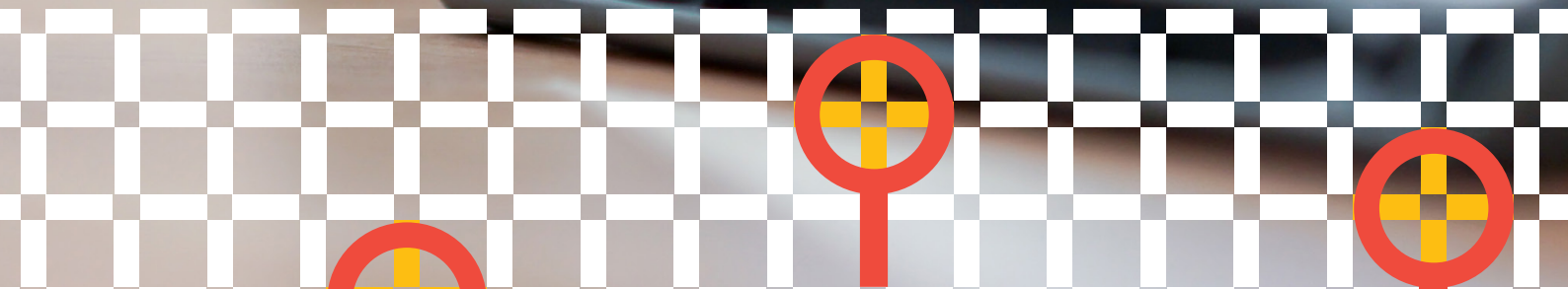




# GST@5





## Reimagined for a new India

The conceptualisation and roll-out of the biggest fiscal reform in the world's largest democracy has been a game changer for the Indian economy. While, expectedly, the implementation of this reform has not been entirely smooth, the future looks promising as GST completes five years.

Five years is a significant time to dwell upon the key accomplishments of the reform, areas where we could have done better and, most importantly, the big ideas for the next five years on which discussions need to commence between all the stakeholders.

## Five achievements of the GST roll-out

### 1. Uniformity and elimination of structural inefficiencies

Simplicity, transparency and stability are the key cornerstones of any reform, particularly one like GST.

Often, the aspect of structural simplicity brought in by GST in India is not emphasised enough. The merger of multiple Central and state tax laws into a common and comprehensive legislation has resulted in significant uniformity in tax administration and promoted ease of doing business. Removal of state-specific road permits, declaration forms and filing requirements coupled with reduction in physical interactions between taxpayers and authorities have allowed businesses to spend more time on value-added activities.

It has also led to the harmonisation of certain other allied laws (such as customs), resulting in reduced ambiguity and complexities.

The Government aimed to make India a 'single market' with uniformity of taxes. Removal of checkpost-based scrutiny on state borders has not only reduced queuing up for clearances but also ushered in greater efficiencies in logistics.

## 2. Enlargement of the tax base

In general, GST has reduced the overall indirect tax burden on consumers and made Indian products more competitive in international markets.

There has been a phenomenal enlargement of the tax base, resulting in increased revenue collections. While the Union Budget for FY21–22 estimated revenue collections of INR 22.17 trillion, revenue collections as per the pre-actual figures were almost INR 5 trillion above the budget estimates at INR 27.07 trillion. As per reports, this indicates a 34% growth over the previous year's overall revenue collection, supported by 20% growth in indirect taxes. Further, FY 2021–22 also marks the highest tax-to-GDP ratio of 11.7%, with the indirect tax-to-GDP ratio at 5.6%.<sup>1</sup>

On the registration and compliance front, the registered taxpayer base has gone up to 13.7 million and approximately 890 million returns have been filed on the GST portal as on 31 May 2022.<sup>2</sup> The Government has attributed this to, inter alia, increased compliant behaviour, efficient tax administration and use of technology.

## 3. Digital India

With the setting up of the GST Network (GSTN) and efforts to make the IT infrastructure robust in the last five years, there has been significant progress in automation of most compliances to be undertaken by taxpayers. Introduction of key initiatives such as the e-waybill mechanism, e-invoicing and auto-population of returns has helped in reducing the compliance burden on taxpayers. The smooth implementation of the e-waybill and e-invoicing mechanism, which included a trial phase and saw continuous stakeholder interaction, has been appreciated by the industry. As on 31 March 2022, approximately 1.4 billion Invoice Reference Numbers (IRNs)<sup>3</sup> and 2.7 billion e-waybills<sup>4</sup> have been generated and these measures have contributed significantly to increased tax compliance and tax collections.

In addition to simplification of compliances, automation has also helped the Government to use data analytics for detection of tax frauds/revenue assurance as well as statistical insights. Going forward, increased integration and sharing of data with the Central Board of Direct Taxes (CBDT) is likely to be a key aspect of our tax administration.

## 4. Cooperative federalism between Centre and states

In the spirit of cooperative federalism, the GST Council was formed with representation from both the Centre and state governments for decision making on issues relating to legislation, rates, procedures, etc.

While this has ensured stability and uniformity of GST laws across India, the GST Council has also been redressing legitimate concerns of taxpayers, micro, small and medium enterprises (MSMEs) and the common citizen. The departure from the earlier scheme of distribution of fiscal powers has not been entirely smooth but establishing a common forum of decision making has largely been fruitful.

## 5. Tax rate reduction

Elimination of the cascading effect of taxes with free-flowing credits was the key driver for implementation of GST and it has stood true to the task, resulting in an overall reduction in the prices of goods and services. While the revenue neutral rate (RNR) recommended by the RNR Committee was 15.3%, the weighted GST rate has been in the range of 11–12%. After five years of GST, seamless flow of credit has resulted in reduction of production costs and inflation in the economy, thereby making the Indian trade and industry more competitive, domestically as well as internationally.

<sup>1</sup> <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1814822>

<sup>2</sup> <https://gstn.org.in/>

<sup>3</sup> <https://einvoice1.gst.gov.in/>

<sup>4</sup> <https://gstn.org.in/>





## Five areas for improvement

With the inception of GST, it was expected that the Government would take measures to facilitate the liberalisation of credit and that limitations under the erstwhile system leading to credit blockages in the supply chain would be eliminated. The following are some areas that still need attention under the current tax system:



### 1. Structural imbalances perpetuated under GST

The journey of input tax credit (ITC) has hampered by new restrictions each year. The concept of blocked credit (including but not limited to ITC on the cost of construction of immovable property, etc.) along with the requirement of credit matching has increased the compliance burden.

In addition to the above, the requirement to discharge tax on free-of-cost services or goods and the mandate of payment of GST on inter-branch supply of services (e.g. common services performed between a head office and its branch offices) have deepened the imbalances carried forward from the erstwhile tax system. The ongoing debate on the inclusion of salary cost of employees for valuing the cross charge for GST purposes will only exacerbate the issue, without much augmentation of revenue.

The GST law only permits the refund of unutilised ITC in two scenarios – if credit accumulation is on account of export of goods/services or an inverted duty structure. However, this refund on account of an inverted duty structure is limited to the tax paid on inputs and refund for input services/capital goods is not allowed.

### 2. Cash flow management

Cashflow-related requirements for businesses have increased under GST. For instance, on import of services, taxpayers are required to deposit GST under the reverse charge mechanism, typically at 18% as against 15% service tax earlier. They have to pay this tax in cash and then avail ITC for this. Similarly, there are provisions that mandate the payment of GST on inter-branch supply of services, entailing additional working capital related requirements for the business.

At present, businesses need to maintain state-level balances for both the components of Central (CGST) and state GST (SGST), and the absence of fungibility creates an additional strain on cash liquidity. Additionally, Rule 86A of the CGST Rules, 2017, allowing for blocking of credit, has also created unavoidable situations where cash payments are necessitated despite sufficient ITC being available to the taxpayer.

The benefits of GST refunds to exporters have not effectively percolated to India Inc at the ground level despite the Government having introduced several initiatives for speedy processing, such as an online system of disbursements.

### 3. Role of the National Anti-Profiteering Authority (NAPA)

Aimed at protecting consumer interests, the NAPA was initially meant to be operational for a period of two years till November 2019. However, considering the large number of complaints received by it and with over 200 cases piled up, the GST Council extended this timeline to 30 November 2022. There are indications that going forward, these cases as well as the entire work related to anti-profiteering in GST may be entrusted with the Competition Commission of India.

Internationally, many such anti-profiteering provisions have been transitory (notably by Australia for the period between 1 July 1999 to 30 June 2002). Further, trade and industry bodies have often highlighted that the lack of guidelines on the subject is adding to ambiguity in the implementation of the anti-profiteering provision and warrants a relook.

### 4. Requirement for a robust dispute resolution mechanism

GST, still being a nascent law in India, faces several disputes at different levels and is far from settled. However, the conflicting approaches by various state and Central tax authorities on the same issues need resolution at the hands of the GST Tribunal, which is yet to be formed. Litigation in high courts has increased in the absence of the tribunal. Moreover, remedy by way of advance rulings has not been effective, with most of the rulings going against the industry. One limitation of the advance ruling process is that the Authorities for Advance Rulings (AARs) function at the state level. This leaves room for contrary rulings being delivered on identical issues by two different AARs. The Government has proposed the setting up of a Centralised Appellate AAR to consider appeals against contradictory orders passed by the AARs of different states. Overall, the quantum of GST disputes has been much higher than anticipated and likely to further increase.

### 5. Tax administration

With GST audits and scrutiny now picking up at a faster pace, taxpayers with registrations across India are required to deal with state-wise audit parties (belonging to either the Central or state tax authorities), often simultaneously, to resolve their audit observations. At times, there have been conflicting approaches by the Central and the state tax administrations, leaving taxpayers confused and without appropriate remedies.

The investigation process under GST has led to intervention from courts and several taxpayer-friendly instructions on coercive recovery and conclusion of investigations in a time-bound manner have also been issued to redress the same.





## Five big ideas

The GST reform was radical in its conception and approach, and not intended to achieve incremental goals. The following five ideas can help pave the way for GST to achieve its intended results:

### 1. Measures to ease cash flow management

The Government may consider allowing taxpayers to use their ITC balance for payment of GST under reverse charge. Amending the GST legislation to include the refund of input services under the ambit of the inverted duty structure refund would be a welcome gesture to ease working capital blockages. The tax paid on capital goods also deserves to be included while computing the amount of refund under GST, in line with international practice (with necessary safeguards).

There is also a case to allow the CGST and IGST balances to be maintained at a national level for companies having multi-state operations. The Government can even explore introducing a well-integrated model for cross-utilisation of direct and indirect taxes at the Central level. One possible measure, as in Australia and Denmark, is to allow the amount of tax paid in excess or ITC under GST to be offset against the liability of tax for other tax statutes such as income tax and basic customs duty. This sort of mechanism will help taxpayers with optimum utilisation of their cash or credit balances.

A novel concept can be introduced whereby a GST registrant can have the option of converting their accumulated ITC balance into tradable scrips. The scrips can be used for discharge of GST liability in other states or supplied in the open market against a consideration. This mechanism will result in incremental cash liquidity at the disposal of taxpayers. Easier access to loan financing based on ITC rating as securitisation, particularly for MSMEs, can also be facilitated.

### 2. Relaxing the ITC regime

Different treatments appear to apply for the very same nature of expenditure ( e.g. accommodation costs, welfare expenses for employees such as cost incurred on maintenance of township, security, residential colony, hospitals, rent-a-cab services for transportation of employees) under the Income-tax Act and the GST Act.

It would be prudent for the Government to consider the position adopted under the Income-tax Act, ensuring that expenses on receipt of goods/services which are used by an assessee for their business purposes would be available as credit under the GST regime. This would be in line with the Government's intent of creating an easier business environment for India Inc.

Alternatively, a concept of deemed credit (ITC allowed up to a permissible capping, say 98% ) on all business expenditure can be introduced to eliminate the compliance burden of identification of eligible ITC and attendant litigation.

### 3. Revamping the tax administration for the future

Sectoral committees may be revived to strengthen collaboration with industry verticals for consultation and resolution of ongoing sector-specific issues.

The GST Council can create a common assessment and audit manual with a standardised audit checklist, form GST audit monitoring committees in states and ensure closer Centre-state coordination and uniformity in approach. This will, to a large extent, bring about consistency and predictability, reduce potential litigation and ease the burden of compliance on taxpayers.

Adoption of best practices for assessment from other Organisation for Economic Co-operation and Development (OECD) members is recommended. For example, the concept of VAT group treatment provided under the European Union (EU) and UK VAT systems which allows two or more corporate bodies to account for VAT as a single taxable person could be explored. The representative member of the group is registered for VAT and is responsible on behalf of all the other members for accounting for VAT on the group's activities.

In addition to the above, deploying a common digital platform for all tax compliances (GST, corporate tax and municipal-level taxes, wherever applicable.) will greatly contribute to the ease of doing business parameters.

The Ministry of Finance has made commendable progress in decriminalising many provisions of the Companies Act and has brought in a very conducive business environment. Likewise, except for very serious offences involving national security, tax offences in GST should be decriminalised to the extent possible.

#### 4. Curbing tax evasions in innovative ways

Almost every country in the world is struggling with tax evasion and has developed innovative incentive schemes to encourage end customers to ask for tax receipts for their purchases. Taiwan was a pioneer in this field and in the last decade, several such schemes were launched by China, the Czech Republic, Romania and some other countries. The 'tax lottery incentive scheme' is one such example. The rationale behind such schemes is the belief that consumers want to participate in lotteries to win prizes and are therefore willing to ask for business receipts, which they can use to participate in these lotteries. The idea of a receipt-lottery scheme is to give customers an incentive to ask for receipts and thereby ensure that sales are duly recorded and taxed. Receipts can be printed with a code and then submitted for a central draw. The prizes for such lotteries range from modest sums of money to cars and holidays. Based on the success of receipt-lottery schemes, some countries have gone a step further to allow a refund of 20–30% on the sales tax paid by taxpayers in a year, in addition to the lottery claim.

#### 5. Technological innovation for GST

Artificial intelligence (AI) is going to be an integral part of the tax function in the future as advanced technologies and tax analytical tools are further deployed for effective management of assessments/appeals, data collected during periodic assessments and for forecasting, and behavioural trends.

Emerging trends and technologies like design thinking and user experience should be explored to simplify complicated rules and procedures, and create an IT interface to provide a better taxpayer experience.

Blockchain technology should be adopted for not only e-invoicing but also e-registration, e-payments, e-filing, e-assessment and e-audit. Blockchain is already used in many countries such as China to detect fake VAT invoicing transactions.

## From new to improved GST

GST is an evolving tax system. Even established jurisdictions like Australia and New Zealand, which have implemented GST for several decades, continue to debate the merits of their tax systems in order to improve them and accommodate emerging business and capital trends. The vision of a new 'India @75' and the commitment to net zero by 2070 would be achievable if GST policies are revamped and suitably aligned with international best practices.

For India, the advent of GST signalled a paradigm shift from the earlier complex system of indirect taxes. The spirit of cooperation among all stakeholders – taxpayers, the tax administration and the GST Council – has guided India's GST journey. A reimagined and redesigned GST regime would be a win-win situation for India and its taxpayers on the journey towards becoming a USD 5 trillion economy.

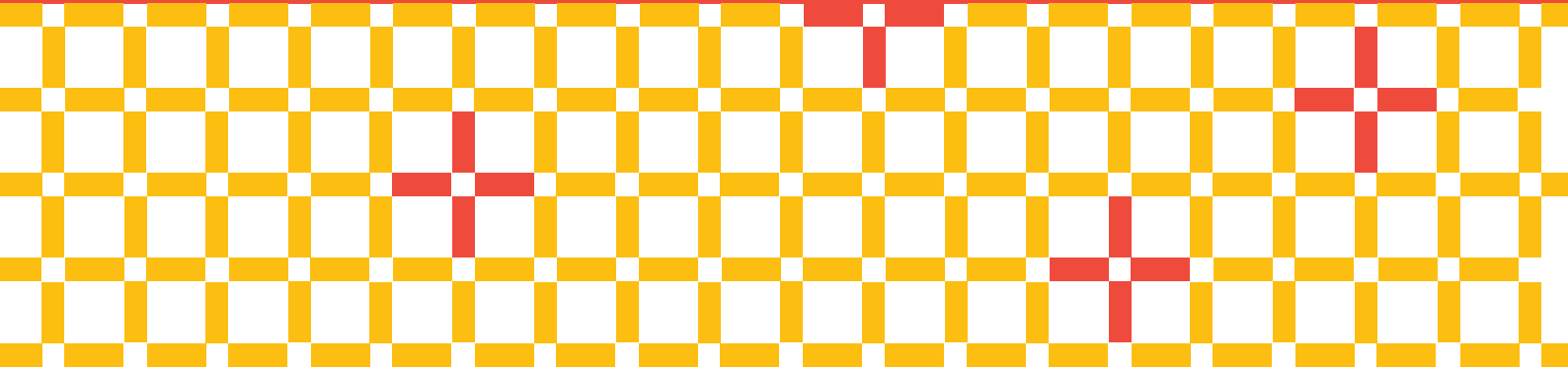


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