THE 101ST CONSTITUTIONAL AMENDMENT AND INDIAN FISCAL FEDERALISM: A CRITICAL ANALYSIS

I. Abstract-

The Constitution (One Hundred and First Amendment) Act, 2016 introduced the Goods and Services Tax (GST) with the aim of establishing a uniform indirect taxation system throughout India. The reform replaced multiple central and state taxes with a consolidated framework intended to simplify taxation, promote economic integration, and ensure the seamless movement of goods and services across the country. Despite being regarded as a landmark fiscal reform, the Amendment has also raised important constitutional concerns regarding its effect on India's federal structure and the distribution of financial powers between the Union and the States.

Under the Constitution, legislative and fiscal powers are divided between the Centre and the States, and fiscal autonomy has traditionally formed a vital part of Indian federalism. Prior to GST, States exercised independent authority over various indirect taxes such as sales tax, value added tax, and entertainment tax. The 101st Amendment substantially altered this arrangement by integrating many state taxation powers into a unified GST regime requiring coordination with the Union Government.

A significant feature of the framework is the GST Council established under Article 279A. The Council includes representatives from both the Union and State Governments and recommends tax rates, exemptions, and other GST-related matters. Although conceived as a cooperative federal body, concerns have emerged that the voting structure gives the Union an influential position, limiting the independent fiscal role of States. Questions have also been raised regarding the dispute resolution mechanism under Article 279A (11), as the Council itself is empowered to create the mechanism for resolving disputes involving its own recommendations.

Keywords- Fiscal autonomy, economic integration, judicial scrutiny, cooperative federalism, Indian federalism

II. Introduction-

Taxation constitutes one of the primary instruments through which the state mobilizes revenue for governance, welfare measures, and economic development. Taxes are compulsory financial exactions imposed upon individuals and commercial entities under the authority of law, and their constitutional legitimacy in India is derived from specific provisions of the constitution. the Constitutional framework governing taxation is principally embodied in Articles 245, 246,

265, which collectively define the legislative competence of the union and the States in matters relating to taxation. Article 245 prescribes the territorial extent of laws enacted by Parliament and State legislatures, while Article 265 establishes the foundational principle that no tax shall be levied or collected except by authority of law. These provisions ensure that taxation remains subject to constitutional limitations and democratic accountability. The distribution of legislative powers concerning taxation is further structured through Article 246 read with the seventh schedule of the Constitution, which divides subjects between the Union List, state list, and Concurrent list. Traditionally, taxation powers were carefully demarcated between the Union and the States to preserve fiscal federalism and prevent administrative overlap. The Union possessed exclusive authority over several major indirect taxes, whereas States retained independent powers to levy taxes such as sales tax and value added tax within their territorial jurisdiction. This constitutional separation was intended to maintain clarity in fiscal administration, reduce conflicts between different levels of government, and ensure a balanced federal structure.[1]

However, the introduction of the Constitution (One Hundred and First Amendment) Act, 2016 substantially altered this arrangement by creating a unified Goods and services Tax regime. Through the insertion of Article 246A, both Parliament and State Legislature were granted concurrent powers to legislate on matters relating to GST. This marked a significant departure from the earlier framework of exclusive taxation powers and introduced a new model of cooperative fiscal governance. While the GST regime aimed to simplify indirect taxation and create a common national market, it also blurred the previously distinct constitutional boundaries between Union and State taxation powers.

The establishment of the GST Council under Article 279A further institutionalized this shared framework by centralizing decision-making relating to tax rates, exemptions, and policy coordination. Although designed to promote harmonization and cooperative federalism, the new structure has also raised concerns regarding the erosion of state Fiscal autonomy and the growing dominance of the Union in taxation matters. In this Context, the present research paper seeks to critically examine the 101st Constitutional amendments and evaluate its implications for India's Fiscal federalism by comparing the GST regime with the pre-existing indirect taxation system.[2]

[1] Union of India v. Mohit Minerals Pvt. Ltd., (2022) 4 SCC 481
[2] Constitution of India, art. 246A.

III. The Pre-GST Indirect Tax Structure in India-

India's constitutional framework reflects the characteristics of a quasi- federal system in which legislative and fiscal powers are distributed between the Union and the Sates. This division of authority is primarily derived from Article 246 read with the Seventh Schedule of the Constitution, which allocates subjects among the Union List, State List, and Concurrent list. Certain taxation powers were exclusively assigned either to parliament or to State legislatures, thereby ensuring a structured separation of fiscal responsibilities. Prior to the introduction of the Goods and services Tax (GST), both the Central and State Governments independently imposed and administered a variety of indirect taxes under their respective constitutional domains.[3]

Under the pre-GST indirect taxation regime, the Central Government levied taxes such as Central excise Duty, Service Tax, Customs Duty, and Central Sales Tax, while state governments-imposed Value Added Tax (VAT), luxury Tax, Entertainment tax, Entry tax, Octroi, Purchase tax, and other local levies. Although this framework was intended to maintain fiscal autonomy for both levels of government, it resulted in a fragmented and complex taxation structure with multiple taxable events occurring at different stages of production and distribution. For instance, excise duty was imposed at the stage of manufacture, VAT became applicable upon the sale of goods within a state, and service tax was charged upon the provision of services. Consequently, a single transaction often attracted several taxes imposed by different authorities.

One of the most significant drawbacks of erstwhile tax regime was the "cascading effect of taxes," commonly referred to as "tax on tax". Since taxes paid at one stage were often included in the taxable value at the next stage, the overall tax burden on goods and services continuously increased throughout the supply chain. This led to inflated prices for consumers and reduced economic efficiency. The absence of a seamless input tax credit mechanism further aggravated the issue because credits available under another tax statute. As a result, businesses frequently faced increased operational costs and reduced competitiveness.

The earlier taxation system also operated largely on an origin-based principle, meaning that revenue accrued to the State in which goods or services originated or were manufactured rather than where they were ultimately consumed. Such a framework discouraged the free movement

[3] Constitution of India, art. 279A

of goods across State borders because States attempted to maximize their own revenues through taxes such as entry tax, octroi, and local levies. This not only obstructed interstate trade and commerce but also undermined the constitutional vision of a unified national market. In several instances, states competed with one another by offering excessive tax exemptions and incentives to attract industries and investments, often affecting their long-term fiscal stability.

Another major challenge under the pre-GST regime was the artificial distinction between "goods" and "services". In many commercial transactions, particularly works contracts, software transactions, restaurant services, and catering services, both components coexisted. This frequently resulted in overlapping taxation by both the Union and the States, giving rise to double taxation and prolonged legal disputes concerning the classification and nature of transactions. Courts across the country were burdened with litigation relating to valuation disputes, determination of taxable events, admissibility of input credits, and interpretation of taxation statutes.[4]

The administrative framework of the earlier regime was equally cumbersome. Taxpayers were required to comply with multiple laws administered by different tax authorities at both the central and state levels. The presence of numerous regulatory bodies increased compliance costs and often promoted bureaucratic inefficiency and corruption. The absence of an integrated digital infrastructure made verification of tax credits and monitoring of transactions difficult. Tax evasion, forged documentation, and revenue leakages became common concerns due to weak coordination among tax authorities and inadequate regulatory mechanisms.

Overall, the pre-GST indirect tax structure created significant economic and administrative inefficiencies. The multiplicity of taxes, overlapping jurisdictions, cascading tax burdens, and complex compliance requirements hindered the development of a seamless national market. Instead of promoting economic integration, the system fragmented the Indian economy and increased barriers to trade and business operations. These structural shortcomings ultimately strengthened the demand for comprehensive indirect tax reform, leading to the introduction of the GST regime with the objective of establishing "One Nation, One Tax, One Market."[5]

IV. Rationale Behind the 101st Constitutional Amendment-

[4] V.N. Shukla, Constitution of India 901-05 (13th ed. 2017).
[5] GST Council Secretariat, Annual Report 2022-2023.

The structural deficiencies and administrative complexities of the pre-GST indirect taxation regime created a pressing need for comprehensive tax reform in India. The earlier framework, characterized by multiple indirect taxes imposed separately by the Union and State Governments, resulted in a fragmented taxation structure that adversely affected economic efficiency, interstate trade, and fiscal coordination. The existence of various taxes such as Central excise Duty, service tax, Value Added tax (VAT), Entry Tax, Luxury Tax, and octroi not only increased the compliance burden on businesses but also created overlapping jurisdictions and disputes regarding the classification and taxation of goods and services. These shortcomings highlighted the necessity for a unified and harmonized tax system capable of integrating the Indian economy into a common national market.

One of the primary reasons for introducing the Constitution (One Hundred and First Amendment) Act, 2016 was to eliminate the multiplicity of taxes and create a simplified indirect taxation framework based on the principle of "One Nation, One Tax, One Market." Under the earlier regime, taxes were imposed at different stages of production, manufacture, sale, and supply by different authorities, resulting in the cascading effect of taxation or "tax on tax". Since taxes paid at one stage were often included in the value of goods or services for the purpose of imposing further taxes, the final cost to consumers substantially increased. The absence of a seamless input tax credit mechanism further aggravated this issue and reduced overall economic efficiency. Therefore, a comprehensive tax reform became necessary to establish a system that would ensure uninterrupted flow of input tax credit and prevent multiple layers of taxation.

Another significant concern under the pre-GST regime was the operation of an origin-based taxation system, wherein revenue accrued to the State where goods were manufactured rather than where they were consumed. This approach discouraged interstate trade and created barriers to the free movement of goods across State boundaries. Taxes such as entry tax, octroi, and local levies fragmented the domestic market and undermined the constitutional vision of economic unity. The need for a destination- based taxation system, where tax revenue accrues to the state of consumption, was therefore increasingly recognized as essential for promoting a unified national economy and ensuring fairer distribution of revenue among States.[6]

The earlier tax regime also imposed substantial compliance and administrative burdens upon taxpayers. Businesses were required to comply with numerous tax laws administered by

[6] The Central Goods and Services Tax Act, 2017, No. 12, Acts of Parliament, 2017.

multiple authorities at the Central and State levels. This not only increased operational costs but also contributed to bureaucratic inefficiency, corruption, and tax evasion. The lack of a coordinated technological infrastructure made verification and enforcement difficult, resulting in revenue leakages and prolonged litigation. Consequently, there emerged a need for a transparent and technology- driven taxation system capable of simplifying compliance procedure and improving tax administration.

Furthermore, the distinction between "goods" and "services" under the previous regime often led to overlapping taxation and constitutional disputes. Transactions involving software, restaurant services, catering, and works contracts frequently attracted both State VAT and Central Service tax, creating uncertainty and double taxation. A unified tax structure became necessary to resolve these ambiguities and ensure consistency in the treatment of commercial transactions.[7]

The introduction of the GST framework through the 101st Constitutional Amendment was therefore conceived as transformative fiscal reform aimed at strengthening cooperative federalism, improving ease of doing business, and integrating India into the global economy. By subsuming multiple indirect taxes into a single comprehensive tax structure, the Amendment sought to enhance transparency, reduce litigation, encourage investment, and facilitate compliance with international trade obligations. Thus, the need for the Amendment arose not merely from administrative convenience but from the broader constitutional and economic objective of creating an efficient, integrated, and modern taxation system for India.

V. Highlight and Analysis of the 101st Amendment-[8]

The proposal for the introduction of the Goods and Services Tax (GST) was first formally advanced by the then Union Finance Minister in the Union Budget Speech of 2006 as part of a broader agenda to reform India's indirect taxation system. After years of deliberations between the Union and the States, the Constitution (One Hundred and First Amendment) Act, 2016 was finally enacted following approval by both Houses of Parliament and ratification by the requisite number of State Legislatures. The GST regime ultimately came into force on 1st July 2017, marking one of the most significant constitutional and fiscal reforms in post-

[7] The Constitution (One Hundred and First Amendment) Act, 2016, INDIA CODE (2016).
[8] M.P Jain, Indian Constitutional Law 1123-25 (8th ed. 2018).

independence India. The new framework subsumed a large number of Central and State indirect taxes and cesses into a unified taxation system aimed at establishing a common national market.

The 101st Constitutional Amendment fundamentally altered the existing taxation framework by replacing the fragmented indirect tax structure with a comprehensive and integrated GST regime. Prior to the Amendment, the Union and the States exercised separate and exclusive taxation powers under the Seventh Schedule of the Constitution. however, the Amendment sought to create a harmonized model of taxation based on cooperative federalism, wherein both the Union and the States would share legislative competence in matters relating to GST. This constitutional restructuring was intended to eliminate overlapping taxation, reduce compliance burdens, and facilitate the smooth movement of goods and services across the country.

One of the most important features of the Amendment was the insertion of Article 246A, which serves as the enabling provision for the levy and collection of GSTS. Article 246A grants simultaneous legislative powers to parliament and state legislatures to enact laws relating to GST. This represented a significant departure from the earlier constitutional arrangement under Article 246, which primarily allocated exclusive taxation powers through the Union and State Lists. By beginning with a non- obstante clause overriding Articles 246 and 254, Article 246A established a special constitutional framework for GST and redefined the traditional distribution of fiscal powers between the Union and the States. At the same time, parliament was granted exclusive authority to legislate on inter-state trade and commerce in the taxation of interstate transactions.

The Amendment also modified the scope of Parliament's residuary powers under Article 248 by Making them subject to Article 246A. Consequently, Parliament's authority over taxation matters became limited where specific GST-related powers had been constitutionally distributed between the Union and the states. This redistribution of legislative competence reflected an attempt to strengthen cooperative federalism and reduce fiscal competition among states by encouraging coordinated taxation policies.

Another significant constitutional development was the insertion of clause (12A) in Article 366, which defined "goods and services tax" as a tax on the supply of Goods, services, or both, except taxes on the supply of alcoholic liquor for human consumption. The substitution of the term "sale" with "supply" considerably broadened the taxable base under the GST regime, as taxation would now apply to a wider range of commercial transactions. However, certain products such as alcohol for human consumption continued to remain outside the scope of GST

and were subjected to the earlier taxation framework under State laws. Similarly, petroleum crude, high-speed diesel, petrol, natural gas, and aviation turbine fuel were constitutionally included within the GST framework but their implementation was made subject to future recommendations of the GST Council under Article 279A.

The insertion of Article 269A introduced a special mechanism for the levy and collection of Integrated Goods and Services Tax (IGST) on inter-state supplies and imports. The power to levy IGST was vested exclusively in Parliament to ensure consistency and uniformity in inter-state taxation. This centralized mechanism sought to prevent tax competition among States and Facilitate the free flow of trade and commerce throughout India.

The 101st Amendment also introduced several consequential changes by omitting or modifying various constitutional provisions and entries in the Seventh Schedule. Provisions relating to service tax under Article 268 were removed, while entries concerning excise duties, taxes on sale or purchase of Goods, and entertainment taxes were amended or omitted to accommodate the new GST Framework. These changes demonstrated the legislative intention to consolidate multiple indirect taxes into a single integrated system.

Another landmark feature of the Amendment was the establishment of the GST Council under Article 279A. The Council was constituted as constitutional body responsible for making recommendations on GST- related matters, including tax rates, exemptions, model laws, and administrative coordination. The creation of the GST Council reflected the vision of cooperative federalism by providing a platform for joint decision- making between the Union and the States in matters of Indirect taxation.[9]

Overall, the Constitution (101st Amendment) Act, 2016 transformed India's fiscal and constitutional landscape by restructuring the distribution of taxation powers and creating a unified indirect taxation regime aimed at promoting economic integration and national market efficiency.

VI. Key Features of the Amendment-

The Goods and Services Tax (GST) regime, introduced through the Constitution (One Hundred and First Amendment) Act, 2016 and implemented from 1 July 2017, marked a transformative shift in India's indirect taxation structure. The Amendment introduced extensive constitutional

[9] S.P. Sathe, Constitutional Law of India 456-58 (4th ed. 2021)

and statutory changes aimed at replacing the fragmented pre-existing tax framework with a unified and harmonized system of indirect taxation. Through nearly twenty constitutional modifications, the GST regime sought to establish a common national market while simultaneously promoting cooperative federalism by granting concurrent taxation powers to both Parliament and State legislatures. The framework was designed not merely as a tax reform but as a structural economic reform intended to simplify taxation, improve compliance, and facilitate economic integration across the country.

One of the most significant features of the GST regime is the transition from an origin-based taxation model to a destination-based taxation system. Under the earlier indirect tax structure, tax revenue generally accrued to the State in which goods were manufactured or services originated. This benefited industrially developed and manufacturing- oriented States while limiting the revenue-generating capacity of consumption-based or economically weaker States. The GST system altered this arrangement by ensuring that tax revenue accrues to the State where goods or services are ultimately consumed. The rationale behind adopting a destination-based model was to create greater equity among States and strengthen the fiscal position of underdeveloped regions through increased consumption-based revenue. Although this shift initially affected manufacturing States by reducing certain revenue advantages, the GST compensation mechanism was introduced to address potential revenue losses and maintain fiscal balance during the transition period.

Another defining feature of the GST framework is its dual taxation structure, which reflects the federal character of the India Constitution. The GST system consists of Central Goods and Services Tax (CGST) imposed by the Union Government and State Goods and Services Tax (SGST) imposed by State Governments on intra-state transactions. In Union Territories without legislature, Union Territory Goods and Services Tax (UTGST) is applicable. For inter-state trade and commerce, imports, and certain maritime transactions, integrated Goods and Services Tax (IGST) is levied by the Union Government under Article 269A. This dual structure enables both the Union and the States to simultaneously exercise taxation powers within a coordinated constitutional framework while maintaining revenue-sharing arrangements.

The GST regime also introduced a seamless input tax credit mechanism, which constitutes one of the most important reforms in indirect taxation. Under the pre- GST system, businesses often faced difficulties in claiming credits across different tax categories, leading to cascading taxation and increased operational costs. GST sought to eliminate this inefficiency by allowing

taxpayers to claim credit for taxes paid on inputs against taxes payable on outward supplies. Although CGST credit cannot ordinarily be utilized for payment of SGST and vice versa, IGST credit can be adjusted against liabilities arising under CGST, SGST, or IGST, thereby ensuring greater flexibility and continuity in tax credit flow. This mechanism significantly reduced the cascading effect of taxation and promoted transparency in the supply chain.

The GST framework further introduced a standardized rate structure applicable across the country. Goods and services are generally categorized under multiple tax slabs such as nil rate, 5%, 12%, 18%, and 28%, depending upon their nature and classification. The adoption of uniform tax rates was intended to reduce disparities among States and create consistency in taxation practices throughout India.[10]

Another major reform introduced under GST was the elimination of the rigid distinction between "goods" and "services". The earlier indirect tax regime frequently witnessed disputes regarding the classification of transactions, particularly in cases involving software, works contracts, catering, and restaurant services, which attracted overlapping taxes from both the Union and the States. GST replaced the Concept of "sale" with the broader concept of "supply," thereby expanding the taxable base and reducing interpretational conflicts. The term "supply" encompasses a wider range of commercial transactions involving exchange for consideration, whether in cash or kind, and thereby ensures greater clarity and uniformity in taxation.

To safeguard consumer interests and prevent unjust enrichment by businesses, the GST regime also introduced anti- profiteering measures. These provisions were intended to ensure that businesses pass on the benefits arising from reduced tax burdens and improved input tax credit mechanisms to consumers through reduced prices. The anti- profiteering framework reflects the broader objective of balancing economic growth with consumer protection.

The GST system additionally provides threshold exemptions and composition schemes for small taxpayers in order to reduce compliance burdens on smaller businesses. Taxpayers with turnover below the prescribed threshold limits are exempted from GST registration requirements, while eligible small businesses may opt for the composition levy scheme, allowing simplified taxation procedures and lower compliance obligations. These measures were introduced to promote ease of doing business and encourage voluntary compliance.

[10] The Central Goods and Services Tax Act, 2017, No. 12, Acts of Parliament 2017.

An equally important feature of the GST regime is the establishment of the GST Council under Article 279A and the creation of a technology-driven GST Network (GSTN) portal. The GST Council functions as a constitutional body responsible for making recommendations on tax rates, exemptions, model laws, and administrative coordination between the Union and the States. Simultaneously, the introduction of an electronic compliance platform has significantly modernized tax administration by facilitating online registrations, return filing, input tax credit verification, and transaction monitoring. This technological integration has improved transparency, minimized human intervention, and strengthened regulatory oversight.

Overall, the GST regime represents a comprehensive restructuring of India's indirect taxation system aimed at promoting fiscal efficiency, reducing tax-related complexities, and fostering the constitutional vision of an integrated national market economy.

VII. GST Council and the Framework of Cooperative Fiscal Governance-[11]

One of the most significant institutional innovations introduced by the Constitution (One Hundred and First Amendment) Act, 2016 was the establishment of the Goods and Services Tax (GST) Council under Article 279A of the Constitution. the GST Council was conceived as a constitutional body responsible for supervising, coordinating, and regulating all matters relating to the implementation and administration of the GST regime in India. It functions as the Central decision-making authority within the GST framework and plays a crucial role in ensuring uniformity and harmonization in indirect taxation across the Union and the States. The creation of the Council reflects the Constitutional vision of cooperative federalism, wherein both the Union Government and the State Governments participate collectively in fiscal decision-making.

The GST Council is a unique institution possessing both quasi-legislative and administrative characteristics. Although it does not enact laws directly, its recommendations significantly influence GST legislation, tax administration, exemptions, compliance mechanisms, and policy formulation throughout the country. Article 279A provides the constitutional foundation for the Council and defines its composition, powers, functions, and voting structure. The Council is chaired by the Union Finance Minister of State in charge of Revenue or Finance along with the Finance Ministers or nominated representatives of all States and Union Territories with

[11] Union of India v. Mohit Minerals Pvt. Ltd., (2022) 4 SCC 481

legislatures. This composition seeks to ensure representation of both the Centre and the States in matters involving indirect taxation and fiscal policy.

The Constitutional design of the GST Council demonstrates an attempt to balance federal participation with coordinated national policymaking. The quorum for Council meetings is fixed at one-half of the total numbers of members, thereby ensuring adequate participation in deliberative processes. Decisions of the Council are taken through a special weighted voting mechanism prescribed under Article 279A (9). Every decision requires a three-fourths majority of the weighted votes of members present and voting. Within this framework, the Union Government possesses one-third of the total voting weight, while the States collectively hold two-thirds of the voting power. This structure was intended to encourage consensus-based decision-making and prevent unilateral dominance by either the Centre or the States. However, it has also attracted scholarly criticism because the voting arrangement effectively grants the Union Government a veto over major decisions, thereby raising concerns regarding the extent of State fiscal autonomy under the GST framework.

The Functions and responsibilities of the GST Council are enumerated under Article 279A (4). The Council is empowered to make recommendations to the Union and the States on a wide range of GST-related matters that are necessary for maintaining uniformity in the tax system. These include recommendations concerning the taxes, cesses, and surcharges to be subsumed within GST; determination of tax rates applicable to various categories of goods and services; exemptions from GST; threshold limits for taxations; model GST Laws; principles governing levy and apportionment of Integrated Goods and Services Tax (IGST); and specific provisions for specific regions such as Special Economic Zones (SEZs) and North-Eastern States. Through these functions, the Council acts as the principal coordinating body for India's unified indirect taxation structure.[12]

An important constitutional responsibility assigned to the GST Council relates to dispute resolution. Article 279A (11) authorizes the Council to establish a mechanism for adjudicating disputes arising between the Union and the States or among States concerning GST matters. The Objective behind this provision was to provide an institutional framework for resolving fiscal disagreements in a cooperative and efficient manner. However, this arrangement has also been subject to criticism because the same body whose recommendations may become contentious is empowered to create the dispute settlement mechanism. Consequently, concerns

[12] Constitution of India, art. 279A.

have been raised regarding the independence and impartiality of the proposed dispute resolution framework, particularly in cases where States challenge decisions that affect their fiscal interests.

Since its establishment, the GST Council has conducted numerous meetings addressing issues relating to tax rates, exemptions, procedural reforms, compliance requirements, and administrative coordination. Through these deliberations, the Council has introduced several policy measures aimed at simplifying the GST regime and facilitating ease of doing business. One such measure was the introduction of the composition scheme for small taxpayers, which allows eligible businesses with limited turnover to pay tax at simplified rates while reducing compliance burdens. Similarly, the Council recommended the imposition of compensation cess to compensate manufacturing States for potential revenue losses arising from the transition to the destination-based GST model.[13]

The Council has also implemented technological and compliance-oriented reforms to strengthen tax administration and reduce evasion. The introduction of the electronic way bill (e-way bill) system enabled authorities to monitor the movement of goods across State boundaries and ensure transparency in supply chains. Additionally, the "Know Your Supplier" initiative was introduced to provide registered taxpayers with greater information regarding suppliers and their compliance status, thereby improving business transparency and reducing fraudulent input tax credit claims.

In several meetings, the Council has revised GST rates and granted exemptions in response to changing economic conditions and industry requirements. For example, GST rates applicable to sectors such as aircraft maintenance, repair, and overhaul (MRO) services and electric vehicles were reduced to promote investment and sustainable economic development. Exemptions were also extended in areas relating to infrastructure development and long-term industrial leases to stimulate economic growth and reduce financial burdens on businesses.[14]

The functioning of the GST Council illustrates the evolving nature of cooperative fiscal governance in India. By providing a common institutional platform for dialogue and decision-making between the Union and the States, the Council has contributed significantly to the implementation and stabilization of the GST regime. At the same time, debates concerning its voting structure, central influence, and dispute resolution powers continue to raise important

[13] S.P. Sathe, Constitutional Law of India 456-58 (4th ed. 2021).
[14] V.N. Shukla, Constitution of India 901-05 (13th ed. 2017).

constitutional questions regarding the balance between cooperative federalism and fiscal centralization. Thus, the GST Council occupies a central position in understanding both the operational success and constitutional challenges of the GST framework.

VIII. Impact of the 101st Amendment on Centre-State Financial Relations-

The Constitution (One Hundred and First Amendment) Act, 2016 brought about a substantial transformation in India's fiscal and constitutional framework by restructuring the distribution of taxation powers between the Union and the States. The introduction of the Goods and Services Tax (GST) marked a departure from the traditional model of fiscal federalism and introduced a new framework based on cooperative governance and shared taxation authority. While the GST regime was intended to create economic uniformity and simplify indirect taxation, it also significantly altered the financial relationship between the Centre and the States.

One of the most important constitutional changes introduced through the 101st Amendment was the shift from exclusive taxation powers to a system of concurrent taxation. Prior to the GST regime, the constitutional distribution of powers under Article 246 and the Seventh Schedule clearly separated the taxing authority of the Union and the States. The Union Government primarily imposed taxes relating to manufacturing and services, such as Central excise duty and Service tax, whereas State Governments levied taxes on the sale ad consumption of goods through mechanisms such as Value Added Tax (VAT), Entry tax, and Luxury Tax. The 101st Amendment fundamentally altered this arrangement by inserting Article 246A, which grants simultaneously legislative powers to both Parliament and State Legislatures to make laws relating to GST. As a result, both levels of government now possess authority to levy and collect taxes on the supply of goods and services within their respective jurisdictions.[15]

In addition to concurrent taxation powers, the Amendment also introduced the Integrated Goods and Services Tax (IGST) mechanism under Article 269A for inter-state trade and commerce. The power to levy and collect IGST has been vested exclusively in the Union Government, which subsequently apportions the revenue between the Centre and the destination State. This system was designed to facilitate the seamless movement of goods across State boundaries and prevent disputes relating to interstate taxation. The destination-

[15] Union of India v. VKC Footsteps India Pvt. Ltd., (2022) 2 SCC 603

based nature of IGST ensures that tax revenue accrues to the state where goods or services are ultimately consumed rather than where they are produced.

Despite these advantages, the GTS framework has also raised significant concerns regarding the erosion of State fiscal autonomy. By subsuming a large number of State- level taxes into the GST structure, States effectively surrendered a substantial portion of their independent taxation powers. Earlier, States possessed flexibility to alter tax rates, grant exemptions, or introduce fiscal measures suited to their regional economic conditions and developmental priorities. Under the GST regime, however, such decisions are largely dependent upon recommendations of the GST Council. Consequently, states are no longer able to exercise complete control over indirect taxation policies within their territories, thereby increasing their dependence upon collective national decision-making mechanisms.[16]

The establishment of the GST Council under Article 279A constitutes another major institutional feature of the Amendment. The Council was created as constitutional body to regulate and coordinate all GST-related matters. It consists of the Union Finance Minister as Chairperson, the Union Minister of State for Finance, and the Finance Ministers of all States and union Territories with legislatures. The voting structure within the Council reflects the principle of cooperative federalism, as States collectively possess two-thirds of the total voting power while the Union Government holds one-third. Decisions of the Council require a three-fourths majority, thereby ensuring that neither the Centre nor the States can independently impose their will upon the other. This framework was intended to encourage consensus-based policymaking and maintain a balance between national economic objectives and State interests.

However, the practical functioning of the GST Council has generated debates regarding the extent of central influence within the GST framework. Since major decisions require a supermajority, the Union Government effectively possesses veto power over Council decisions. Critics argue that this arrangement weakens the fiscal independence of States and contributes to increasing centralization of taxation powers. The dependence of States upon the Council for rate revisions, exemptions, and policy changes has therefore become a major constitutional concern in discussions relating fiscal federalism.

Recognizing the possibility of revenue losses during the transition to the new tax regime, the 101st Amendment introduced a compensation mechanism to protect State finances. Parliament

[16] The Central Goods and Services Tax Act, 2017, No. 12, Acts of Parliament, 2017.

enacted provisions guaranteeing compensation to States for any loss of revenue arising from the implementation of GST for a period of five years, ending in 2022. This compensation was financed through the imposition of a special GST compensation Cess on luxury and demerit goods such as tobacco products and automobiles. The compensation framework was crucial in securing the consent of States for the adoption of GST and maintaining financial stability during the transition period.

Nevertheless, disputes relating to delays in compensation payments highlighted the growing fiscal dependence of States upon the Union Government. Since States no longer possess unrestricted authority to independently increase indirect tax rates on several essential goods and services, they have become increasingly reliant upon GST revenue distribution, compensation mechanisms, and grants from the Centre. This dependence has intensified debates concerning fiscal centralization and the weakening of State autonomy within India's federal structure.

Overall, the 101st Constitutional Amendment has reshaped the earlier system of exclusive fiscal powers with a coordinated and centralized taxation framework. While the GST regime has promoted economic integration and created a unified national market, it has simultaneously raised important constitutional questions regarding the balance between cooperative federalism and the preservation of State fiscal sovereignty.

IX. Key Constitutional Changes-[17]

The Constitution (One Hundred and First Amendment) Act, 2016 brought about one of the most extensive constitutional transformations in India's fiscal framework since the adoption of the Constitution. the Amendment was enacted with the objective of implementing the Goods and Services Tax (GST) regime and creating a unified system of indirect taxation across the country. In order to accommodate the new taxation structure and preserve the balance between the Union and the States, several constitutional provisions were inserted, amended, and modified. These changes not only restructured India's indirect tax administration but also altered the nature of fiscal federalism by introducing a framework of cooperative governance in taxation matters.

One of the most significant constitutional insertions made through the Amendment was Article 246A. This provision serves as the Foundational basis for the GST regime by the granting

[17] Union of India v. Mohit Minerals Pvt. Ltd., (2022) 4 SCC 481

simultaneous legislative powers to both Parliament and State legislatures to enact laws relating to Goods and Services Tax. Prior to the Amendment, taxation powers were distributed separately between the Union and the States under Article 246 read with the Seventh Schedule. The Union Government possessed exclusive authority over taxes relating to manufacture and services, while States exercised powers relating to the sale and consumption of goods. Article 246A fundamentally changed this arrangement by creating concurrent taxation powers in relation to GST. It begins with a non-obstante clause overriding Articles 246 and 254, thereby establishing a special constitutional mechanism for GST legislation. While both Parliament and State Legislatures may legislate on intra-state supply of goods and services, Parliament retains exclusive authority with respect to inter-state trade and commerce. This provision marked a major departure from the earlier system of exclusive fiscal domains and introduced a coordinated taxation structure based on cooperative federalism.[18]

Another important constitutional provision inserted by the Amendment is Article 269A, which deals specifically with GST on inter-state trade and commerce. This Article provides that GST on supplies occurring during inter-state transactions shall be levied and collected by the Government of India. The revenue collected by the Government of India. The revenue collected under Integrated Goods and Services Tax (IGST) is thereafter apportioned between the Union and the destination Sate in accordance with principles formulated by Parliament on the recommendations of the GST Council. The objective behind Article 269A was to ensure uniformity in taxation across State boundaries and facilitate the seamless movement of goods and services throughout the country. By centralizing the levy and collection of IGST, the provision sought to eliminate interstate tax disputes and create a smooth credit mechanism for businesses operating across multiple States. The destination-based nature of the Tax also reflects the broader constitutional objective of creating a unified national market.

The Amendment further introduced Article 279A, which mandates the establishment the Goods and Services Tax Council. The GST Council is one of the most significant institutional mechanisms created under the new taxation framework and functions as the principal body for coordination and decision-making in GST -related matters. Chaired by the Union Finance Minister, the Council consists if representatives from the Union Government and the Finance Ministers of all States and Union Territories with legislatures. The Council is empowered to make recommendations concerning tax rates, exemptions, threshold limits, model GST laws,

[18] Constitution of India, art. 246A.

special provisions for States, and other matters necessary for harmonization of the GST regime. The creation of the GST Council institutionalized the concept of cooperative federalism by providing a common platform where both the Centre and the States participate collectively in fiscal policymaking. At the same time, debates regarding voting structure and central influence within the Council have raised constitutional concerns relating to fiscal autonomy and balance of power.[19]

Another significant constitutional modification was made to Article 286, which imposes restrictions on the taxation powers of States. Prior to the Amendment, Article 286 primarily prohibited States from imposing taxes on the Sale or purchase of goods taking place outside the State or during import and export transactions. Following the introduction of GST, Article 286 was amended to extend these restrictions to the supply of Goods and Services. Consequently, States are constitutionally barred from imposing taxes on supplies occurring outside their territorial jurisdiction or during the course of import into, or export out of, India. This amendment was necessary to maintain uniformity in taxation and prevent multiple States from claiming taxing authority over the same transaction.

The Amendment also inserted clause (12A) into Article 366 to define the term "Goods and Services Tax." According to this definition, GST refers to any tax imposed on the supply of goods, services, or both, except taxes on the supply of alcoholic liquor for human consumption. The adoption of the term "supply" instead of "sale" considerably expanded the scope of taxation under the GST framework. Unlike the narrower concept od sale, the term supply includes a broader range of commercial transactions involving exchange, transfer, barter, lease, or disposal for consideration. However, alcoholic liquor for human consumption was specifically excluded from the scope of GST, thereby allowing States to continue exercising independent taxation powers over such products under the earlier framework.

The Constitution (101st Amendment) Act also brought substantial changes to the Seventh Schedule of the Constitution. several entries in the Union list and Sate List relating to indirect taxes were either omitted or modified to accommodate the GST structure. Taxes such as excise duties on most goods, entry tax, entertainment tax, luxury tax, and taxes on advertisements were either subsumed into GST or structurally redefined. These modifications reflected the

[19] Constitution of India, art. 279A.

legislative intent to consolidate multiple indirect taxes into a single integrated taxation system and eliminate overlapping fiscal jurisdictions.

Overall, the constitutional changes introduced through the 101st Amendment represented a comprehensive restructuring of India's fiscal architecture. By inserting new provisions, redefining legislative powers, and modifying the existing constitutional scheme, the Amendment laid the Foundation for a unified indirect taxation system aimed at promoting economic integration, reducing tax-related complexities, and strengthening cooperative federalism within the Indian constitutional framework.

X. Judicial Interpretation-

The Constitution (One Hundred and First Amendment) Act, 2016, which introduced the Goods and Services Tax (GST) regime in India, has been subjected to extensive judicial scrutiny since its implementation. As GST fundamentally altered the constitutional distribution of fiscal powers between the Union and the States, several constitutional and statutory disputes arose concerning legislative competence, federal balance, taxation powers, and the functioning of the GST Council. Through various judgements, the judiciary has played a significant role in interpreting the scope and constitutional validity of the GST framework while clarifying the relationship between cooperative federalism and parliamentary sovereignty.

One of the most significant decisions concerning the GST regime is Union of India v. Mohit Minerals Pvt. Ltd. (2022)[20]. The case primarily concerned the constitutional validity of the Integrated Goods and Services Tax (IGST) imposed on ocean freight under a reverse charge mechanism in cases involving Cost, Insurance, and Freight (CIF) contracts. The Union Government argued that importers were liable to pay IGST on ocean freight services even though such services had already been taxed as part of the composite value of imported goods. The respondents challenged the levy on the ground that it amounted to double taxation and exceeded the powers granted under the GST framework.

The Supreme Court, while striking down the levy, delivered a landmark judgment clarifying the constitutional status of the GST Council and the nature of cooperative federalism under the 101st Amendment. The Court held that the recommendations of the GST Council are not binding upon either Parliament or State Legislatures but possess only persuasive value. According to the Court, Article 279A establishes a mechanism of "cooperative and

[20] Union of India v. Mohit Minerals Pvt. Ltd. (2022) 10 SCC 700

collaborative federalism" rather than a system where States surrender their legislative sovereignty entirely to the Centre. The Court emphasized that both Parliament and State Legislatures derive their authority simultaneously from Article 246A and therefore retain independent legislative competence in matters relating to GST.

The judgment is particularly important because it reaffirmed the federal character of the Constitution and rejected the argument that the GST Council possesses overriding authority over legislative bodies. The Court observed that treating GST Council recommendations as binding would undermine the constitutional autonomy of States and disrupt the balance of power envisaged under the Constitution. Thus, the decision in Mohit Minerals strengthened the principle of fiscal federalism and clarified that the GST framework must operate through dialogue and consensus rather than compulsion.

Another important case relating to the constitutional interpretation of GST is Union of India v. VKC Footsteps India Pvt. Ltd. (2021). The issue before the Supreme Court concerned the validity of Rule 89(5) of the Central Goods and Services Tax Rules, which restricted refund of unutilized input tax credit in cases of inverted duty structure. The petitioners argued that the rule violated the constitutional guarantee of equality under Article 14 because it differentiated between "input goods" and "input services." Although the Supreme Court upheld the validity of the rule, it acknowledged that GST legislation represents a complex fiscal policy requiring judicial restraint unless manifest arbitrariness or constitutional violations are demonstrated. The Court emphasized that taxation policy falls primarily within the legislative domain and should not ordinarily be interfered with by courts.

In M/s Brand Equity Treaties Ltd. v. Union of India (2020)[21], the Delhi High Court dealt with transitional input tax credit under GST. The petitioners challenged the time limit prescribed for filing TRAN-1 forms to claim transitional credit accumulated under the previous tax regime. The Court held that transitional credit constitutes a vested right and cannot be denied merely on procedural or technical grounds. Although subsequent developments and Supreme Court directions modified certain aspects of the judgment, the case highlighted the judiciary's concern regarding protection of taxpayers' rights during the transition from the earlier indirect taxation regime to GST.

[21] M/s Brand Equity Treaties Ltd. v. Union of India & Ors., 2020 SCC 78 GST 91 (Delhi High Court).

The Supreme Court also addressed GST-related constitutional issues in Assistant Commissioner (CT) LTU, Kakinada v. Glaxo Smith Kline Consumer Health Care Ltd. (2020)[22]. While the case primarily involved input tax credit under the VAT regime, the Court made broader observations relevant to GST administration, particularly emphasizing that tax statutes must be interpreted strictly and procedural compliance plays an essential role in tax governance. These principles continue to influence judicial interpretation under the GST framework.

Another significant development came through cases involving compensation to States after the implementation of GST. Several States raised concerns regarding delays in payment of GST compensation guaranteed under the GST (Compensation to States) Act, 2017[23]. Although no direct constitutional challenge succeeded against the compensation mechanism, these disputes highlighted tensions within India's federal structure and raised questions regarding fiscal dependence of States upon the Union Government. Judicial discussions in such matters often reflected broader concerns about maintaining cooperative federalism while ensuring fiscal accountability.

The judiciary has also repeatedly examined issues concerning arrest powers, anti-profiteering provisions, and procedural safeguards under GST laws. High Courts across the country have emphasized that GST authorities must exercise their powers in accordance with constitutional principles of fairness, natural justice, and proportionality. Judicial intervention has therefore played an important role in preventing arbitrary administrative action and ensuring that the implementation of GST remains consistent with constitutional guarantees.

Overall, judicial interpretation of the 101st Constitutional Amendment demonstrates the evolving constitutional character of the GST regime. Courts have generally upheld the validity of GST as a major economic and fiscal reform while simultaneously emphasizing that the Amendment cannot be interpreted in a manner that destroys India's federal balance. Decisions such as Union of India v. Mohit Minerals Pvt. Ltd. have become particularly significant because they reaffirm that cooperative federalism under GST does not imply complete centralization of fiscal authority. Instead, the judiciary has clarified that the GST framework must operate within

[22] Assistant Commissioner (CT) LTU, Kakinada v. Glaxo Smith Kline Consumer Health Care Ltd. (2020) 19 SCC 681

[23] The Goods and Services Tax (Compensation to States) Act, 2017, No. 15 of 2017, India Code (2017).

constitutional limitations, preserving both the autonomy of States and the broader objectives of national economic integration.

XI. Conclusion-

The Constitution (One Hundred and First Amendment) Act, 2016 represents one of the most transformative fiscal and constitutional reforms in the history of independent India. By introducing the Goods and Services Tax (GST) regime, the Amendment sought to replace the fragmented and complex indirect taxation structure with a unified system designed to promote economic integration, simplify tax administration, and create a common national market. The reform emerged from the long-standing need to address the inefficiencies of the erstwhile indirect tax regime, which was characterized by multiplicity of taxes, cascading tax burdens, overlapping jurisdictions, compliance difficulties, and barriers to interstate trade and commerce. Through the implementation of GST, the constitutional framework of taxation in India underwent a substantial restructuring aimed at achieving the vision of "One Nation, One Tax, One Market."

The research demonstrates that the 101st Constitutional Amendment fundamentally altered the fiscal relationship between the Union and the States by introducing concurrent taxation powers under Article 246A. Unlike the earlier constitutional arrangement, where taxation powers were separately allocated between the Union and State Governments, the GST regime created a shared framework in which both levels of government exercise authority over taxation on the supply of goods and services. The introduction of destination-based taxation through GST and IGST mechanisms further strengthened the objective of national economic integration by ensuring smoother interstate trade and a more uniform tax structure across the country.

At the same time, the Amendment significantly redefined the nature of India's fiscal federalism. The establishment of the GST Council under Article 279A institutionalized cooperative federalism by creating a constitutional platform for collective decision-making between the Centre and the States. The Council has played a crucial role in recommending tax rates, exemptions, compliance mechanisms, and administrative reforms necessary for the functioning of the GST regime. Several initiatives such as the composition scheme, input tax credit system, e-way bills, and technological integration through the GST Network have contributed towards improving transparency, reducing tax evasion, and simplifying compliance procedures.

However, the study also reveals that the GST framework has generated important constitutional and federal concerns. By subsuming several State taxes into a unified tax regime, States have surrendered a substantial degree of fiscal autonomy that they previously exercised under the Constitution. Their dependence upon the GST Council for tax-related decisions and upon the Union Government for compensation and revenue distribution has raised apprehensions regarding fiscal centralization. The weighted voting structure within the GST Council and the practical influence of the Union Government have further intensified debates regarding the balance between cooperative federalism and central dominance.

The judicial interpretation of the 101st Constitutional Amendment, particularly in Union of India v. Mohit Minerals Pvt. Ltd., has provided significant constitutional clarity regarding the functioning of the GST framework. The Supreme Court's observation that the recommendations of the GST Council are not binding reaffirmed the federal character of the Constitution and emphasized that cooperative federalism cannot operate through compulsion. The judiciary has therefore played a vital role in ensuring that the GST regime functions within constitutional limitations while protecting the legislative autonomy of States and safeguarding taxpayer rights.

Although the GST regime has achieved several positive outcomes, including reduction in cascading taxes, greater uniformity in taxation, improved ease of doing business, and increased digitalization of tax administration, certain challenges continue to persist. Issues relating to revenue compensation, classification disputes, compliance burdens for small businesses, frequent rate revisions, and delays in policy implementation indicate that the GST framework is still evolving. Furthermore, concerns regarding the weakening of State fiscal independence remain central to debates surrounding the constitutional validity and long-term sustainability of the GST regime.

In conclusion, the Constitution (101st Amendment) Act, 2016 marks a significant milestone in India's constitutional and economic development. It reflects an ambitious attempt to balance the objectives of economic integration and cooperative federalism within a complex federal structure. While the GST regime has undoubtedly modernized India's indirect taxation system and strengthened the idea of a unified national market, it has also reshaped the constitutional distribution of fiscal powers in ways that continue to generate legal and political debate. Therefore, the success of the GST framework ultimately depends upon maintaining an

equitable balance between national economic interests and the preservation of State autonomy, which remains an essential feature of the basic structure of the Constitution of India.