101st Constitutional Amendment Act 2016, Background, Objectives

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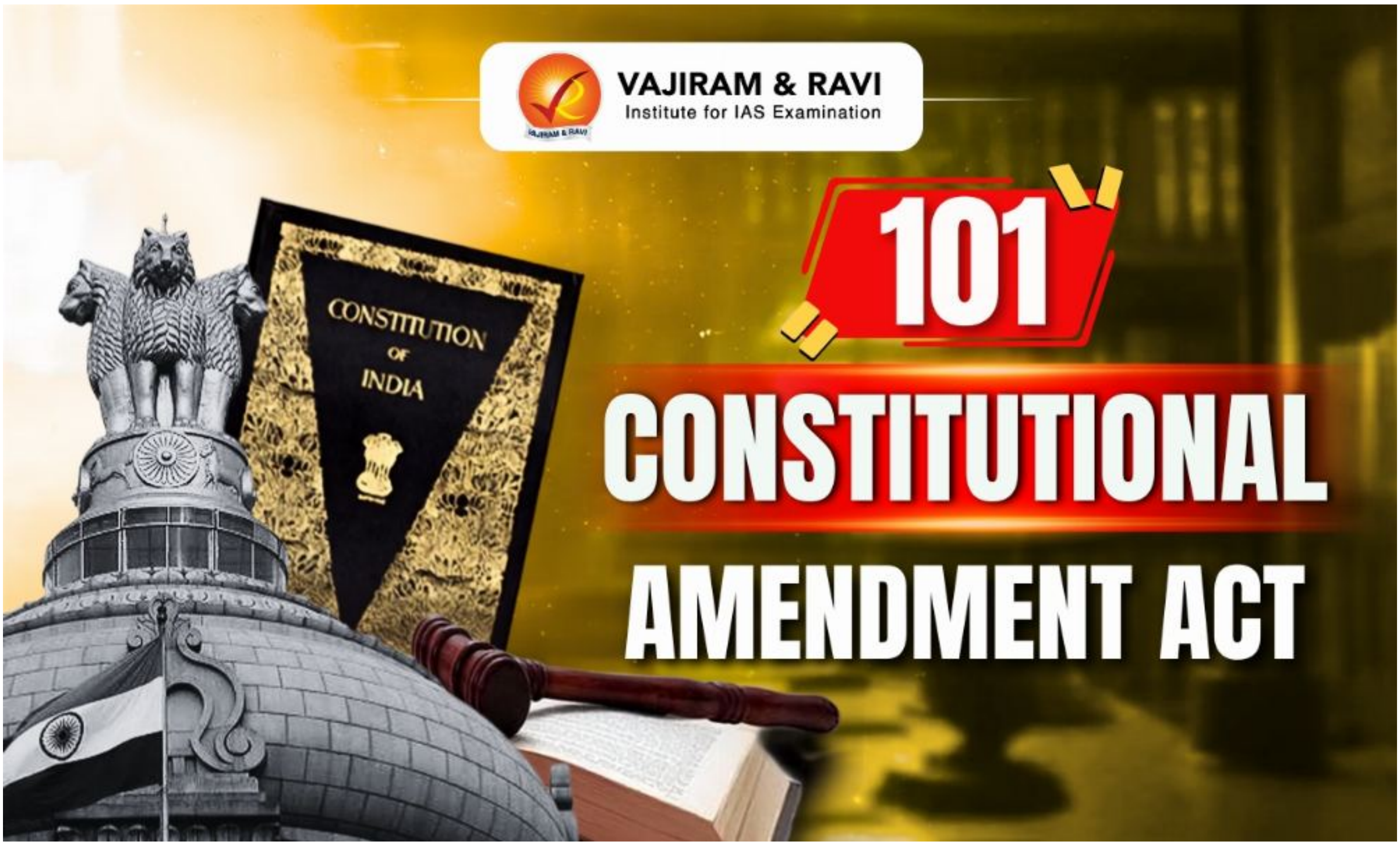

The **101st Constitutional Amendment Act** is significant in India's economic history, fundamentally reshaping the nation's indirect taxation framework. By embedding the Goods and Services Tax (GST) into the Constitution under Article 366(12A), the amendment replaced fragmented Central and State levies with a single, unified system.

The 101st Constitutional Amendment Act aimed to eliminate the cascading effect of double taxation, thereby reducing the overall tax burden on consumers and creating a seamless national market.

101st Constitutional Amendment 2016

The 101st Constitutional Amendment Act, 2016, represents a major milestone in India’s tax reforms, paving the way for the introduction of the **Goods and Services Tax** **(GST)** framework. The amendment brought significant changes to the distribution of taxation powers between the Union and State Governments, enabling the creation of a more integrated and uniform tax structure for goods and services throughout the country.

101st Constitutional Amendment Background

The **background of the 101st Constitutional Amendment Act** lies in the long-standing demand for comprehensive indirect tax reform in India. Before GST, India had a fragmented taxation structure where both the Centre and States levied multiple indirect taxes independently.

- **Initiation:** The idea of a Goods and Services Tax (GST) in India was first proposed in 2000 by the **Atal Bihari Vajpayee**-led government.
- **Kelkar Task Force:** The Kelkar Task Force (2003-04) recommended early implementation of GST, and an Empowered Committee of State Finance Ministers was set up to work on the structure.
- **Later Attempts:** The GST proposal was officially announced in the Union Budget 2006-07 by the then Finance Minister.
    - Later in 2011, the Constitution (115th Amendment) Bill was introduced in the Lok Sabha, which focused on the introduction of GST in India. However, dissolution of Loksabha led to the lapse of the bill.
- **Passage of the 101st Amendment Act:** The Revised Constitution (122nd Amendment) Bill was introduced in the Lok Sabha, focusing on introducing GST.
    - The bill was passed by both the Lok Sabha and the Rajya Sabha in 2016 and was then notified as the Constitution (101st Amendment) Act.

101st Constitutional Amendment Act Objectives

The major objectives of the 101st Constitutional Amendment Act include eliminating cascading taxes, creating a unified national market, and subsuming multiple indirect taxes under GST.

- **Remove Cascading Effects:** Eliminates the "tax on tax" burden (double taxation) through a seamless input tax credit system.
- **Common National Market:** Transforms India into a single unified market, easing the cross-border movement of goods and services.
- **Subsumed Taxes:** Combined central excise duty, service tax, state VAT, luxury taxes, and entry taxes under one umbrella. (Alcohol for human consumption and certain petroleum products face distinct exemptions or delayed inclusion).

Key Constitutional Changes by 101st Constitutional Amendment Act

The 101st Constitutional Amendment Act, 2016, introduced the Goods and Services Tax (GST), replacing multiple indirect taxes with a unified taxation framework. It brought the following key constitutional changes:

- **Concurrent Taxation Powers (Article 246A):** The Act granted simultaneous power to both the Parliament and State Legislatures to formulate laws and levy GST on intra-state transactions.
- **Establishment of the GST Council (Article 279A):** It mandated the creation of a cooperative federal body, chaired by the Union Finance Minister, to make binding recommendations on tax rates, exemptions, and dispute resolution.
- **Inter-State Trade Levy (Article 269A):** The Act empowered the Central Government to exclusively levy and collect Integrated GST (IGST**)** on interstate trade and imports, with revenues subsequently shared with the consuming state.

101st Constitutional Amendment Act Features

The **101st Constitutional Amendment Act** introduced several significant features by redefining the taxation powers of the Centre and the States and replacing the complex web of indirect taxes with a unified, destination-based taxation system.

- **Subsumption of Indirect Taxes:** The Act consolidated Central levies (like Excise Duty and Service Tax) and State levies (like VAT, Entry Tax, and Luxury Tax) into a unified tax structure.
- **Destination-Based Tax System:** It shifted the national tax structure from an origin-based model to a destination-based model.
- **Specific Exclusions:** The amendment constitutionally exempted "alcohol for human consumption" from GST entirely and temporarily excluded five key petroleum products until the GST Council recommends their inclusion.
- **Guaranteed State Compensation:** The Act provided a constitutional guarantee to compensate States for any revenue losses incurred during the transition to GST for a period of five years.
- **Seventh Schedule Amendments:** It modified the Union and State Lists to eliminate redundant taxes and prevent overlapping legislative jurisdictions between the Centre and States.

101st Constitutional Amendment Act Significance

The **101st Constitutional Amendment Act** holds immense macroeconomic and structural significance for India. By subsuming a complex web of fragmented Central and State indirect taxes into the Goods and Services Tax (GST) framework, it fundamentally altered India's fiscal architecture to create a more efficient, transparent, and unified economic system.

- **Unified Common Market:** It removed internal taxation barriers and enforced uniform indirect tax rates, realising the vision of **“One Nation, One Tax, One Market”** and improving the ease of doing business.
- **Eliminated Cascading Effect:** It ended the "tax on tax" burden by allowing seamless Input Tax Credit (ITC) across the value chain, which reduced production costs and lowered the tax burden on consumers.
- **Enhanced Transparency & Compliance:** It shifted to a unified, technology-driven administration system that increases transparency, closes loopholes, and significantly curbs tax evasion.
- **Equitable Revenue Distribution:** It boosted tax collections for both the Centre and States through better compliance and created a fairer, consumption-based formula for distributing revenue among the States.
- **Boosted to Economy:** The Act classified exports as "zero-rated" (entirely tax-free) and integrated imports into the inter-state framework, making Indian products much more competitive in international markets to boost the overall economy.

101st Constitutional Amendment Act and Federalism

The **101st Constitutional Amendment Act** is widely regarded as a watershed moment for **cooperative federalism in** India. Prior to this amendment, the Centre and States had distinctly separate taxation powers, often leading to conflicts and overlapping taxes. The introduction of GST fundamentally redesigned this relationship by creating a shared, collaborative fiscal architecture.

- **Dual Tax Structure:** It implements a **"Dual GST" model (CGST and SGST)**, allowing both the Centre and States to concurrently tax transactions and maintain distinct revenue streams.
- **GST Council as a Federal Institution:** The Act creates a joint forum **(Article 279A)** comprising both Union and State Finance Ministers, ensuring shared representation in fiscal policy.
- **Consensus-Based Decisions:** It prevents unilateral control by requiring a three-fourths majority for major decisions, promoting deep collaboration between the Centre and States.
- **Inter-State Trade Management:** Utilises the **Integrated GST (IGST)** for cross-border trade, which is collected by the Centre and fairly apportioned to the consuming state to prevent disputes.
- **Revenue Protection for States:** The Act established the Compensation Cess and Fund to constitutionally guarantee and protect states against revenue shortfalls during the transition phase.
- **Flexibility for State Crises:** Accommodates regional emergencies through Council negotiations, such as allowing Kerala to impose a state-specific cess for flood recovery.

101st Constitutional Amendment Act Criticism

While the **101st Constitutional Amendment Act** fundamentally reformed India's indirect taxation, the GST framework has faced substantial criticism regarding its implementation, impact on federal dynamics, and economic outcomes.

- **Delayed Compensation:** Late payouts to states for revenue shortfalls created a trust deficit and federal tension.
    - **Example:** Occurred during the 2019-2020 fiscal year and intensified by the **COVID-19** pandemic in 2020.
- **Fiscal Imbalance:** The Centre retains exclusive power to levy certain non-shareable cesses and surcharges, limiting state financial autonomy.
- **Inflationary Impact:** Despite expectations, the prices of many everyday products and services actually increased instead of falling.
- **Complex Rate Structure:** Multiple tax slabs **(0%,5%,18%, 40%)** violate the "single tax" principle, causing confusion and classification disputes.
- **Delegated Legislation Risks:** Allowing the government to alter CGST rates without prior parliamentary approval raises concerns about executive overreach.
- **Apportionment Disputes:** Determining the exact "place of supply" for services consumed across multiple states remains highly complex, sometimes skewing revenue distribution.

101st Constitutional Amendment Act UPSC PYQs

Q1. Explain the significance of the 101st Constitutional Amendment Act. To what extent does it reflect the accommodative spirit of federalism? **(UPSC Mains 2023)**

Q2. Explain the rationale behind the Goods and Services Tax (Compensation to States) Act of 2017. How has COVID-19 impacted the GST compensation fund and created new federal tensions? **(UPSC Mains 2020)**

Q3. Consider the following items: **(UPSC Prelims 2018)**

1. Cereal grains hulled
2. Chicken eggs cooked
3. Fish processed and canned
4. Newspapers containing advertising material

Which of the above items is/are exempted under GST (Good and Services Tax)?

(a) 1 only

(b) 2 and 3 only

(c) 1, 2 and 4 only

(d) 1, 2, 3 and 4

Ans: (c)

Q4. What is/are the most likely advantages of implementing 'Goods and Services Tax (GST)'? **(UPSC Prelims 2017)**

1. It will replace multiple taxes collected by multiple authorities and will thus create a single market in India.
2. It will drastically reduce the 'Current Account Deficit' of India and will enable it to increase its foreign exchange reserves.
3. It will enormously increase the growth and size of economy of India and will enable it to overtake China in the near future.

Select the correct answer using the code given below:

(a) 1 only

(b) 2 and 3 only

(c) 1 and 3 only

(d) 1, 2 and 3

Ans: (a)
