The constitution (one hundred and Twenty-second amendment) bill, 2014 (Goods and Service Tax)
THE CONSTITUTION (ONE HUNDRED AND TWENTY-SECOND AMENDMENT) BILL, 2014
(Goods and Service Tax)

"A well designed destination-based GST on all goods and services is the most elegant method of eliminating distortions and taxing consumption. Under this structure, all different stages of production and distribution can be interpreted as mere tax pass-through, and the tax essentially ‘sticks’ on final consumption within the taxing jurisdiction.” (Kelkar, 2009)¹.

The Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014 on the introduction of Goods and Services Tax (GST) in the country was introduced in the Lok Sabha on December 19, 2014. This Bill replaces an earlier Bill introduced in 2011 by the former Government on the same subject which had since lapsed. It is proposed to introduce GST in the country in April, 2016.

**Rational** - GST is essentially a tax on value addition, and there is seamless transfer of input tax credit across the value chain. GST will simplify and harmonise the indirect tax regime in the country. It is expected to reduce cost of production and inflation in the economy, thereby making the Indian trade and industry more competitive, domestically as well as internationally. It is also expected that introduction of GST will foster a common or seamless Indian market and contribute significantly to the growth of the economy. Further, GST will broaden the tax base, and result in better tax compliance due to a robust IT infrastructure. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an in-built mechanism in the design of GST that would incentivize tax compliance by traders. GST has been so designed that credit of taxes paid at every stage of value addition from the point of manufacture to the point of consumptions, can be availed at the next stage².


² Lok Sabha Unstarred Question No.1123 dated 28.11.2014.
Salient Features of the Bill

- A new Article 246A is proposed which will confer simultaneous power to Union and State legislatures to legislate on GST.
- A new Article 279A is proposed for the creation of a Goods & Services Tax Council which will be a joint forum of the Centre and the States. This Council would function under the Chairmanship of the Union Finance Minister and will have Ministers in charge of Finance/Taxation or Minister nominated by each of the States & UTs with Legislatures, as members. The Council will make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution modalities etc.
- It is proposed to do away with the concept of ‘declared goods of special importance’ under the Constitution.
- Centre will compensate States for loss of revenue arising on account of implementation of the GST for a period up to five years. A provision in this regard has been made in the Amendment Bill (The compensation will be on a tapering basis, i.e., 100 per cent for first three years, 75 per cent in the fourth year and 50 per cent in the fifth year).

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<th>The Bill visualises</th>
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<td>1) A dual GST that would be levied both by the centre and the states on an overlapping tax base</td>
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<td>2) Simultaneous power to Union and State Legislatures to legislate on the GST</td>
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<td>3) The centre would levy a Central Goods and Services Tax (CGST), the states a State Goods and Services Tax (SGST), and the centre would levy and collect the Integrated Goods and Services Tax (IGST) on all interstate supply of goods and services, and distribute the IGST proceeds among the states.</td>
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<td>4) A GST Council will be established, with the union finance minister as the chairman and state finance ministers as members³.</td>
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The proposed GST has been designed keeping in mind the federal structure enshrined in the Constitution and will have the following important features:

- Central taxes like Central Excise Duty, Additional Excise Duties, Service Tax, Additional Customs Duty (CVD) and Special Additional Duty of Customs (SAD), etc. will be subsumed in GST.
- At the State level, taxes like VAT/Sales Tax, Central Sales Tax, Entertainment Tax, Octroi and Entry Tax, Purchase Tax and Luxury Tax, etc. would be subsumed in GST.

³ 'Still Searching for the GST', An Editorial, Economic and Political Weekly, 10 January, 2015, p.7
All goods and services, except alcoholic liquor for human consumption, will be brought under the purview of GST. Petroleum and petroleum products have also been Constitutionally brought under GST. However, it has also been provided that petroleum and petroleum products shall not be subject to the levy of GST till notified at a future date on the recommendation of the GST Council. The present taxes levied by the States and the Centre on petroleum and petroleum products, i.e., Sales Tax/VAT, CST and Excise duty only, will continue to be levied in the interim period.

Both Centre and States will simultaneously levy GST across the value chain. Centre would levy and collect Central Goods and Services Tax (CGST), and States would levy and collect the State Goods and Services Tax (SGST) on all transactions within a State.

The Centre would levy and collect the Integrated Goods and Services Tax (IGST) on all inter-State supply of goods and services. There will be seamless flow of input tax credit from one State to another. Proceeds of IGST will be apportioned among the States.

GST is a destination-based tax. All SGST on the final product will ordinarily accrue to the consuming State.

GST rates will be uniform across the country. However, to give some fiscal autonomy to the States and Centre, there will a provision of a narrow tax band over and above the floor rates of CGST and SGST.

It is proposed to levy a non-vatable additional tax of not more than 1 per cent on supply of goods in the course of inter-State trade or commerce. This tax will be for a period not exceeding 2 years, or further such period as recommended by the GST Council. This additional tax on supply of goods shall be assigned to the States from where such supplies originate.

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<th>The Gist of GST</th>
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<td>1) To give states five-year compensation timeline for revenue losses</td>
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<td>2) Petroleum products not subject to GST, until the GST council decides</td>
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<td>3) States with manufacturing activity will get to levy 1 per cent tax on inter-state trade</td>
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<td>4) Alcohol will be outside the ambit of GST</td>
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<td>5) States will be empowered to tax imports. Currently, states levy VAT &amp; Centre levies customs duty</td>
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4 India. PIB Press Release, M/o Finance Date 19.12.2014
5 'Diluted with Alcohol' by Shweta Punj, Business Today, 18 January 2015, p.20
While GST is a positive development in the long-term, there are challenges in the near-term.

**GST bill and Autonomy of States** - The draft legislation proposes that the rate of the GST will be uniform across the country. However, to give some fiscal autonomy to the Centre and the States there will be a provision of a narrow tax band over and above the floor rate.

If the need to develop a common market dictates such a harmonisation, then the question arises that what is the extent of autonomy that a state should agree to surrender when deciding on the extent of variation in a narrow band. A state’s ability to levy a tax should mean the ability to fix the tax rate as well. In order to harmonise rates, the power to fix tax rates is to be given up almost entirely under the proposed legislation. It needs to be noted that tax harmonisation does not only mean harmonisation of rates but harmonisation of many other processes within the tax system to facilitate easy tax compliance by business and industry. A uniform rate is no guarantee of creation of a common market, if the tax compliance processes remain very Complex and different across States.

GST on petroleum products also has been a vexed issue between Centre and States because states earn about 30 percent of their revenue from the tax on petroleum products.

**Rate of GST** - The speedy implementation of GST calls for a resolution of the issue of the rates at which CGST and SGST are to applied. A good GST is one with a broader base and lower rate of taxation. As proposed in the legislation all goods and services other than alcohol (for human consumption) are to be under the GST which is a welcome move to reduced selectivity in taxation in a GST regime. Successful GST models adopted by other countries had a very broad base and a relatively modest tax rate, especially at the time of inception. For example, the New Zealand GST was introduced at the rate of 10 per cent, with a base consisting of virtually all goods and services (with the exception of financial services). The Singapore GST was introduced

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6 *op.cit. Economic and Political Weekly, 10 January, 2015, p.7*
at 3 per cent, but the rate has now been raised to 7 per cent as inefficient excises and customs duties have been progressively eliminated⁷.

![COUNTRY-WISE GST RATES]

Source: NCAER, Moving to Goods and Service Tax in India, p.29

The “flawless GST” proposed by the Thirteenth Finance Commission recommended a combined 12 per cent GST rate. But given much higher current rates of indirect taxation, it is certainly not possible to have a GST of 12 per cent. Rigorous independent studies have shown that a combined GST that will minimise revenue loss initially to the states (and thereby reduce the compensation that the centre will have to pay) must be around 20 per cent. To a nation generally averse to paying taxes, pegging the GST rate very high could encourage evasion and non-compliance, which could defeat the very purpose of the introduction of GST⁸.

Finance Minister, Shri Arun Jaitley has termed implementation of GST as the 'single biggest tax reform' since independence. However, it would require a majority of two-thirds of both houses of Parliament and at least 15 State Assemblies to get ratified.

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⁷ India. M/o Finance, Department of Economic Affairs, GST Reforms and Intergovernmental Considerations in India by Satya Poddar and Ehtisham Ahmad, March 2009, p.21

⁸ op.cit. Economic and Political Weekly, 10 January, 2015, p.7
Once the Bill is enacted, rules and mechanism would need to be framed to implement this reform.

It would be unrealistic to expect flawless GST. At a point of time when the economy is suffering from depressed growth and elevated prices, GST is the reform we cannot afford to lose through poor management of transition problem.

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