutionalisation. The following amendment of the policy coordination in form of NITI Aayog supplements though does not replace the constitutional power of the Council in taxation.

In terms of the federal-theory, the GST Council represents executive federalism in which harmonisation of the policies is achieved by intergovernmental bargaining alone and not constitutional allocation. The historic features of Indian federalism have been described as skewed or a strong centre. Nonetheless, the GST arrangement demonstrates that there is a functional change in the direction of participatory governance. States have very strong powers to decide the tax slabs, exemptions, and measures of compliance. The interaction is evidenced by the multiplicity of Council meetings since its inception; there have been more than forty meetings. The majority of the decisions are made by consensus and not majority voting hence strengthening a deliberative federal culture.

Critics complain that weighted voting pattern contributes to Union strength indirectly since one-third weight on voting in conjunction with partial noncoercion by the state may put

proposals at hold. However, empirical practice points to the fact that consensus-building is still the mode of choice. The Centre and some states have at times entered into political alignment, the resultant outcome being the deliberation of issues openly in the Council, and dissenting states still do so. This Internet-based interaction is what makes the difference between cooperative federalism and command centralisation. The Council has, as a result, turned into a mini India of the changing intergovernmental democracy.

Further, the GST model has forced the States to update tax administration, embrace digital tax compliance and align regulatory standards. This kind of capacity building improves the effectiveness in governance. Standardized procedures of returns filing, electronic way-bills and unified credit systems minimize cascading effects and economic disaggregation. Duplicative audits and overlapping of audit and enforcement are reduced by institutional synergies between the Centre and the States. As a result, the taxpayers will enjoy the benefits of having a single market hence the articular promise of economic integration in the constitution Art. 301 pertains to freedom of both trade and commerce.

However, the travel experience of the Council has not been a constitutional debacle. The issues on legislative independence were raised where some States expressed divergentary policies, including unequal taxation of particular products. The fact that federalism balances cooperation and independent legislature mentioned by the Supreme Court in Mohit Minerals points to a delicate

balance. The Council is not allowed to cross constitutional lines, but still, it is essential to policy coherence. This equilibrium makes sure that cooperative federalism does not turn into uniformity of a centralised nature.

The GST Council has also affected the issue of political federalism in that it has provided an organised dialogue between Finance Ministers representing different political parties. The trust and adversarial nature are trained through regular institutional contact. GST disputes are generally solved by negotiation as opposed to the old-fashioned federal conflict that is solved by court battle or political face-off. This consultative culture enhances the constitutional morality and minimises fragmentation, and it is a perfect example of how economic integration may enhance political unity without undermining the identity of States.

The other dimension that is worth noting is that the Council is responsive to economic realities. Adaptive governance is demonstrated by rate rationalisations, sector-specific relief actions and exemptions caused by the pandemic. Administrative synergy is highlighted by the flexibility to react as one to economic downturns. Cooperative federalism here will not be static but dynamic and the GST model will act through the dynamic and evolving consensus with the control of fiscal prudence and macro-economic stability instead of the constitutional silos.

At the same time, new issues about fiscal independence should be the subject of academic criticism. The reliance of the States on the revenue sharing and compounds on GST can be a liability in the independent fiscal experiment. Pre-GST regimes allowed more flexibility in the development of local-based VAT policies by the States. The harmonised form constrains one-sided divergence, and therefore the GST Council should keep striking a balance between the homogeneity and flexibility in the process of maintaining authentic federal nature. Arguments about whether petroleum products and electricity should be subject to GST indicate that there is still a debate between the priorities of fiscal centralisation and State revenue.

The GST Council is similar to the

intergovernmental councils in other federations like Australia and Canada but its constitutional entrenchment makes it different. The Australian Council of Federal Financial relations works under executive provisions, but India GST Council has powers with direct reference to the constitutional text. Such constitutionalisation increases its permanence and protects against political changes, establishing a precedent in the intergovernmental mechanisms of the future in the health, environment, and digital governance sectors.

The dispute resolution mechanism of the Council also depicts a spirit of cooperation. Whereas the Article 279A (11) grants the Council the right to come up with a dispute adjudication mechanism to address any dispute that would result out of its recommendations, it is more focused on preventing disputes that could arise out of its recommendations through negotiations as opposed to adjudicative adjudication. Federal trust is strengthened by the preference of consultative problem-solving. The emphasis on consensus makes the Council more of a shared government rather than a hierarchical one.

Stability is also brought about by judicial deference to the deliberations of Council. The overall policy in courts has not been to intervene in rate structures or policy decisions, unless the violation of the constitution is apparent. This restraint appreciates the fact that fiscal coordination is a complex economic matter that can only be addressed through an intergovernmental discussion. The observations of the Supreme Court in Mohit Minerals indicate that the court of law takes into consideration the democratic federal procedures and also protects the constitutional doctrines, thus enabling the judicial review to act as a protector of federal balancing without compromising the cooperative structures.

When evaluating the GST Council as a

prototype of cooperative federal administrative mechanism one should understand that the concept of cooperation in the Indian federalism is not only based on constitutional ideals but also based on real interdependence. The economic integration in a large and diverse market requires synchronisation on policies. Disjointed taxation previously hindered smooth business, which subjected it to a cascading burden and complexity of compliance. The unified nature of GST meant that the States had to forgo some fiscal discretions but be assured of revenue sharing in a national market. The Council offers the institutional framework of handling this interdependence.

The wider consequences of the GST model are the debates on the future federal reforms. Cooperative councils can become a favorite tool of governance whether it is in environmental regulation, agricultural marketing or in digital taxation. The GST experience demonstrates that intergovernmental forums that are constitutionally entrenched are capable of mediating tensions in a better manner than single legislation. But the sustainability of these mechanisms is reliant on political levels, financial transparency and fair distribution of gains.

Summing up, the GST Council is the experiment of a new administrative federalism in India. It aligns constitutional distribution of powers and realities of governance together in the form of organized relations. Union leadership with State involvement, institutionalisation of the process of consensus-building, and the incorporation of the fiscal discourse into a constitutional framework have restructured the relationship between centre and state administrative practices by the Council. Although fiscal autonomy issues and political asymmetry continue to be the major concerns, the way the Council operates proves cooperative federalism in India is not just a mere rhetoric but a reality on the ground. The GST Council is

one of the reflections of the maturity of the developing federal democracy in India as India is still going through complicated economic and political maps.

### CONCLUSION

The Goods and Services Tax (GST) Council is perhaps one of the greatest institutional innovations in the constitutional history of India towards the development of cooperative federalism. Having been conceived by the provision of Article 279A of the Constitution, the Council became a well-organized effort to unite the fiscal powers between the Union and the States without losing their functional autonomy. The GST model contrasts with the traditional models of fiscal federalism, characterized by the level of hierarchical domination, and it institutionalizes dialogue and shared decision-making and negotiated conclusion. This process is indicative of the change of strict federal compartmentalization to interdependent collaborative governance. The weighted voting of the Union and the States in the Council makes the two tiers unable to take any unilateral action except with significant support of the other. By doing so in practice, excessive dependence upon consensus in favor of formal voting fortified the normative concept of cooperative federalism. Divergent political interests have been common in meeting through regular meetings and consultative process within the effort to achieve uniformity of tax policy, national market integration and economic stability.

But the experience of Indian federalism under the GST regime has also led to a range of structural tensions as well. The presence of conflicts of compensation claims to revenue loss, rationalization of rates, fiscal autonomy, and extension of compensation cess has brought out tensions between cooperative idealism and fiscal realism. Union of India v. Judicial clarification. Mohit Minerals Pvt. Ltd. reiterated that the recommendation of GST Council do not have any binding effect and thus the constitutional balance and

legislative sovereignty of Parliament and State Legislatures were upheld.

This verdict is a slight reset of the story, as the Council is now seen as a persuasive and not coercive federal court.

Finally, the GST Council is an example of dynamic federalism, one that is negotiated on a negotiated and not a defined basis. It shows that administrative federalism in India is neither distinctly centralized nor does it entirely autonomous but is engaged in a constitutional culture of organized collaboration. Although there are still some issues with the uniformity of fiscal autonomy and national economic consistency, GST Council has demonstrated an example of harmonious governance. Its success in the long run does not simply lie in constitutional design, but in long term political trust, fiscal transparency and following the ethos of cooperative federalism which the Indian constitutional structure has been built upon.

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