
INTERPLAY BETWEEN GST AND DOCTRINE OF PITH AND SUBSTANCE

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ABSTRACT

The countries around the globe are making tremendous progress in establishing themselves a self-sufficient and sovereign state. With the increased technological advancements and worldwide movement towards sustainable development, there is a crucial need to balance the various internal affairs of a country so as to ensure efficient governance and healthy fiscal relations. A government requires strong financial stability in order to carry out the administrative functions smoothly. Therefore revenue collection and distribution must be harmoniously construed within the country. As a move towards it, a standard tax regime was launched to establish one uniform tax throughout the country and eliminate other trivial taxes. The Goods and Service tax introduced in 2017 aims to facilitate the distribution of revenue between the centre and states without any disparities and uniform allocation of resources. The Constitution (One Hundred and First Amendment) act, 2016 inserted article 246A which created the provision to impose the GST by the parliament and concerned state legislatures of India. Here the doctrine of pith and substance would enable us to demarcate the fiscal powers between the centre and states and thereby uphold the spirit of fiscal federalism. This presentation provides an overview of how doctrine of pith and substance is interpreted in harmonizing financial relations in a federation.

I. Introduction

Financial stability plays a pivotal role in regulating the functions of the government. If the economy of a country topples, it may lead to undesirable consequences affecting the citizen's normal life. Therefore harmonizing financial relations and balancing the various revenues and expenditures of a country is indispensable in this regard. When it comes to a federal setup, there has to be a sturdy bond between the centre and state for the welfare of the nation. Apart from the distribution of legislative and administrative powers, the financial resources and responsibilities ought to be shared between the both in order to strengthen the integrity of the nation. Major disputes among the centre-state arise on the grounds of legislative powers and financial matters. The disputes pertinent to legislation and administration are resolved with the aid of statutes whereas financial matters are to be solved with the help of government policies and regulations implemented by the central monetary authority. This approach enhances the spirit of co-operative and fiscal federalism so as to abide by the Constitution of India.

II. Fiscal history of India

Fiscal federalism is a concept dealing with the understanding of governmental functions in association with the financial relations between the different levels of government within a federal setup for division of responsibility pertinent to revenue, expenditure and taxation. The indirect taxation system that prevailed before the introduction of Goods and Service tax, had distinct flaws and carried the burden of tax-on-tax. It was fragmented and unorganized as the tax levied by the different layers of government piled up on the same commodities leading to overburdening of tax. The Constitution set out outlines for the taxation powers of the centre and state, marking the individual spheres where they had authority to levy tax and collect revenues, but then there was a lack of joint occupancy in tax fields. The centre and state act independently when it comes to imposition of taxes without coordinating amongst themselves which led to the cascading effect of taxes. This in turn reflected its effect over the economy by increasing the cost of production of goods and inflating the price levels. These undesirable consequences signify the need for harmonising financial relations in a federal structure.

Need for the harmonization of fiscal relations

The need for harmonisation of the fiscal relations traces its origin back to the pre-GST era where the cascading effect and multilayer taxation system affected the economy over decades. Though the centre is implicitly in a superior position than the state, the sovereignty of both need to be preserved so as to ensure healthy transactions between the centre-state. Therefore the relations between the centre and state need to be coextensive with each other. Be it in administration or legislative powers or financial matters, the independence of centre and state must exist without infringing or violating each other that in turn promotes effective governance and benefits the society. The fiscal federal structure distributes financial powers to the layers of government synonymous to the seventh schedule of the Constitution where the subject matter for law making is divided between the centre and states. There exists a concurrent list for joint law making power but as far as fiscal relations are concerned there was no such provision in existence until the Constitution (One Hundred and First Amendment) Act, 2016 that introduced GST replacing the entire indirect taxation system. Therefore the complexity of taxes was minimized and the system paved the way for one country, one tax system. Through this tax regime, the centre and state are bound to exert their cooperation concerning the financial matters and its success relies greatly on their coordination. This revolutionary tax reform was a milestone in enhancing the fiscal relations and the states and centre came together to contribute to this historic reform.

III. The One Country One Tax system

The introduction of Goods and Service tax is considered to be the single greatest tax reform in fiscal history of India. After overcoming the compounding effects of taxes on top of taxes, a unified tax system emerged replacing the multiple taxation systems prevalent over the country. This unified tax system subsumed various other taxes and was set to be levied by the centre and state respectively for all goods and services throughout the country. The GST eliminated all disparities in the levy of tax by unifying it under a single taxation system. The burden of multiple taxes was reduced and organised the process of revenue collection and distribution between the centre and state thereby promoting a healthy financial relationship between the two. GST follows a dual tax model i.e. the Central Goods and Service Tax or CGST and the State Goods and Service Tax or SGST. This model allows the centre and state to levy tax on all goods and services with a few

exceptions that do not fall under the ambit of GST. In matters of inter-state transactions, the Integrated Goods and Service Tax or the IGST is levied by the central government and distributes it to the states. Here there is a scope of joint occupancy in tax collection and it is not entirely favouring one layer of the government. It faced a lot of criticism and boycott all over the country for making a new model tax reform and also there was a resistance to change to the new regime of taxation. But then it was a game changing move which aimed in strengthening the financial relations between the centre-state and disorientation of the fiscal federalism was brought back on track

IV. Ambit of law in harmonizing fiscal relations

The Constitution of India has imparted various principles and doctrines from different countries to create a complete law of the land. Through efficient interpretation and application of the law, various disputes have been resolved and the law itself being a dynamic entity has been subjected to various amendments intending to make profound changes in the nation. The role of legislation and statutes play a major role in establishing order and peace in the society. Any disputes arising out of the same are dealt in courts and construed in such a way that there is no confrontation between the centre-state. In this regard, the doctrines such as harmonious construction, pith and substance, repugnancy and territorial nexus are distinctly used to demarcate the spheres of influence of the levels of government. Each has their own significance in resolving issues relevant to it and the application factor of these doctrines differ according to the situation. Hence doctrines are indispensable in maintaining healthy relations and cohesive functioning of the centre-state. The contention to be made here is that these doctrines can also be effective in developing the financial relations between the centre and the state. The interpretation of the doctrines aren't restricted to a particular limit thereby allowing it to span its wings in application to various affairs of the state. It is kind of a deductive approach in studying the interplay between the doctrines and GST.

V. Interplay between doctrines and financial relations

The doctrine of harmonious construction is essentially a basic one that provides for the mutual coexistence of the centre and state during dispute and settle the same without counteracting each other. The well-known example for the same is the harmonious construction of the fundamental

rights and directive principles of state policy stated in the Constitution of India. The same applies to the legislative relations between the centre-state and can also be imparted in regulating the financial relations. The doctrine tries to resolve the issues amicably failing of which the doctrine of pith and substance enters into action. Doctrine of pith and substance examines the true nature of law involved in a particular issue and is helpful in understanding the true reason behind its arousal. Problems and challenges need to be analysed thoroughly to identify the root cause and suggest apt solutions to the situation. Harmonizing financial relations also demands such principles to be effectively executed in the nation so as to enrich the fiscal structure and relations between the centre and states. The balance is so crucial for a federal country to elevate the standards of governance and public administration. The government runs on the wheels of public revenue and income through various taxes which is in return reflected in the development of the country. The government expenditure and spending must be directed towards sustainable development which is possible only when there is a bonded financial relations between the centre-state.

VI. Pith and substance of GST

On analysing the doctrine of pith and substance in relation with the introduction of GST, the government has made optimum use of the doctrine by finding the true essence and essential need for a tax reform instead of the prevailing fragmented taxation system. The pith and substance of the tax reform is the unification of existing taxes and elimination of tax-on-tax burden. This interpretation of the doctrine adds more sense to the establishment of GST as an alternate tax regime. The criticism and comments on the inefficiency of GST is being worked on so as to harmonize the current system without any disparities. The repugnant areas are being modified and GST is being enhanced year after year. The GST council, constituted by Article 279A of the Constitution of India, ensures the harmonious functioning of centre and state relating to different aspects of GST thereby levelling up the financial relations between the centre-state. The reforms in the field of taxation and the efficient functioning of the financial institutions have already started to make progressive responses in establishing positive financial relations. They protect the interests of states and centre in implementing the taxes and make necessary recommendations via the GST council and thus the spirit of cooperative federalism is preserved and elevated. GST has brought in remarkable advancements in the taxation field including the digitization of tax compliances through a single portal i.e. Goods and Service Tax Network (GSTN) and usage of technological

tools for enhanced interface and functionality for the taxpayers. GST is guided by recommendations made by the GST Council which serves a testament for fiscal federalism and works on the consensus of centre and states.

VII. Implications of harmonizing financial relations

In the contemporary world, where the next second is not known what is likely to happen, conflicts, disputes and clashes need to be pushed aside and concentration must be focussed on the sustainable development and economic growth in order to compete with the world countries. Law, legislation and statutes on one hand ensures that the nation is travelling smoothly in the right track without any disturbance and violations and on the other hand finances of the country must be organised in order to carry out the functions of the government. Therefore fiscal relations serve a supporting pillar that facilitates all other functions of the government to run with ease. The proper execution of any action of the government is possible only when it is backed with sufficient funds and resources in order to achieve maximum efficiency. The contribution of the centre-state is so crucial that its lack of imbalance can adversely affect the economy and living conditions of the people. For years together, there have been a lot of disputes between the centre and states regarding legislative powers and the same has been settled with the aid and usage of relevant doctrines interpreted along with the corresponding legislation. The implementation of GST itself is a very critical move towards enhancing the spirit of cooperative federalism backed by the support of state governments to the centre. Though the application of doctrine seems to be very new to fiscal relations, the contemporary world seeks innovative ideas to enhance the working and progress of the country. Laws in existence in a country exerts its influence over the economic growth and development and hence the interplay between law and fiscal federalism helps in easier decision making by accepting to the tax slab rates promoting true multi-dimensional centre-state relations.

VIII. Conclusion

To sum up the entire presentation, India is making strides in the global sphere and the momentum cannot be maintained without the shared partnership of the centre and state. This theoretical idea is an entirely new concept with regard to marking the fiscal relations in a federal setup and strengthening the bond between the centre-state. A federation runs efficiently as long as the centre

and states mutually coexist without overlapping with the respective spheres of influence and thereby harmony is maintained over the nation. The implementation of GST is aimed to reduce competitive federalism and promote cooperative federalism. Last but not the least, there might be practical implications to this said approach in harmonizing financial relations between the centre-state but by making appropriate adjustments and corrections, far reaching results can be anticipated over the economy in order to achieve sustainable development.

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