CHAPTER- I

India is heading towards a major tax reform – a game changer- through a uniform Goods and Service Tax (GST). The GST would replace the present Central Excise and Service Tax levied by the Center and VAT levied by the states. The Central Excise and Service Tax reduce the cascading effect through CENVAT scheme where credit of input goods and services is allowed for payment of tax on output goods and services. The present structure itself is reformed version of the earlier tax system, which was described as —archaic, irrational, and complex – according to knowledgeable experts, the most complex in the worldl in the Bagchi Report (Poddar & Ahmad, 2009) . However, even the reformed tax structure and institutions could lead India only to the ranking 152 out of 185 countries on ease of —paying taxes in the 2014 —Doing Businessl indicators of the World Bank. The indicator indicates a wide gap between what exists and what ought to be. It also highlights a need of comprehensive tax reform for economic development of India. The introduction of GST could be a much awaited solution to tax woes in doing business. The Empowered Committee portrays the GST as —a further significant improvement – the next logical step - towards a comprehensive indirect tax reforms in the country. This proposed comprehensive indirect tax reform has potential to become the most important tax reform in the history of India. It would also be a mile stone towards greater fiscal unification of India and creation of a common market.

The GST envisages bringing structural changes, which in turn means changing people who form the structure, drive the structure and get affected by the structure. There are only two known ways of changing people. Firstly, changing individuals and secondly, changing institutions. Changing institutions could be of various degrees. It may be nominal or could be dramatic depending on the degree of change in people envisaged. The GST- a comprehensive tax reform and game changer- envisages bringing a new tax structure with wider base to collect a tax on an event, namely —supply which had never been taxed earlier. The present taxes are on events like manufacture, sale or service. Thus, the implementation of GST would require designing a new institution, which could be substantially different from the existing institution. Designing an institution means devising and realization of rules, procedures and organizational structure that will enable and constrain behavior and actions so as to accord with held values achieve desired objectives or execute given task (Alexander, 2006).

Often, the tax reform focuses on bringing new rules and procedures without giving due emphasis on organizational structure. In India, tax reforms of various degrees were introduced a number of times to meet the current needs and to meet the need of higher revenue required for economic development and contingent government expenditure. VAT was first introduced at the Central level in the name of MODVAT for a selected number of commodities with effect from March 1, 1986. The MODVAT was extended to all commodities in phased manner and was renamed CENVAT. Later, service taxes were also added to CENVAT in 2004-05. Besides these changes, the tax administration were subjected to various simplification processes, but the organizational structure remained largely unchanged except changes in strength of manpower at various levels and renaming or creation of new designations.

States also witnessed various spells of tax reforms of various degrees. The latest reform-introduction of VAT- has been a challenging exercise. India, being a federal country, treats each State a sovereign in levying and collecting some taxes in terms of the Constitutional provisions. The sovereignty granted to states was essential to maintain federal structure. The federal structure is meant to ensure that preferences of its citizens are given its due priority even when the diversity of the country makes it a difficult proposition. This desirable political structure was arrived at an economical cost where the markets were fragmented and the movement of goods faced both tariff and non-tariff barrier. Before introduction of VAT, there were a number of taxes and tax rates within a state and each state competed with tax rates. However, with active support of Central government and coordinated efforts of all states, the implementation of VAT began from April 1, 2005. Now, all states and Union Territories have implemented state level VAT. The implementation of VAT was appreciated and supported by all stake holders, but this reform was rule centric and the organizational structure was not adequately focused for its adequacy and suitability.

Reforms in a tax system require equitable treatment. An equitable treatment of tax incidence is critical to the acceptability and thereby the success of any tax structure. Equity , both horizontal (similar tax treatment for similar classes of taxpayers) and vertical (progressive nature of tax incidence) is consciously sought to be enhanced. The exemptions more often tend to pass more benefits to the rich sections of society.

How GST will be able to address these deficiencies? It will be useful to study the constitutional provisions relating to taxes. Article 246(1) of Constitution of India states that Parliament has exclusive powers to make laws with respect to any of matters enumerated in List I in the Seventh Schedule to Constitution. (Called 'Union List'). As per Article 246(3), State Government has exclusive powers to make laws for State with respect to any matter enumerated in List II of Seventh Schedule to Constitution. Seventh schedule to Constitution (referred to in Article 246) indicates bifurcation of powers to make laws, between Union Government and State Governments. Parliament has exclusive powers to make laws in respect of matters given in list I of the Seventh Schedule of the Constitution (*called 'Union List"*). List II (*State List*) contains entries under jurisdiction of States. List III *(concurrent list*) contains entries where both Union and State Governments can exercise power. [In case of Union Territories, Union Government can make laws in respect of all the entries in all three lists].

Union List relevant to taxation - List I, called "Union List", contains entries like Defence of India, Foreign affairs, War and Peace, Banking etc. Entries in this list relevant to taxation provisions are as follows :

ENTRY NO. 46 - Taxes on agricultural income.

ENTRY NO. 51 - Excise duty on alcoholic liquors, opium and narcotics.

ENTRY NO. 52 - Tax on entry of goods into a local area for consumption, use or sale therein (usually called Octroi).

ENTRY NO. 54 - Tax on sale or purchase of goods other than newspapers except tax on interstate sale or purchase.

ENTRY NO. 82 - Tax on income other than agricultural income.

ENTRY NO. 83 - Duties of customs including export duties.

ENTRY NO. 85 - Corporation Tax.

ENTRY NO. 84 - Duties of excise on tobacco and other goods manufactured or produced in India except alcoholic liquors for human consumption, opium, narcotic drugs, but including medicinal and toilet preparations containing alcoholic liquor, opium or narcotics.

ENTRY NO. 92A - Taxes on the Sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of Interstate trade or commerce.

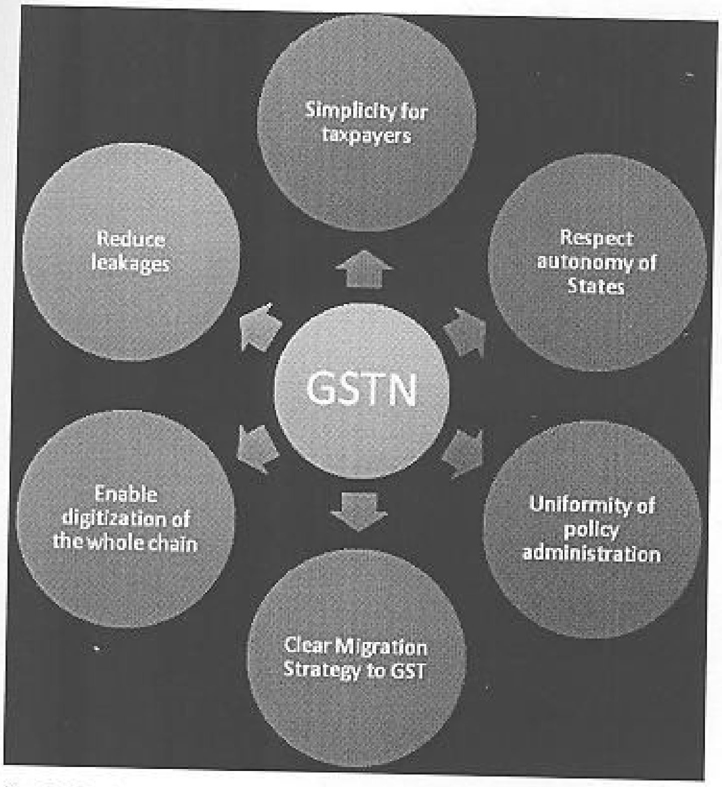
ENTRY NO. 92B - Taxes on consignment of goods where such consignment takes place during Interstate trade or commerce.

Entry 92C has been inserted for taxes on services .

The Constitution (122nd Amendment) Bill, 2014 was introduced in Lok Sabha on December 19, 2014 and was passed by it on May 6, 2015. The Bill was referred to a Select Committee of Rajya Sabha for examination which submitted its Report on July 22, 2015.

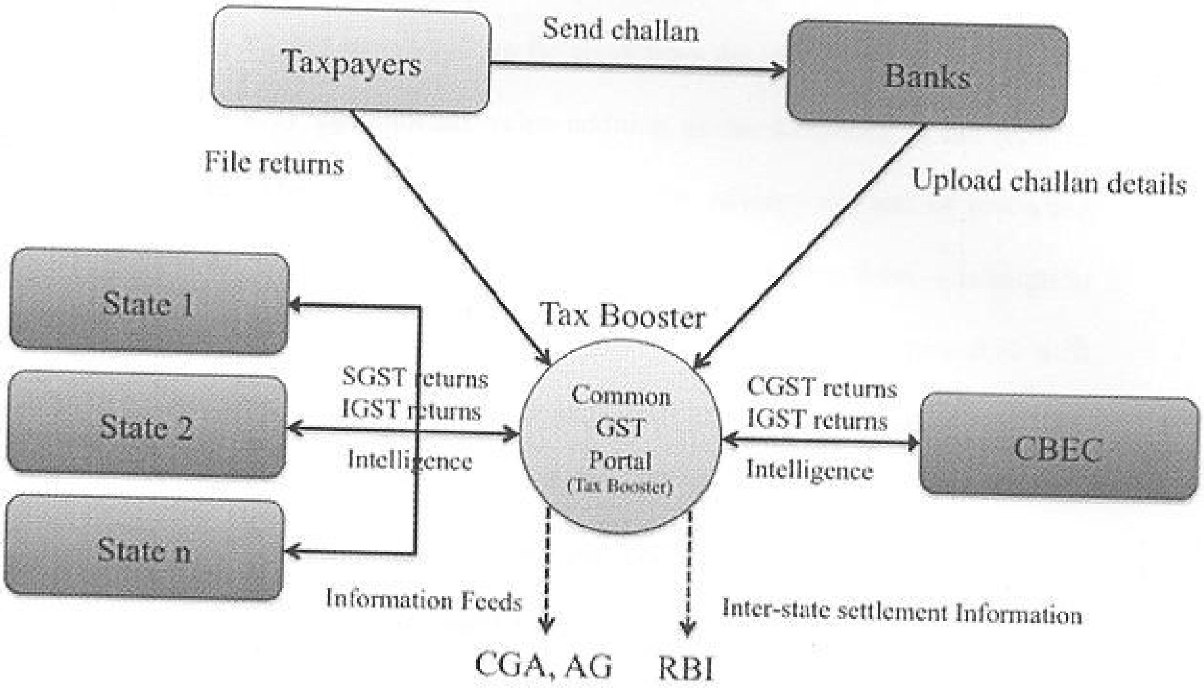
The Bill amends the Constitution to introduce the goods and services tax (GST). Parliament and state legislatures will have concurrent powers to make laws on GST. Only the centre may levy an integrated GST (IGST) on the interstate supply of goods and services, and imports. Alcohol for human consumption has been exempted from the purview of GST. GST will apply to five petroleum products at a later date. The GST Council will recommend rates of tax, period of levy of additional tax, principles of supply, special provisions to certain states etc. The GST Council will consist of the Union Finance Minister, Union Minister of State for Revenue, and state Finance Ministers. The Bill empowers the centre to impose an additional tax of up to 1%, on the inter-state supply of goods for two years or more. This tax will accrue to states from where the supply originates. Parliament may, by law, provide compensation to states for any loss of revenue from the introduction of GST, up to a five year period.

Goods and Services Tax Network (GSTN) is a Section 25 (not for profit), non-Government, private limited company. It was incorporated on March 28, 2013. The Government of India holds 24.5% equity in GSTN and all States of the Indian Union, including NCT of Delhi and Puducherry, and the Empowered Committee of State Finance Ministers (EC), together hold another 24.5%. Balance 51% equity is with non-Government financial institutions. The Company has been set up primarily to provide IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the Goods and Services Tax (GST). The Authorised Capital of the company is Rs. 10,00,00,000 (Rupees ten crore only)). Following diagrams from the IT Strategy for GST by Empowered Group on IT Infrastructure on GST illustrate the role of GSTN:-



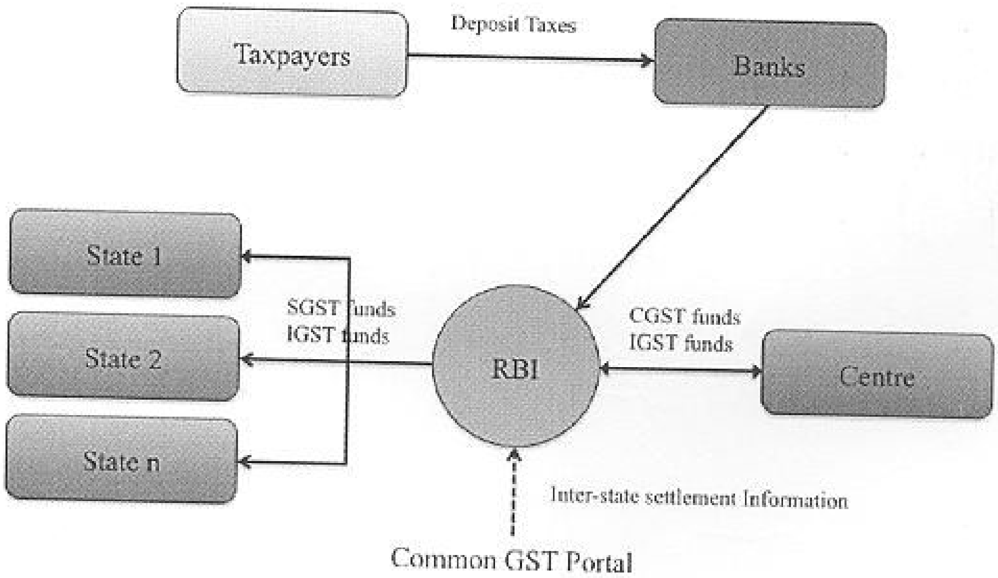
Stakeholders:-

Information flows unmodified through Common GST Portal to states and CBEC
Common GST Portal will also integrate with systems of CBDT, MCA, etc.



Funds Flow:

State funds flow directly from taxpayers to the states
Centre funds flow directly from taxpayers to centre



This paper takes into consideration that organizational structure is a critical factor to implement any change. The GST is a new tax and not mere some slight changes in the old tax structure. The present CENVAT and state VAT are far away from the ideal value added tax. The present CENVAT and state VAT does not tax value addition as the incidence of tax remains manufacture, service or sale. The present VAT only limits the adverse impacts of cascading effects, while the GST intends to tax the —supply. It also plans to move away from —exemption Raj to a single rate or a narrow band tax structure. The focus of processes is expected to shift from men to machine. The State and Central Governments shall lose their sovereignty to a GST Council- a constitutional body. The philosophy behind the GST is different from the present tax philosophy. The constitutional provisions for the new tax, GST, have to be new. The law and procedures are also required to be tailor made to meet the philosophy and constitutional provisions. The taxable event shall also be different. If GST is so different from the present, can the present structure would be able to deliver the advantages for which GST is being brought. The paper argues that the present organizational structures in the states and centre is not aligned with each other and to the need of implementing GST to get a faster economic growth. If a new tax system is being introduced, it is an opportunity to bring new organizational structure, which is well aligned to the need of fast growing economy in the globalized era and suitable to take advantage of the Flat World.