

GST ARTICLE

Federalism in Action: The Constitutional and Political journey of GST Council

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1. Introduction

The introduction of the Goods and Services Tax (GST) on July 1, 2017, marked a paradigm shift in India's indirect tax regime. At the heart of this transformation lies the **GST Council**-a unique constitutional body envisioned to ensure cooperative federalism and harmonised decision-making between the Centre and the States. Unlike earlier regimes where the Centre and States operated in silos, the GST framework necessitated a unified decision-making architecture in a spirit of cooperative federalism playing a 'constructive and enabling role' vis-à-vis the legislatures (Centre and States). This gave birth to India's first federal fiscal institution with real-time decision-making powers: the GST Council.

2. Constitutional Mandate and Composition

Established under Article 279A of the Constitution (inserted by the 101st Constitutional Amendment Act, 2016), the GST Council is empowered to make recommendations on key aspects of GST-rates, exemptions, threshold limits, model laws, apportionment of revenues, and special provisions for states.

Composition:

Chairperson: Union Finance Minister

Members:

- Union Minister of State (Finance/Revenue)

- State Finance Ministers or any other Minister nominated by each State Government

Each decision of the Council requires a three-fourths majority, with the Centre having one-third of the voting power, and the collective states having two-thirds. This unique voting structure seeks to balance national priorities with state-level fiscal autonomy, making the Council the first true federal decision-making body in India's constitutional history.

3. Role and Responsibilities

The Council's responsibilities include:

- Recommending GST rates and slabs
- Deciding on exemptions and special category goods
- Adjudicating issues of inter-se dispute between the Centre and States
- Recommending the model GST law and subsequent changes from time to time
- Apportionment of revenue between the Centre and States

Most crucially, the Council acts as a forum for continuous negotiation and consensus-building on contentious tax issues.

4. Evolution Through Key Phases

(i) Initial Phase (2016-2018): Consensus and Momentum

The initial years witnessed commendable consensus-building, with all decisions being taken unanimously. The Council held frequent meetings and tackled the mammoth task of rate classification, exemption lists, and migration from legacy systems, responding to the evolving issues be it tech related or otherwise. The smooth rollout of GST and quick responses to industry issues established the Council as a responsive and agile institution.

(ii) Course Correction and Responsiveness (2019-2021)

Facing revenue concerns, technical glitches, and compliance challenges, the Council undertook major rationalisations:

- Slashing rates on over 400 items
- Introducing e-invoicing and simplified returns
- Rolling out QRMP and streamlining composition schemes

The Council also played a pivotal role during COVID-19, granting filing relaxations, interest waivers, and holding emergency virtual meetings to support states and businesses.

(iii) Strains in Federalism (2021-2023)

With the end of the GST compensation regime in June 2022 (as of now levied and collected for repayment of loans for pandemic period), tensions arose between the Centre and States over revenue shortfalls and borrowing mechanisms. Some States began voicing concerns about the dilution of the Council's cooperative spirit, calling for greater decentralisation and clarity in decision-making.

(iv) Stabilisation and Reform Agenda (2023 onwards)

The Council has refocused on structural reforms, including:

- Rolling out the GST Appellate Tribunal
- Addressing inverted duty structures
- Tackling tax evasion through stricter registration norms and AI-powered analytics
- Continuing with rate rationalisation and sectoral redressals
- Discussions on merging of 12% slab with 5% and 18%

Despite periodic disagreements, the Council has never failed to function, proving its resilience.

5. Judicial Recognition of the GST Council's Role

In *Union of India v. Mohit Minerals Pvt. Ltd.* [[2022-VIL-30-SC](#)], the Hon'ble Supreme Court undertook a detailed examination of the constitutional position and functional nature of the GST Council. The Court articulated several key principles concerning the architecture of GST and the federal character of the Council. It observed that:

- The GST Council is not merely a forum for cooperative federalism, but also serves as a platform for political negotiation and contestation, transcending party lines and ideological divides.
- Article 279A, which establishes the Council, envisions a shared sovereignty model where neither the Centre nor the States can function unilaterally in matters of GST policy.
- The Council reflects elements of competitive federalism, where States engage with each other in policy refinement and fiscal strategy.
- While the Council's recommendations are not binding in the strict legal sense on the legislature, they acquire binding force when incorporated into secondary legislation notified by the government in the forms of Rules, thereby ensuring uniformity in taxation.

The Court ultimately held that the recommendations of the GST Council are not legally binding on the legislature, but possess significant "persuasive value". This nuanced stance reaffirms the delicate constitutional balance envisaged by Article 279A-where the Council plays a consultative, consensus-driven role, yet commands high levels of compliance due to political goodwill, institutional respect, and practical necessity.

This judgment reinforces the view that the authority of the GST Council stems not from coercive power, but from the collective political will and the spirit of

federal cooperation between the Centre and the States-making it a living example of India's evolving federal governance.

6. Challenges and the Road Ahead

While the GST Council has emerged as a symbol of cooperative federalism, it faces critical challenges:

- Balancing State autonomy with national uniformity
- Institutionalising mechanisms for dispute resolution inter-se the members of the Council
- Ensuring fiscal space for States post-compensation
- Making decision-making more transparent and consultative
- Phased inclusion of excluded sectors (real estate, petroleum products, electricity and alcoholic liquor) in the framework of GST

7. Conclusion: A New Model of Federalism

The evolution of the GST Council signals the emergence of a new model of fiscal federalism in India-collaborative, institution-driven, and consensus-oriented, unlike the traditionally adversarial Centre-State fiscal dynamics. Many scholars like K.C. Wheare and D.D. Basu have noted that India's federalism has been "quasi-federal" in character; the GST Council breaks that mold by empowering States to participate meaningfully in national tax policymaking.

The Council's working mechanism-where every State has an equal vote and decisions require a supermajority-ensures that the Centre cannot unilaterally impose its will, making this forum perhaps the most egalitarian institutional model in India's federal architecture.

This is not merely fiscal integration; it is a prototype for federal governance-one that could inspire similar institutional mechanisms in sectors like environment, agriculture, health, and education. The GST Council's ability to facilitate dialogue

across political and ideological lines may well be its most important contribution to India's evolving democratic federalism.

For a country as diverse as India, the GST Council is not merely an economic mechanism-it is a constitutional innovation, an evolving experiment, and a success story of unity through negotiation.

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