Q15

Explain the significance of the 101st Constitutional Amendment Act. To what extent does it reflect the accommodative spirit of federalism?

UPSC Civil Services Mains 2023 · GS II · 15 marks · Federal Structure and Devolution

Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein.

Core demand of the question

- Explain the significance of the Constitution (One Hundred and First Amendment) Act
- To what extent does it reflect the accommodative spirit of federalism?

Revision summary

The 101st Constitutional Amendment, 2016, introduced GST through Articles 246A, 269A and 279A.

It subsumed many Union and State indirect taxes into CGST, SGST and IGST.

The GST Council gives States two-thirds vote weight and the Union one-third, with a three-fourths decision rule.

Five-year compensation was the federal bargain; dual GST kept States as taxing governments.

Mohit Minerals held Council recommendations not strictly binding law.

Accommodation is real in design and strained in revenue politics after compensation.

Introduction

The Constitution (One Hundred and First Amendment) Act, 2016, introduced a national Goods and Services Tax by rewriting the Union and State tax lists. Its significance is a common market; its federal test is whether States remain partners in rate-setting and revenue, not only collecting agents.

Body

Significance of the 101st Amendment

- It inserted Article 246A, which gives Parliament and State legislatures concurrent power to tax goods and services (with exclusive Union power over inter-State GST).
- It inserted Article 269A for inter-State GST apportionment and Article 279A for the Goods and Services Tax Council.
- It subsumed a stack of Union and State taxes - including Central Excise on goods, Service Tax, VAT, octroi and entry tax, and several cesses - into CGST, SGST and IGST.
- It enabled the Goods and Services Tax (Compensation to States) Act, 2017, which promised States compensation for five years for revenue shortfall below a 14 per cent annual path, funded by a compensation cess.

• Economically it cut cascading tax-on-tax, unified the domestic market, and created a digital matching system through the Goods and Services Tax Network.

Accommodative federalism in the design

• The GST Council is a constitutional body, not a mere advisory board; States sit with the Union, and the Union's vote weight is one-third while States together hold two-thirds.

• A decision requires a three-fourths majority of weighted votes of members present and voting, so the Union cannot, on paper, steam-roll a united State bloc.

• Dual GST (Centre and State on the same base) preserved the State as a taxing sovereign, unlike a purely central VAT.

• Compensation for five years was the political bargain that brought reluctant manufacturing and consuming States into the 2016 settlement.

• Petroleum, alcohol for human consumption, and stamp duty on land remaining outside GST show that States kept some independent tax handles.

Limits of that accommodation

• In practice the Union's one-third vote plus a few aligned States can pass a rate decision; "consensus" has often been political, not a veto for every State.

• In Union of India v. Mohit Minerals (2022) the Supreme Court held that Council recommendations are not binding in the sense of a law; Parliament and State legislatures still enact, which both protects legislative federalism and creates uncertainty.

• Compensation ended in June 2022 as originally timed; extension of cess to repay borrowed compensation, and disputes over IGST settlement, showed that the bargain was time-bound.

• Rate changes, cess on luxury items, and delayed GST Appellate Tribunals have left small dealers and some States unhappy even while the common market holds.

Extent

• **The 101st Amendment is accommodative in structure:** concurrent tax power, a Council, dual GST, and a compensation deal.

• It is less accommodative in operation when revenue stress meets a strong Union agenda. It is cooperative federalism with an imbalance, not a return to isolated State VATs.

Flow diagram

101st Amendment 2016 -> Art 246A dual GST

101st Amendment 2016 -> Art 279A GST Council

101st Amendment 2016 -> Compensation bargain

Art 279A GST Council -> Weighted votes States two-thirds

Art 246A dual GST -> Common market

Compensation bargain -> Common market

Conclusion

The 101st Amendment is significant because it created a constitutional common market and a GST Council. It reflects accommodative federalism in dual GST, vote weights, and compensation, and it falls short where the Union's agenda and the end of guaranteed compensation squeeze State fiscal space.

Facts & figures

Constitution (101st Amendment) Act, 2016

Constitutional vehicle for GST; inserted Articles 246A, 269A and 279A and amended the Seventh Schedule.

Article 279A

Creates the GST Council chaired by the Union Finance Minister, with State finance ministers as members.

GST (Compensation to States) Act, 2017

Statutory compensation for a five-year transition, financed by a compensation cess.

Union of India v. Mohit Minerals (2022)

Supreme Court held GST Council recommendations are not binding legislation; legislatures must still enact.

Vote weights

Union one-third, States together two-thirds; decisions need three-fourths of weighted votes of those present and voting.