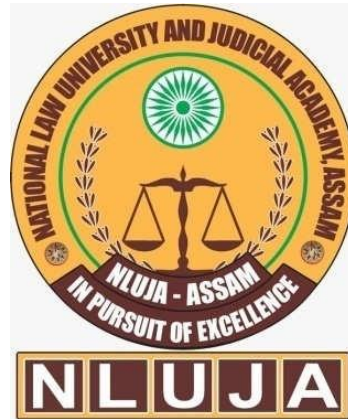


**ASSESSING THE IMPACT OF TAX INCENTIVES IN THE GROWTH
AND DEVELOPMENT OF SMALL ENTERPRISES
IN INDIA: - AN ANALYSIS**



Dissertation submitted to National Law University and Judicial
Academy, Assam In partial fulfillment for award of the degree of
MASTERS OF LAWS

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It is to certify that **Nilutpal Deb Roy** is pursuing Master of Laws (LL.M) from National Law University and Judicial Academy, Assam and has completed his dissertation titled **“ASSESSING THE IMPACT OF TAX INCENTIVES IN THE GROWTH AND DEVELOPMENT OF SMALL ENTERPRISES IN INDIA: - AN ANANLYSIS”** under my supervision. The research work is found to be original and suitable for submission.

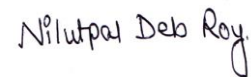
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DECLARATION

I, **NILUTPAL DEB ROY**, pursuing Masters of Laws (LL.M) from National Law University and Judicial Academy, Assam, do hereby declare that the present dissertation work titled **“ASSESSING THE IMPACT OF TAX INCENTIVES IN THE GROWTH AND DEVELOPMENT OF SMALL ENTERPRISES IN INDIA: - AN ANALYSIS”** is an original research work and has not been submitted, either in part or full anywhere else for any purpose, academic or otherwise, to the best of my knowledge.



Date: 17/08/2020

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PREFACE

Small enterprises are the privately owned corporation, partnership, or sole proprietorship that have a fewer number of employees and less revenue than a regular-sized enterprise or entrepreneurship. The small enterprise's sector constitutes an important segment of the Indian economy in terms of the contribution to the country's production, exports, creation of the employment sector, etc. so we can say that the small enterprises are the backbone of the Indian economy. Small enterprises have gained increased attention in India in recent times, considering the strategic importance to the economy and the country, small and medium enterprises play an important role in generating employment of 48.8 million small and medium enterprises in the country provide employment to 111.4 million people. The new taxation policy made a great impact on the small enterprises in India and also due to the Covid-19 Pandemic the small industries of Assam faced a lot of problems because the economy of the country has fallen down. Therefore, the researcher through this research paper tries to expound effect of these new taxation policy in India through the doctrinal study.

TABLE OF CASES

1. UCO Bank v CIT (1999) 237 ITR 889 (SC).
2. Federation of hotel and restaurant Association of India v UOI 178 ITR 97 (SC)
3. Ellel Hotels and Investment Ltd v UOI 178 ITR 140 (SC); CIT V Karthikeyan G.R. 201 ITR 866 (SC).
4. Krishi Utpadan v Shree Mahalaxmi 1995 Supp (3) SCC 433.
5. Ghulam Hussain v State of Rajasthan AIR 1963 SC 367.
6. Shanti saroop sharma and another v state of Punjab and others, AIR 1969 P H 79.
7. Justice K.S. Puttaswamy (Retd) v Union of India,(2012) SCC 494.

TABLE OF STATUTES

1. 1944 – Central Excise Act.
2. 1953 – The Shop and Establishment Act.
3. 1956 – The Central Sales Tax Act.
4. 1961 - The Income tax Act.
5. 1962 – The Customs Act.
6. 1994 – Value Added Tax.
7. 2003 – The Assam Value Added Tax Act.
8. 2006 – Micro, Small and Medium Enterprise Act.
9. 2017 – Goods and Service Tax.

TABLE OF ABBREVIATION

AOP	–	Association of Person
BSE	–	Bombay Stock Exchange
CBDT	-	Central Board of Direct Taxes.
CE	–	Central Excise.
COI	–	Constitution of India.
CST	–	Central Sales Tax
CG	–	Central Government
CGST	–	Central Goods and Service Tax
GOI	–	Government of India.
GST	–	Goods and Service Tax.
GDP	–	Gross Domestic Product.
HUF	–	Hindu Undivided Family
HST	–	Harmonized Sales Tax
IGST	–	Integrated Goods and Service Tax.
IoT	–	Inspector of Taxes
ITAT	–	Income Tax Appellate Tribunal.
IT Act 1961	–	Income Tax Act 1961.
JCT	–	Joint Commissioner of Taxes
JSC	–	Joint stock company
MAB	-	Mercado Alternativo Bursátil
MSME	–	Micro, Small and Medium Enterprises
NBFCs	–	Non-Banking Financial Companies.
NSE	–	National Stock Exchange
NRI	–	Non-Resident of India
OCED	-	Organization for Economic Co-operation and Development
PAN	–	Permanent Account Number.
PPE	-	Personal protective equipment
RoDTEP	-	Remission of Duties and Taxes on Exported Products
SAD	–	Special Additional Duties.
SE	–	Small Enterprise

SME	–	Small and Medium Enterprise
SG	–	State Government
SGST	–	State Goods and Service Tax.
SoT	–	Superintendent of Taxes.
STA	-	State Tax authorities.
TDS	–	Tax Deducted at source
TRC	–	Tax Reform Committee
UTGST	–	Union Territory Goods and Service Tax.
U.K	–	United Kingdom
VAT	–	Value Added Tax.
VCT	–	Venture Capital Trusts.

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CHAPTER – I

1.1 INTRODUCTION:-

Economic development is a process by which the overall potential of the country is explored and utilized for the advancement and augmentation of the existing phase. Economic development is very important in terms of a country becoming self-sufficient in various aspects. There are various facets of economic development in a country. It can be brought about both by direct and indirect methods taken by the government. Some of the direct methods include the maximization of the utilization of natural resources, increasing job opportunities, infrastructural facilities, etc. Some of the indirect methods include giving subsidies, schemes, etc. The basic aim behind this is to bring about maximum economic development in the country.

Industries are the backbone of the development of a country. Industrialization helps in urbanization and this, in turn, helps in the development of communication, training, information and technology, and infrastructural facilities. Due to industrialization, there is diversification of products and other amenities available to the people in the market. There are various types of industries in the market, each contributing their part in the overall development of the country.

“Small Enterprises occupy an important place in the Indian Economy. These industries are contributing half of the total industrial production in India and provide a gainful economic activity to more than five times the number of people employed in the large and medium-sized industries in the country”. Their contribution to India’s export earnings has reached significant proportions during the past few years. Nonetheless adequate support from the government is also required for the augmentation of small enterprises to achieve their desired results. As has been stated, there is a need for both direct as well as indirect support from the government.

One of the most effective methods to support small enterprises in terms of economic development is through the tax incentives provided by the government. It is a system of getting benefits from the tax structure of the country which is in the form of encouragement or provocation towards a particular economic activity. The tax incentives help to improve the existing condition of the small enterprises by providing a kind of financial help to the people working in the enterprise as a whole and the small enterprise as an institution.

“A tax is a compulsory payment that is imposed by the government to the public at the end of the financial year. The amount which is collected from the tax will be utilized for the betterment of the country. The tax system is divided into two types as Direct Taxes and Indirect Taxes. Tax is the most significant source of revenue of the central government. The government needs money to maintain law and order in the country; safeguard the security of the country from foreign aggression, for promotion of the welfare of the people, and overall economic development of the nation. Since our government is committed to the socialistic pattern of society, it is the foremost duty of the government to carry out such a welfare and development program which will reduce the gap between the rich and the poor. The first known taxation system took place in Ancient Egypt around 3000-2800 BC”.

“The primary objective of any tax law and its administration is to raise revenue to fund Government expenditure. The amount of revenue raised is primarily dependent upon the collective tax base and the effective tax rates. The determinants of these two factors are a range of measures that include special tax rates, exemptions, deductions, rebates, deferrals, and credits. These measures are collectively called as 'tax incentives' or 'tax preferences'. They have an impact on Government revenues and also reflect a significant policy of the Government”.

“The tax policy provides specific tax incentives which give rise to tax preferences. Such preferences have a definite revenue impact and can also be viewed as an indirect subsidy to preferred taxpayers, also referred to as 'tax expenditures'. It is often argued that tax policy should not only be efficient but also transparent. This means that program planning which requires specific policy objectives to be addressed using incentives having revenue impact should be explicit. Further, transparent budgeting calls for the inclusion of such indirect outlays (or revenue impacts) under the respective program headings. Tax incentives resulting in any form of revenue impact per se are spending programs embedded in the tax statute. The present statement is an analysis of the revenue impact of the tax incentives available under the Central Tax system”.

There is a very profound impact of tax incentives on the overall development of the industries and more importantly the small enterprises. This about the investment, production, and human resources of small enterprises. This is a benefit given to the small enterprises by the government for their augmentation. “The overall effect of using different business tax incentives on small enterprises in India based on the overview of theoretical and empirical findings. Through an in-depth analysis it might be concluded that despite insufficient findings regarding its

effectiveness, tax incentives play a key role in the policy initiatives which are being used to increase their appeal to investors in small enterprises”.

1.2 BACKGROUND / SIGNIFICANCE OF THE STUDY:-

“Taxation plays an important role in raising the revenue of any business. The meaning of taxation impose charges and helps in raising revenue of the organization to meet the budgetary demands. This includes government and private financing projects of the business environment for economic growth”.

1.3 STATEMENT OF PROBLEM:-

The taxation system on Small Enterprises is one of the controversial issues in today’s world; whether at the international or domestic level. Each country at its domestic level tries to solve their different problem concerning Small Enterprise by imposing some of the new rules or by enacting legislation relating to the taxation system. The question arises whether these rules and regulations at the domestic level are sufficient to remove all issues relating to the taxation system or there should some of the universal principles that guide the taxation system for the SE.

The main problem associated with the taxation system is the jurisdictional issue. The place where the transaction takes place and the place at which the webserver is located may be different. It may consist the cross-border trading also. Here the question arises on how these products are taxed. Moreover, it is a general taxation principle that if there exists any Double Taxation Avoidance Agreement (DTAA) among both states in case of cross border trading the entities have to pay only one tax of any one of the country. They are exempted from the double taxation.

1.4 AIMS AND OBJECTIVES OF THE STUDY: -

The aims and objectives of the study are given as under:

1. Firstly to study various taxation systems in India about the tax collection techniques.

2. Secondly, to study how the taxation system has made an impact on the growth and development of the industries with special reference to small enterprises.
3. Thirdly to make a comparative analysis of the previous taxation system and modern taxation system and their effectiveness.
4. Fourthly, to study the types and overall structure of tax incentives in India and how they contribute to the industrial development in India.
5. Fifthly to study the growth and development of the small enterprises in India and the impact of tax incentives on the same.
6. Sixthly, to study various methods to improve the system of taxation for the small enterprises in Assam based on findings.

1.5 SCOPE AND LIMITATION:-

The researcher in this research work limits its scope to the taxation system on small enterprises in India with special reference to Assam only. The researcher has given more emphasis on the small vendors and small enterprises of Kamrup (M) and Kamrup (R) (Guwahati) Assam.

1.6 RESEARCH QUESTION:-

- What are the different types of taxes that are imposed and their impact on the small enterprises in Assam?
- What is the role played by the tax incentives in the overall development of small enterprises in India with special reference to the state of Assam?
- What are the steps taken by the government to reduce the taxes for the small enterprises in Assam?
- Is the new taxation policy which was imposed by the government is effective or not with special focus on small enterprises?
- Who are the authorities or the investing bodies for small enterprises to protect from the taxation fraud in India?

1.7 HYPOTHESIS:-

(A) The absence of proper legislation may be the root cause of understanding the taxation system of the small enterprises in Assam.

(B) The new taxation policy concerning tax incentives has made an impact on the small enterprises on the Assam.

1.8 RESEARCH METHODOLOGY:-

Research methodology involves the method through which research is conducted. The research methodology adopted by the researcher for this study is a partly doctrinal and partly empirical method of research.

The doctrinal method includes the primary and secondary methods of collection of data. Under the primary method the researcher. The primary method referred by the researcher includes books, journals, articles, etc. available in the NLUJA library and the online databases are available in the NLUJA are used as a secondary method of data collection. Apart from this to gather more information relating to the research paper, the researcher has also collected the data from the online web sources.

The empirical method comprises the questionnaire and the interview method. The researcher has conducted the face to face interview with two of the customers of the bank based on designed questions and obtains the relevant answer relating to the study. Again, concerning the questionnaire method, the researcher has prepared some of the designed questions and the businessman has responded to those questions. The researcher has visited physically to the small business owners and collected the data based on the questionnaire method.

1.9 TENTATIVE CHAPTERISATION

The tentative chapterisation is given as under:

Chapter I deals with the introduction. It is inclusive of research methodology, research questions, aims and objectives of the study, and various other aspects about the introduction of the topic.

Chapter II deals with the Evolution of the taxation system in India. This chapter will be about the historical background and the basic reason behind the establishment taxation system in India.

Chapter III deals with the nature and definition of tax incentives in India. It will deal with various types of tax incentives, advantages, and disadvantages of tax incentives, and the legal framework supporting tax incentives in India.

Chapter IV deals with the concept and role of small enterprises in the economic development of the country. This chapter puts more focus on the role of small enterprises in terms of employment generation, production, and manufacture, export-import generation, and protection of local intent.

Chapter V deals with the role of tax incentives in the development of small enterprises. It deals with the various methods by which the government provides tax incentives to the small enterprise and what is the impact of the same in the economic development of the small enterprise.

Chapter VI deals with the Impact of Covid-19 in India and also on the impact on the small enterprises in India

Chapter VII deals with the effect of the New Taxation Policy on the taxation system of the country with a special focus on tax incentives. It especially focuses on central tax, income tax, VAT, and Goods and Service tax.

Chapter VIII deals with Issues and Challenges faced by small enterprises in having access to tax incentives. It tries to focus on how the government is implementing various mechanisms so that the incentives are available to small enterprises.

Chapter IX deals with the conclusion. It includes analysis and recommendations in respect of the study

1.10 LITERATURE REVIEW

The review of different past research works helps the researcher to find out the different issues and concerns relevant to the study. The review of the relevant literature is one of the prerequisites of any systematic research so that the researcher can understand the current position of the relevant topic and can go ahead with the research.

The researcher here studies different literature relating to E-Banking and related frauds and finds out various issues relevant to the study. Following are the list of the books and article that the researcher undergo while carrying out the research.

BOOKS:-

1. T.G Suresh in “ Master guide to income tax” (2017) provides basic concepts regarding the taxation system in India. The author describes the taxation policy in India along with the historical background. The author gives the idea of the impact of the goods and service tax and how the calculation is made.

JOURNALS:-

1. CA Dr. Pramod Kumar Pandey in “ The impact of the Indian taxation system on its economic growth” highlights the impact of the taxation system in India. The article covers the taxation system & the tax collection pattern in India. The author also highlights the impact of a direct tax on economic growth and the impact of indirect tax on economic growth.
2. Danial Twesige & Faustin Gasheja in “ Effect of a tax incentive on the growth of small and medium-sized enterprises (SME) in Rwanda: A case study of SME in Nyarungenge district” states about the effect of a tax incentive on small and medium-sized enterprises and the growth of SME and it also highlights the relationship between tax incentives and growth of SME.
3. John Schellhase “ Promoting participation in SME Boards through Tax incentives: A global overview,” wrote about the tax incentives for the investors and also highlights the tax incentives for listed companies on a global overview.

4. Alfons J. Weichenrieder “Survey on the taxation of small and medium-sized enterprises” states about the Value Added Tax, taxation of income from a business, special measures taken by the Small and medium enterprises. The author also discussed the accounting rules in his article.
5. Anshul Panchouri & Sankalp Sharma ” Barriers to innovation in Indian Small and Medium-Sized Enterprises” states about the current state of the SME & what are the measures taken by the govt. to improve the Small and medium-sized enterprise sector in India.
6. M.Govinda Rao & Sudhanshu Kumar “Envisioning Tax Policy for accelerated development in India” highlights what is a good taxation system & it also focuses the taxation revenue in India and the author also look forward about the recent development in India.
7. Parthajeet das “Micro Small & Medium Enterprises (MSME) in India: Opportunities issues and challenges “highlights the contribution of MSME to the Indian economy in terms of employment generation Despite some infrastructural deficiencies and challenges like the flow of international credit and inadequate market linkage. The study makers attempt to focus on the huge growth potential opportunities available in India for the development of the MSME sector to identify important issues and challenges and offer the suggestion to the same.
8. Ritam Chaurey “ Location-based tax incentives: Evidence from India “ highlights how the small worker earning in the small scale industries and the author also highlights how the government has taken the initiatives to upward the level of the small scale business organization in India.
9. Yadviga Semikolenova “ Taxation of Small and Medium Enterprises” highlights small and medium enterprises (SME) that play an important play in the production sector of many developed countries. It also shows the ideal balance between tax rate, compliance rate, and tax administration in the country, and it also shows the imposing of a single tax which was supposed to simplify the accounting system and reduce compliance costs.

10. Charan Singh “ Finance for Micro, small and medium-sized enterprises in India: sources and challenge” highlights about the micro, small and medium-sized enterprises about their finance, it also highlights the encouraging factor for the financial institution and what are the supports are given by the government to improve the small scale business.

CHAPTER II

2. HISTORICAL BACKGROUND OF THE INCOME-TAX ACT 1961

“Income-Tax is an annual tax on income which is to be charged for a year in accordance with, and subject to the provision of the Income-tax Act 1961. The charge of the tax will be in accordance with the rates prescribed under” the relevance finance act. “When the finance bill is passed by both the houses of the parliament and receives the assent of the president, it becomes the finance act”, The provision of the finance act not only prescribes the rates of taxes they also bring in amendments to the Act. The Income-tax law comprises the study of the Income Tax Act,1961, circulars, notification, or clarification issued from time to time by the central board of direct taxes (CBDT), and a judicial decision on the President.

2.1 THE INCOME-TAX ACT, 1961

The provisions of the Income Tax Act, 1961 extend to the whole of India and came into effect from April 1, 1962. “The Act contains the provisions for determination of taxable income, determination of tax liability, the procedure for assessment, appeals, penalties, and prosecutions. It also lays down the powers and duties of various income tax authorities”.

As the Act is a revenue law the same has been amended from time to time, that it has undergone innumerable changes from the date of its inspection. In about fifty-four years of its operation, the present Act has been repeatedly amended year on year.

“Every year a Budget is presented before the parliament of India by the Finance Minister. The most important component of the budget” for the study of the Act is “the Finance Bill, which declares the tax proposals of the central government for the forthcoming financial year. It contains amendments which are sought to be made in the areas of direct taxes and indirect taxes levied by the central government”. The act is a permanent enactment, “whereas the finance Act is passed every year and its main purpose is to fix the rates to be charged under the Act for the relevant financial year”.

The Act gives the power to the “CBDT to make rules, subject to the control of the central government, for the whole or any part of India. These rules are made applicable by the notification in the official gazette of India”. “These rules were first made in 1962 in the form

of Income Tax rules,1962. Since then many new rules have been framed, or existing rules have been amended from time to time and the same have been incorporated in the aforesaid rules. These rules work as a catalyst in the working of the Act”.

“The CBDT in the exercise of its powers conferred upon it under the Act has been issuing circulars, instructions, and classifications from time to time, which has to be followed and applied by the Income Tax authorities. However, these circulars are not binding on the assessee, the Income Tax Appellate Tribunal (ITAT), or the courts. Even if there is any circular or instruction which is in favor of the assessee, the income tax authorities would still be obliged to follow instruction or circulars. Therefore such circular or instruction are binding upon the income tax authorities, but the same is not binding on the assessee, although the assessee may claim benefit under such circular”¹.

2.2 CONSTITUTION AND TAX:-

“The power to tax is an incident of sovereignty; and since the constitution of India is the supreme law of the land, all other laws, including the Income-tax Act, are subordinate to the constitution and therefore it must be read and interpreted in the light of the constitutional provisions”.

2.3 ENTRY 82:-

The Act has been passed under Entry No. 82 of List I of the seventh schedule to the constitution of India. Entry No.82 reads as follows ‘Taxes on income other than agricultural income’. The word “income” occurring in “Entry No.82 should be constructed liberally and in a very wide manner and the power to legislate will take in all incidental and ancillary matters. Thus, this entry should be read not only as authorizing the imposition of a tax but also as authorizing an enactment to prevent evasion of tax or to provide for taxation on a presumptive basis”.

The imposing of tax is regarded as constitutionally valid. “It is the duty of the courts to ascertain to what degree and to what extent the authority to levy tax exists in each legislature and to

¹ UCO Bank v CIT (1999) 237 ITR 889 (SC).

define the limits of the respective legislative powers². Once a law in 'pith and substance' falls within a legislative entry"³.

2.4 ARTICLE 265:-

"Article 265 of the constitution provides; 'No tax shall be levied or collected except by the authority of law'. Therefore not only the levy but also the collection of a tax must be under the authority of law. 'Law' in Article 265, means a law enacted by a competent legislature and cannot include an executive order or a rule without express statutory authority"⁴. The expression of the "authority of law refers to a valid law which means that the tax proposed to be levied must be within the legislative competence of the legislature imposing the tax; and the law must be validly enacted; the law must not be violative of the fundamental right and it must also not contravene any specific provision of the constitution which imposes a limitation on the legislative powers"⁵.

Shanti Saroop Sharma and another case⁶

"It, therefore appears that royalties are payments which the Government may demand the appropriation of minerals, timber or other property belonging to the Government,. Two important features of royalty have to be noticed: they are, that the payment made for the privilege of removing the articles is in proportion to the quantity removed, and the basis of the payment is an agreement".

"On this basis, it was held that a compulsory levy by the Government on all liquor contractors irrespective of the fact whether they availed of the privilege of removing fuel from the protected forest or not, would amount to a 'tax' or a 'cess' which can only be imposed under the authority of law as provided in Article 265 of the Constitution"⁷.

² Federation of hotel and restaurant Association of India v UOI 178 ITR 97 (SC)

³ Elel Hotels and Investment Ltd v UOI 178 ITR 140 (SC); CIT V Karthikeyan G.R. 201 ITR 866 (SC).

⁴ Krishi Utpadan v Shree Mahalaxmi 1995 Supp (3) SCC 433.

⁵ Ghulam Hussain v State of Rajasthan AIR 1963 SC 367.

⁶ Shanti saroop sharma and another v state of Punjab and others, AIR 1969 P H 79.

⁷ Ibid.

2.5 SECTION 139AA OF THE INCOME-TAX ACT 1961:-

“Section 139AA of the Income Tax Act 1961 states that every person who has a PAN card as on July 1, 2017”, is required to link his/her PAN with his/her Aadhaar number. Section 139AA was inserted in the Income Tax Act by Budget 2017. This section makes it mandatory to link PAN with the Aadhaar card.

Supreme Court upholds the linking of Aadhaar number with PAN:

Puttaswamy case⁸

In this case, it was held that “very eligible person should link the Aadhaar number with the PAN card and quote the Aadhaar number in the income-tax return. A new section 139AA was inserted by the Finance Act,2017. If any person does not possess the Aadhaar Number but he has applied for the Aadhaar card then he has to quote the Enrolment ID of such Aadhaar application in the ITR”⁹.

“The Supreme Court had already upheld the validity of Section 139AA by repelling the contention raised on Articles 14 and 19 of the Constitution of India in the case of Binoy Viswam v. Union of India [2017] 211 (SC). However, Section 139AA was not examined in the context of privacy rights enshrined in Article 21 of the Constitution. The Supreme Court in the case of KS Puttaswamy v. Union of India writ petition (civil) no 494 of 2012 held that, though privacy is a fundamental right, yet it is not an absolute right and is subject to certain limitations. The following are the triple tests which need to be satisfied for judging the permissible limits for the invasion of privacy while testing the validity of any legislation”¹⁰:

- a) “Existence of a law”
- b) “Legitimate State interest”
- c) “Test of Proportionality”

⁸ Justice K.S. Puttaswamy (Retd) v Union of India,(2012) SCC 494.

⁹ Ibid.

¹⁰ Ibid.

“The first requirement stands satisfied as section 139AA is a statutory provision and, therefore, there is a backing of the law. Insofar as the requirement of ‘legitimate State interest’ is concerned, Section 139AA seeks to safeguard the following interest”¹¹:

“To prevent income tax evasion by requiring, through an amendment to the Income Tax Act, that the Aadhaar number be linked with the PAN.”¹²

“Regarding the aspect of proportionality, there was a specific discussion on that aspect in Binoy Viswam’s case (supra) as well. Therefore, the provision of Section 139AA has successfully met the triple test of the right to privacy”¹³.

2.6 FUNDAMENTAL RIGHTS AND TAX

“The constitution of India provides that the state will not deny to any person equality before the law or the equal protection of the law within the territory of India”¹⁴. “The supreme court of India, while laying down the principles to be applied in determining whether a taxable” “statute violates the fundamental rights, ruled that a taxing statute may be held to contravene the articles of the constitution of India if it purports to impose on the same class of person or property similarly situated an incidence of taxation that leads to an obvious inequality”.

The constitution of India does not insist “that all persons must be taxed equally or that the legislative classification must be scientifically perfect or logically complete. It is also well settled by a plethora of judgments that in a taxing statute, the legislature enjoys much greater latitude for selection of subjects of taxation as also for classification and that the legislative dispensation is based on an interaction of diverse economic, social, and policy consideration. The economic wisdom of a tax is within the exclusive province of the legislature and the questioning the legislative policy is beyond the domain of the judiciary. The tests of the discrimination under Article 14 in a taxing law are less rigorous”.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Article 14 of the constitution of India.

“The classification must not be arbitrary, artificial or evasive, but must be based on some real and substantial distinction bearing a just and reasonable relation to the object sought to be achieved by the legislature”¹⁵.

Apart from “Article 14 of the constitution of India dealing with the equality before the law, challenges to the constitutional validity of taxing statutes have been based on Article 19(1)(g) of the constitution of India. Dealing with the protection of certain rights regarding freedom. Which provides that all citizens will have the right to practice any profession or to carry on any occupation, trade, or business. The aforesaid article dealing with the right to practice any profession is however subject to restriction, under the constitution of India, which permits the imposition of a reasonable restriction on the exercise of this right ‘in the interest of the general public’. Therefore any such reasonable restriction in the interest of the general public would be saved by the constitution of India; but not a restriction that is unreasonable”.

The legislature has “the power to levy tax retrospectively, provided it is reasonable and in the public interest to do so”. When the law is so amended with retrospective effect, the fiction that follows is that all must proceed on the basis that the law at the relevant time was the law as amended subsequently. If an amendment “is introduced to overcome a judicial decision, the power of the legislature cannot be used to subvert the decision without removing the statutory basis of the decision, and such an amendment cannot be made retrospectively only for the purpose of mollifying a judgment where there was no lacuna or defect in the original law”.

2.7 OPERATION OF THE INCOME-TAX ACT, 1961

“The Income Tax Act, 1961 extends to the whole of India”. India is defined under the Act to mean “the territory of India as referred to in Article 1 of the constitution, its territorial waters, seabed, and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial waters, continental shelf, exclusive economic zone, and other Maritime Zones Act 1976. And the air space above its territory and territorial waters”¹⁶.

¹⁵ T G SURESH, MASTER GUIDE TO INCOME TAX 06-08 (4th ed. 2017).

¹⁶ Section 1(2) of the Income Tax Act, 1961.

Article 1 “of the constitution defines India as a Union of States and the territory of India comprises of the territories of the states, union territories”, and other territories as may be acquired. The other territories are by fiction included in the definition of India under the Act.

2.8 EXTRA- TERRITORIAL OPERATION OF THE INCOME-TAX ACT 1961

The “extra-territorial operation of some of the provisions of the Act does not render such provisions invalid or ultra vires the Indian legislature. The general conception as to the scope of income tax is that given a sufficient territorial connection or nexus between the person sought to be charged and the country seeking to tax him, the Act may extend to that person in respect of his foreign income”.

Article 245(2) of the constitution of India provides that “no law made by the parliament shall be deemed to be invalid on the ground that it would have an extra-territorial operation”. The Parliament's “power to enact legislation pursuant to Article 245(1) may not extend to those extra-territorial aspects or causes that have no impact on or nexus with India. The said power may be used to protect or enhance the welfare of some of the people also however even that goal has to relate to and be justified by the fact that such an exercise of power ultimately results in a benefit. Either moral material spiritual or in some other tangible or intangible manner- to the people who constitute India”.

“Article 245(2) acts as an exception of a particular and a limited kind, to the inherent power of the judiciary to invalidate, if ultra-vires any of the laws made by any organ of the state”¹⁷.

The positive affirmation, in the phrase in “Article 245(2), that the parliament ‘may make laws for the whole or any part of the territory of India’ has to be understood as meaning that unless territory is a part of the territory of India. Parliament may not exercise its legislative powers in respect of such a territory. Parliament may not enact laws with respect to extra-territorial aspects or causes, wherein such aspects or causes have no nexus whatsoever in India”.

¹⁷ Article 245(2) of the constitution of India

CHAPTER – III

3 NATURE OF THE TAXATION SYSTEM IN INDIA WITH RELATION TO VARIOUS TAXATION SYSTEM

The provisions of the IT Act, 1961 “extend to the whole of India, and came into effect” from April 1, 1962. “The Act contains the provisions for determination of taxable income, determination of tax liability, the procedure for assessment, appeals, penalties, and prosecutions. It also lays down the powers and duties of various income tax authorities”¹⁸.

As the Act is a revenue law the same has been amended from time to time, that it has undergone innumerable changes from the date of its inspection. In about fifty-four years of its operation, the present Act has been repeatedly amended year on year.

The finance minister of India used to present the budget in the parliament every year. The most important component of the budget for the study of the Act is “the Finance Bill, which declares the tax proposals of the central government for the forthcoming financial year. It contains amendments which are sought to be made in the areas of direct taxes and indirect taxes levied by the central government”. The act is a permanent enactment, “whereas the finance Act is passed every year and its main purpose is to fix the rates to be charged under the Act for the relevant financial year”.

The Act gives the power to the CBDT to make “rules, subject to the control of the central government, for the whole or any part of India. These rules are made applicable by the notification in the official gazette of India. These rules were first made in 1962 in the form of Income Tax rules, 1962. Since then many new rules have been framed, or existing rules have been amended from time to time and the same have been incorporated in the aforesaid rules”. These rules work as a catalyst in the working of the Act.

“The CBDT in the exercise of its powers conferred upon it under the Act has been issuing circulars, instructions, and classifications from time to time, which has to be followed and applied by the Income Tax authorities. However, these circulars are not binding on the assessee, the Income Tax Appellate Tribunal (ITAT), or the courts. Even if there is any circular or

¹⁸ ISBN : 978-81-7194-859-8, THE INCOME TAX ACT 2011, (July 13, 2020, 12:32 PM), https://dor.gov.in/sites/default/files/IT%20Act%20%28English%29_0.pdf.

instruction which is in favor of the assessee, the income tax authorities would still be obliged to follow instruction or circulars. Therefore such circular or instruction are binding upon the income tax authorities, but the same is not binding on the assessee, although the assessee may claim benefit under such circular”.

3.1 MEANING OF INCOME TAX:-

“Income tax is an annual tax levied in every assessment year at the prescribed rates, on every person, in respect of his/her total income for the relevant previous year”. The total income is determined with reference to the person’s “residential status and the place of accrual or receipt of income”. The income tax act is a statute through the execution of which the central government earns its revenue from the income of the person concerned.

3.2 ADVANTAGES OF INCOME TAX:

advantages of the Income Tax are as follows:-

- (i) Income tax is levied according to income of the person.
- (ii) Incidence of Income Tax is difficult to shift forward and backward. It means that it is easy to locate the burden of Income-tax.
- (iii) Income tax fulfills the canons of equity and “justice in the distribution of the tax burden of the people. Therefore, it is a powerful tool for reducing inequalities in the distribution of income” and wealth.
- (iv) It is a powerful tool for maintaining economic stability with growth.
- (v) It satisfies other canons of taxation such as certainty, economy, productivity, and elasticity.

3.3 RESIDENTIAL STATUS AND TAX LIABILITY

According to section 5 of the IT Act, the tax liability of an assessee for a particular assessment year is to be computed with reference to a place of accrual/receipts, time of accrual/receipts of income by such assessee in that particular “previous year relevant to the assessment year”. “Whether a particular income received” at a particular place at a particular point of time will “be taken into consideration for determining the tax liability depends on the residential status

of an assessee. The residential status of an assessee is ascertained only for the purpose of ascertaining the tax liability of” an assessee.

“Section 6 of the IT Act, 1961 prescribes the” procedure of ascertaining the residential status of an assessee. The residential status may be:

- (A) Persons living in India
- (B) NRI.

Again, in the case of an individual assessee who is resident in India, his status may be :

- (A) “Resident or Ordinary Resident”
- (B) “Resident but not Ordinary Resident”.

The following points should be kept in mind for determining the residential status of an assessee.

- (a) **Assessment year:-** “the residential status of a person is to be determined with reference to the particular previous year”.
- (b) **Nationality:-** the nationality of an assessee has no relation to the concept of residential status. An American resident should be treated as the resident of India of the previous year if he satisfies some of the specific conditions.
- (c) **Physical presence:-** residential status is determined with reference to the individual’s physical reference in India.

Different taxable entities from the point of view of residence:

Although there are seven categories of persons “under section 2(31) of the Income Tax Act” 1961 from the point of view of residence, taxable entities are divided into the following 5 categories:

- (i) An individual
- (ii) HUF¹⁹
- (iii) AOP²⁰
- (iv) JSC²¹
- (v) Every other person.

¹⁹ Hindu Undivided family

²⁰ Association of Person

²¹ Joint-stock company

3.4 CENTRAL SALES TAX

Revenue from “sales tax constitutes a major source of income for a state. This tax is levied on the sale of goods and services in the state” by the state legislature as it is a matter of list II (state list) as per “the seventh schedule of the constitution of India”. Before the independence Govt. of India Act 1935, empowered the state government to impose a sales tax. But, after independence, although the states have been given more power to impose a tax on sales or purchase of goods, the central government has imposed certain restrictions on the levy of tax on certain goods in the course in the Interstate trade or Intercountry trade. Again, the parliament has declared some commodities as essential. The constitution of India (Amendment) Act, 1956, has empowered the central government to levy sales tax on interstate sales of goods. The state government has been debarred from levying sales tax on such goods.

The parliament amended Article 268 and 269 and inserted the entry No. 92A regarding the power to levy sales tax by different authorities.

Entry 54 of List II – state list reads: “Tax on sale or purchase of goods other than newspaper except for tax on interstate sale or purchase”. Thus if the sales take place between the parties within the same “state (intra-state sale) is within the authority of the state government, while sales made to parties outside the state (inter-state sale) are within the authority of the central government”.

Hence, there are two types of sales tax – “central sales tax and state sales tax. Central sales tax is levied by the central government while state sales tax (now called VAT) is levied by the respective state governments”.

Advantages of Central Sales Tax

- a. Citizens of the country will be taxed differently according to their incomes, if a person's income is high then he will pay a high rate of tax to the nation. Sales tax removes this type of unfairness and the citizen will pay according to the number of services they consume.
- b. Sales tax are quite simple, “everyone has to pay the same price to buy a product, hence citizen is not required to maintain any detailed record”.
- c. “Sales tax is incurred on each item whether it is bought for day to day life or for luxury life. A small amount of charge of tax will not feel bad for the taxpayer but the revenue

collected from the taxpayer will generate a large amount of revenue for the government which can be used for the wellbeing of the nation”.

- d. “The sales tax is the easiest way to collect taxes, unlike other types of taxes. The collection of taxes embedded in the price of the goods and services. The sales tax is automatically collected when goods and services are sold. Therefore, it is easy for both the tax collector as well as for the taxpayers”.
- e. “Sales tax is not imposed on every person, irrespective of the income this tax is only imposed only on the people who buy a particular product”.
- f. Sales tax is a good way to control the consumption of goods such as tobacco, alcohol, etc. The sales tax for these goods is high to reduce their consumption.

Disadvantages of Central Sales Tax

- a. “Sales tax increase the burden of the manufacturing industries. This tax discourages the industries because of the high rate of the cost of production and the less margin of the profit”.
- b. Collecting the sales tax is not an easy task for the government, for this, the government needs a team that will look after the products. If the team charges a high tax rate on the necessary item, then it will give a negative impact and it will create an unnecessary burden on the people.
- c. “The sales tax does not develop civic consciousness, because taxpayers are not aware of the tax they are paying as it is embedded in the price”.
- d. The high rate of certain goods may cause a huge burden to consumers. For example cigarettes and alcohol.
- e. Sales tax can be used politically to destroy the industry or the company.
- f. “Sales tax will also increase the manufacturing goods of the products because the manufacturing companies will have to pay more tax to buy the raw materials. Hence the cost of the manufacturing products will increase and consequently the final product will also increase, which will become a burden on the pocket of the final consumer”.

3.5 VAT

VAT is the important legislation of the last century. The first country who introduce VAT is the France and more than 125 countries have switched over to VAT including our neighboring countries like Nepal.

VAT is the modern way and also the scientific way of taxing in the final consumption. The VAT Taxation system is very simple and also a taxpayer-friendly system and also transparent and also inherently high complaint.

Advantages of VAT

- a. As we compared the VAT with other indirect taxes it has fewer chances of tax evasion.
- b. Calculation of VAT is easier as compared to other indirect tax.
- c. “VAT is transparent and has a minimum burden to the consumers as it collected on small parts at various stages of production and distribution”.
- d. “VAT is based on value-added, not on the total price. So the price of the product will not as the result of the VAT”.
- e. The mass participation of taxpayers is large in the case of VAT.

Disadvantages of VAT

- a. “VAT is costly to implement as it is based on the full billing system”.
- b. “VAT is relatively complex to understand. The calculation of VAT in every stage is not an easy task”.
- c. “To implement the VAT successfully, customers need to be conscious, otherwise, tax evasion will be widespread”.

3.6 GOODS AND SERVICE TAX

The products and ventures “charge (GST) is a worth included assessment collected most merchandise and enterprises sold for local utilization. The GST is paid by customers, yet it is dispatched to the administration by the organizations selling the merchandise” and ventures. Basically, GST gives income to the legislature.

Under Indian taxation principles there exists two criteria – direct tax and indirect tax. When the direct taxes are paid directly out of one’s income, the indirect taxes are paid indirectly from other forms. For example income tax, corporate taxes are the direct taxes whereas the taxes we have paid indirectly in movie theatres, e-commerce transactions are indirect taxes. Generally among the two international taxation principles, India adopted the residence principle.

Being the primary legislation on income tax that comes under the category of direct taxes; the income tax act is silent about the e-commerce and taxation issues that come within the category of indirect taxation.

In India before 2017, there exists various indirect taxation. By “one hundred and first amendment of the constitution of India, there comes one new indirect tax reform in the name of goods and service tax” (GST), which subsume all other indirect taxes based on the “one nation, one tax”²² model.

Under different categories of GST includes CGST which subsume all the indirect taxes in the central level, SGST which is imposed by the state govt. within a particular state by subsuming all state indirect tax. UTGST only for five union territories and IGST which is an applicable supply of goods and services between two states²³.

This is how GST has changed the entire indirect tax model and introduced India to a new reformative aspect of taxation. Where GST has impacted all the goods and services where indirect taxes are imposed, therefore it is impacted upon the e-commerce also where indirect taxes are levied.

Advantages of Goods and Service Tax

- a. GST has improved the transparency of the tax collection system.
- b. GST has combined all the indirect taxes like “sales tax, central excise tax, service tax, etc. and brought them all under one roof”.
- c. “GST will be levied only at the final destination of consumption, thereby removing the double taxation system at multiple points from manufacturer to retailer outlets”²⁴.
- d. “GST has boosted India’s GDP, GST has ensured that multifarious industries come under uniform tax law which has made it much easier for businesses to function”²⁵.

²² [https://en.wikipedia.org/wiki/Goods_and_Services_Tax_\(India\)](https://en.wikipedia.org/wiki/Goods_and_Services_Tax_(India)) assessed on 23/06/2020 on 4PM.

²³ <https://www.hrblock.in/gst/types-gst-india> assessed on 23/06/2020 at 6PM

²⁴ <https://www.investopedia.com/terms/g/gst.asp> accessed on 22/06/2020 at 9AM.

²⁵ <https://cleartax.in/s/how-to-e-file-your-income-tax-return> assessed at 23/06/2020 on 4 PM.

- e. “One of the chief advantages of GST is that the taxpayers can register, file returns and pay taxes all online with the GST portal”.

Disadvantages of Goods and Service Tax

- a. GST is the IT-driven law, a person who wants to pay the GST will have to pay the tax online, many states of India, don't have “the necessary infrastructure to implement this system to its full extent”.
- b. Companies that operate their business through different states will have to register in all those states in which their business was running.
- c. The tax officers and the other officers who are related to the GST will have to go through extensive training and to “monitor the new rules in an effective manner”.

3.7 CENTRAL EXCISE ACT,1944

The CE Duty is an Indirect Tax levied and collected by the union government on goods manufactured or produced in India. It is collected on goods manufactured or produced in India. It is collected on goods manufactured or produced at the time of their removal from the factory.

The CE Act 1944 spread over to the whole of India, which includes J&K.

“The authority to enact laws and levy taxes is derived basically from the COI. Article 246 of the COI provides that no tax shall be collected or levied under the authority of law”²⁶.

Advantages of the Central Excise Act

- a. The CE Act is “the major source of government revenue”²⁷.
- b. It gives psychological advantages to taxpayers.
- c. The central excise tax is the easiest way to collect.
- d. Central excise act gives the balance to the industries for their growth.
- e. The central excise act has control over the wasteful expenditure.

Disadvantages of the Central Excise Act

- a. The CE Act increases the price of the goods.
- b. The incidence is not uniform.

²⁶ Ibid.

²⁷ Ibid.

- c. It reduces the demand for goods.
- d. Modern technology becomes very costly.

3.8 THE CUSTOMS ACT, 1962

Customs duties in India are initially connected with the history of the growth of the Indian Textile Industry. The growth of the Indian Textile industry was viewed with alarm by the Lancashire and Manchester textile interests since they had till then considerable hold on the Indian market for its products. In 1875 the Indian Tariff Act was passed to rationalize the existing duties. But due to the objection from the textile groups of Britain, it became impracticable and inconvenient to execute the act properly.

In the meantime, the sea customs act 1878 was passed by amending and consolidating the law relating to the levy of customs duties.

Customs Act 1962 has been “enacted with a view to regulate the importation within India or the exportation of goods out of India. The custom Act of 1962 replaced the sea customs act of 1878. Again the customs tariff act 1975 was enacted and it replaced the Indian tariff Act 1934”²⁸.

²⁸ Ibid.

CHAPTER – IV

4. Small Enterprises and their contribution to the development of the country

Small enterprises are the privately owned corporation, partnership, or sole proprietorship that have a fewer number of “employees and less revenue than a regular-sized” enterprise or entrepreneurship. The small enterprise's sector “constitutes an important segment of the Indian economy in terms of the contribution to the country’s production, exports, creation of the employment sector, etc”. so we can say that the small enterprises are the backbone of the Indian economy. “Small enterprises have gained increased attention in India in recent times, considering the strategic importance to the economy and the country, small and medium enterprises play an important role in generating employment of 48.8 million small and medium enterprises in the country provide employment to 111.4 million people”.²⁹

In spite of the contribution to the Small sized enterprises in India, the SE have faced several problems regarding the technology. The technology of the small enterprise is changing day by day. Finally, the studies revealed that the “importance of the availability of the sources of finance” and the access to finance, because this source is the important sector for the growth of the SE in the country. “In the Indian context In the Indian context, both of these issues pose inherent challenges to the financing of SEs due to lack of awareness of funding schemes among SE entrepreneurs and the limited role of venture capitalists, nonbanking financial companies (NBFCs), foreign banks, angel investors, and initial public offerings in financing SE”³⁰.

“The stages of the enterprise that have been defined for this study are the (i) start-up (ii) survival (iii) growth (iv) sustenance”. The study mainly focuses on the start-up enterprises that are at the stage of less than “3 years of age and those in the survival stage (3-6 years) of the age. The entrepreneur”³¹ mainly focuses on the start-up and the survival stage of the enterprise in the market place.

²⁹ Charan Singh, *Finance for Micro, small, and Medium sized enterprises in India: Sources and challenges*, IIMB-WB NO. 525 (2016).

³⁰ Ibid.

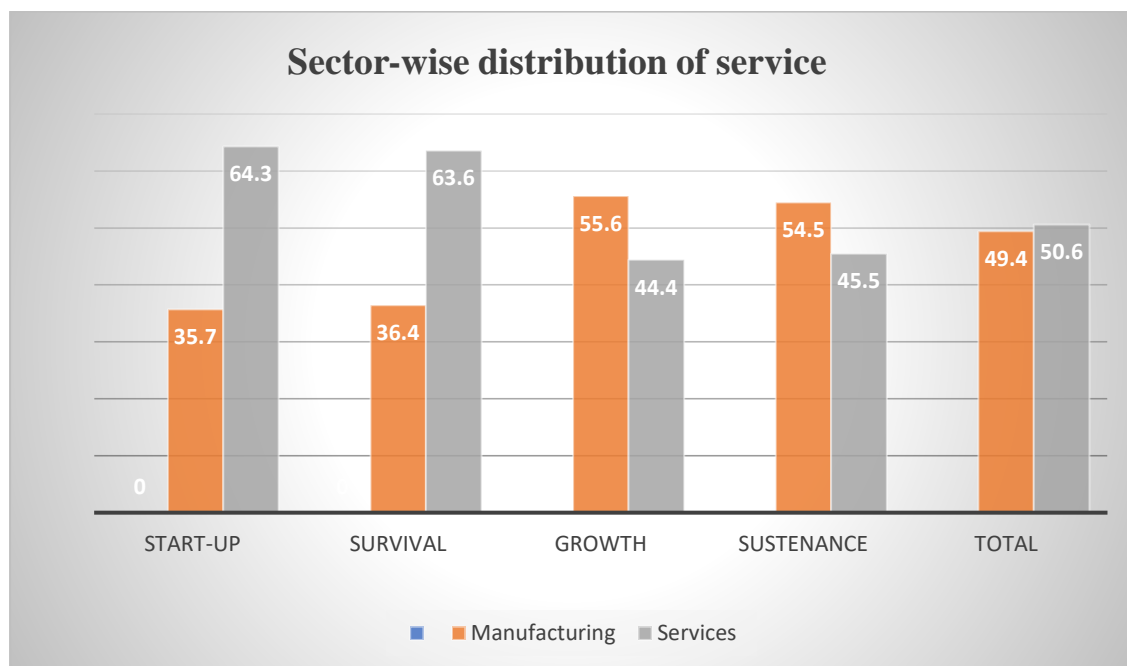
³¹ Ibid.

Table 1: Life cycle stages of the Enterprises in the sample (%)

Stages of the Enterprises	Small Enterprises	Medium Enterprises	Total
Start-up (<3 years)	12.1	0.0	16.5
Survival (3-6 years)	12.1	0.0	12.9
Growth (>6 years)	45.5	66.7	31.8
Sustenance (>6 years)	30.3	33.3	38.8

4.1 Sector-wise distribution of enterprises in the sample

Many “enterprises in the start-up and survival stage were from the service sector while enterprises in the growth and sustenance stage were almost equally distributed between manufacturing”³² and services.



4.2 Compliance and listing characteristics of the enterprise in the form of sample

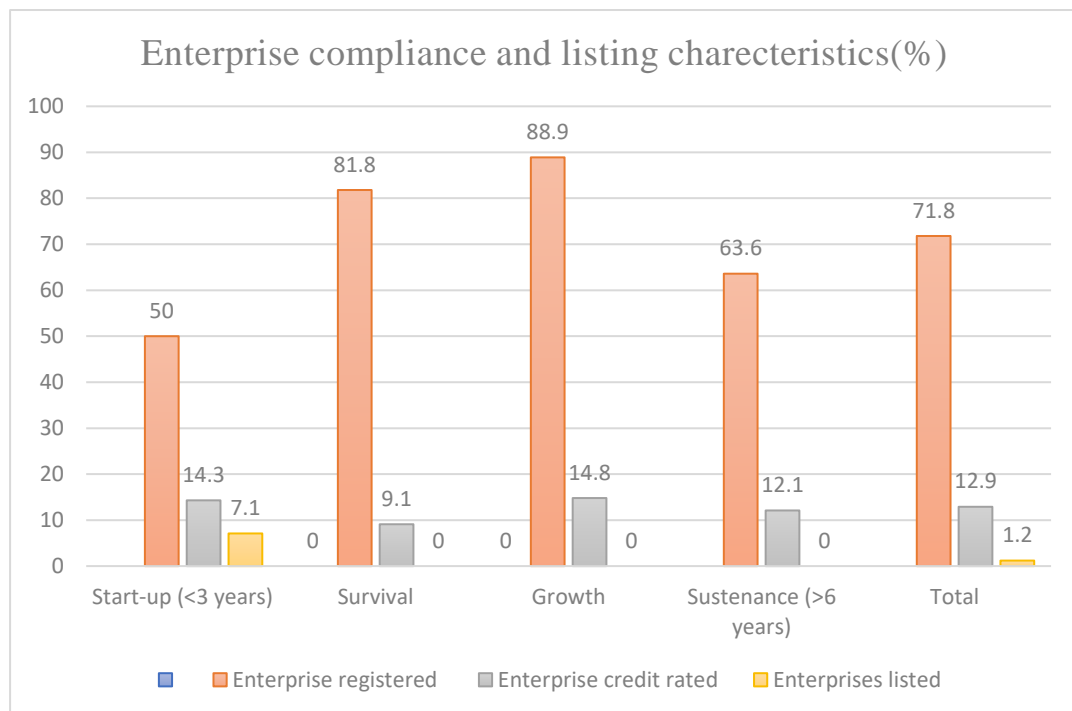
“The enterprise has different legal and financial aspects and listing characteristics. The enterprise is registered and the proportion is higher in the growth and survival stage”³³.

³² Ibid.

³³ Ibid.

These enterprises are registered under different laws such as VAT, Sales Tax, GST, and Shops and Establishment Act, or registered under the MSME development Act of 2006. “A similar proportion of enterprises in the start-up (14.3%) and growth (14.8%) stages were credit rated. For those in the survival stage, only 9.1% were credit rated, which implies that the credit rating of enterprises at this stage was not a priority for the owners”³⁴.

Only a few enterprises (7.1%) in the start-up stage were listed. None of the enterprises in the other stages were listed.



4.3 Sources of finance and challenges in Accessibility

“The results of the survey show that major financial needs of the small and medium enterprises at different stages of their life cycle and the requisite sources are required to meet those requirements. The values are shown in the table shows the percentage of the enterprise reporting the sources of finance at a different stage. Therefore, the total of all reporting enterprises will be different from the total number of enterprises in the sample”³⁵.

³⁴ Ibid.

³⁵ Ibid.

- 4.3.1 **Start-up** : In this stage generally, the people want to establish their enterprise, when they want to establish their enterprise they require a requisite fund and they use the “funds from personal and family sources, from friends, and from the publicly-owned banks largely for the purpose of working capital”³⁶.
- 4.3.2 **Survival stage:** In the preliminary “stage working capital, short-term loans, and overdrafts” are required for the enterprise in the survival stage. “Finance for working capital was sourced largely from public banks and moneylenders, followed by personal funds and private banks. Private banks were also used to secure short-term loans and overdraft facilities. Enterprises also reported the use of moneylenders, though to a lesser extent. The trend of using formal sources or trusted informal sources seemed to continue from that reported by enterprises in the start-up stage. Enterprises in this stage would be looking to pay off debts, for which they would require smooth day-to-day functioning with adequate availability of working capital for the same”³⁷.
- 4.3.3 **Growth:** In this stage the enterprises required the working capital. “Working capital was sourced from public banks, personal and family sources, and to a lesser extent from private and cooperative banks. Collateral financing was obtained from public banks, and to a lesser extent from cooperative banks. Private and cooperative banks were used for obtaining short-term loans, although the use of moneylenders did find a mention. This observation possibly means that enterprises were more focused on their specific financial needs and the sources required to fulfill them. The dominant use of public banks for collateral financing and the use of the banking system and family wealth to meet working capital needs are indicative of the role played by trust in securing this type of finance. As cooperative banks were also mentioned as a source to fulfill multiple financial needs of enterprises at this stage, it needs to be seen if these banks’ policies and procedures are conducive to providing quick access to short-term finance needed by enterprises in the growth stage”³⁸.
- 4.3.4 **Sustenance stage:** “Enterprises in this stage reported the use of finance from personal funds, cooperative banks, public banks, and private banks for the purpose of working

³⁶ Makena Robinson Kamweru, *Challenges Faced By Small & Medium Enterprises In Accessing Finance In Kiambu Town, Kenya*, D61/73425/2009,(Jul 12,2020, 1:00 PM), <https://pdfs.semanticscholar.org/5178/c971138020259475cbca9d59153793b7480a.pdf>

³⁷ Ibid.

³⁸ Enver Bajcinca, *The Challenges of financing small and medium enterprise in Kosovo*,(Jul 12, 2020, 2:00 PM).

https://www.researchgate.net/publication/287986371_THE_CHALLENGES_OF_FINANCING_SMALL_AND_MEDIUM_ENTERPRISES_IN_KOSOVO.

capital. Cooperative banks were also used for collateral financing and to secure short-term loans. Working capital, collateral financing, and short-term loans seem to dominate the landscape of requirements of enterprises at this stage”. “This continues the trend, noted above, of using finance from sources that are perceived to be trusted by enterprises. An enterprise in this stage would choose to borrow from sources with which it has well-established relationships and those which could be trusted. Enterprises at this stage reported the dominant use of cooperative banks for working capital, collateral financing, and short-term loans, and it would be interesting to examine the reasons for this prevalence”³⁹.

4.4 Sources of finance not used by the enterprises in different stages:-

There is a number of resources that are not used by different enterprises. In Table no. 5 we just want to show that the different resources that are not used by the enterprises. “In the survival stage, the number of unused sources of finance was more pronounced than in other stages”. “suggesting that enterprises at this stage were quite risk-averse and intent on breaking even with their existing level of investment, which had been financed previously by other sources”⁴⁰.

³⁹ Ibid.

⁴⁰ Harry Entebang, *SME Firm Performance-Financial Innovation and Challenges*, WORLD CONFERENCE ON TECHNOLOGY, INNOVATION AND ENTREPRENEURSHIP, 195 (2015) 334-342, <https://pdf.sciencedirectassets.com/277811/1-s2.0-S1877042815X00334/1-s2.0-S1877042815038409/main.pdf>

Table 5: Sources of finance not used by the enterprises in different stages

Sources of finance	Start-up	Survival	Growth	Sustenance
Another entrepreneur	Not used	Not used	Not used	Not used
Cooperative banks	Used	Not used	Used	Used
Family wealth	Used	Not used	Used	Used
Foreign banks	Not used	Not used	Not used	Not used
Initial public offerings	Not used	Not used	Not used	Not used
Microfinance institution	Used	Not used	Not used	Used
Money borrowed from friends	Used	Not used	Not used	Used
Money borrowed from relatives	Used	Not used	Not used	Used
Pawnbrokers	Not used	Not used	Not used	Not used
SIDBI	Not used	Not used	Used	Not used
Venture capital	Not used	Not used	Not used	Not used

“SIDBI:- Small Industries Development Bank of India”.

4.5 Challenges in accessing Small and medium enterprise finance:-

“Enterprises were asked to report the challenges they faced in accessing finance, including in stages other than their current stage. A scale of 1–3 was used, which means *not at all challenging*, 2 is *manageable*, and 3 is *challenging*. Percentage values were calculated from the number of enterprises rating an issue *challenging* and the total number of enterprises that rated at least one issue *challenging* at each stage” (Table 6).

Start-up stage: “Major challenges in accessing finance reported by enterprises in this stage included the difficulty in providing collateral or a guarantee, processing time for loan applications, lack of knowledge about available schemes, and procedural complications, in that order. Enterprises also felt that high service fees for loan requests and difficulty in completing required documentation were challenges. Enterprises in the start-up stage may not be able to provide collateral for a loan and they lack knowledge about available schemes, which may hinder them from choosing the most effective option for financial assistance”.

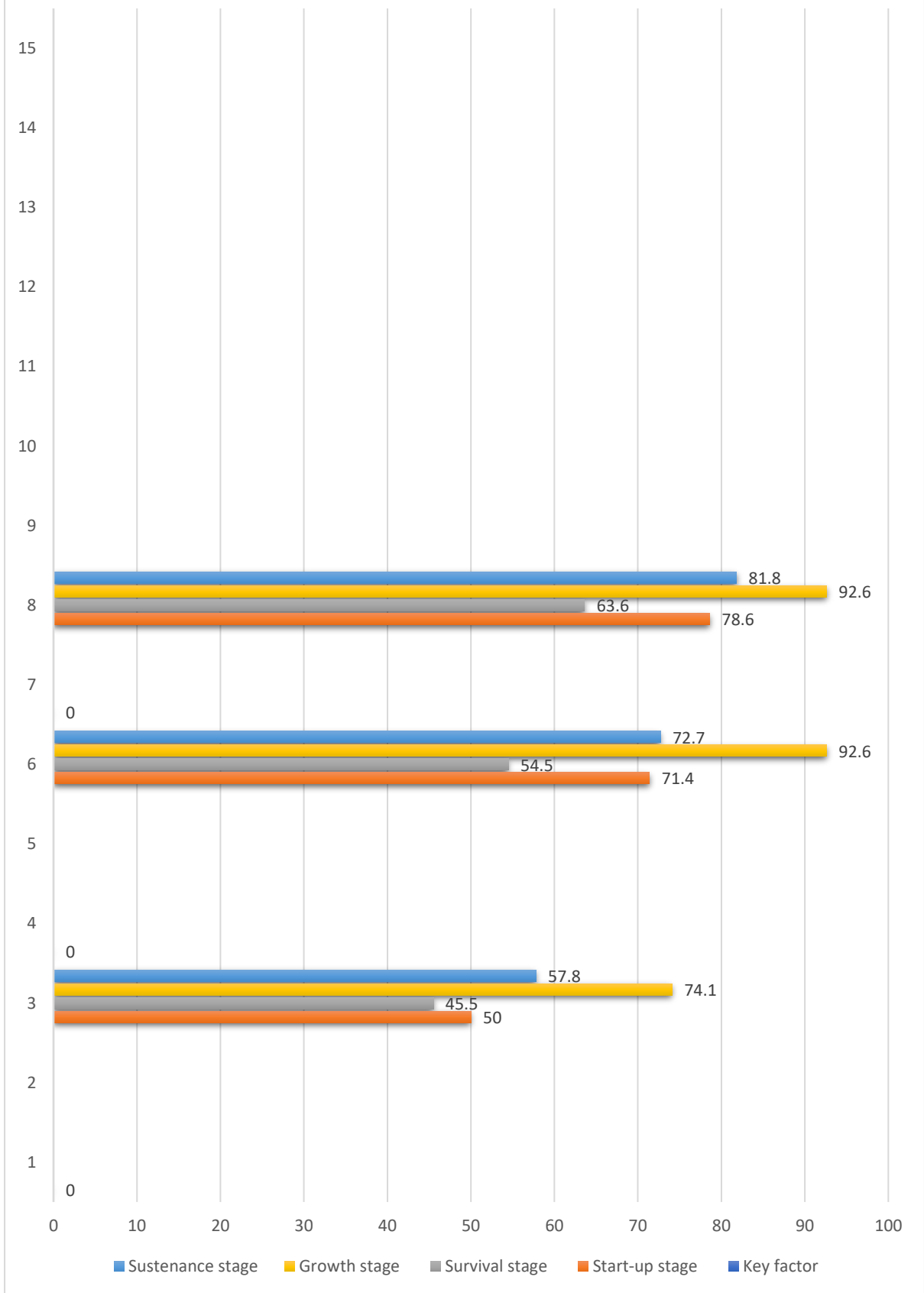
Survival stage: “The major challenges encountered by enterprises at this stage were similar to those reported by enterprises in the start-up stage, though the order was different. The difficulty in providing collateral or a guarantee and procedural complications were jointly rated the highest. The four issues of lengthy processing time, lack of knowledge about available schemes, high service fees for processing loan requests, and difficulty in completing the required documentation were rated to be equally challenging. Enterprises in this stage would usually be looking to break even with regard to investments made at start-up, and would also like to grow in their markets. They would, therefore, need working capital to meet their day-to-day needs. These enterprises cannot be expected to provide collateral and would be hindered by complicated procedures and delays in loan disbursements. They also continue to lack knowledge of available financial assistance schemes”⁴¹.

Growth stage: “Major challenges reported by enterprises in this stage included a lack of knowledge about available schemes, high service fees for processing loan requests, difficulty in the provision of collateral or guarantee, high rates of interest, and difficulty in completing the required documentation. As there would be both working capital and short-term loan requirements for enterprises in this stage, a lack of knowledge regarding specific schemes could hinder owners from making the most appropriate choice of financing for their enterprise. Though enterprise owners may be more inclined to seek formal financial assistance, high service fees and high rates of interest could be a deterrent. Enterprises in the growth stage also would be in a state of rapid transition and therefore the need to provide documentation for securing financial assistance would be a deterrent to accessing funds”⁴².

⁴¹ Ibid.

⁴² Ibid.

Challenges in accessing finance at different life cycle stage



Sustenance stage:- “Common challenges to accessing finance reported by the enterprise in this stage included difficulty in the provision of collateral or a guarantee, procedural complications, lack of knowledge about available schemes, the lengthy processing time for loan applications, high service fees for processing loan requests, and difficulty in completing required documentation. A reasonable number of enterprises also reported high rates of interest to be a challenge. Although entrepreneurs in this stage reported procedural difficulties, processing time, and high rates of interest to be challenges in accessing finance, the role of a lack of knowledge about available schemes and its influence on other challenges needs to be examined. The entrepreneurs were concerned about the requirement to have collateral or security. This would suggest that banks or lending institutions need to be more realistic about lending to MSMEs that have already established themselves in the market. To summarize, MSMEs face numerous challenges at each stage of the life cycle. Each issue regarding financing was rated *challenging* by at least one enterprise in both the start-up and growth stages. In the survival stage, enterprises did not feel that infrastructure, labour, Labour law compliance, or enterprise registration were challenges in accessing finance. Enterprises in this stage have access to adequate labour and infrastructure. Enterprises in the sustenance stage would most likely have active current accounts and therefore did not feel that to be a challenge”⁴³. In Table No. 7 we have should the challenges facing the small and medium enterprises in accessing the finance.

Table No.7: “Challenges Faced by Small and Medium Enterprises in Accessing finance”.

Challenges	Start-up	Survival	Growth	Sustenance
“Difficulty in collateral/guarantee”	challenging	challenging	challenging	Challenging
High rates of lending	challenging	challenging	challenging	Challenging
Procedural complications	challenging	challenging	challenging	Challenging
“Lack of knowledge about available schemes”	challenging	challenging	challenging	Challenging

⁴³ John Ackah, *The challenges faced by small & medium enterprises in obtaining credit in ghana* (2011), <https://www.diva-portal.org/smash/get/diva2:829684/FULLTEXT01.pdf>;The

“Lengthy processing time for the loan application”	challenging	challenging	challenging	Challenging
“High service fees for the processing loan” request	challenging	challenging	challenging	Challenging
“Difficulty in procuring/completing the required documentation”	challenging	challenging	challenging	Challenging
Lack of available infrastructure	challenging	Not challenging	challenging	Challenging
Lack of availability of skilled labour	challenging	Not challenging	challenging	Challenging
Absence of current accounts (active for 6 months)	challenging	challenging	challenging	Not challenging
No formal accounting system	challenging	challenging	challenging	Challenging
Tax compliance issues	challenging	challenging	challenging	Challenging
Labour law compliance issues	challenging	Not challenging	challenging	Challenging
Registration of enterprise	challenging	Not challenging	challenging	Challenging

4.6 Analysis of financial Accessibility

“Enterprises were also asked to report ease of financial accessibility with regard to three anchored choices: the proximity of a bank or financial institution to the enterprise’s location, approachability of the bank or financial institution, and the simplicity of the process to access finance. The proximity of a financial institution was found to positively influence the opinion of the financial accessibility of a large number of enterprises in the

growth and sustenance stages. Enterprises in these stages would most likely have immediate financial requirements and so perceive the proximity of a financial institution to be a significant positive factor. Enterprises in the start-up, growth, and sustenance stages rated highly the approachability of formal financial institutions in influencing financial access. The rating of this factor in influencing financial access was lowest for enterprises in the survival stage. It is probable that the enterprises in the survival stage were keen to break even and pay off their debts, and felt that having a good relationship with a financial institution with whom they had started out, irrespective of location or approachability, was more important. A high proportion of enterprises from all four stages reported simplicity in processes to be advantageous in helping them secure access to finance”⁴⁴.

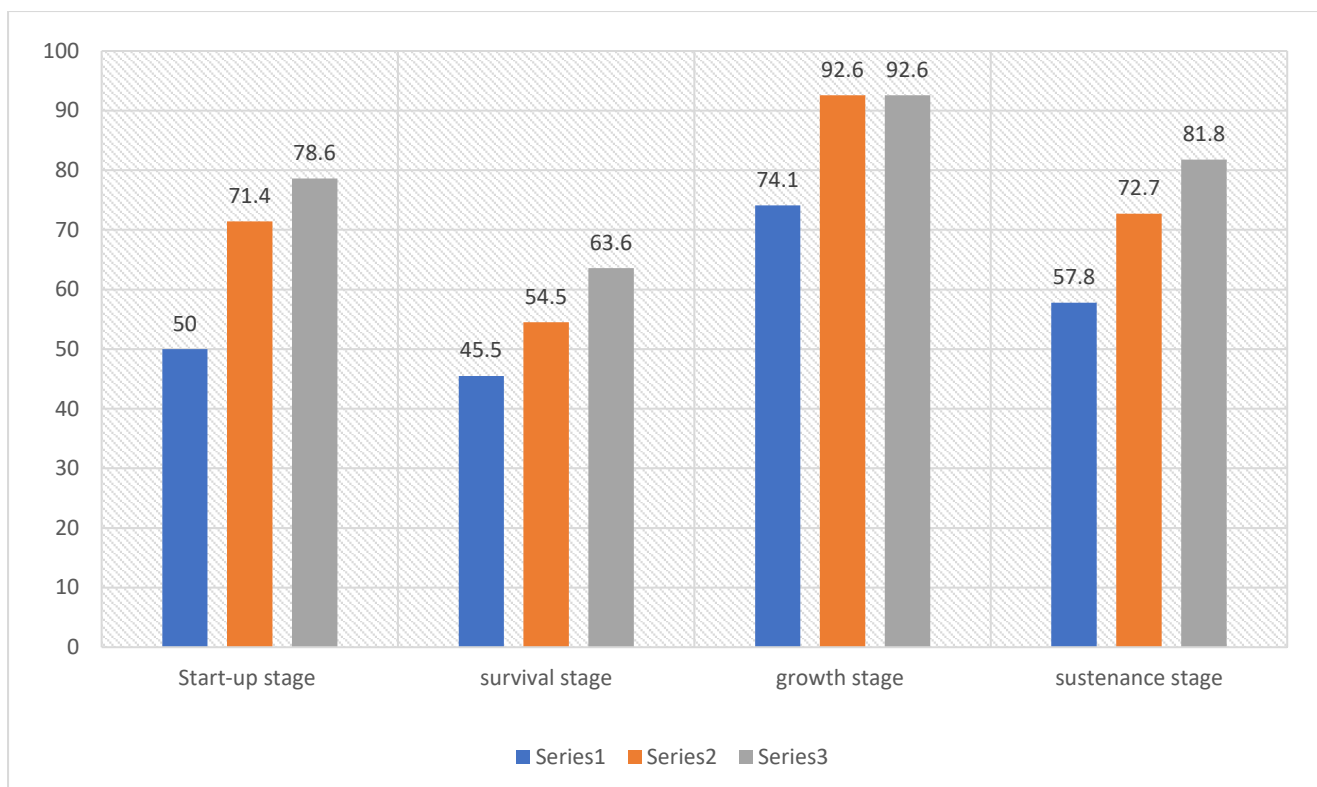
In Table No. 8 the enterprises have given responses about the “qualitative details of the four issues: a factor that encourages financial access, the factor that implied financial access, whether they expected the government to do anything for financing their enterprise and if they require government support to financing their enterprise”.

Table No.8 Key factor influencing financial access

Key factor	Start-up stage	Survival stage	Growth stage	Sustenance stage
Series 1	50.0	45.5	74.1	57.8
Series 2	71.4	54.5	92.6	72.7
Series 3	78.6	63.6	92.6	81.8

- Series 1 indicates the “The proximity of a bank or financial institution to the location of the enterprise”.
- Series 2 indicates the “Ease of approachability of the bank or financial institution”.
- Series 3 indicates the “The simplicity of the process to access finance”.

⁴⁴ Ibid.



4.7 Factors that encourage financial access

Start-up stage: “Enterprises highlighted the need for loans without collateral, affordable interest rates, and loan guarantees provided by the government. They also reported the need for guidance by personnel from the financial institution and the need for a paradigm shift by which financial institutions view MSMEs as prospective customers rather than as an interference. A few entrepreneurs emphasized that financiers should have faith in lending to businesses that had continued to operate in the same place for generations”⁴⁵.

Survival stage: “Enterprises asked for provision of quick finance and flexibility in the repayment schedule”.

Growth stage: “Enterprises emphasized the need for information on MSME finance schemes and the need for banks and other financial institutions to deliver the benefits prescribed through these schemes, especially those that involve minimal or no collateral. The role of a good

⁴⁵ Eric Elikplim Avevor, *Challenges faced by SMEs when accessing fund from financial institution in ghana*, BUSINESS ECONOMICS AND TOURISM, (2016), <https://core.ac.uk/download/pdf/38137529.pdf>

relationship with a bank in securing access was also highlighted. Respondents also felt that approved or impaneled suppliers with long-term experience of supplying to the government must get preference over others while taking advantage of assistance through MSME finance schemes”⁴⁶.

Sustenance stage: “The primary concern reported by enterprises was the interest rate. Respondents felt that their relationship with public banks was better (because it was more personalized) compared with private banks. There was also concern regarding the time needed to process loan requests, with some enterprises resorting to taking gold loans for meeting immediate financial requirements”.

4.8 Factors that impact financial Access

Start-up stage:- In the start-up stage, the major concern is that the bank delays in processing the loan applications. The business person thinks that the middle man system (agent) should be removed because many business owners don’t want to visit the banks most frequently.

Survival stage:- “The primary concerns were complications in the process and the response of bankers”⁴⁷.

Growth stage: “Enterprises reported that bank officials had a very bad attitude toward them because nonperforming assets of MSME schemes were increasing and managers were averse to considering their applications for finance. Two major issues were the long time needed to process applications and inadequate information provided about available government schemes. Owners also noted that small businesses are generally volatile in nature, which add to their vulnerability and mean that capital requirements vary throughout the year and that the nature of their operations was not recognized or factored into the lending decisions made by financial institutions”⁴⁸.

Sustenance stage: “Enterprises highlighted high-interest rates as an impediment to financial access. Two other key issues that caused problems were (i) lack of understanding on the part of financial institutions of the sector in which enterprises operated and the corresponding

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

policies needed; and (ii) red tape involved in the hierarchical processing of loans (i.e., moving loan applications from one branch to another), thereby causing a loss of time. Enterprises also suggested that recovery of payments from customers must be enforced through proper implementation of laws”⁴⁹.

4.9 Government support required for financing the enterprises

Start-up stage: “Support required by start-up enterprises included lowering interest rates for finance provided directly by the government. Respondents from the power loom cluster felt that weavers must be included on par with agriculturists in terms of securing government loans”⁵⁰.

Survival stage: “Enterprises felt that the government needed to provide loans at lower interest rates and also consider loan subsidies”⁵¹.

Growth stage: “Enterprises were of the opinion that the government must keep business owners informed of MSME schemes and eligibility requirements. Many respondents felt that the implementation of the goods and services tax would help in the resolution of payment-related issues, and that red tape hampered value-added tax payments and annual license renewal. They also felt that bank managers and government representatives must meet with MSME owners periodically to communicate features of various schemes, including eligibility, and to streamline the MSME registration process”⁵².

Sustenance stage: “Enterprises highlighted the need for proper communication of MSME finance schemes and their eligibility, and for the provision of financial subsidies to entrepreneurs whose enterprises cater to the needs of government departments and public sector enterprises. Other key issues included the proper implementation of tax schemes, minimizing delayed payments from customers, and catering to industry-specific issues and requirements. Examples included delays in providing credit to travel agents for government-

⁴⁹ Ibid.

⁵⁰ Arun Kumar, *challenge of financing SMEs*, <https://www.thehindubusinessline.com/opinion/Challenge-of-financing-SMEs/article20254951.ece>.

⁵¹ Ibid.

⁵² Ibid.

sponsored travel and to weavers for the procurement of computerized equipment for power looms”⁵³.

4.10 Experience in seeking Financial Assistance from the Financial Institution

“Enterprises were asked to rate their loan-seeking experience with banks, non-banking financial companies (NBFCs), and microfinance institutions on a scale of 1–3 with 1 meaning bad, 2 meaning neutral, and 3 meaning good. In the case of banks, a high proportion of reporting enterprises in the start-up stage rated their experiences good, this proportion declined for enterprises in the growth and sustenance stages. Close to half of enterprises in the growth stage reported their experience with banks as either bad or neutral, while this proportion was more than half for enterprises in the sustenance stage. In the case of NBFCs, a similar proportion of enterprises in the start-up, growth, and sustenance stages rated their experience good. The only reports of bad experiences with NBFCs were from enterprises in the growth stage. Very few enterprises rated their experiences with microfinance institutions. The lone reporting enterprises in the start-up and survival stages rated their experiences good and neutral, respectively, while the rating was split between good and bad for the two reporting enterprises in the sustenance stage. More than half of enterprises rated their experiences with banks, NBFCs, and microfinance institutions good, with the exception of the rating for banks by enterprises in the sustenance stage”⁵⁴.

⁵³ Ibid.

⁵⁴ Sridhar Ramachandran, *common fundraising challenges entrepreneurs face and a guide to overcome those*, THE ECONOMIC TIMES, <https://economictimes.indiatimes.com/small-biz/money/common-fundraising-challenges-entrepreneurs-face-and-a-guide-to-overcome-those/articleshow/69020740.cms?from=mdr>.

CHAPTER – V

5.The role played by taxation in the development of small enterprises

“Over the last two decades, a large number of stock exchanges have established dedicated market segments for small enterprises. This trend accelerated during the global financial crisis; as banks tightened credit, both policymakers and exchange operators saw an opportunity for equity-based finance for Small enterprises. In order to encourage listings, exchanges and their regulators have undertaken a number of measures, including reducing listing requirements of various kinds, reducing the various costs associated with the listing, and providing enhanced support to new issuers throughout the process. Apart from and in addition to these measures, some policymakers have offered tax incentives of various kinds, both to issuers and investors, as a way to both encourage new listings and to increase trading activity”⁵⁵.

“This paper explains three common models of tax incentives for attracting investors to allocate capital to SME equity. It then looks at examples of corporate tax incentives offered to SME issuers”⁵⁶.

“In general, policymakers should consider tax incentives as only one means of encouraging market activity on SME boards, with other possible interventions including public grants or loans, subsidized technical assistance, and educational outreach”⁵⁷.

Key points:-

- “Tax incentives for investors typically fall into three models: back-end exemptions on stamp duties and/or capital gains tax; tax offsets based on the value invested directly into SME equities; and tax offsets based on the value invested into SME investment vehicles”⁵⁸.
- “Although recent evidence suggests that tax incentives will motivate some investors to increase their investments in SME public equity shares, they are not the determining factor. Investors more often point to the need for market liquidity, a strong regulatory environment,

⁵⁵ Nataliya Shlafman, *Taxation of SMEs as an Instrument of public impact on their activity*, JOURNAL OF LEGAL, ETHICAL AND REGULATORY ISSUES, ISSN:1544-0044, 2019 Vol:22 Issue: 2S, <https://www.abacademies.org/articles/taxation-of-smes-as-an-instrument-of-public-impact-on-their-activity-8446.html>.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

and adequate information disclosure as key considerations when deciding to invest in firms listed on SME boards”⁵⁹.

- “Reductions in corporate income tax for listed SMEs are less common than incentives for investors, but a number of countries offer tax benefits to listed firms. Prominent examples are Thailand and Jamaica, where policymakers have targeted tax benefits specifically to firms listed on SME-dedicated market segments”⁶⁰.

“There are drawbacks to offering overly generous tax breaks, particularly when it comes to attracting issuers. In addition to potentially attracting companies that would otherwise be ill-prepared to access public equity financing, some policymakers and the general public may find the loss of immediate tax revenues to be a controversial bet on the future growth of firms listed on these exchanges”⁶¹.

5.1 Tax Incentives for Investors

“The rationale behind offering tax incentives to investors is two-fold. First, the public policy justification of foregoing government revenues is founded on the idea that expanded access to capital for SMEs can have a broad, positive impact on socio-economic development overall, given that SMEs are essential drivers of job creation. Second, as the smaller ticket size of SME investments often makes them uneconomical in light of due diligence and other investment costs, tax incentives can defray these costs and induce otherwise-interested investors into this market segment”⁶².

5.2 Tax Incentives for Investors: A Global Overview

“Common models for encouraging investment in SME equities include the following (see also Table 1)”:

- “Elimination of back-end taxes for trades of SME shares”.
- “Tax deductions for investors as a percentage of value invested in SME shares”.
- “Tax deductions for investors as a percentage of value invested in risk-pooling investment vehicles for SMEs”.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Tax Incentives for Investment – A Global Perspective: experiences in MENA and non-MENA countries, <http://www.oecd.org/mena/competitiveness/38758855.pdf>.

“In most cases, these incentives apply equally to private angel and venture capital investments, as well as to shares listed on SME boards.

In the first model, policymakers encourage investment in shares listed on SME boards by removing so-called back-end taxes. These taxes are applied to profits made selling a security or as a fee for doing so. In addition to encouraging greater investor participation, these back-end incentives also theoretically promote liquidity by removing or reducing the tax friction applied to sell shares. Poland, for example, has eliminated stamp duty taxes for trades of shares on the New Connect platform, the Warsaw Stock Exchange’s SME segment. In South Korea and India, investors benefit from reduced capital gains taxes on SME equity investments. In India, the long-term capital gains tax is eliminated altogether for shares listed on the BSE SME Platform, compared to the 20 percent rate, after indexation, applied to other equity shares. India also cuts short-term capital gains tax in half, from 30 percent to 15 percent, for shares listed on SME boards”⁶³.

“In the second model, as practiced in the United Kingdom and in Spain, retail investors can deduct a set percentage of the value they invest in shares of SME equity”.

1. “In both cases, the tax offsets are offered only for acquiring shares in new equity offerings. Both countries, moreover, require investors to hold the shares for an extended period—three years in the U.K. and two years in Spain—in order to claim the tax credit. As economists from Spain’s National Stock Market Commission explain”. “the incentive is for financing the company, not for buying on the secondary market.”
2. “This model, in other words, aims to deepen the investor base for SMEs, but also locks-in retail investors and potentially undermines the liquidity of the SME market segments. This possible outcome may not significantly affect entrepreneurs, who may be primarily interested in the capital influx from equity offerings. The consequences, however, for wider investor participation in SME boards, particularly those with very few listings, merit further study”⁶⁴.

⁶³ Ibid.

⁶⁴ David Holland and Richard J. Vann, *Income Tax Incentives for Investment*, TAX LAW DESIGN AND DRAFTING (VOLUME 2; INTERNATIONAL MONETARY FUND: 1998; VICTOR THURONYI, ED.) CHAPTER 23, INCOME TAX INCENTIVES FOR INVESTMENT, <https://olc.worldbank.org/system/files/Income%20Tax%20Incentives%20for%20Investment.pdf>

Table1: Tax incentives for equity investment in Small and Medium Enterprises.

Country	SME boards	Selected tax incentives for investors
France	Alternext	18% of tax relief has been provided for a mutual fund.
“India”	“BSE SME platform NSE EMERGE”	“Long-term and short-term capital gains have reduced the tax limit from 30% to 15%”.
“Poland”	New Connect	“Exemption of the stamp duty”.
“Spain”	MAB	“An offset of individual income tax liabilities of 15-20% of value invested in new equity shares of SMEs listing on the Mercado Alternativo Bursátil (MAB); not a national program—the company must be domiciled in, and the investor must be a resident of, one of five regional communities: Aragón, Catalonia, Galicia, Madrid, or Murcia”
United Kingdom	AIM	“Enterprise Investment Scheme: Offset of individual income tax liabilities of 30% of value invested in new equity shares of SMEs with less than 250 employees Venture Capital Trust Structure: Tax relief of 30%

		of value invested in authorized venture capital trusts (VCTs)”
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“The U.K. and France offer a third model: tax incentives for special investment vehicles for SMEs. Here the theory is that pooling a large number of SME equity investments into single investible security reduces the overall risk for investing in these early-stage companies. These vehicles also enable institutional investors to participate at larger ticket sizes while also limiting due diligence costs, as diligence is conducted for the firm managing the pooled fund, not each individual SME. In the U.K. version of this model, investors may offset their tax liabilities by 30 percent of the value invested in venture capital trusts (VCTs). These trusts are listed on the main market of the London Stock Exchange and themselves hold a portfolio of debt and equity investments in SMEs with less than 250 employees. These portfolios may also include shares of firms listed on the U.K.’s SME boards. Additional incentives for VCT investments include tax-free dividends and no capital gains tax, but investors must hold their VCT shares for five years or repayment penalties apply”⁶⁵.

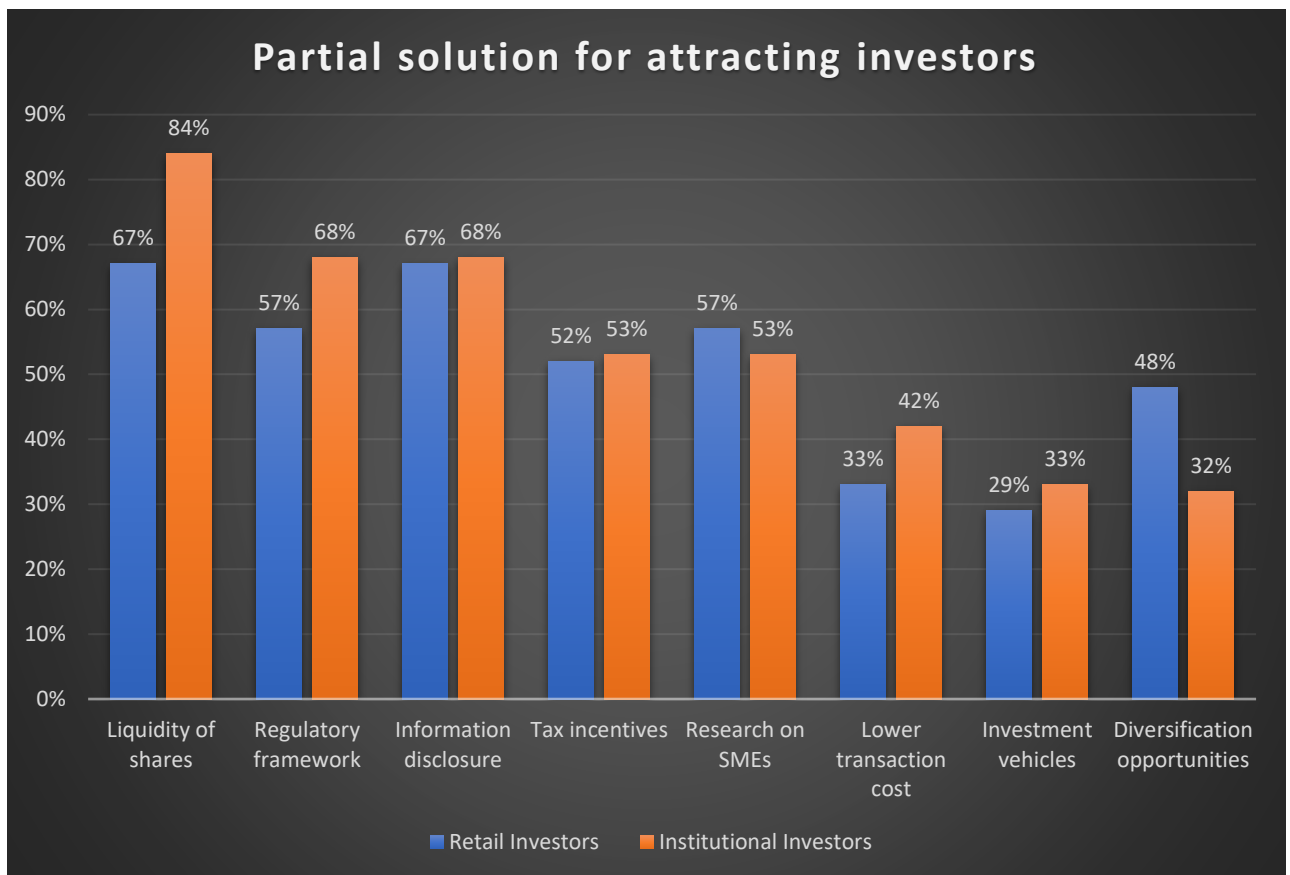
“In France, investors can access a tax credit of 18 percent of the value invested in Fonds Common de Placement dans Innovation (innovation mutual funds—French acronym, FCPI). FCPIs invest at least 60 percent of their portfolios in SME equity (including in listed shares on the Paris-based Alter next SME board). Equity investments must be in particular high-growth sectors—technology, clean-tech, and life sciences—with the remainder of the portfolio placed in money market securities. Investors also receive tax relief from capital gains and French wealth taxes. According to the Organisation for Economic Co-operation and Development (OECD), these tax incentives have encouraged over 10,000 individual investors to invest around 1.5 billion euros in French SMEs over the last two decades”⁶⁶.

⁶⁵ Jacques Morisset And Neda Pirnia, *How Tax Policy and Incentives Affect Foreign Direct Investment*, https://www.researchgate.net/publication/2586801_How_Tax_Policy_and_Incentives_Affect_Foreign_Direct_Investment_A_Review_By_Jacques_Morisset

⁶⁶ Ibid.

5.3 Tax Incentives: Only a Partial Solution for Attracting Investors

“Despite these approaches, the impact of tax incentives on investor behaviour has been arguably limited. According to new survey evidence from the World Federation of Exchanges, tax incentives would make slight majorities of retail and institutional investors more likely to invest in listed SMEs. At the same time, very few surveyed investors signalled interest in special investment vehicles. As Table 2 shows, these investors more frequently identified other factors, such as liquidity and transparency of financial information, as determinative of whether they would participate in SME boards”⁶⁷.



5.4 Tax Incentives for SMEs that Go Public

“A challenge for many stock exchanges that establish SME boards, particularly those in developing countries, is attracting enough listings to make the alternative board a sustainable enterprise. To address this issue and jumpstart new listing activity, some jurisdictions offer firms that list on SME boards breaks on their corporate income taxes. This approach is less common than tax incentives for investors, and it is practically unheard of in advanced markets.

⁶⁷ Ibid.

In general, policymakers are more cautious about offering tax breaks to listing firms because they do not want to entice the wrong kinds of firms to list. If firms are listing mainly to avoid paying taxes but are otherwise unready or ill-suited for becoming public companies, investors are likely to lose confidence in the quality of listings on the exchange, with a drop-off in trading activity and lower participation in new offerings potentially to follow.

There are two main justifications for offering tax breaks to firms that list shares. First, given that SMEs play an important role in job creation and economic development, but face growth constraints due to a lack of access to finance, policymakers may see tax incentives for a public equity listing as a part of a general strategy for expanding SME access to capital. In this view, the loss of tax revenues in the short term is, in a sense, an investment in long-term economic development. Moreover, by the time the tax breaks expire, firms will have hopefully grown into larger entities that will contribute more to government revenues than they would have had they not received the financing they needed at an earlier stage in their lifecycle”⁶⁸.

“Second, tax breaks may correct for a common market-development dilemma. Policymakers often want SMEs to list because, by formalizing the accounting and reporting practices of key economic players, the government is likely to capture more tax revenues than it would if firms had remained closely-held operations with only informal accounting structures. For instance, a study commissioned by the Nigerian Stock Exchange found that listed companies paid 65 percent more in taxes than unlisted peers.⁵ This reality, though, may dissuade new listings. As unlisted SMEs see that the reforms required to list lead to heavier effective tax burdens, they may prefer to simply remain private. Tax incentives could mitigate this pain point for SMEs considering a public listing”⁶⁹.

5.5 Tax Incentives for Listed Companies: A Global Overview

“Most jurisdictions that offer tax breaks for listing firms do so by reducing the corporate income tax rate by anywhere between a third to half of the standard nominal rate. Many countries offer the same incentive structure for both SME market segments and senior boards. This is the case in Cambodia, Fiji, Kenya, Morocco, and Pakistan, as Table 3 summarizes. The

⁶⁸ Stefan Van Parys, *The effectiveness of tax incentive in attracting investment: Evidence from developing countries*, In *Reflets et perspectives de la vie économique* Volume , Issue 3, 2012, pages 129 to 141, https://www.cairn-int.info/article-E_RPVE_513_0129--the-effectiveness-of-tax-incentives-in.htm#

⁶⁹ Ibid.

experiences of Thailand and Jamaica offer two additional models where tax incentives are directed explicitly at the SME segment of the stock exchange⁷⁰.

Table 3: Reduction in corporate income tax for listed companies

Country	Nominal rate	Reduced rate
Cambodia	20%	“10% for the 3 years following an initial public offerings”
Fiji	18.5%	10%
Kenya	30%	“27%, for the three years following an IPO for companies with at least 27% of issued share capital listed; 25%, for the five years following an IPO for companies with at least 30% of issued share capital listed; 20%, for the five years following an IPO for companies with at least 40% of issued share capital listed”
Morocco	31%	“15.5% for the 3 years following an IPO”.
Pakistan	31%	“26.4% for the two years following an IPO”.

⁷⁰ Ibid.

CHAPTER VI

6. IMPACT OF COVID-19 ON SMALL ENTERPRISES IN INDIA

The Covid-19 pandemic has made a great impact on the small enterprises in India. On March 24, 2020, the Indian government has ordered a nation-wide lockdown for 21 days, and limited the movements of the India's vast population this result in, all the peoples have to stay in their homes and all the shops and establishments are closed except of the essential services. The government has subsequently extended the lockdown many times while they have also given some relaxation in areas that have not been hotspots for the virus. According to the latest annual report of the MSME, there are 6.34 crore MSME in the country. On the basis of this data around 51% of the small and medium enterprises are situated in the rural India. All together they have employed 11 crore people out of which 55% are employed in the urban MSMEs. As we know 99% of all MSMEs are fall in the micro category and these are equally distributed in the rural and urban area of India.

“The distribution of enterprise by caste further completes the picture. About 66 per cent of all MSMEs are owned by people belonging to the Scheduled Castes (12.5%), the Scheduled Tribes (4.1%) and Other Backward Classes (49.7%). The gender ratio among employees is largely consistent across the board at roughly 80% male and 20% female.

In terms of geographical distribution, seven Indian states alone account for 50 per cent of all MSMEs. These are Uttar Pradesh (14%), West Bengal (14%), Tamil Nadu (8%), Maharashtra (8%), Karnataka (6%), Bihar (5%) and Andhra Pradesh (5%)”⁷¹.

- **Classification of MSMEs.**

Classification	Manufacturing enterprise	Service enterprise
Micro	“Up-to Rs 25 lakh”	“Up-to Rs 10 lakh”
Small	“Above Rs 25 lakh to Rs 5 Cr”	“Above Rs 10 lakh to Rs 2 Cr”
Medium	“Above Rs 5 Cr to Rs 10 Cr”	“Above Rs 2 Cr to Rs 5 Cr”.

⁷¹ <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>, assessed on 10/8/2020 at 10 A.M.

- Estimate number of MSMEs in lakhs

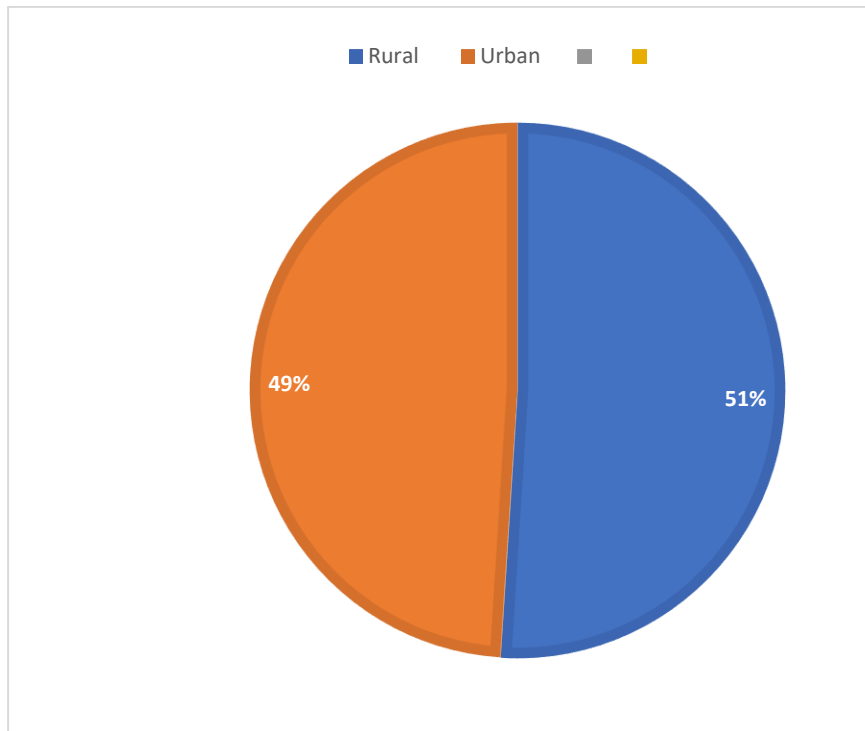
Activity category	Rural	Urban	Total	Share
“Manufacturing”	“114.14”	“82.50”	“196.65”	“31%”
“Trade”	“108.71”	“121.64”	“230.35”	“36%”
“Other services”	“102.00”	“104.85”	“206.85”	“33%”
“Electricity”	“0.03%”	“0.01%”	“0.03%”	-----
“all”	“324.88”	“309.00”	“633.88”	“100%”

6.1 How has Covid-19 made the thing worse?

“Suvodeep Rakshit of Kotak Institutional Equities said that MSMEs were already struggling — in terms of declining revenues and capacity utilisation — in the lead-up to the Covid-19 crisis. The total lockdown has raised a question mark on the existence of many primarily because these are not firms that have too much cash to wait out the crisis. That explains the job losses, he said. According to a recent survey he did for small and medium firms in manufacturing, only 7% said they will be able to survive for more than three months with their cash in hand if their business remains closed. A big hurdle to restarting now is the lack of labour availability”⁷².

⁷² <https://www.thehindubusinessline.com/opinion/columns/g-parthasarathy/covid-19-india-has-addressed-the-china-factor-well/article31216773.ece>, assessed on 10/8/2020 at 10 A.M

- **Distribution of Enterprise category-wise**



In the above pie-diagram it has shown the distribution of enterprise category-wise, In all over India the rural enterprise is the 51% and the urban area enterprises are the 49%⁷³.

6.2 Impact on Indian Economy:

The Indian economy has been completely destroyed by the pandemic situation of the Covid-19. Every economy which relates to the GDP of the Indian economy has been completely destroyed. The pandemic situation and the lockdown has hit the Indian economy very badly⁷⁴.

⁷³ <https://www.deccanherald.com/business/covid-19-outbreak-rural-india-stares-at-a-larger-crisis-821866.html> assessed on 8/10/2020 at 10 AM

⁷⁴ https://www.researchgate.net/publication/341775901_Impact_of_COVID-19_pandemic_on_Indian_Economy_with_special_reference_to_Indian_MSME_Sector assessed on 8/10/2020 at 9 PM.

1. **Import of raw materials:-** As we know the India import nearly 55% of the electronic items from china. Imports has been decreased by 40% due to the outbreak of the corona virus in china. To tackle this problem India has started the home production to reduce the dependency in china.
2. **Agriculture sector:-** The nationwide lockdown has made a great impact on the agriculture sector. The markets are completely lockdown due to the outbreak of the corona virus for this reason the farmers are not able to sell their agriculture product to market.
3. **Hotels, Restaurants and Tourism:-** Due to this outbreak it has completely shut down the hotels, restaurants and the tourism industry. The demand of this industry are decreasing day by day. Owners of this industry are struggling to recover the fixed cost. There is no demand of the hotels from last 5 to 6 months. Tourism industry has hitten very badly as because people have restricted their movements. It has estimated that the tourism and hospitality industry has incurred a loss of \$2.1 billion for march and April alone.
4. **E-commerce industry:-** Due to the pandemic situation the e-commerce industry like amazon, flipkart, mintra, etc. are unable to deliver their product due to the absence of the man power and the lack of transport facility. They are not accepting the new orders they are accepting the new orders on the priority basis.
5. **Building and Construction companies:-** due to the outbreak of the corona virus the construction work of different sites have been stopped and it was estimated that there will be a job loss of 30% employees.
6. **Education and Skilling :-** All the school and the educational institute are closed due to the pandemic situation of the Covid-19 cases. In India there are 39931 colleges and 933 universities are there from the data of 2018-19. During the crucial year of the academic session all the school colleges are locked. In higher education, most higher education are not fully geared to implement online learning.

6.3 Recent amendments in the taxation sector during Covid-19

The President of India have made some changes in the taxation system, focusing the situation of the **Covid-19** on 31st march 2020. He ensures to provide relaxation on certain provision. He also started a new scheme “Vivaad Se Vishwas Scheme” where he extended the time limit for

making payment from 31st March to 30th June 2020. During this **Covid-19** situation the economy of the country has fallen down, to revive this economy Prime minister has also announces some schemes⁷⁵.

He ensures that the TDS of the non-salaried person should be reduced by 25% of the existing rate. The reduction rate should be “applicable for the remaining part of the financial year 2020-21”. He also ensures that the all the pending funds of the charitable trust and the non-corporate business shall be issued immediately. He also extended “to file the Income tax return of the financial year 2019-20” is extended till 31st July 2020.

The government has given some relief to the businessman during this lockdown, the government has “issue all the pending eligible refunds under both the GST and the Customs law by 30th April 2020”.

The government has made the custom exemption of the Covid-19 materials such as face mask, ventilators, surgical mask, covid-19 testing kits etc.

The government of India has made some changes regarding the “foreign trade policy, the trade policy 2015-20 which was valid till 31st march 2020, has been extended to 31st march 2021”.

The government has announced recent schemes “Remission of Duties and Taxes on Exported Products” (RoDTEP) “to replace the Merchandise Export from India Scheme (MEIS) available to export goods”⁷⁶.

The government of India has postponed the direct tax deadline from march 31st 2020 to June 30, 2020 without any addition to tax. The GST return filling and payment related to GST has also been extended.

Due to various measures taken by the government of India to prevent the spread of virus, the government has taken the initiative to work from home.

⁷⁵ Bipin Sapra and Raju Kumar, Covid-19: Revival of economy through tax measure, The Economic Times, <https://economictimes.indiatimes.com/small-biz/policy-trends/covid-19-revival-of-economy-through-tax-measures/articleshow/75499775.cms>

⁷⁶India: tax developments in response to Covid19, <https://home.kpmg/xx/en/home/insights/2020/04/india-tax-developments-in-response-to-covid-19.html>.

6.4 New opportunities for the small enterprises in India in this lockdown

- **Look for new opportunities:-** In this pandemic situation of the Covid-19, there is the huge demand for the Covid-19 related items they are as follows
 1. Personal protective equipment (PPE)
 2. Alcohol-based Sanitizers
 3. N-95 Mask.
- **Expand supply chains:** “MSMEs dependent on single large suppliers should look to diversify their suppliers and identify alternative sources to prevent running out of stock”⁷⁷.
- **Leverage temporary workforces:** “Businesses can access additional labor from those who have lost their jobs or those who are looking for additional work during the lockdown”⁷⁸.
- **Assess realistic consumer demand:** “MSMEs should evaluate how demand has changed during the COVID-19 crisis to determine required supply. This could even be an opportunity to reach new customer segments as people’s needs and preferences may have changed”⁷⁹.
- **Leverage digital platforms:** “MSMEs can use platforms like WhatsApp, Facebook, or Instagram to find new suppliers, market, and sell their goods”⁸⁰.

“When the lockdown is finally lifted, MSMEs that adapted their business models will be able to recover faster from the impact of the pandemic and prepare for future shocks”⁸¹.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

CHAPTER – VII

7. Taxing authorities of different tax incentives

7.1 Taxing authorities of sales tax

The CG⁸² has given the power to the SG⁸³ to prescribe STA⁸⁴ for the purpose of the various section under the CST⁸⁵ Act.

According to section 3 of the Assam VAT Act 2003 and section 3 and section 4 of the AGST 1993 the government may carry out the purpose of this Act.

According to section 3(2), the following person will form part of administrative authorities to assist the commissioner:

- (a) “Additional commissioner of taxes”.
- (b) “Joint commissioner of taxes”.
- (c) “Deputy commissioner of taxes”.
- (d) “Assistant commissioner of taxes”.
- (e) “Superintendent of taxes”
- (f) “Inspector of taxes”
- (g) “Any other person appointed as such by the government”.

According to “section 3(3), the commissioner shall perform his function in respect of the whole of the state. Other officers shall perform their function in respect of their areas allotted”.

The commissioner has the function to notify the powers of the officers “in the official gazette to entrust all the cases of dealers dealing in a particular commodity in any area to any officer and such officer shall perform their function in respect of such dealers”.

According to Section 3(4) of the CST, the “government may appoint an officer, not below the rank of the deputy commissioner of the Income Tax to exercise the power and perform the function of the appellate authority under section 79 of this Act”(Assam value-added tax act 2003).

⁸² Central government.

⁸³ State government.

⁸⁴ Sales tax authorities.

⁸⁵ Central sales tax.

Various taxing authorities as prescribed under may be divided into 3 categories they are as follows:-

- (1) Administrative authorities.
- (2) Assessing authorities.
- (3) Appellate authorities.

Administrative authorities:

The following taxing authorities are considered as administrative authorities:

- (a) “Commissioner of taxes”
- (b) “Additional commissioner of taxes”
- (c) “Joint commissioner of taxes”

Assessing authorities:

The following taxing authorities are considered as assessing authorities:

- (a) “Deputy Commissioner of taxes”
- (b) “Assistant commissioner of taxes”
- (c) “Superintendent of taxes”
- (d) “Inspector of taxes”.

Appellate authorities:

The following taxing authorities are considered as appellate authorities:

- (a) Deputy commissioner of taxes (Appeals); and
- (b) Appellate tribunal; or
- (c) Board of revenue.
- (d) Central Sales Tax Appellate Authority (CSTAA).

7.2 Taxing authorities of the Assam VAT 2003.

Taxing authorities are the authorities who are entrusted with the task of administering the various provisions of the Act. According to section 3(1) of the Assam VAT Act, 2003:

“The government has the power to appoint a person as the commissioner and as many other officers as mentioned in sub-section (2) below to assist him in carrying out the purposes of this Act”⁸⁶.

According to sub-section (2) of Section 3, the following taxing authorities shall be there to assist the commissioner:-

- (a) “Additional commissioner of taxes”
- (b) “Joint commissioner of taxes”
- (c) “Deputy commissioner of taxes”
- (d) “Assistant commissioner of taxes”
- (e) “Superintendent of taxes”
- (f) “Inspector of taxes”
- (g) “Any other person appointed as such by the government”.

According to sub-section (3) of section 3, “the commissioner shall perform his duties in respect of the whole of the state of Assam. Other officers shall perform they perform their function in respect of such areas or of such dealers or class of dealers dealing in a particular commodity as directed by the commissioner through” a notification in the official gazette.

“An officer not below the rank of the deputy commissioner of taxes may be authorized by the government to exercise the power the functions of the appellate authority under section 79 of this Act”⁸⁷.

Various taxing authorities as prescribed under may be divided into three categories:

- (1) Administrative Authorities;
- (2) Assessing Authorities;
- (3) Appellate Authorities;

(1) Administrative authorities:-

The following taxing authorities are considered as administrative authorities:

- (a) “Commissioner of taxes”
- (b) “Additional commissioner of taxes”

⁸⁶ Department of Revenue, GOVERNMENT OF INDIA, <https://dor.gov.in/value-added-tax>

⁸⁷ Ibid.

(c) “Joint commissioner of taxes”

(2) Assessing authorities;

The following taxing authorities are considered as assessing authorities:

- (a) “Deputy commissioner of taxes”
- (b) “Assistant commissioner of taxes”
- (c) “Superintendent of taxes”
- (d) “Inspector of taxes”

(3) Appellate authorities:

The following taxing authorities are considered as appellate authorities:

- (a) Deputy commissioner of taxes (Appeals)
- (b) Appellate tribunal
- (c) Board of revenue.

It may be mentioned here that the appellate tribunal under the Assam VAT Act has not yet been constituted. Till the constitution of the Appellate tribunal, the Assam Board of Revenue shall act as the appellate tribunal.

7.3 Sales not liable to tax under VAT:-

According to section 8 of the Assam VAT Act,2003 the following sales are not covered by this Act as the VAT applies to local sales made inside the state of Assam only:

- a. “Sale in the course of inter-state trade and commerce” ;
- b. “The sale which takes place outside the state”;
- c. “The sale takes place in the course of export of goods out of the territory of India”.

7.4 Registration of Dealer:-

Registration is a process through which a dealer is brought within the taxation network. Registration enables a dealer to charge tax on sales from his customers which in the absence of registration, is an offense punishable under the taxing statute.

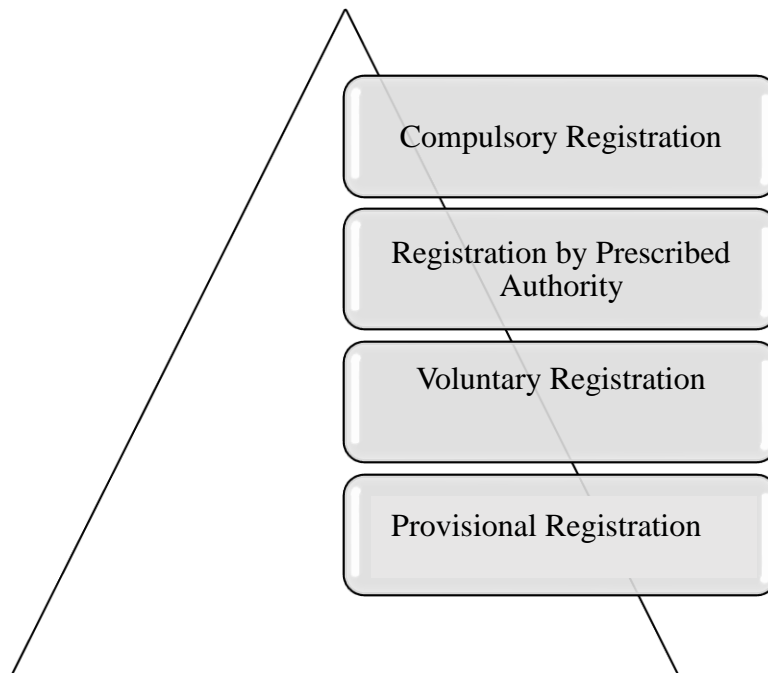
Registration puts a responsibility on the dealer to file the return and pay the amount of tax as required by law. Dealers are required to furnish information to the tax department about the extent of their business in what are called returns.

A dealer who has made taxable sales without registering for VAT will be assessed the full tax on sales but will not be allowed to deduct the tax paid on his purchases.

All dealers whose gross turnover exceeds a minimum taxable limit are liable to pay tax on their sales and they are supposed to get themselves registered.

7.5 Different modes of Registration:-

The following are the various modes of registration of a dealer under the Assam VAT Act:



These methods are explained below:

(a) Compulsory registration of dealers:

According to section 21 of the Assam VAT Act, 2003 a dealer is “liable to pay tax should not carry on business as a dealer unless he has been registered and possesses a certificate of registration”⁸⁸.

Again, a dealer registered under the central sales tax act, 1956 shall be required to apply for registration under this Act.

⁸⁸ <https://taxmantra.com/registration-under-vat-value-added-tax/> accessed on 4/4/2020 at 2 PM.

(b) Registration by the prescribed authority:-

“Under section 22 of the Assam VAT Act 2003, if the prescribed authority is satisfied, upon the information which has come into his possession, that any dealer liable to pay tax, has failed to get himself registered the prescribed authority shall, suo moto”⁸⁹, “in addition to taking any order action under the provision of this Act, register him as if an application for registration had been made by him”.

However, the steps for registration and other action can be taken after giving reasonable opportunity to such dealer intimating the intension of the prescribed authority to do so. The registration under this section “shall take effect from the date of the issue of the certificate of registration, but the dealer shall remain liable to pay tax as an unregistered dealer, for the period from the date of liability to the date preceding the date of issue of a certificate of registration”.

(c) Voluntary registration of dealers:-

According to section 23 of the Assam VAT Act 2003, “any dealer who desires to get himself registered voluntarily, subject to such condition and restriction as may be prescribed, even if he is not liable to pay tax, may apply in the prescribed manner to the prescribed authority for registration under this Act.

The registration shall take effect from the date of receipt of the application of registration”.

Every dealer who has been registered on an “application made under this Act shall be in force for registration for a period of not more than three complete years. The registration shall be deemed to have been canceled on the expiry of the said three years unless the prescribed authority on an application made by the dealer is satisfied that the provisions” relating to compulsory registration have become applicable to him.

(d) Provisional Registration:-

According to section 23 of the Assam VAT Act,2003 “any persons who intend to manufacture any taxable goods but is otherwise not liable for registration, may make an application in the prescribed manner to the prescribed authority for obtaining

⁸⁹ Ibid.

provisional registration. However, a dealer who is liable for compulsory registration shall not be eligible for a provisional certificate”⁹⁰.

“The registration shall take effect from the date of receipt of the application for registration The registration of such a dealer on an application made under this Act shall be in force for a period of not more than 3 complete years. The registration shall be deemed to have been cancelled on the expiry of the said 3 years unless the prescribed authority on an application made by the dealer is satisfied that the provision” relating to compulsory registration has become applicable to him.

Group Registration:-

The prescribed authority under the Assam VAT Act has the power to allow a group of companies to be registered as “one registered person”⁹¹ with one certificate of registration. In such a case, each company within the group becomes jointly and severally responsible for any tax that becomes due and payable by the group.

⁹⁰ Ibid.

⁹¹ Ibid.

CHAPTER- VIII

8. NEW TAXATION POLICY FOR UPLIFTMENT OF THE SMALL ENTERPRISES

The expansion of small enterprises is largely pretentious by the rise of the level of taxation in India, its administration, and compliance. “The higher the tax rate is, or the greater the efforts to fulfil taxation requirements are, as well as to check how those requirements are met, the lower the initiatives are for SMEs to perform well. Therefore, maintaining the tricky balance between tax rate, compliance costs, tax administrating, and economic development should be the main goal of every tax policy”⁹².

A small enterprise is consists of small numbers of employees which do not exceed 250 peoples. Small enterprises perform the various function for the upliftment of the economy in the country. Small enterprise performs a various function in the upliftment of the economy they⁹³ are as follows:-

- (a) They help small enterprises in the competitive market.
- (b) “They are actively engaged in the research and development and promoting the enterprises and also implies new technical and commercial ideas”.
- (c) “The small enterprises quickly react to the market policy and thus provides the necessary flexibility to the market”.
- (d) Small enterprises create employment with new working places.

8.1 Role of taxation policy in promoting the small enterprise sector development

“There are many factors that can influence the development of small enterprises in the economy. The most frequently mentioned among them are state support of the sector, proper legislative support, and mechanisms of its fulfilment, access to financial resources, and investment incentives. However, one of the most important factors that promote the development and growth of small enterprises is the taxation system. Research made in different countries has shown that the countries where the level of tax rates, the costs of fulfilling taxation requirements as well as costs of auditing are high, the sector of small enterprises is

⁹² Rajalakshmi Nirmal, *Corporate tax: relief to small enterprises*, BL RESEARCH BUREAU, <https://www.thehindubusinessline.com/economy/budget/corporate-tax-relief-to-small-enterprises/article28295071.ece>.accessed on 5/5/2020 at 10 PM.

⁹³ Yadviga Semikolenova, *Taxation of small and medium enterprises*, 1999.

comparatively small. For instance, in Ukraine, where the policy of Small enterprise sector taxation is considered to be too burdensome, the share of the sector in GDP is only 5.5% (Analytical report on State Committee for Entrepreneurship Development 1997). Moreover, for several years the share of operating SMEs among registered ones was falling: in 1992 that index was 49.4%, in 1993 – 47.7%, in 1994 – 37.3% (Small Business in Ukraine 1997 49). On the other hand, in the Czech Republic, where taxation policy for small and medium enterprises is milder, while all the other policies supporting small and medium businesses are approximately similar, the share of this sector in official GDP is more than 50% (Materials of the Seminar Development of Entrepreneurship 1982). Of course, such a big difference in numbers cannot only be due to the different taxation policies. It is understandable, that the transition in the Czech Republic started earlier and before the transition, the SME sector was present to a greater degree in the Czech economy than in Ukraine. However, in the Czech Republic, proper taxation incentives were created at the very beginning of the transition period. Thus, we can see that taxation policies can play a big part in the promotion of the development of the SME sector”⁹⁴.

“Small enterprises play an important role in transitional economies due to some of their special features: flexibility, quick adaptation, minimum bureaucracy; and special functions: creating of additional working places, the active promotion of innovations, creating a competitive environment. Different policy incentives are able to influence the development and growth of the SME sector. However, creating a proper taxation policy can be one of the crucial factors in this process”⁹⁵.

“Strong tax system is fundamental to the development of a nation’s economy. Taxation is, however, significantly more than revenue mobilization. The manner in which taxes are administered and collected and the uses to which they are put, define the symbiotic relationship between the state and its citizens strengthening the former while making it necessarily more accountable to the latter (Mishra, 2005). In India, the history of the tax system dates back to the ancient times. It is mentioned in ancient books like Manu Smriti and Arthasastra”.

⁹⁴ Ibid.

⁹⁵ Ibid.

“In the Mughal’s reign, different types of taxes were collected from inhabitants of India. The British Rule contributed a lot while establishing a tax system in India because it was favorable to them (Muhammad, 2011)”⁹⁶.

“The Indian economy has worst experienced, a serious macroeconomic imbalance in the economy which revealed in terms of a severe Balance of payment crisis and consequent financial crisis in the year 1991. In order to look into the underlying causes of the Indian tax system and suggest structural remedies to that, the Government appointed a Tax Reforms Committee in 1991, under the chairmanship of Raja J. Chelliah a well-known public finance expert. The Indirect Tax in India is a system with various laws and regulations, which includes specific laws for different states. In India, the Indirect Taxation regime comprises of various types of taxes like Central Sales Tax, Service Tax, Customs, and Excise Duties, Value Added Tax. In recent years there are significant reforms in the Indirect Taxation system which includes the initiation of State level Value Added Tax on goods”⁹⁷.

8.2 CST: -

Revenue from sales tax institutes a key source of income for a “state. This tax is levied on the sale of goods” and services in the state by the state legislature as it is a matter of “list II (state list) as per the seventh schedule of the constitution of India”. Before the independence Govt. of India Act 1935, empowered the state government to impose a sales tax. But, after independence, although the states have been given more power to impose a tax on sales or purchase of goods, the central government has imposed certain restrictions on the levy of tax on certain goods in the course in the Interstate trade or Inter-country trade. Again, the parliament has declared some commodities as essential. The constitution of India (Amendment) Act, 1956, has empowered the “central government to levy sales tax” on interstate sales of goods. The state government has been debarred from levying sales tax on such goods.

The parliament amended Article 268 and 269 and inserted the entry No. 92A regarding the power to levy sales tax by different authorities. These are as follows :

⁹⁶ History of taxation Pre- 1922, <https://www.incometaxindia.gov.in/Pages/about-us/history-of-direct-taxation.aspx> assessed on 9/8/2020 at 9 PM.

⁹⁷ Ibid.

“The state legislature will levy sales tax only on the sale or purchase of goods, except a newspaper, which is effected within the state”.

1. “No state can levy sales tax on any sale or purchase if such sales or purchase take place”⁹⁸
2. “Outside the state”, or

In case of export and import of goods outside from India, only the parliament have the right to levy the tax

“Entry 54 of List II” – state list reads: “Tax on sale or purchase of goods other than newspaper except for tax on interstate sale or purchase”. Thus if the sales take place between the parties within the same “state (intra-state sale) is within the authority of the state government, while sales made to parties outside the state (inter-state sale) are within the authority of the central government”.

Hence, there are two “types of sales tax – central sales tax and state sales tax. Central sales tax is levied by the central government while state sales tax (now called VAT) is levied by the respective state governments”.

8.3 CST Vs. VAT :

The “CST is a tax on interstate sales, the procedure of which goes exclusively to the exporting state. But CST, being an origin-based tax, the VAT” regime which is a destination-based tax which means that the consuming state should alone tax the sales. Hence, in a phased manner, the rate of tax on inter-state sales to registered dealers against the “C” form will be reduced to zero.

During the first year of the introduction of VAT, of course, the rate of tax under the CST Act has remained as before. Even when the rate of tax will be reduced to Zero, the interstate transaction continues to be governed by the CST Act and the forms now applicable to the various inter-state transaction such as the “C” form, “F” form, etc. Remain operation for monitoring such transactions.

⁹⁸ <http://incometaxmanagement.com/Pages/Tax-Management-Procedure/10-Central-Sales-Tax-CST.html> accessed on 7/6/2020 at 4 PM.

The most notable difference is the availability of ITC against the inter-state sales which was not available under the sales tax regime.

CST continues to levied on inter-state sales although the rate has been slashed from the original 4% to 2%. Though, it is planned to phase out CST over a period of time.

Circumstances leading to the levy of CST:

Central Sales Tax, 1956 is an enactment by parliament through its implementation is left to state government. Central Sales Tax is levied under the following circumstances :

1. There must be a “dealer who is registered under the CST Act”.
2. There must be a sale that “should be in the course of interstate trade or commerce”.
3. The sale must be of goods as defined under the CST Act.

If the above-stated conditions are satisfied then,

- (a) CST is levied at the specified rate on the turnover of goods.
- (b) Turnover will be determined on the basis of the sale price.
- (c) CST will be deposited by the registered dealer to the appropriate state in which he is registered.
- (d) The registered dealer will submit CST return “to the taxing authority of the appropriate state in the prescribed form and within the” specified time.
- (e) The specified authority will assess the liability of the registered dealer as per the provisions of section 6 of the CST Act and order refund, interest, or penalty accordingly.

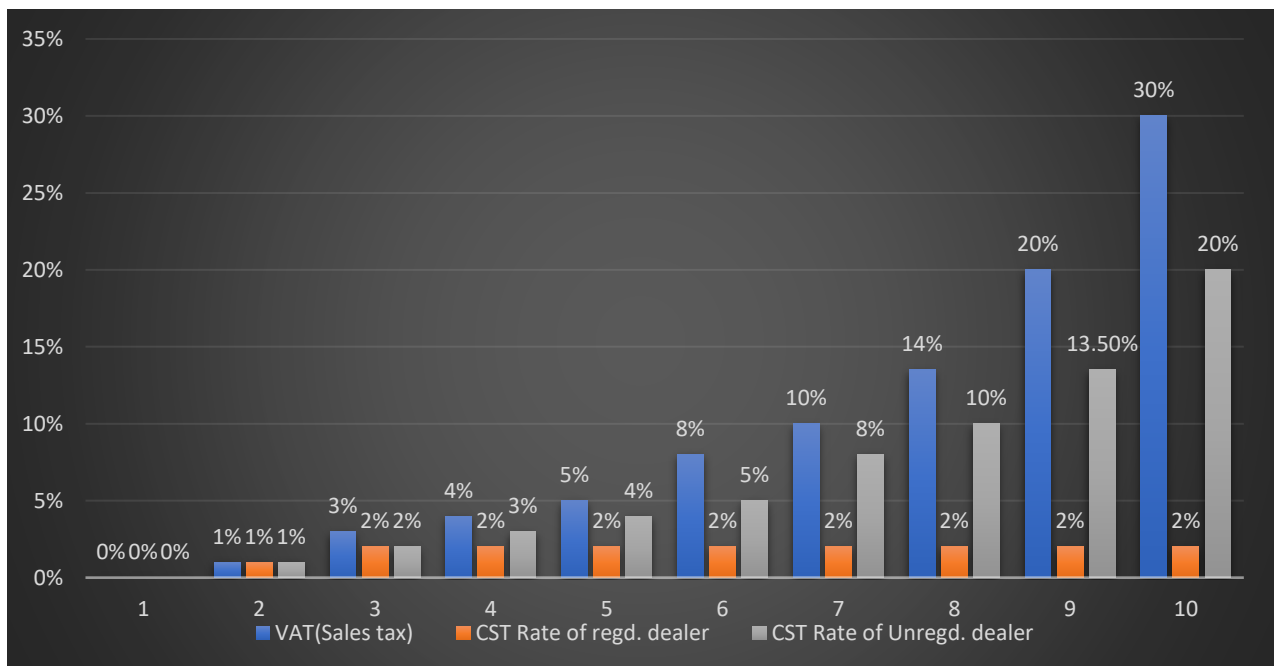
Factors influencing the determination of Tax

The following two factors are to be considered simultaneously for determining the rate of tax under the CST Act. Now no distinction is made between declared or other goods for the levy and collection of Central Sales Tax.

The two factors are :

- (i) The local rate of tax of the exporting state;
- (ii) Category of purchasing dealer i.e. whether registered or unregistered

Rate of tax in the course of interstate trade or Commerce :



8.4 HOW TO GET REGISTRATION UNDER CST ACT

CST Act has made provisions for the registration of dealers because it is only the registered dealer who is authorized to collect CST. The registration of a dealer under the CST Act is done with the sales tax authorities of the respective states. According to section 7 of the CST Act, there can be two ways in which a dealer can get himself registered:

- (i) Compulsory registration [Sec. 7(1)] or
- (ii) Voluntary registration [Sec. 7(2)]

These are discussed below:

- (i) Compulsory registration:

According to “section 7(1), every dealer liable to pay CST has to register himself” under the CST act with sales authority. It should be kept in mind that a dealer will not be granted registration under the CST Act unless he is registered under the sales tax act.

- (ii) Voluntary registration:

According to Section 7(2) of the CST Act, “a dealer registered under the state's sales tax act may voluntarily apply for registration under CST Act even if he has no

liability under the CST Act. Such dealers can apply for registration under the CST Act even if goods sold or purchased by him are exempted under the State Sales Tax law. This provision is useful when the dealer makes purchases in interstate but all his sales within the state”.

8.5 PROCEDURE FOR OBTAINING REGISTRATION:-

For obtaining registration under the CST Act, an applicant is required to keep in mind the following procedures:

- (1) **Application:-** An application is required to be submitted in the agreed form before the authority under the CST Act.
- (2) **Form for submission of application:** The prescribed form is Form A as prescribed under the CST (Registration and Turnover) Rules, 1957.
- (3) **The time limit of submission of application:** “An application for registration is required to be made within 30days from the date when the dealer becomes liable to CST”.
- (4) **Application fee payable:** Application fee of Rs.25 is payable in the form of court fee stamp.
- (5) **Signing the Application:** Application has to be signed by:
 - (a) The proprietor of business, in case of sole proprietorship firm;
 - (b) “One of the partners in case of business owned by the partnership firm” (copy of the partnership deed is required to be submitted)
 - (c) Karta or manager in case of Hindu undivided family (HUF)
 - (d) “Director or principal officer of the company”
 - (e) The principal officer in case of association of individuals
 - (f) Officers authorized by the government in case of government.
- (6) **The demand of security or Additional security:** “When it appears necessary to the authority granting a certificate of registration to do for the proper realization of tax payable, he may at any time while such certificate is in force, require the dealer to whom the certificate has been granted, to furnish in the prescribed manner such security, or such additional security as may be specified in the order”.

(7) **Payment of security money:** payment of security money as required by the registering authority will have to be deposited before obtaining registration. Additional security if any should be deposited within such time as specified by the registering authority.

(8) **Issue of certificate of registration:** The registration certificate is issued in Form B⁹⁹. The certificate specifies the goods covered by the certificate and the purpose for which the goods are purchased.

The certificate of registration obtained is to be kept at the principal place of business in the state and the copy of such certificate is to be kept at the additional places of business situated in the states.

Issue of Duplicate certificate:

A dealer may apply for the duplicate certificate under Rule 8 along with some fee

Registration for additional places of business:

“If a dealer has a place of business in a different state, he has to obtain separate registration in each state. However, if he has more than one place of business within the same state, he has to get only one registration”. Of course, the addresses of additional places of business in the same state must be endorsed on the certificate.

Is registration compulsory under CST Act :

Registration is compulsory only for that dealer who used to make deals in the inter-state sale. If the dealer does not make any inter-state sale, it is not required for the dealer to make a registration under the CST Act. However, if the seller wants then they can voluntarily register themselves under this Act.

8.6 Cancellation of registration:-

The registration of a dealer can be cancelled in the following two ways:-

- (1) At the instance of the dealer
- (2) By the registering authority

Cancellation of registration at the instance of the dealer

⁹⁹ Rule 5(1) of the CST Registration and Turnover Rules 1957.

Under section 7(5) of the CST Act, the registration of a dealer can be cancelled in the following circumstances the dealer has to make an application to the registered authority in a prescribed form.

- (a) Where the dealer has to cease to carry on the business
- (b) Where the dealer has ceased to exist
- (c) Where the business is transferred

The application has to be submitted within “6 months before the end of the year to the authority which granted his certificate for registration. If the registering authority finds that the dealer is not liable to pay tax under this act then the registering certificate is going to be cancelled accordingly. The cancellation shall take effect at the end of the year in which the application for cancellation was made. The dealer will be asked to handover the certificate of registration to the” registering authority.

Cancellation of registration by the registering authority

Under Section 7(4)(b) of the CST Act, “a certificate of registration may be canceled by the registering authority under the following circumstances”

- (a) Where “the dealer has ceased to carry on the business” or
- (b) Where “the dealer has ceased to exist” or
- (c) Where the business has been transferred or
- (d) Where the dealer, “without sufficient cause, has failed to comply with an order under section 3A or with the” provision of subsection 3G or subsection 3C.
- (e) Where the dealer has failed to pay any tax or penalty payable under the Act.
- (f) A dealer registered under subsection (2) has ceased to be liable to pay the tax under the Sales tax act of the appropriate state.

8.7 Procedure and Payment of Central Sales Tax by the Dealers to the Govt.

The amount of Central Sales Tax leviable under the CST Act must be paid by the registered dealer to the government within the ‘prescribed period’. The CST Act has not mentioned the prescribed period within which the tax is to be paid to the government. As the Sales Tax Laws of the state, where a dealer is registered, is applicable for the administration of CST Act, the

period prescribed under the state sales tax laws is taken as the ‘prescribed period’ for the purpose of submission of returns, both monthly and quarterly, as applicable.

For example, if a dealer is registered in Assam, and if the Sales Tax Laws of Assam prescribes that return of tax should be submitted within 30 days of every quarter, it means that a statement of turnover for every quarter should be submitted to the assessing officer i.e. the superintendent of taxes with whom the dealer is registered. It may be mentioned here that it is mandatory for every dealer to submit the original copy of the challan showing the payment of CST which must be enclosed with the quarterly return.

However, if a monthly return is required to be submitted under the state sales tax law, the amount of CST must be paid within the due date of submission of the monthly return so that the original copy of the challan showing the payment of CST can be attached to the monthly return. It may be mention here that in addition to monthly/quarterly return, a return for the whole year called Annual return must be submitted within the due date for the purpose of assessment.

8.8 Rule applicable for dealers registered under CST Act in Assam:

Rule 25 of the AGST Rule 1993 which is applicable to dealers under the CST Act in Assam requires “every registered dealer or any other dealer liable to pay tax and submit a monthly return in Form V before the assessing officer. Rule 25(3) (a) states that such a monthly statement shall be submitted by a dealer before the expiry of the next succeeding month; and it shall be accompanied by a receipt showing the full amount of tax payable as per the statement. The due date of submission of monthly statements for a particular month shall be the last date of the following month. Where the amount of tax paid by a dealer is lesser than the amount payable as per the monthly statement., then the assessing officer shall serve a demand notice” asking the dealer to pay the remaining amount within the time and manner specified in the demand notice.

Rule 25(3)(b) provides that the assessing officer can make a provisional assessment for the month and the quarter to the best of his judgment. The recourse would be adopted by the assessing officer.

- (a) After recording the reasons for such an assessment. (This is known as best judgment)
- (b) Where a dealer does not submit a statement before the due date.

(c) Where the statement submitted by a dealer appears to be incorrect and incomplete.

However, the defaulting dealer in question shall be given an opportunity of being heard before action is taken in this regard.

Rule 25(1) provides that every dealer in addition to furnishing monthly statements shall submit an Annual Return in Form VI within two months after the close of the year.

In a case where the dealer discontinues his business during the course of a year, he shall submit his return in Form VI within 15 days from the date of discontinuance of the business and pay the necessary amount of tax.

8.9 Liability to tax on inter-state sales:

“Section 6 of the CST Act, 1956 is a charging section, and accordingly, tax is levied on all inter-state sales under this section. Under the scheme of the central sales tax act 1956, tax is to be levied only” once on the transaction of sales. The sub-section (2) ensures that the tax will be levied only once at the first point, during such movement. It may be noted that despite this provision, tax can be levied more than once on the same transaction. At this stage, it should be noted that such benefit available under sub-section 2 is available only when sales are effected to the registered dealers and only on the fulfillment of the specified conditions. In other words, all second and subsequent sales in the course of interstate trade or commerce during movement of the same goods by a transfer of documents of title to such goods will be exempted from tax, provided necessary forms are produced from selling dealer and purchasing dealer. This sub-section also provides for similar exemption from “tax in respect of such subsequent sales to the government. The second provision sub-section(2) provides that if the goods are exempted from sales tax or purchase tax in the appropriate state or are subjected to tax at a rate lower than 4% then it shall not be necessary for the dealer” affecting the subsequent sales to produce the declaration form or certificate.

Value-added tax

Value-added tax is important legislation of the last century. “France is the first country in the world” that introduced the VAT in the year 1954 and more than 125 countries have switched over to VAT including our neighboring countries like Nepal.

VAT is the modern way and also the scientific way of taxing in the final consumption. The VAT Taxation system is very simple and also a taxpayer-friendly system and also transparent and also inherently high complaint.

BRIEF HISTORY OF VAT

In the year 1991, a high-level committee was established called “(Tax Reforms Committee) TRC headed by Dr. Raja J. Chelliah. The committee recommended a gradual switch over to the value-added tax covering goods and services and the withdrawal of the tax-related incentives. The union finance minister Dr. Manmohan Singh in course of his 1993-94 budget speech observed that our long term aim should be to move to a value-added tax system”¹⁰⁰.

In terms of the resolution adopted in the said meeting, a committee of state finance minister was constituted which after due deliberations submitted its report and recommendation in 1995 to the union government.

Finally, in the “conference of chief ministers and finance ministers of the state held on 16th November 1999” the following resolution has been taken:-

- (a) “Implementation of uniform floor rates of sales tax from 1st January 2000. By the states and the union territories with the” four general floor rates and two special rates for preventing self-defeating & fratricidal rates among the states.
- (b) Phasing out of the sales tax-related incentives from 1st January 2000
- (c) Finalization of the modalities and time frame for the introduction of VAT by state governments with effect from the 1st April 2001

As the name indicates the “Value Added Tax is a tax on the value added to a commodity or service at each stage of production and distribution processor chain”. Vat is nothing but a type of sales tax. It is a tax on the sale of goods. It is another method of collecting tax on sales.

The indirect taxation inquiry committee defines value-added tax as “ Value added tax in comprehensive form is a tax on all goods and services(except export and government services) its special characteristics being that it falls on the value-added at each stage from the stage of production to retail stage”¹⁰¹.

¹⁰⁰ https://www.newworldencyclopedia.org/entry/Value_added_tax. Accessed on 12/5/2020 at 3 PM.

¹⁰¹ Ibid.

According to section 2(56) of the Assam VAT Act, 2003. VAT “means a tax on the sale of any goods at every point in the series of sales made by the registered dealer with the provision of the credit of input tax paid at the point of the previous purchase thereof”¹⁰².

VAT is a multi-stage tax that is levied at different stages where the commodity changes hands but if it is levied only on the incremental value added at each stage, unlike the turnover tax which is levied on the gross turnover of the dealer.

“Value Added Tax is a tax on every sale with the facility of set-off of tax paid on purchases. It captures the value addition at every stage of production and distribution chain. VAT is an indirect tax on consumption. The final and total burden of the tax is fully borne by the domestic consumer”¹⁰³. VAT is the modern and the scientific way of taxing final consumption.

TAXES REPLACED BY THE VAT:-

Currently, VAT will replace only the local state sales tax including additional tax under the Assam GST Act.

CST will continue to be levied on inter-state sales. However, it is proposed to phase out the CST over a period of time.

Advantages of VAT over the existing tax system:

VAT has the following advantages over the existing system:

- (a) **VAT is simpler:-** as there is a fewer rate of tax under VAT computation and compliance become easy.
- (b) **It prevents cascading (tax on tax) effect:-** as there is an input tax credit mechanism, it prevents cascading effect.
- (c) **It improves compliance:-** as the VAT system gives emphasis on self-assessment, it ensures proper compliance.

¹⁰² Revenue Audit Manual on Assam Value Added Tax, THE PRINCIPAL ACCOUNTANT GENERAL(AUDIT) ASSAM GUWAHATI (Apr.03, 2020, 12:05 PM), http://www.agasm.cag.gov.in/forms/audit_report/audit_manual/Value%20Added%20Tax.pdf.

¹⁰³ THE ASSAM VALUE ADDED TAX ACT,2003 (Amended Apr,2005).

- (d) **It is transparent:** as the indicate of taxation is known clearly at each stage, it becomes transparent, the use of computers and e-taxation method makes the system transparent.
- (e) **It makes the exports competitive:** as the goods exported is not taxable under VAT, the export become competitive.
- (f) **It provides a larger tax base:** as the VAT system captures value addition and is taxed at every stage of value addition, it provides a larger tax base.
- (g) **It encourages investment:** as under the VAT regime tax credit is allowed on capital goods, it encourages investment.
- (h) **Use of tax invoice:** owing to the use of tax invoice, the possibility of evasion of tax can be minimized.

8.10 The System of VAT in various countries:-

“The term Value Added refers to the increase in the value of goods and services at each stage of production/transfer of goods or commodities/services. Thus Value Added Tax (VAT) basically means the tax likely to be levied on the value added by an organization at each stage of its rendering services or producing goods (Sarkar, C.R 2005). The VAT was first introduced at the national level in France in 1954. Until 1968 its original coverage was limited and not had reached the broader retail sector. The first full VAT in Europe was enacted in Denmark in 1967”¹⁰⁴.

The System of VAT in India

“The Raja Chelliah Committee constituted in the year 1991 recommended the introduction of VAT in India. State Finance Ministers met on 27th May 1994, to initiate discussion on the reform of domestic trade taxes in India, in particular, the issue of Value Added Tax (VAT), at the instance of the Union Minister of Finance and a committee of State Finance Ministers was constituted on sales tax reforms to examine all the aspects of sales tax reform including introduction of Value Added Tax. The Committee recommended several measures to rationalize the sales tax with the ultimate aim of introducing VAT at the State level. The major recommendations included simplification of the rate structure, minimization of exemptions, and enhancement of transparency. Thereafter, Manmohan Singh, then Union Minister of Finance again invited the state Chief Ministers in December 1995. The major initiative on

¹⁰⁴ <https://www.uscib.org/value-added-tax-rates-vat-by-country/> assessed on 10/5/2020 at 2 PM.

introducing the VAT at the State level was undertaken in the year 1995 when the Finance Minister Manmohan Singh convened a Chief Ministers' meeting and discussed the general terms and conditions of implementing the VAT at the State level. In November 1999 the then Finance Minister Yashwant Sinha convened another Chief Ministers' conference where three important decisions were taken such as a. harmonization sales tax across the States and elimination of unhealthy sales tax war among States b. discontinuation of sales tax related industrial incentive

schemes and c. steps for the introduction of State-level VAT after adequate preparation. An Empowered Committee of State Finance Ministers was set up by the Central Government to oversee the progress of the above-mentioned decisions and make preparations for implementing VAT in India. This Empowered Committee of State Finance Ministers under the chairmanship of Asim Dasgupta brought out an important white paper in 2005 which acted as a base for preparing various state-level VAT legislation in the country. The many Indian States stated to replace the sales tax with State Value Added Tax starting with Haryana in the year 2003 and by December 2008 all States completed this transformation of this tax regime. Starting with Haryana and ending with Uttar Pradesh between 2003-04 and 2007-08 Value Added Tax on goods were implemented in all Indian States and several Union Territories (Gupta Arindam Das, 2012)".

In the year 1991, a high-level committee was established called "(Tax Reforms Committee) TRC headed by Dr. Raja J. Chelliah. The committee recommended a gradual switch over to the value-added tax covering goods and services and the withdrawal of the tax-related incentives. The union finance minister Dr. Manmohan Singh in course of his 1993-94 budget speech observed that our long term aim should be to move to a value-added tax system".

In terms of the resolution adopted in the said meeting, a committee of state finance minister was constituted which after due deliberations submitted its report and recommendation in 1995 to the union government.

Finally, in the conference of chief ministers and finance ministers of the state held on 16th November 1999 the following resolution has been taken:-

- (a) Implementation of uniform floor rates of sales tax from 1st January 2000. By the states and the union territories with the four general floor rates and two special rates for preventing self-defeating & fratricidal rates among the states.

- (b) Phasing out of the sales tax-related incentives from 1st January 2000.
- (c) Completion of the modalities and time France for the introduction of VAT by state governments with effect from the 1st April 2001.
- (d) As the name indicates the “Value Added Tax is a tax on the value added to a commodity or service at each stage of production and distribution processor chain. Vat is nothing but a type of sales tax. It is a tax on the sale of goods”. It is another method of collecting tax on sales.
- (e) The indirect taxation inquiry committee defines value-added tax as “ Value added tax in comprehensive form is a tax on all goods and services(except export and government services) its special characteristics being that it falls on the value-added at each stage from the stage of production to retail stage”¹⁰⁵.
- (f) “According to section 2(56) of the Assam Value Added Tax Act, 2003. Value Added Tax means a tax on the sale of any goods at every point in the series of sales made by the registered dealer with the provision of the credit of input tax paid at the point of the previous purchase thereof”.
- (g) VAT is a multi-stage tax that is levied at different stages where the commodity changes hands but if it is levied only on the incremental value added at each stage, unlike the turnover tax which is levied on the gross turnover of the dealer.
- (h) “Value Added Tax is a tax on every sale with the facility of set-off of tax paid on purchases. It captures the value addition at every stage of production and distribution chain. VAT is an indirect tax on consumption. The final and total burden of the tax is

¹⁰⁵ *Revenue Audit Manual on Assam Value Added Tax*, THE PRINCIPAL ACCOUNTANT GENERAL(AUDIT) ASSAM GUWAHATI (Apr. 03,2020, 12:05 PM), http://www.agasm.cag.gov.in/forms/audit_report/audit_manual/Value%20Added%20Tax.pdf.

fully borne by the domestic consumer”¹⁰⁶. VAT is the modern and the scientific way of taxing final consumption.

Consumers:-

In the case of indirect taxes, the ultimate burden rests with general consumers. Consumer means “Any person who buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person but does not include a person who obtains such goods for resale or for any commercial purpose”¹⁰⁷ (The Consumer Protection Act,1986 & Rules 1987).

Businessmen

“Businessmen play a vital role in the Tax System. The businessman represents the manufacturing and trading dealers who play a crucial role in the VAT system. They collect the tax from the customer and pays back to the government”¹⁰⁸.

VAT Officials:

“VAT officials play the dual role in this field one is the policy formulator and another one is the implementer. Senior-level officials/officers act as the formulator as well as the implementer whereas other officials take the role of implementing the policy in an efficient manner in the area”¹⁰⁹.

¹⁰⁶ THE ASSAM VALUE ADDED TAX ACT,2003 (Amended Apr,2005).

¹⁰⁷ <https://languages.oup.com/google-dictionary-en/>

¹⁰⁸ <https://www.google.com/search?q=businessman&oq=businessman&aqs=chrome..69i57j46l2j0l5.5963j1j7&sourceid=chrome&ie=UTF-8>

¹⁰⁹ Sachin Dave, *Firms looking for a way to change their GST officials*, THE ECONOMIC TIMES, <https://economictimes.indiatimes.com/news/economy/policy/firms-fret-over-raw-gst-officials-seek-to-get-them-changed/articleshow/62386197.cms?from=mdr>.

VAT Practitioners:

“VAT practitioners are experts in academia as well as experts in the professional arena. VAT practitioners also included retired officials who have the expert knowledge and understating of past and present sales tax system. They also played the role during an early stage of the VAT system introduced. Retired officers are those who have the knowledge to compare the present VAT system with earlier sales tax system”¹¹⁰.

Difference between the system of VAT and Sales Tax:-

Points of Distinction	VAT	Sales Tax
Point of Tax	“Multi-point of the tax system under which tax is levied on every sale of a commodity”	Single point and double point tax system
Rebating of tax input	“Set off of tax paid on purchase material on raw materials and machinery”	No set-off of input tax
Declaration forms	No declaration forms. Tax invoices replace forms.	Use of declaration form. (Form-A)
Transparency	Transparent as the exact incidence of tax is known at each stage.	Not transparent.
Cascading effect	VAT frees itself of the malady of cascading (tax on tax) by rebating of tax paid on inputs.	Cascading because of taxation of inputs.

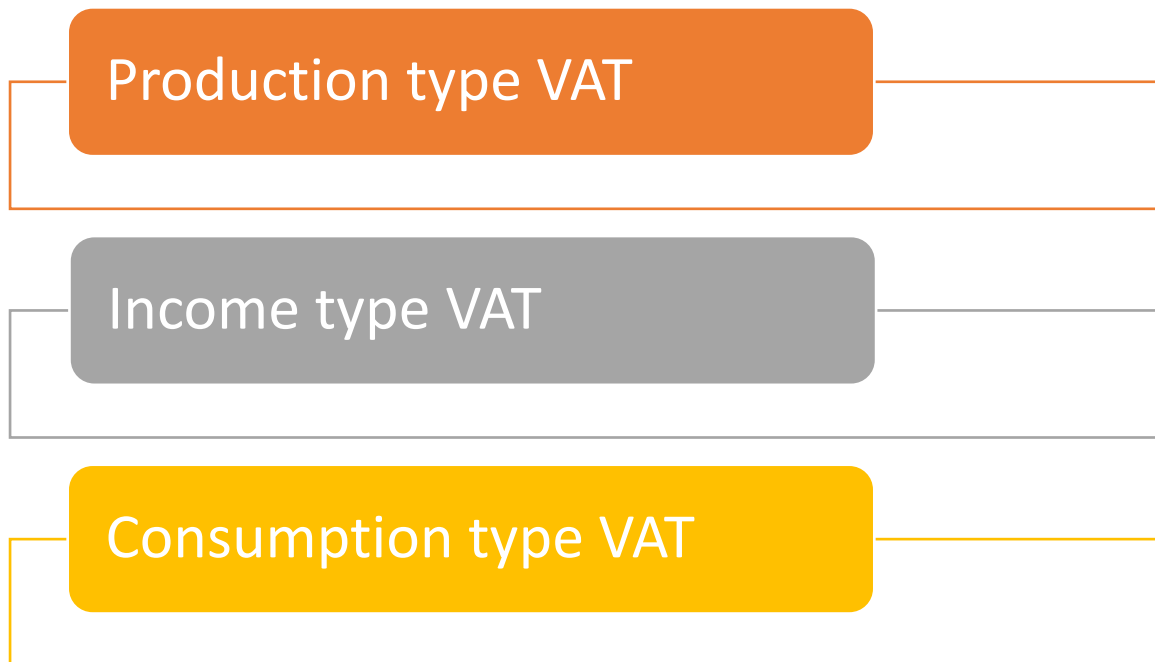
¹¹⁰ Ibid.

Impact on investment	Encourages investment by giving tax credit on capital goods.	Discourages investment by taxing capital goods.
Tax base	Captures value addition at all stages. Hence it widens the tax base.	Does not capture value addition.

Features of a good VAT:-

- (a) VAT should be consumption type i.e. it should be aimed at promoting investment by giving full tax credit against purchases of capital goods.
- (b) It should be levied on the basis of the terminus principle according to which the tax is levied and collected by the jurisdiction in which consumption takes place.
- (c) It should be calculated by the credit method extending to the retail stage. Extension of the tax to the retail stage means that the goods would attract the tax every time they were sold in the state, regardless of whether the sale is at the first point, second, third, or subsequent point.
- (d) It should cover both goods and services.
- (e) Ideally, it should be single rated.
- (f) There should be minimum exemptions.
- (g) It is operated through electronic tax administrative manner, and through computer-generated information.

Types of VAT:-



These are discussed below:-

- (1) Production type VAT: under production type VAT, while calculating the amount of value added by a firm, the value of addition made to capital goods e.g. machinery building, etc. is not deducted from the sales of the firm. Moreover, no depreciation is also deducted. Only the value of purchases of noncapital goods is deducted. In short, the “input tax credit is not available on the tax paid on the purchase of capital goods”.
- (2) Income type VAT:- under income type VAT, while calculating the amount of value added by a firm, deduction of the full value of noncapital goods, and the amount of depreciation on capital goods acquired during the year is “allowed. For tax paid on capital goods, credit is required to be spread over the life of capital assets”.
- (3) Consumption type VAT:- consumption type VAT is a type of VAT under which the firm is allowed to deduct the full value of capital goods along with noncapital inputs while calculating the amount of value added by a firm. For tax paid on capital goods,

full credit is given for tax paid in the year of purchase no adjustment for depreciation is required to be made. Under this system, the basis for taxation is restricted to the value of the production of consumer goods only.

How does the VAT operate:

“VAT system envisages set off of tax paid on purchases. Purchases may be made from within the state or it may be interstate purchase. The full input tax credit is available for tax paid on locally purchased goods only. No input tax credit is permissible for Central Sales Tax (CST) paid on interstate purchases”¹¹¹.

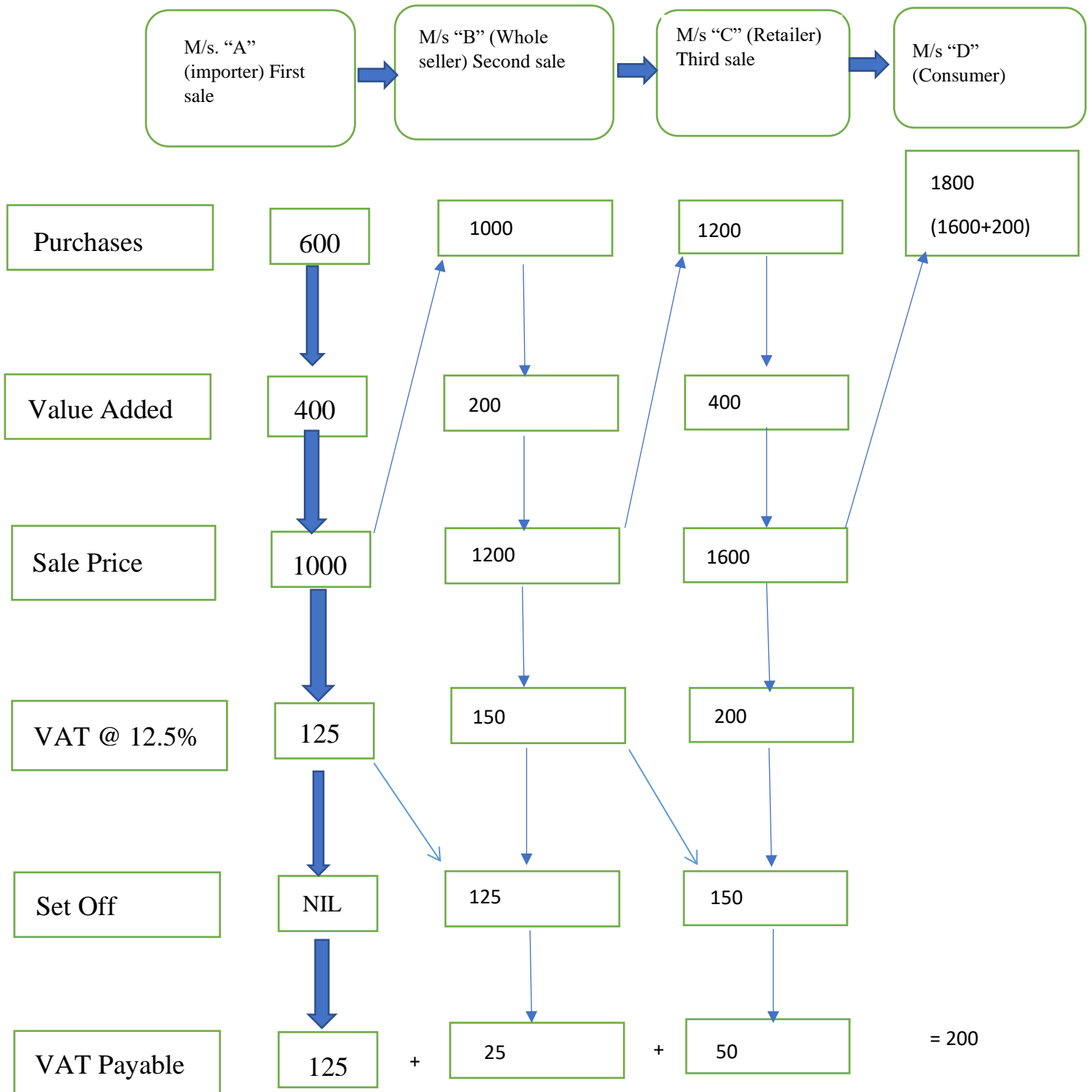
- (a) Therefore, “the importer being the first seller in the state, pays the tax on the full sale price of the goods as in the case of a tax on the first point of sale. The subsequent sellers effectively pay tax only on the value addition done by them”.
- (b) “Under VAT at every stage the seller charges and collects tax on the entire sale value of the goods but he takes the credit of the tax paid on the purchases and remits the differential or balance tax to the treasury. Therefore he ends up paying tax effectively on value addition done by him”¹¹².
- (c) VAT produces a yield equivalent to that of a single-stage last point tax or retail sales tax because the total amount of tax which is to be collected under the last point of sale system is collected in installments or fragments at every stage of sale under VAT and therefore, it is an alternative method of collecting tax installments on each transaction on value addition only.

For example, “a dealer M/s A in Assam imports goods from outside the state, the landing cost of which is Rs 600 the dealer adds the profit margin of Rs 400 and sells the same at Rs 1000 to M/s B. assuming that the commodity is taxable @ 12.5% M/s A would collect and deposit Rs 125 towards tax liability. M/s A is not eligible for any input tax credit as he has not paid any tax inside Assam. Now, M/s B makes a value addition of Rs 200 on the purchase price (excluding tax-as the tax paid on the purchase is shown as an advance payment of tax). Therefore his selling price is Rs 1200 on which the dealer shall collect 12.5% tax amounting to Rs 150 M/s B will take credit of Rs 125 for tax paid on purchases and would deposit Rs 25”.

¹¹¹ <https://www.tax.assam.gov.in/AssamTimsInfo/content/vat.html> assessed on 27/04/2020 at 7PM.

¹¹² Ibid.

The following diagram shows how the VAT system works:



Different rates of tax under VAT:-

The rates of tax to be charged on different types of goods under Assam VAT Act, 2003 have been mentioned in different schedules. Under this Act, the goods are divided into 5 categories as listed in the First Schedule to the Fifth Schedules to the Act.

As per the different schedules to the Assam VAT Act, 2003, there are multiple rates of tax i.e., 0% (exempted), 1%, 5%, 13.5%, and 30%, as given in the table below:

Schedule	Rate of tax	Nature of goods	Point of taxation
First Schedule	Exempt	Some items such as natural and unprocessed items and the items which have social implication e.g. fresh milk, salt, textile, and sugar, etc.	Not Applicable
Second Schedule	5%	Essential commodities (merit goods) ready-made garments, medicine, packing materials and its products, industrial and agricultural inputs	On (Vatable)
Third Schedule	1%	Gold, silver, precious and semi-precious stones, and platinum	On every sale (Vatable)
Fourth Schedule	1% to 30%	Crude oil, coke, petrol, diesel, aviation turbine fuel(ATF), liquified petroleum gas, liquor.	On the first point of sale.
Fifth Schedule	13.5%	Goods not covered by any other schedule and works contract.	On every sale

8.11 GOODS AND SERVICE TAX (GST)

The products and ventures charge (GST) is a worth included assessment collected most merchandise and enterprises sold for local “utilization. The GST is paid by customers, yet it is dispatched to the administration by the organizations selling the merchandise and ventures. Basically, GST gives income to the legislature”¹¹³.

Under Indian taxation principles there exists two criteria – direct tax and indirect tax. When the direct taxes are paid directly out of one’s income, the indirect taxes are paid indirectly from other forms. For example income tax, corporate taxes are the direct taxes whereas the taxes we have paid indirectly in movie theatres, e-commerce transactions are indirect taxes. Generally among the two international taxation principles, India adopted the residence principle¹¹⁴.

Being the primary legislation on income tax that comes under the category of direct taxes; the income tax act is silent about the e-commerce and taxation issues that come within the category of indirect taxation.

In India before 2017, there exists various indirect taxation. By one hundred and first amendment of the constitution of India, there comes one new indirect tax reform in the name of goods and service tax (GST), which subsume all other indirect taxes based on the “one nation, one tax” model¹¹⁵.

Under different categories of GST includes “central goods and service tax (CGST) which subsume all the indirect taxes in the central level, state goods, and service tax (SGST) which is imposed by the state govt. within a particular state by subsuming all state indirect tax. Union territory goods and service tax (UTGST) only for five union territories and interstate goods and service tax (IGST) which is an applicable supply of goods and services” between two states¹¹⁶.

¹¹³ <https://www.investopedia.com/terms/g/gst.asp> accessed on 22/06/2020 at 9AM.

¹¹⁴ <https://cleartax.in/s/how-to-e-file-your-income-tax-return> assessed at 23/06/2020 on 4 PM.

¹¹⁵ [https://en.wikipedia.org/wiki/Goods_and_Services_Tax_\(India\)](https://en.wikipedia.org/wiki/Goods_and_Services_Tax_(India)) assessed on 23/06/2020 on 4PM

¹¹⁶ <https://www.hrblock.in/gst/types-gst-india> assessed on 23/06/2020 at 6PM.

This is how GST has changed the entire indirect tax model and introduced India to a new reformative aspect of taxation. Where GST has impacted all the goods and services where indirect taxes are imposed, therefore it is impacted upon the e-commerce also where indirect taxes are levied.

PROCESS OF REGISTRATION UNDER GST

The process of registration under GST is given below:

- i) Any person who is about to collect the TCS needs to register and for registration, he has to fill up an online GST registration form. (FORM GST REG-07)
- ii) The verification is done by the appropriate officer.
- iii) On satisfying the verification, the proper officer will grant the registration and will give the “registration certificate in FORM GST REG-06 within 3 working days of submission of the form”¹¹⁷.

8.12 CHALLENGES OF PREVIOUS TAX STRUCTURE

“Some of the challenges under the previous indirect tax structure could be attributed to central excise wherein there were variable rates under excise duty such as 2% without CENVAT 6%, 10%, 18%, 24%, 27%, coupled with multiple valuation system and various exemption. Further under VAT different states were charging VAT at different rates, which were resulting in an imbalance of trade between the states. At the same time under VAT, there was a lack of steadiness in terms of muster, due dates of payment, return filling opinion procedures, refund mechanism appellate process, etc, thus complicating the compliance mechanism. For example, a business establishment having offices in different states is required to follow the laws of the respective states”¹¹⁸.

Few such challenges are listed below:

¹¹⁷ <https://www.hrblock.in/gst/gst-registration-ecommerceassessed> on 23/06/2020 at 6PM.

¹¹⁸ Shantanu nandan sharma & suman layak, *GST: The challenges before India's largest indirect tax reform*, THE ECONOMIC TIMES, <https://economictimes.indiatimes.com/news/economy/policy/gst-the-challenges-before-indias-largest-indirect-tax-reform/articleshow/71353710.cms?from=mdr>.

1. “Insignificance of tax assessment of the product, CENVAT was colored in-the-fleece to the assembling stage and didn't reach out to the portion chain past the industrial facility entryway. All things considered, CENVAT paid on merchandise couldn't be recognizable against state VAT payable on consequent clearance of products. This was genuine both for CENVAT gathered on privately created merchandise just as that gathered as the extra obligation of traditions on imported products.
2. While info assessment credit of CENVAT or extra obligation of traditions paid on merchandise was accessible to specialist organizations settling Service Regulatory obligation, they were not able to kill the State VAT or other State duties paid on their acquisition of products.
3. Inter-State clearance of merchandise pulled in the Central Sales Tax (CST) demanded by the Centre and gathered by the States. This was a starting point based duty and couldn't be set-off against VAT by and large.
4. State VAT and CST didn't straightforwardly apply to the import of merchandise on which Special Additional Duties (SAD) of traditions were required at a uniform pace of 4% by the Centre. Information expense credit of these obligations was accessible just to those assembling excisable merchandise. Different merchants needed to guarantee a discount of this obligation as and when they pay VAT on consequent deals”¹¹⁹.

“The merchandise and venture charge (GST) is a circuitous government deals charge that is applied to the expense of specific products and enterprises. The business adds the GST to the cost of the item, and a client who purchases the item pays the business cost in addition to GST. The GST part is gathered by the business or vendor and sent to the administration. It is likewise alluded to as Value Added Tax (VAT) in certain nations”¹²⁰.

¹¹⁹ Ibid.

¹²⁰ Ibid.

8.13 INTERNATIONAL SCENARIO OF GST

“Internationally countries are moving towards simplification of tax structures. the adoption of goods and service tax has been the most important development in several countries over the last half-century. Today it is one of the widely accepted indirect taxation systems prevalent in more than 140 countries across the globe. globally, GST has been structured as an aim based comprehensive tax levied at a particular rate on sale and utilization of taxes of goods and service tax within a country. It facilitates the creation of national tax standards with the consumer paying uniform rates of GST, thereby enabling the flow of seamless credit across the supply chain”.

“GST was first levied by France in 1954. Today, Malaysia is the latest nation to join the fleeting trend. In countries where GST has been adopted, manufactures, wholesalers, retailers, and service providers charge GST at the specified rate on the price of the goods and services from customers and claim input credit for GST paid by them on procurement of goods and services (raw materials)”¹²¹.

Globally, the board principles of GST are as under:

- i) “GST is a broad-based tax”
- ii) “GST is a destination-based tax”
- iii) “GST is technically paid by suppliers but it is actually funded by consumers”
- iv) “GST is collected through a staged process i.e a tax on the value added to goods or services at every point in the supply chain”
- v) “GST is a tax on the consumption of products from business sources, and not on personal or hobby activities”
- vi) “Under GST input tax credit is provided throughout the value chain for creditable acquisition”.

Which country collects the GST?

¹²¹ <https://economictimes.indiatimes.com/small-biz/policy-trends/top-5-challenges-faced-by-tax-accounting-professionals-due-to-gst/articleshow/59436292.cms?from=mdrassessed> on 24/06/2020 at 6PM.

“France was the first country to implement the GST in 1954, and since then an estimated 160 countries have adopted this tax system in some form or another. Some of the countries with a GST include Canada, Vietnam, Australia, Singapore, United Kingdom, Monaco, Spain, Italy, Nigeria, Brazil, South Korea, and India”.

How did the GST Systems work?

“Most nations with a GST have a solitary bound together GST framework, which implies that a solitary assessment rate is applied all through the nation. A nation with a bound together GST stage blends focal expenses (for example deals charge, extract obligation expense”, and administration charge) with state-level assessments (for example excitement charge, section charge, moving charge, sin expense, and extravagance duty) and gathers them as one single assessment. These nations charge for all intents and purposes everything at a solitary rate.

Double GST Structures: Canada

Just a bunch of nations, for example, “Canada and Brazil, have a double GST structure. Contrasted with a brought together GST economy where duty is gathered by the central government and after that appropriated to the states, in a double framework, the bureaucratic GST is applied” notwithstanding “the state deals charge. In Canada, for instance, the national government imposes a 5% duty and a few territories/states likewise demand a commonplace state charge (PST), which shifts from 7% to 10%. For this situation, a shopper's receipt will plainly have the GST and PST rate that was applied to his” or buy esteem.

All the more as of late, the “GST and PST have been consolidated in certain areas into a solitary duty known as the Harmonized Sales Tax (HST)”. Ruler “Edward Island was the first to embrace the HST in 2013, consolidating its government and common deals duties to a solitary duty at 14%, which was brought to 15% up in 2016. From that point forward, a few different areas have stuck to this same pattern, including New Brunswick, Newfoundland and Labrador, Nova Scotia, and Ontario”.

8.14 COMPARISION OF GST WITH OTHER COUNTRIES:

GST India Vs GST New Zealand.

In New Zealand, the GST came in the year 1986, and from that point of time, the GST is applying the charges “on everything at a solitary and steady rate which is 10% till 2010. The

rate” of GST has been increased from 10% to 15%. “There is no GST on private rents and” monetary administration.

GST India Vs GST Singapore.

“Singapore likewise pursues the single and predictable rate framework on each buy. GST was started in Singapore in 1994 with the level GST pace of 3% which was most minimal in the market. With impact from 2007, the GST rate has been expanded to 7% which is still less contrasted with GST paces of India”¹²².

GST India Vs GST Indonesia

“In Indonesia, imports are dependent upon VAT and GST, yet the majority of the fares are excluded from its rundown. The assessment rate is 10% if the administrations are provided out of Indonesia by remote citizens, and certain things are exhausted at 20% with the top of 35%. The extravagance charge which is relevant to import is 10% to half. The greater part of the things like gold, mining items, expressions and excitement, training, protection, stopping, open vehicle, restorative wellbeing, work, inn, budgetary, nourishment, and refreshment served in lodgings are not liable to pay any VAT”.

GST India Vs GST China

“After the European and Asia Pacific market, China has kept up the GST applications over products and the molded arrangement of fixes, preparing and substitution helped administrations, which likewise implies that it is restrictedly gathered on merchandise which is expended in the assembling procedure as the fixed resource merchandise and an administration charge in an outside nation like China isn't under recoverable terms. There are three expense rates; which incorporate 0%, 5%, and 19%”¹²³.

¹²² <https://blog.saginofotech.com/gst-india-vs-foreign-gst> accessed on 25/06/2020 at 11AM.

¹²³ Ibid.

GST India Vs GST Australia

“Setting off to the far shores, in Australia, the GST is a government charge which is gathered by the preeminent power and in this manner isolated further among the states with no contention emerging through the procedure. The GST was right off the bat presented in 2000 with the assessment pace of 10% which is predictable to date”¹²⁴ .

GST India Vs GST Canada

“Presently looking to Canada model of GST, the nation oversees the tax assessment system under 3 plans for example Government GST, Joint bureaucratic and separate administrative. Government duty is a commonly acknowledged assessment framework while joint administrative keeps running based on the synchronized conduct of the economy and states and the last one separate bureaucratic which just applies to Quebec as it is considered as a semi-autonomous territory. The GST rate in Canada is 5% on provisions of products and enterprises and in certain regions, there is a fit deals charge which is 15%.”¹²⁵

GST India Vs GST Brazil

“Discussing the Brazil model of GST, it is a lot of free and joyful in contrast with different countries and has a partitioning standard of expenses between the states and the middle. Brazil has six duty chunks which are 0%, 1.65%, 2%, 7%, 12%, and 17%”¹²⁶.

GST India Vs GST USA

“The US is an administrative republic where assessments are gathered at a different level from bureaucratic, state, and neighbourhood governments. Here the administrative assessment rates are somewhere in the range of 10% and 39.6% of assessable salary while state and

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.

neighbourhood government is charging the expense from 0% to 13.30% of complete assessable pay”.

GST India Vs GST UK

“In the UK there are three expense rates including 0%, 5%, and 20% relevant on products and enterprises. The majority of the merchandise is secured under 20% duty rates. The VAT on postage stamps, money related, property exchanges, most nourishment, and kids' garments are excluded from any assessment”.

GST India Vs GST France

“GST has been initially actualized in France in 1954 with 4 assessment rate sections. The rates here are chargeable in the chunk of 2.1%, 5.5%, 10%, and 20%. Among the expense rates, 20% is the standard rate appropriate to the greater part of the products in France”.

GST India Vs GST Ukraine

“In Ukraine, there is a standard assessment rate which is 20%, and the VAT worth is added to the expense of Goods and administration cost. There is a portion of the provisions that are likewise liable to lower rates under 0% and 7%. By and large, a 7% rate is relevant to pharmaceutical items, drugs, and medicinal hardware while the fare of merchandise and enterprises pull in 0% VAT”.

GST India versus GST Malaysia

“GST has been actualized in Malaysia with impact from 1 April 2015 with a reliable pace of 6%. Here, Sales duty and administration expenses are classified by various assessment rates which are 10% and 6% individually. A portion of the things like channeled water, initial 200 units of power for every month, transportation administrations, parkway toll and wellbeing administration are absolved from tax assessment”¹²⁷.

¹²⁷ <https://www.gstindia.com/gst-models-and-cgst/> accessed on 25/06/2020 at 10AM.

8.15 MODELS OF GST:-

“Although most of the countries have adopted similar principles of GST, there remain significant differences in the way it is implemented. These distinctions result not just from the proceeded with the presence of discharge and uncommon courses of action to meet explicit strategy destinations, yet in addition from contrasts of methodologies in the meaning of the locale of utilization and subsequently of tax assessment”. Also, there are various variations in the utilization of GST, and other utilization of expenses including diverse translation of the equivalent or comparative ideas; various ways to deal with the time of supply and its communication with a spot of supply; the distinctive meaning of administrations and intangibles and conflicting treatment of blended supplies

In this world different countries follow different models of the GST, based on their requirements, legislative and their administrative structure. Below you can see which country follow the model as per their requirement:-

- i. We can see in the Australian model that the tax is collected by their central government and collection of taxes they distributed the taxes to their states.
- ii. We can also see in the Canadian model that there are 3 different types of Taxes.
- iii. “Kelkar-shah model which was based on the Canadian model where the taxes are collected by the centre/ central government, however, the two different rates of taxes are levied by the centre and the states”.
- iv. “Bagchi-Poddar model which envisages a combination of central excise, service tax, and vat to make it a common base of GST to be levied both by the centre and the states separately”¹²⁸.

“Most countries follow a unified GST regime. However, considering the federal nature of the Indian constitution dual model of GST was proposed, where the power to levy taxes would be subjectively distributed between the centre and states thus GST will be levied by both the center and states, and there will be separate levies in the form of central goods and service tax (CGST), state goods and service tax (SGST) and Integrated goods and service tax (IGST) enabling the

¹²⁸ Ibid.

tax credit across these three variants of taxes. Currently, nowadays Brazil and Canada also follow a dual GST model”.

***MODEL OF GOODS AND SERVICE TAX(GST)**



GST IN INDIA:-

“GST is one of the fundamental tax collection changes in India planning to included state economies and lift in general development by making a solitary, brought together Indian market to make the economy more grounded”. GST is a finished reason-based backhanded assessment duty of merchandise just as administrations at the national level. It is primary expect to solidify numerous roundabout assessment demands into a solitary duty subsequently subsuming a variety of expense demands, beating the confinement of existing backhanded assessment structure, and making efficiencies in charge organization

“GST is based tax levied on the basis of the Destination principle it is a comprehensive tax regime covering both goods and services, and be collected on value-added at each stage of the supply chain. Further, GST paid on the procurement of goods and services can be set off against that payable on the supply of goods or services imposed at each point of supply. GST is a national level tax based on value-added principle just like state-level VAT which was levied as a tax on the sale of inter-state goods”¹²⁹.

The substance of GST is in evacuating the falling impacts of both Central and State charges by permitting setting-off of assessments all through the worth chain, directly from the first maker and specialist co-op point up to the retailer's level. GST is thus not simplified “VAT plus service tax, but a major improvement over the existing system of VAT and disjointed Service

¹²⁹ <https://www.gstindia.com/gst-models-and-cgst/> accessed on 25/06/2020 at 10AM.

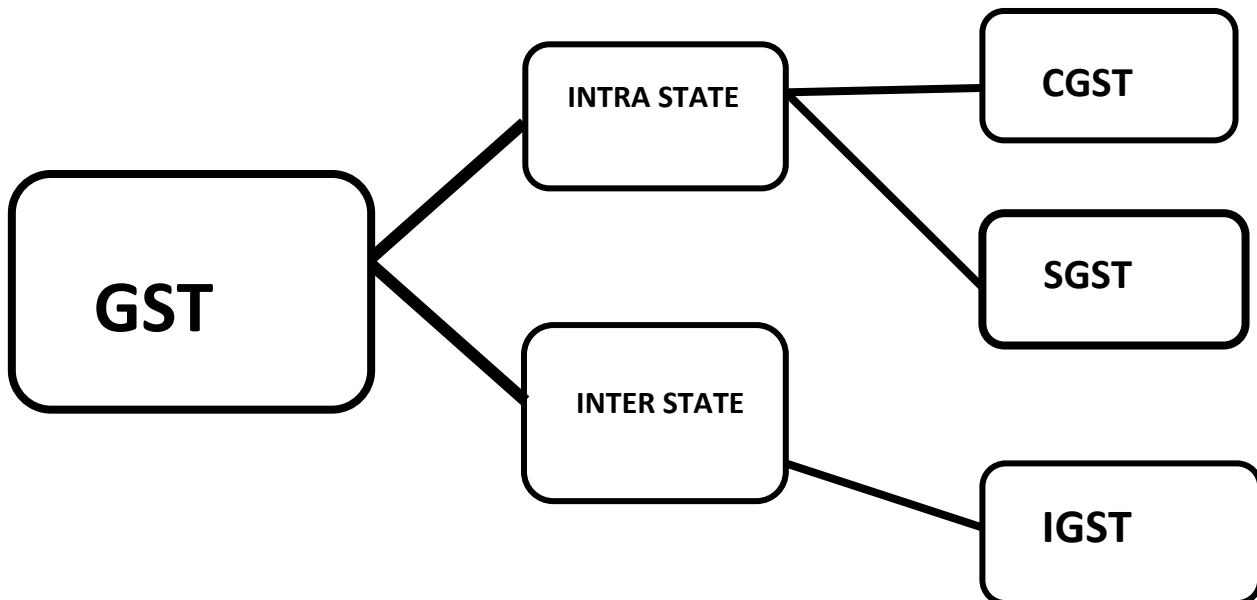
tax ushering in the possibility of a collective gain for industry, trade and common consumer as well as for the central government and the state government”¹³⁰.

“GST as a well-designed value-added tax on all goods and services is the most elegant method to eliminate distortions and to tax consumption”¹³¹.

Levy of GST

“GST is a levy on the supply of all goods or services, both apart from supply of hard liquor for human consumption. natural gas and aviation fuel have temporarily been kept out and the GST Council shall decide the date from which they shall be included in GST. Electricity has also been kept out of GST”.

“The structure provided under GST is dual in nature and under this the center and the states concurrently levy a tax on a common base. The GST levied by the center on intra-state supply of goods and /or services is called the Central GST(CGST) and that levied by the states/union territories is called the state GST (SGST)/ UTGST. Similarly, Integrated GST (IGST)is levied and administered by the centre on every inter-state supply of goods and services”.



¹³⁰ [https://en.wikipedia.org/wiki/Goods_and_Services_Tax_\(India\)](https://en.wikipedia.org/wiki/Goods_and_Services_Tax_(India)) accessed on 25/06/2020 at 11 AM.

¹³¹ Ibid.

LIABILITY UNDER GST

“Under the GST regime, liability to pay arises when a person crosses the turnover threshold of Rs.20 lakh (Rs. 10 lakhs for north-eastern and special category states)except in certain specified cases where the taxable person is liable to pay GST even though he has not crossed the threshold limit. The CGST /SGST is payable on all intrastate supply of goods and services and IGST is payable on all inter-state supply of goods and services”.

“A composition scheme which is mainly devised for small taxpayers provides the concessional rate of tax and filing of quarterly return instead of monthly return. To be eligible for registration under composition scheme it is required that the aggregate turnover of a registered taxpayer should not exceed Rs 75,00,000/- in the preceding financial year”.

8.16 EVOLUTION OF GST IN INDIA:

The GST came into force in India in the month of 17th July,2000. when the government of India set up a committee of the finance minister of the central government “with the state finance minister of West Bengal, Madhya Pradesh, Punjab, Uttar Pradesh, Gujrat, Karnataka, Maharashtra, Delhi, Meghalaya” is the member of the body with the following objectives:

The various objectives are as follows:-

- 1) To monitor the execution of various taxes of various states and union territories
- 2) To see the changes in the CST system active in the country.
- 3) To see the sales tax based schemes and to decide the achievements of the states over the VAT system.

“On August 12, 2004, the government of India decided to reconstitute the empowered committee with all the Honourable state finance and taxation minister. GST has been in the pipeline for a long time, for its passage and implementation”.

Here you can see the journey of the GST in India and also you can see the key milestone of the GST which changes the tax structure in India.

2003: “The Kelkar task force on indirect tax had suggested a comprehensive good and service tax (GST) based on the VAT principal”.

2007: - “In February an announcement was made and then honorable finance minister in the central budget (2007-08) to the effect that GST would be introduced with effect from April 01, 2010”.

2009: - In November 2009, the Government of centre and states has made a decision to discuss on GST

2011: - “In March 2011 the 115th GST bill was introduced in the parliament. The bill was lapsed in 2014 and was replaced with the constitution (122nd Amendment Bill) 2014”

2013: - “In November 2013 the election commission has made a certain recommendation on the bill after its meeting in a shilling. Certain recommendation of which were incorporated in the draft constitution (115th Amendment) Bill and the revised draft was again sent to the election commission for its consideration”.

2014: - “The draft constitution amendment bill in March 2014 was send to the Empowered Committee after approval of the new government”.

2015: - “In May 2015 the constitution amendment (122nd) bill was passed by Lok Sabha on May 06, 2015”

2016: - “On August 03, 2016, the constitution (122nd Amendment) Bill 2014 was passed by the Rajya Sabha with certain amendments. The changes made by the Rajya Sabha were unanimously passed by Lok Sabha on August 08, 2016”.

“In September the bill was adopted by the majority of state legislatures wherein approval of at least 50% of the state assemblies was required”.

The final ascent of Honourable President of India was given on 8th September 2016

2017:- In parliament passed the following four bills:

- i) “Central goods and services tax (CGST) Bill”.
- ii) “Integrated goods and services tax (IGST) Bill”.
- iii) “Union territory goods and service tax (UTGST)Bill”.
- iv) “Goods and service tax (Compensation to States) Bill”.

“India is the hub of taxes where people pay many taxes which creates confusion for them. Presently we pay two types of taxes i.e. Direct and Indirect in various sectors. Direct Tax paid

directly to the government by the taxpayer, i.e. Income Tax, Wealth Tax, and Corporation Tax. Indirect Tax is a tax levied on goods and services rather than on income or profits. It is not directly paid to the government but collected from intermediaries from the person who bears the ultimate economic burden of the tax (such as consumers). The intermediary later files a tax return and forwards the tax proceeds to the government with the return for example Sales Tax, VAT, Excise Duty, and Customs Duty and so on”.

ORIGIN OF GST in India:

“GST is a blanket of Indirect Tax that will subsume several indirect state and federal taxes such as Value Added Tax (VAT) and Excise Duty and different State Taxes, Central Surcharges, Entertainment Tax, Luxury Tax and many more. GST was firstly introduced in France in 1954, with the introduction of GST France became the first country ever to introduce GST. Its introduction was requiring because very high sales taxes and tariffs encourage cheating and smuggling”.

“After France, it was adopted by 165 nations. Now, India has implemented it on 1st July 2017 and has become the 166th nation to adopt it In India before 16 years, in 2000 Shri Atal Bihari Vajpayee brought this system but no one paid heed on it and due to political reasons, it was not passed. On 28th February 2006, finance minister P. Chidambaram had announced the target date for implementation of GST as of 1st April 2010”.

“In past, we paid 30% to 35% tax on different things but with GST it’s only 18%, which shows it is beneficial and one main thing that GST will remain comparative in all country GST has changed the entire situation of current Indirect Tax. It consolidated all Indirect Taxes under one umbrella and aided in making of smooth market. GST made a solitary uniform market that advantages both the corporate segment and the Indian economy”.

8.17 CONSTITUTIONAL AMENDMENT

In the year of 2006, the union government has introduced the GST in India, the government has also made a proposal that the GST should be divided into 2 parts and they are as follows:-

- I) “CENTRAL GOODS AND SERVICE TAX”

II) “STATE GOODS AND SERVICE TAX”

The election commission has recommended the aforesaid the Dual GST system. This necessitated an amendment of the Constitution of India so as to empower both the Centre and the States to levy and collect GST in terms of the proposed structure.

IMPACT ON VARIOUS SECTOR

The various impact of GST on the various sector are as follows

(a) Banking sector

As we know in “India banking sector is one of the largest sectors in India”, currently, the services are taxable @ 15%, GST will not be chargeable on the deposit

(b) Electronic Industry

“This industry is peculiar in nature due to the reason that its production is highly fragmented, with intermediate inputs from a variety of countries being assembled together before being sold as final goods to consumers. large corporations shift part of their value chain to a low-cost location especially creating opportunities for the developing economies”.

India’s contribution to this sector in the international segment is comparatively low which is about 1.5% of global output.

(c) Information technology sector

In this sector, the companies are set up under the special economic zones (SEZs). Such companies get their output without paying any type of taxes. However, in the GST law, the benefit of exemption of inputs to SEZs would be through a refund mechanism. This will entail additional working capital and will adversely affect this sector.

(d) Mobile industry

“This industry is enjoying the differential duty structure under the current regime. The absence of these incentives could put at risk a manufacturing industry that is worth Rs.54000 crore now and is set to grow to Rs.94,000 crore by the end of this fiscal year”.

8.18 IMPACT OF GST ON SMALL ENTERPRISES

“At present, the total tax collection in India is around 145 lakh crore, out of which 34% is the Indirect Tax. Indirect tax includes the service tax, stamp duty, customs duty, Value Added Tax, etc. It refers to the collection of tax indirectly by the Government of India. In most of the developing countries, the share of indirect tax is higher than the direct tax. However, in developed countries, the share of indirect tax is much lower. Therefore, the new GST implementation will allow the government to have a better grip on the taxpayers. This should be capable of evolving the entire tax system”.

“Indian economy for decades. It is further evident from the fact that today we have around 3 million Small Enterprises in India contributing almost 50% of the industrial output and 42% of India’s total export. For a developing country like India and its demographic diversity, Small Enterprises have emerged as the leading employment-generating sector and has provided balanced development across sectors. Let’s examine what would be the impact of GST on Small Enterprises”.

“All the compliance procedures under GST — Registration, Payments, Refunds and Returns will now be carried out through online portals only and thus Small Enterprises need not worry about interacting with department officers for carrying out these compliances, which are considered as a headache in the current tax regime”.

In this table, we have shown the positive and negative impact of GST on Small Enterprises in India:-

Basis	Positives	Negatives
Registration	In the case of online registration, the certificate of registration will be provided timely and there will be no lapse of the rules and regulation.	In India the Small Enterprises do not “have the technical support to deal with the online registration, thus most of the” Small Enterprises hire intermediate to do the registration for them.
Payment	The electronic payment brings transparency and there will be no hidden cost.	“Since the funds are to maintained in electronic

		form”, it may result in a shortage of cash.
Refund	The refund of the electronic procedure is quite simple and it will be “directly transferred to the account of the small enterprise”.	The Small Enterprise can claim the return after the filling.
Returns	The return of the Small Enterprise will be filed electronically and the adjustment will be made	Every registered taxpayer will have to pay a minimum of 37 returns during a financial year. “This small enterprise will have to deploy additional resources and this results in an increase in compliance cost”.

DIRECT IMPACT OF GST ON SMALL ENTERPRISES

“GST will help and ease the process of starting a business in India. Earlier, every business in India was required to obtain VAT registration, which differs in every state, and the rules and regulations are different. Thus, it was a very confusing procedure. However, under GST, the businesses have to only register for GST which will have a centralized process, similar to service tax”.

“Currently, for any business, it is mandatory to make a VAT payment if the annual turnover is more than 5 Lakh in few states and 10 Lakhs in few other states. This difference in various states creates confusion. Under GST a business does not have to register or collect GST if the annual turnover is 10 Lakh. This is applicable to every state. This will allow many small businesses that have a turnover between 5 Lakh – 10 Lakh to avoid applying for the GST return. GST allows small businesses to do business with ease in India, due to the less complexity. The distinction between the services and goods will be gone, and this will make compliance easier”.

“Several policy interventions along with technology and innovation will continue to play a vital role in creating a business-friendly atmosphere for the SMEs. No doubt that GST is aimed to increase the taxpayer base, majorly SMEs into its scope, and will put a burden of compliance

and associated costs to them. But in the long run, GST will turn these SMEs more competitive with a level playing field between large enterprises and them. In fact, recently the government has also formed a special committee to look after the issues faced by the MSME sector in GST. It is urged to the industry that they proactively highlight the above issues and obtain the relief prior to the advent of GST as once GST is implemented; the chances of respite would be very minimal for the sector. Furthermore, these Indian SMEs would be able to compete with foreign competition coming from cheap cost centers such as China, Philippines, and Bangladesh”.

CHAPTER – IX

9. CONCLUSION

“Small Enterprises occupy an important place in the Indian Economy. These industries are contributing half of the total industrial production in India and provide a gainful economic activity to more than five times the number of people employed in the large and medium-sized industries in the country”. Economic development is very important in terms of a country becoming self-sufficient in various aspects. There are various facets of economic development in a country. It can be brought about both by direct and indirect methods taken by the government. Some of the direct methods include the maximization of the utilization of natural resources, increasing job opportunities, infrastructural facilities, etc. Some of the indirect methods include giving subsidies, schemes, etc. The basic aim behind this is to bring about maximum economic development in the country. The Indian economy has been completely destroyed by the pandemic situation of the Covid-19. Every economy which relates to the GDP of the Indian economy has been completely destroyed. The pandemic situation and the lockdown has hit the Indian economy very badly. As we know the India import nearly 55% of the electronic items from china. Imports has been decreased by 40% due to the outbreak of the corona virus in china. To tackle this problem India has started the home production to reduce the dependency in china. The nationwide lockdown has made a great impact on the agriculture sector. The markets are completely lockdown due to the outbreak of the corona virus for this reason the farmers are not able to sell their agriculture product to market.

Due to this outbreak it has completely shut down the hotels, restaurants and the tourism industry. The demand of this industry are decreasing day by day. Owners of this industry are struggling to recover the fixed cost. There is no demand of the hotels from last 5 to 6 months. Tourism industry has hitten very badly as because people have restricted their movements. It has estimated that the tourism and hospitality industry has incurred a loss of \$2.1 billion for march and April alone.

Due to the pandemic situation the e-commerce industry like amazon, flipkart, mintra, etc. are unable to deliver their product due to the absence of the man power and the lack of transport facility. They are not accepting the new orders they are accepting the new orders on the priority

basis. due to the outbreak of the corona virus the construction work of different sites have been stopped and it was estimated that there will be a job loss of 30% employees.

All the school and the educational institute are closed due to the pandemic situation of the Covid-19 cases. In India there are 39931 colleges and 933 universities are there from the data of 2018-19. During the crucial year of the academic session all the school colleges are locked. In higher education, most higher education are not fully geared to implement online learning.

The Finance Minister of India Smt. Nirmala Sitharaman has presented the Union Budget of India 2020, on February 01,2020. Everyone has the eye on the budget, what are the changes is going to be made during this financial year and what are the taxing slabs for this year. She also mentioned that the changes are made in the GST are procedural and it mainly “focused to end the fake invoicing. These GST legislative changes in the Finance Bill 2020 was later called as Finance Act,2020”. She also announced that she should make some changes in the Custom Law and Foreign Law to boost the changes in the Indian economy that will also encourage the export sector also.

The Finance Bill 2020 will later become the Act (The Finance Act 2020), after receiving the consent from the President of India.

Some Amendments are:-

1. The person who are benefited form the fake ITC or who are involved in the fake ITC shall be penalized with the 100% of the tax involved.
2. The powers also provided that if the TDS certificate is not provided then the late fee will be 200 per day which will be extend up to 5000, for the non-issuance of the TDS certificate.
3. According to source a new provision is also inserted that, there will be a voluntary cancellation of the GST registration for distinct persons.
4. Ladakh is also inserted in the definition of the Indian territory.

During the budget session of the 2020 some new changes are made according to the sources, the new system will come into effect from the 1st April 2020. The government of India has recommended some changes to the GST law and its corresponding rules on the GST returns.

“The approval must be needed from both the houses of the parliament and accordingly it will be placed during the Union Budget 2020. The new returns forms are RET-1, RET-2 along with the ANX-1 and ANX-2 which will be replaced the regular returns in GSTR-1 and GSTR-3B”.

The GST council has simplified the GST returns and it has made non-mandatory for the small tax payers.

The government of India may also look forward to reduce the rate of the import duty in the budget of 2020.

One of the most effective methods to support small enterprises in terms of economic development is through the tax incentives provided by the government. It is a system of getting benefits from the tax structure of the country which is in the form of encouragement or provocation towards a particular economic activity. The tax incentives help to improve the existing condition of the small enterprises by providing a kind of financial help to the people working in the enterprise as a whole and the small enterprise as an institution.

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