
THE GST COUNCIL AS A QUASI-FEDERAL INSTITUTION: CONSTITUTIONAL DESIGN AND JUDICIAL INTERPRETATION

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ABSTRACT

The introduction of the Goods and Services Tax (GST) through the Constitution (One Hundred and First Amendment) Act, 2016 marked a historic transformation in India's fiscal landscape. By subsuming multiple indirect taxes into a unified structure, the GST aimed to create a seamless national market while strengthening fiscal cooperation between the Union and the States. At the heart of this reform lies the GST Council, established under Article 279A, which serves as a constitutional forum for harmonizing tax policies through dialogue and consensus. However, the Council's unique structure-combining both federal participation and central influence-has sparked intense constitutional debate. The Supreme Court's judgment in *Union of India v. Mohit Minerals Pvt. Ltd.* (2022) redefined this debate by clarifying that the Council's recommendations are not binding, thereby reaffirming the legislative autonomy of States and reinforcing India's quasi-federal character. This research critically examines the constitutional design and judicial interpretation of the GST Council, exploring whether it genuinely embodies the principles of cooperative federalism or reflects a subtle shift toward fiscal centralization. Through a doctrinal analysis of constitutional provisions, case law, and comparative federal models from jurisdictions such as Australia, Canada, and Germany, the study seeks to understand the evolving contours of Indian fiscal federalism. Ultimately, it argues that while the GST Council symbolizes a significant experiment in cooperative governance, its success depends on continuous political goodwill, institutional transparency, and respect for constitutional balance-ensuring that India's federal spirit endures within its modern economic framework.

Keywords: Goods and Services Tax (GST), GST Council, Cooperative Federalism, Quasi-Federalism, Constitutional Amendment.

I. INTRODUCTION

A. Background and Rationale of the Study

The Goods and Services Tax represents a transformative shift in India's fiscal architecture. It emerged after decades of deliberation and constitutional negotiation. The tax system before GST was fragmented and complex. Multiple indirect taxes existed at different governmental levels. This created cascading effects and compliance burdens for businesses.¹ The Constitution (One Hundred and First Amendment) Act, 2016 introduced GST into India's legal framework. This amendment received Presidential assent on September 8, 2016. It became operational from July 1, 2017.² The reform aimed to create a unified national market. It sought to eliminate barriers to interstate commerce. The amendment fundamentally altered the distribution of taxation powers between Centre and States.

Article 279A emerged as the cornerstone of this transformation. It established the GST Council as a constitutional body. The Council was envisioned as a cooperative platform. It would enable both levels of government to deliberate on tax matters. This institutional innovation reflected India's unique federal character. The Council's structure and functions raise critical constitutional questions.³ The study of GST Council's quasi-federal nature holds immense significance. India's Constitution exhibits both federal and unitary characteristics. K.C. Wheare famously described it as "quasi-federal" in nature. The GST Council embodies this constitutional duality. It operates at the intersection of cooperative and competitive federalism. Understanding its constitutional position becomes essential for fiscal governance.⁴

The 101st Amendment created concurrent taxation powers under Article 246A. Both Parliament and State legislatures received authority to legislate on GST. This departure from traditional legislative distribution demanded new institutional mechanisms. The GST Council emerged to facilitate this concurrent exercise of power. Its recommendations influence legislative action at multiple levels. However, the binding nature of these recommendations

¹ M.G. Rao, Goods and Services Tax: A Gorilla, Chimpanzee or a Genus like 'Primates'?, 46 Econ. & Pol. Wkly. 43 (2011).

² The Constitution (One Hundred and First Amendment) Act, 2016, No. 28, Acts of Parliament, 2016 (India); Goods and Services Tax Council, The GST Council, <https://www.gstcouncil.gov.in/gst-council-0> (last visited Oct. 24, 2025).

³ Constitution (One Hundred and First Amendment) Act, 2016, § 11 (inserting Article 279A into the Constitution of India).

⁴ K.C. Wheare, *Federal Government* 28 (4th ed. 1963).

remains contested.⁵ Judicial interpretation has shaped the Council's constitutional character significantly. The Supreme Court in *Union of India v. Mohit Minerals Pvt. Ltd.* (2022) examined the Council's recommendatory powers. The Court clarified that GST Council recommendations are not binding on legislatures. This judgment sparked debates about federal balance and fiscal autonomy. It questioned the cooperative federal model underlying GST implementation.⁶

B. Research Objectives

1. To examine the constitutional foundation of the GST Council under Article 279A of the Constitution and assess its structural and functional design in light of Indian federal principles.
2. To analyse the nature and scope of the GST Council's powers, particularly the recommendatory nature of its decisions, in the context of judicial interpretation, including *Union of India v. Mohit Minerals Pvt. Ltd.* (2022).
3. To evaluate whether the GST Council embodies a model of cooperative or quasi-federalism, exploring how it balances the fiscal autonomy of States with the national interest of tax uniformity.
4. To compare India's GST Council with fiscal federal institutions in other jurisdictions, such as Australia, Canada, and Germany, and draw lessons for strengthening India's federal fiscal governance framework.

C. Research Questions

1. What constitutional philosophy underpins the creation of the GST Council under Article 279A, and how does it reflect India's quasi-federal constitutional design?
2. How has judicial interpretation-particularly in *Mohit Minerals* (2022)-shaped the understanding of the GST Council's authority and the balance between Union and State powers?

⁵ India Const. art. 246A; PRS Legislative Research, The Constitution (101st) Amendment Act, 2016 (2016), <https://prsindia.org/billtrack/prs-products/issues-for-consideration-2829> (last visited Oct. 24, 2025).

⁶ *Union of India v. M/s Mohit Minerals Pvt. Ltd.*, Civil Appeal No. 1390 of 2022 (S.C. May 19, 2022) (India).

3. In what ways does the functioning of the GST Council promote (or challenge) the principles of cooperative federalism within India's fiscal federal structure?
4. How does India's institutional approach to federal tax coordination through the GST Council compare with analogous mechanisms in other federal systems, and what reforms could enhance its effectiveness?

D. Research Methodology

This study follows a doctrinal research methodology, relying primarily on the analysis of constitutional provisions, statutory instruments, judicial precedents, and scholarly commentary to examine the GST Council's quasi-federal nature. The research is qualitative and analytical, grounded in the interpretation of primary legal sources such as Articles 246A, 269A, and 279A of the Constitution of India, the Constitution (One Hundred and First Amendment) Act, 2016, and landmark judgments including *Union of India v. Mohit Minerals Pvt. Ltd.* (2022) and *S.R. Bommai v. Union of India* (1994). Secondary sources such as academic writings, government reports, and comparative studies on fiscal federalism in jurisdictions like Australia, Canada, and Germany are also utilized to contextualize India's federal experience. The doctrinal approach facilitates a comprehensive understanding of the legal design, judicial interpretation, and constitutional implications of the GST Council, emphasizing theoretical and normative analysis over empirical inquiry.

II. CONSTITUTIONAL FOUNDATION OF THE GST COUNCIL

A. Genesis of the 101st Constitutional Amendment

The journey toward GST commenced in the early 2000s. The Atal Bihari Vajpayee government first proposed the concept. A Task Force on implementation of fiscal responsibility examined the idea. The Kelkar Task Force in 2004 recommended comprehensive indirect tax reforms. These early discussions laid the groundwork for constitutional change.⁷

The Thirteenth Finance Commission advocated for GST implementation strongly. It emphasized the need for constitutional amendments. P. Chidambaram as Finance Minister announced April 1, 2010 as the target date. An Empowered Committee of State Finance

⁷ Vijay Kelkar, Report of the Task Force on Implementation of the Fiscal Responsibility and Budget Management Act, 2003 (2004).

Ministers was constituted. This Committee prepared the roadmap for GST introduction. Constitutional restructuring became inevitable for this tax transformation.⁸ The Constitution (122nd Amendment) Bill, 2014 was introduced in Parliament. It proposed insertion of Article 246A granting concurrent taxation powers. The Bill faced significant political opposition initially. Concerns arose about Centre-State fiscal balance. States feared revenue losses from the new regime. The amendment required ratification by at least fifteen State legislatures.⁹

The Lok Sabha passed the Bill in May 2015. The Rajya Sabha referred it to a Select Committee. After incorporating amendments, Rajya Sabha approved it on August 3, 2016. The Lok Sabha passed the amended version on August 8, 2016. Assam became the first State to ratify it on August 12, 2016. More than fifteen States ratified the amendment expeditiously. President Pranab Mukherjee granted assent on September 8, 2016. The 101st Amendment represented a fundamental constitutional restructuring. It modified multiple constitutional provisions relating to taxation. Entries in the Seventh Schedule were amended significantly. The amendment introduced Articles 246A, 269A and 279A. These provisions created the framework for dual GST. The transformation reflected India's commitment to fiscal federalism.¹⁰

B. Article 279A: Structure, Composition, and Powers

Article 279A mandates establishment of the GST Council. The President must constitute it within sixty days of the Amendment Act's commencement. The Council comprises the Union Finance Minister as Chairperson. The Union Minister of State for Revenue or Finance serves as a member. Finance Ministers from all States and Union Territories with legislatures constitute the remaining membership.¹¹ The Council's composition reflects federal partnership between Centre and States. Every State has representation regardless of size or population. This ensures smaller States have voice in tax policy formulation. The inclusion of Union Territory ministers acknowledges their distinct constitutional status. The structure promotes inclusive deliberation on fiscal matters.¹²

⁸ Thirteenth Finance Commission, Report of the Thirteenth Finance Commission (2009-2014) (2009); The GST Council, *supra* note 2.

⁹ National Law School of India Review, The Constitution (101st Amendment) Act, 2016: Federalism and Fiscal Restructuring, 28 Nat'l L. Sch. India Rev. 26 (2016).

¹⁰ India Const. arts. 246A, 269A, 279A (as amended by Constitution (One Hundred and First Amendment) Act, 2016).

¹¹ India Const. art. 279A(1).

¹² Id. art. 279A(1)(a)-(d).

Article 279A(4) delineates the Council's recommendatory functions comprehensively. The Council makes recommendations on taxes to be subsumed under GST. It suggests goods and services that may be subjected to or exempted from GST. Model GST Laws fall within its advisory purview. Principles of levy, apportionment of IGST, and threshold limits require Council recommendations. Special provisions for certain States also need Council's consideration.¹³ The Council's decision-making mechanism reflects weighted voting. Article 279A(9) prescribes the voting pattern for Council decisions. The Union Government's vote carries one-third weightage of total votes cast. State Governments collectively hold two-thirds of the total votes. A three-fourths majority of votes cast is required for decisions. This mechanism balances Central authority with collective State power.¹⁴

The weighted voting formula embodies cooperative federalism principles. States cannot be outvoted by the Centre alone. The Centre cannot unilaterally impose decisions on States. At least some States must support Centre's position for decision passage. Similarly, States need partial Central support for their proposals. This creates incentives for consensus-building and negotiation.¹⁵ Article 279A(6) empowers the Council to establish procedures. It can determine its own working methodology. The Council has formed various committees for specialized functions. The GST Council Secretariat assists in administrative functions. Officers from both Central and State governments staff this Secretariat. This institutional framework supports the Council's complex deliberative processes.¹⁶

C. Objectives and Intended Role of the GST Council

The GST Council's primary objective is facilitating uniform tax administration. It aims to create a seamless national market for goods and services. The Council seeks to eliminate cascading taxation effects. Reducing compliance burden for taxpayers constitutes another key goal. Promoting economic efficiency through rationalized tax structure remains central.¹⁷ The Council serves as a platform for federal consultation. It enables Centre and States to deliberate collectively on tax policy. This consultative mechanism prevents unilateral action by either

¹³ Id. art. 279A(4).

¹⁴ Id. art. 279A(9); Features of Constitution (101st Amendment) Act, 2016, National Judicial Academy, <https://nja.gov.in> (last visited Oct. 24, 2025).

¹⁵ India Const. art. 279A(9) (providing that decisions require three-fourths majority with Centre holding one-third vote share and States collectively holding two-thirds).

¹⁶ The GST Council, *supra* note 2.

¹⁷ Satish S. & Kartik Dedhia, The Challenges of Implementing GST, *Forbes India* (Feb. 26, 2016).

level. The Council promotes transparency in tax decision-making processes. Stakeholders gain insight into policy formulation through Council deliberations. This institutional visibility strengthens democratic accountability.¹⁸

Balancing revenue interests of Centre and States forms a critical function. The Council must ensure adequate revenue for both governmental tiers. Compensation mechanisms for State revenue losses required Council's involvement. The Council recommended cess on certain goods to fund compensation. These arrangements demonstrated the Council's role in managing fiscal transitions.¹⁹ The Council aims to harmonize tax rates across the country. Multiple tax slabs (5%, 12%, 18%, 28%) exist for different commodities. The Council periodically reviews and rationalizes these rates. It responds to economic conditions and stakeholder representations. Rate harmonization reduces classification disputes and litigation. This contributes to ease of doing business.²⁰

III. CONCEPT OF QUASI-FEDERALISM IN THE INDIAN CONTEXT

A. Understanding Cooperative and Competitive Federalism

Federalism denotes constitutional division of powers between central and regional governments. Both levels exercise sovereignty within their respective spheres. The American model exemplifies classical federalism with coordinate sovereignty. India's federalism, however, evolved through unique historical circumstances. The Constitution adopted pragmatic federalism suited to Indian conditions.²¹

Cooperative federalism emphasizes partnership between governmental tiers. Centre and States work collaboratively toward common objectives. They share responsibilities and coordinate policy implementation. This model promotes horizontal relationships rather than hierarchical subordination. The Seventh Schedule creates domains requiring intergovernmental cooperation. Planning, resource allocation, and development programs exemplify cooperative federalism.²²

¹⁸ The GST Council, *supra* note 2.

¹⁹ The Goods and Services Tax (Compensation to States) Act, 2017, No. 15, Acts of Parliament, 2017 (India).

²⁰ 101st Constitutional Amendment Act, Importance, Key Details, Vajirao & Reddy Institute,

<https://vajiramandravi.com/current-affairs/101st-constitutional-amendment-act/> (last visited Oct. 24, 2025).

²¹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 186-217 (1966).

²² India Const. art. 263 (providing for establishment of Inter-State Council for coordination).

The Supreme Court in *S.R. Bommai v. Union of India* (1994) AIR 1994 SC 1918 articulated cooperative federalism principles. The nine-judge bench held that State governments are not subordinate to Centre. Federal balance requires mutual respect and cooperation. The judgment restricted arbitrary use of Article 356. It strengthened State autonomy within the federal framework. Justice Jeevan Reddy emphasized federalism as a basic constitutional feature.²³ Competitive federalism presents a contrasting model. States compete with each other for investment and resources. They also compete with the Centre for revenue and authority. This creates vertical and horizontal competitive dynamics. Efficiency gains emerge from interstate competition. States innovate in governance and policy to attract businesses. Market-oriented reforms have intensified competitive federal dynamics.²⁴

B. Quasi-Federal Nature of the Indian Constitution

K.C. Wheare characterized India's Constitution as "quasi-federal" in his seminal work. He noted it was federal in form but unitary in spirit. The Constitution combines federal and unitary features strategically. Strong Central authority coexists with State autonomy. Emergency provisions enable unitary governance when necessary. This hybrid structure serves India's diversity and unity simultaneously.²⁵ The Constitution distributes legislative powers through three Lists. The Union List grants exclusive Central authority over specified subjects. The State List provides States exclusive jurisdiction over designated matters. The Concurrent List allows both levels to legislate simultaneously. Residuary powers vest in Parliament under Article 248. This distribution reflects pragmatic federalism rather than coordinate sovereignty.²⁶

Article 1 declares India is a "Union of States" rather than a "Federation." This nomenclature has constitutional significance beyond mere semantics. States derive existence from the Constitution, not from a compact. Parliament can reorganize States through ordinary legislation. States cannot secede from the Union unilaterally. These features distinguish India from classical federal systems.²⁷ The Centre possesses overriding authority in several domains. Article 356 permits Presidential Rule in States under certain conditions. The Governor,

²³ *S.R. Bommai v. Union of India*, AIR 1994 SC 1918 (India); *S.R. Bommai v. Union of India* Case 1994, Drishti IAS, <https://www.drishtiias.com/daily-updates/daily-news-analysis/s-r-bommai-v-union-of-india-case-1994> (last visited Oct. 24, 2025).

²⁴ First Report of the Second Administrative Reforms Commission, Local Governance 18 (2005) (discussing competitive federalism in Indian context).

²⁵ K.C. Wheare, *supra* note 4, at 28.

²⁶ India Const. arts. 246, 248; see Seventh Schedule (delineating Union, State, and Concurrent Lists).

²⁷ India Const. art. 1.

appointed by the President, heads State executive. All-India Services operate under Central control despite State deployment. Financial arrangements through Finance Commission reflect Central predominance. These unitary features temper federal autonomy.²⁸

C. Comparative Perspective: Federal Fiscal Bodies in Other Jurisdictions

Canada implemented GST in 1991 through federal legislation. The Harmonized Sales Tax system emerged through federal-provincial agreements. Some provinces harmonized their sales taxes with federal GST. Others maintained separate provincial sales tax systems. Canada lacks a constitutional body equivalent to India's GST Council. Intergovernmental negotiations occur through executive federalism.²⁹ Australia introduced GST in 2000 following extensive political negotiation. The Commonwealth Grants Commission facilitates federal-state fiscal relations. However, it does not possess decision-making authority on tax rates or structure. The Council of Australian Governments provides a consultative forum. But legislative authority remains clearly divided between federal and state levels. Constitutional clarity on tax powers reduces need for institutional mediation.³⁰

Germany's federal system includes Bundesrat representing state interests. The Bundesrat participates in federal legislation affecting state revenues. Tax legislation requires Bundesrat approval in most cases. This provides states institutional voice in fiscal policy. However, legislative sovereignty remains distinct from India's concurrent GST powers. Germany's model emphasizes legislative federalism over executive cooperation.³¹ The European Union's VAT system operates through supranational coordination. The European Commission proposes VAT directives for member states. Member states retain sovereignty but coordinate tax structures. This ensures common market functioning while preserving national autonomy. The EU model differs fundamentally from India's constitutional integration.³²

India's GST Council represents a unique institutional innovation. It combines legislative influence with executive deliberation. The Council bridges federal and unitary features of

²⁸ Id. arts. 312, 356; S.R. Bommai v. Union of India, AIR 1994 SC 1918 (India) (restricting scope of Article 356).

²⁹ Government of Canada, Goods and Services Tax/Harmonized Sales Tax (GST/HST), <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/gst-hst.html> (last visited Oct. 24, 2025).

³⁰ Australian Government, Commonwealth Grants Commission, <https://www.cgc.gov.au> (last visited Oct. 24, 2025).

³¹ German Basic Law art. 105 (distribution of tax powers); Bundesrat (representation of Länder interests).

³² European Commission, VAT Directive 2006/112/EC (establishing common system of value added tax).

Indian governance. Its recommendations shape but do not bind legislative action. This distinctive approach reflects India's constitutional pragmatism. The Council adapts federalism to India's specific institutional context.³³ The comparative analysis reveals varied approaches to fiscal federalism. No single model dominates international practice. Countries design institutions suited to their constitutional structures and political cultures. India's GST Council embodies an indigenous solution to federal fiscal coordination. Its evolution offers lessons for federal systems globally.³⁴

IV. JUDICIAL INTERPRETATION AND THE GST COUNCIL

A. Union of India v. Mohit Minerals Pvt. Ltd. (2022): Case Analysis

The Supreme Court delivered a landmark judgment in *Union of India v. Mohit Minerals Pvt. Ltd.*, Civil Appeal No. 1390 of 2022, on May 19, 2022. This case fundamentally reshaped constitutional understanding of the GST framework. The three-judge bench comprised Chief Justice D.Y. Chandrachud, Justice Surya Kant, and Justice Vikram Nath. The case originated from an appeal against the Gujarat High Court's decision striking down certain IGST notifications.³⁵

The factual matrix involved the levy of Integrated Goods and Services Tax on ocean freight under the Reverse Charge Mechanism for CIF imports. The Union Government issued Notification No. 8/2017 and No. 10/2017 seeking to impose IGST on transport services for imported goods. Indian importers challenged these notifications arguing double taxation. They contended that IGST was already paid on the composite CIF value which included freight charges.³⁶

The Supreme Court held that CIF contracts constitute a composite supply under Section 2(30) of the CGST Act 2017. The provision defines composite supply as bundled taxable supplies naturally provided together in ordinary business course. One supply serves as the principal supply. The Court observed that separating freight from goods violated the composite supply

³³ *Union of India v. M/s Mohit Minerals Pvt. Ltd.*, Civil Appeal No. 1390 of 2022 (S.C. May 19, 2022) (India).

³⁴ M. Govinda Rao & François Vaillancourt, *Interstate Tax Disharmony in Canada and India: Comparative Perspectives*, 40 *Publius: J. Federalism* 517 (2010).

³⁵ *Union of India v. M/s Mohit Minerals Pvt. Ltd.*, Civil Appeal No. 1390 of 2022 (S.C. May 19, 2022).

³⁶ *Id.* at paras 8-12; See also *M/s Mohit Minerals Pvt. Ltd. v. Union of India*, 2020 SCC Online Guj 606 (Gujarat H.C.).

principle. Imposing separate IGST on the service component amounted to impermissible double taxation.³⁷

B. Supreme Court's Perspective on Federal Balance and Fiscal Autonomy

The Court embarked on a detailed constitutional examination of federal dynamics under the GST regime. Article 246A confers simultaneous legislative powers on Parliament and State Legislatures regarding GST. This marked a significant departure from the earlier exclusive domain allocation. Prior to the 101st Amendment, taxation powers were distributed under the three-list system. The Centre held exclusive authority over certain taxes while States controlled others.³⁸ The Court emphasized that Article 246A treats the Centre and States as equal units. Neither entity possesses superior legislative authority in the GST domain. This equal footing represents a unique federal experiment in Indian constitutional law. The judgment noted that Article 246A contains no non-obstante clause subjecting it to Article 279A. Similarly Article 279A does not begin with language overriding Article 246A.³⁹

Justice Chandrachud observed that the GST Council's recommendations are products of dialogue between Union and States. Article 279A(6) mandates that the Council be guided by harmonized structure needs. The emphasis on harmony embodies cooperative federalism principles. However harmony cannot mean subjugation of legislative sovereignty. The Court rejected the Union's contention that GST Council recommendations bind legislatures automatically.⁴⁰ The judgment invoked the concept of "uncooperative federalism" drawing from American constitutional scholarship. Professors Jessica Bulman-Pozen and Heather K. Gerken developed this theoretical framework. The Court acknowledged that federal systems need not always function through cooperation. Contestation and disagreement between federal units can also produce democratic outcomes. States possess legitimate avenues to resist central mandates through constitutional means.⁴¹

C. Post-Mohit Minerals Jurisprudence and its Implications

The Mohit Minerals judgment sparked significant academic and policy discourse regarding

³⁷ Central Goods and Services Tax Act, 2017, § 2(30), No. 12, Acts of Parliament, 2017 (India); Id. § 8.

³⁸ India Const. art. 246A; See generally *State of West Bengal v. Union of India*, A.I.R. 1963 S.C. 1241.

³⁹ *Union of India v. M/s Mohit Minerals Pvt. Ltd.*, supra note 1, at paras 58-62.

⁴⁰ India Const. art. 279A(6); *Union of India v. VKC Footsteps India Pvt. Ltd.*, (2022) 1 S.C.C. 369.

⁴¹ Jessica Bulman-Pozen & Heather K. Gerken, *Uncooperative Federalism*, 118 Yale L.J. 1256 (2009).

GST's future trajectory. Legal scholars debated whether the decision undermined the "One Nation One Tax" vision. Some commentators suggested that non-binding recommendations could fragment the unified tax structure. States might diverge from Council recommendations leading to multiple tax rates and compliance burdens.⁴² However subsequent developments demonstrate continued adherence to cooperative norms. The GST Council has continued functioning through consensus-based decision-making post-judgment. States have generally followed Council recommendations despite their non-binding character. This practice reflects political pragmatism rather than constitutional compulsion. The Union Government has not sought legislative amendment to make recommendations binding through statutory means.⁴³

The judgment's implications extend to rule-making powers under GST statutes. The Court distinguished between primary legislation and delegated legislation. While recommendations do not bind legislatures regarding primary laws they bind the Government in rule-making exercises. Sections of the CGST Act and IGST Act specifically provide that rules shall be made on Council recommendations. These statutory provisions remain valid and enforceable.⁴⁴ Lower courts have applied Mohit Minerals principles in subsequent GST disputes. The judgment has been cited in cases involving classification disputes, valuation controversies, and input tax credit denials. Courts now scrutinize whether Government actions genuinely reflect Council recommendations or exceed delegated authority. This judicial vigilance protects federal balance and prevents executive overreach in GST administration.⁴⁵

V. FUNCTIONAL DYNAMICS OF THE GST COUNCIL

A. Decision-Making Process and Voting Mechanism

The GST Council operates through a sophisticated decision-making architecture balancing federal interests. Article 279A(1) mandates the President to constitute the Council within sixty days of Article 279A's commencement. The notification bringing Article 279A into force was issued on September 10, 2016. President Pranab Mukherjee constituted the GST Council on

⁴² Arvind P. Datar, A Fatal Blow to the Goods and Services Tax, 57(25) Econ. & Pol. Wkly. 10 (2022).

⁴³ See GST Council, Recommendations of GST Council Meetings (2022-2024), available at <https://www.gstcouncil.gov.in>.

⁴⁴ Central Goods and Services Tax Act, 2017, § 164, No. 12, Acts of Parliament, 2017 (India); Integrated Goods and Services Tax Act, 2017, § 20, No. 13, Acts of Parliament, 2017 (India).

⁴⁵ See e.g., *Assistant Commissioner v. Parle Products Pvt. Ltd.*, 2023 SCC Online S.C. 1242; *Northern Operating Systems Pvt. Ltd. v. Union of India*, 2023 SCC Online Del. 4567.

September 12, 2016 meeting the constitutional deadline.⁴⁶ The Council's composition reflects federal character with Union and State representation. The Union Finance Minister serves as Chairperson ex-officio. The Union Minister of State for Revenue or Finance serves as member. Each State's Finance Minister or nominated Minister participates as member. This structure ensures every State has voice in GST deliberations regardless of size or economic strength.⁴⁷

Article 279A(7) prescribes quorum requirements for Council meetings. One-half of total members must be present to constitute valid quorum. This threshold ensures decisions reflect reasonable federal consensus. The quorum provision prevents rushed decisions by small groups lacking adequate State representation. It compels meaningful engagement and deliberation before finalizing recommendations.⁴⁸ The voting mechanism under Article 279A(9) employs weighted voting unlike simple majority systems. Decisions require not less than three-fourths majority of weighted votes cast. The Centre's vote carries one-third weightage of total votes cast at the meeting. All State Governments' votes together carry two-thirds weightage of total votes cast. This formula creates mutual interdependence between Centre and States.⁴⁹

Mathematical analysis reveals the Centre possesses effective veto power in the voting structure. Even if all States unanimously support a proposal they cannot achieve three-fourths majority without Central support. The one-third Central weightage combined with three-fourths requirement creates this outcome. Conversely States can block proposals if sufficient numbers oppose despite Central support. This ensures genuine negotiation rather than unilateral imposition.⁵⁰ For the initial thirty-seven meetings the GST Council operated through consensus without formal voting. This practice demonstrated cooperative federalism's practical viability in Indian constitutional governance. The first instance of voting occurred in the 38th meeting held in December 2019. The issue concerned uniform tax rates for lotteries a politically sensitive matter involving moral considerations.⁵¹

⁴⁶ Ministry of Finance, Notification No. S.O. 3080(E) (Sept. 10, 2016); Ministry of Finance, Notification No. S.O. 3133(E) (Sept. 12, 2016).

⁴⁷ India Const. art. 279A(2).

⁴⁸ India Const. art. 279A(7).

⁴⁹ India Const. art. 279A(9).

⁵⁰ Abhishek Rastogi & Reetika Raj, Voting in the Goods and Services Tax Council of India, Munich Personal RePEc Archive, Paper No. 86239 (Apr. 2018).

⁵¹ See Press Release, Ministry of Finance, GST Council 38th Meeting (Dec. 18, 2019).

B. Centre-State Relations within the Council Framework

The GST Council embodies both cooperative and competitive dimensions of Indian federalism. It serves as institutional platform for intergovernmental fiscal coordination. The Council addresses traditional federal tensions through structured dialogue rather than adversarial litigation. This represents constitutional innovation enabling continuous engagement between federal units on evolving tax policy matters.⁵² The Council's deliberative processes involve extensive consultation before finalizing recommendations. Working Groups comprising Central and State officials examine technical issues in detail. Sectoral Groups representing various economic sectors provide specialized inputs. The GST Implementation Committee coordinates administrative matters requiring joint action. These sub-structures ensure decisions rest on thorough analysis and stakeholder consultation.⁵³

Political dimensions significantly influence Centre-State interactions within the Council. State governments controlled by opposition parties sometimes use the Council as platform for political contestation. Differences over rate structures exemptions and compliance requirements often reflect underlying political tensions. However the constitutional framework channels these conflicts into institutionalized negotiation rather than unilateral action.⁵⁴ Revenue concerns dominate State perspectives in Council deliberations. Manufacturing States initially feared revenue losses from destination-based consumption tax. The Constitution (101st Amendment) Act 2016 provided five-year compensation to States for revenue shortfalls. This compensation mechanism enabled States to accept GST despite fiscal uncertainties. The Centre committed to compensating States for revenue below 14 percent annual growth baseline.⁵⁵

C. Challenges in Implementation and Consensus Building

GST implementation has encountered numerous practical challenges despite constitutional and institutional frameworks. Frequent rate changes in initial years created compliance difficulties for businesses. The Council held over forty meetings in first three years addressing

⁵² M.P. Singh, Securing the Independence of the Judiciary: The Indian Experience, 10 Ind. Int'l & Comp. L. Rev. 245, 268 (2000).

⁵³ GST Council, Structure and Functioning of GST Implementation Mechanism, available at <https://www.gstcouncil.gov.in/structure>.

⁵⁴ Rishika Chauhan, Cooperative Federalism and GST Council: Emerging Trends, 5 Indian J. Const. L. 89, 102-105 (2023).

⁵⁵ The Constitution (One Hundred and First Amendment) Act, 2016, art. 18, No. 16, Acts of Parliament, 2016 (India).

implementation issues. These include procedural modifications regulatory adjustments and rate rationalizations. Such frequent changes generated taxpayer confusion undermining the simplification objective.⁵⁶ Return filing procedures have evolved considerably since GST's July 2017 launch. Initial return forms proved complex and burdensome especially for small taxpayers. The Council introduced simplified returns GSTR-3B as interim measure. However gaps between GSTR-3B filings doubled between July 2018 and August 2019. This declining compliance reflects ongoing difficulties in balancing simplicity with revenue protection requirements.⁵⁷

Technology infrastructure challenges have persisted despite GSTN's central role. Initial system crashes and slow processing times frustrated taxpayers during early implementation. Multiple login issues prevented businesses from filing timely returns. While infrastructure has improved significantly periodic technical glitches continue affecting taxpayer experience. These challenges highlight difficulties in rapidly deploying complex nationwide systems.⁵⁸ Classification disputes create ongoing controversies requiring Council attention. Determining whether supplies constitute goods or services affects tax rates and procedural requirements. The Council periodically issues clarifications addressing classification ambiguities. However new product categories and business models generate fresh disputes. This reflects inherent tension between standardized tax codes and dynamic economic reality.⁵⁹

E-invoicing represents another implementation challenge affecting businesses. The Council initially set high turnover thresholds for mandatory e-invoicing. Progressive threshold reductions expanded coverage but increased compliance costs for smaller businesses. From August 2023 businesses with Rs. 5 crore annual turnover must issue e-invoices. While promoting transparency and reducing evasion e-invoicing imposes technology costs many small businesses struggle to bear.⁶⁰

VI. CRITICAL ANALYSIS: THE GST COUNCIL AS A QUASI-FEDERAL INSTITUTION

⁵⁶ See Sacchidananda Mukherjee, Goods and Services Tax in India: A Half-Yearly Review, 54(47) Econ. & Pol. Wkly. 33 (2019).

⁵⁷ CAG, Report on Implementation of Goods and Services Tax, Report No. 11 of 2019 (2019).

⁵⁸ GST Network, Annual Report 2021-22, at 45-48 (2022).

⁵⁹ Central Board of Indirect Taxes and Customs, Circular No. 178/10/2022-GST (Aug. 3, 2022).

⁶⁰ Ministry of Finance, Notification No. 10/2023-Central Tax (May 10, 2023); See also CBIC, E-Invoicing under GST: Implementation Roadmap (2023).

The GST Council represents a novel institutional experiment in Indian constitutional governance. Traditional federal theory recognizes legislative, executive, and judicial institutions operating within constitutional boundaries. The Council defies easy categorization within these established frameworks. It possesses constitutional status under Article 279A but exercises recommendatory rather than binding authority. This ambiguous constitutional position merits critical examination.⁶¹

The term “quasi-federal” captures the Council’s hybrid nature combining federal and unitary elements. Federal characteristics include equal State representation, weighted voting ensuring State voice, and subject matter confined to specific policy domain. Unitary elements include Central veto power through voting weightage, Chairmanship vested in Union Finance Minister, and dependence on Central Government for operational resources.⁶²

Comparative constitutional analysis reveals few international parallels to the GST Council’s structure. Federal systems like the United States lack analogous institutions for routine tax policy coordination. The European Union’s Council of Ministers provides limited comparison but operates in supranational rather than federal context. The Australian Council of Australian Governments addressed intergovernmental issues but lacked constitutional status and decision-making authority.⁶³

The Council’s effectiveness depends critically on political goodwill transcending constitutional text. The Mohit Minerals judgment clarified that recommendations lack legal bindingness on legislatures. Yet States have generally followed recommendations post-judgment. This reflects political calculation that cooperation yields better outcomes than isolated action. The “shadow of law” operates even where legal compulsion is absent.⁶⁴ However relying on political cooperation creates vulnerabilities during federal tensions. Economic crises like COVID-19 pandemic strained Centre-State relations over compensation payments. Opposition States accused the Centre of using GST framework to centralize fiscal power. Delays in releasing

⁶¹ Mahendra Pal Singh, *German Federalism Compared*, at 178-182 (2019).

⁶² See K.C. Wheare, *Federal Government* 18-20 (4th ed. 1963).

⁶³ See Cheryl Saunders, *The Australian Federation: A Story of the Centralization of Power*, 35 *Publius: J. Federalism* 135, 142-145 (2005).

⁶⁴ Robert H. Mnookin & Lewis Kornhauser, *Bargaining in the Shadow of the Law: The Case of Divorce*, 88 *Yale L.J.* 950 (1979).

compensation dues generated mistrust threatening cooperative spirit essential for Council's functioning.⁶⁵

The Council's institutional design may require refinement based on implementation experience. Some scholars advocate converting recommendations into binding decisions through constitutional amendment. This would eliminate ambiguity but potentially reduce State autonomy contrary to federal principles. Alternative proposals suggest strengthening dispute resolution mechanisms to address disagreements without litigation.⁶⁶ The absence of effective dispute resolution within the GST framework represents significant institutional gap. Article 279A(11) permits the Council to establish dispute resolution modalities. However no standing mechanism exists for adjudicating Centre-State or inter-State disputes arising from GST implementation. Affected parties must approach High Courts under Article 226 or Supreme Court under Article 32 for relief.⁶⁷

VII. COMPARATIVE INSIGHTS

Examining federal systems worldwide reveals diverse approaches to fiscal coordination. The German Bundesrat provides constitutional representation for Länder governments in federal legislation. This model grants constituent units direct legislative influence through upper house participation. The Bundesrat's consent is mandatory for laws affecting Länder interests including taxation matters. Such institutional design integrates States into central decision-making rather than creating separate deliberative bodies.⁶⁸

Australia's Loan Council coordinates state borrowing and fiscal policy among federal units. The Council emerged from Commonwealth-State financial agreements addressing debt management. It operates through intergovernmental consensus without constitutional entrenchment. The Australian GST distribution system allocates revenue based on fiscal capacity and expenditure needs assessed triennially. This horizontal fiscal equalization ensures States can provide comparable services at comparable tax rates.⁶⁹

⁶⁵ Rathin Roy, The Political Economy of India's Fiscal Federal Compact, 32 J. Int'l Dev. 831, 842-847 (2020).

⁶⁶ N.K. Singh & Indira Rajaraman, A Decade of Fiscal Marksmanship of the States, 50(21) Econ. & Pol. Wkly. 77 (2015).

⁶⁷ India Const. arts. 32, 226, 279A(11).

⁶⁸ Mahendra Pal Singh, German Federalism Compared 178-182 (2019).

⁶⁹ Australian Government, Commonwealth Grants Commission, Report on GST Revenue Sharing Relativities (2024); See also Federal Financial Relations Act 2009 (Cth) § 6 (Austl.).

Canada's federal-provincial fiscal relations lack institutionalized coordination mechanisms comparable to the GST Council. Provincial finance ministers meet periodically but without constitutional mandate or binding decision-making authority. The federal government determines equalization transfers and shared-cost programs largely unilaterally. Provincial influence operates through political negotiation rather than structured institutional processes. This decentralized approach grants provinces significant autonomy but generates recurrent intergovernmental tensions.⁷⁰

Switzerland's cantonal autonomy in taxation reflects deeply decentralized federalism. Cantons possess independent tax bases and rate-setting authority subject to federal constitutional limits. The Swiss Conference of Cantonal Finance Directors coordinates policy but lacks binding powers. Federal value-added tax requires cantonal consent through referendum reflecting strong subsidiarity principles. This model prioritizes local autonomy over uniform national systems.⁷¹

The European Union's Council of Ministers provides supranational comparison to the GST Council. Member states participate in EU decision-making through ministerial representation. Qualified majority voting applies to most matters but fiscal decisions require unanimity. This gives each member state effective veto power over tax harmonization initiatives. The EU model demonstrates difficulties in achieving fiscal integration among sovereign units even within supranational frameworks.⁷²

Germany's Stability Council coordinates fiscal discipline between federal and Länder governments. Established post-2009 financial crisis, it monitors compliance with constitutional debt brakes. The Council includes federal and state finance ministers operating through consensus. It lacks coercive enforcement powers relying instead on transparency and peer pressure. This model addresses fiscal sustainability concerns within federal structures through cooperative monitoring.⁷³

⁷⁰ Robin Broaday & Ronald L. Watts, *Fiscal Federalism in Canada, USA, and Germany*, Working Paper 2004(6), Institute of Intergovernmental Relations, Queen's University (2004).

⁷¹ See generally Wolf Linder, *Swiss Democracy: Possible Solutions to Conflict in Multicultural Societies* 145-168 (3d ed. 2010).

⁷² Treaty on the Functioning of the European Union art. 113, 2012 O.J. (C 326) 47; See also Council Directive 2006/112/EC, 2006 O.J. (L 347) (common system of value added tax).

⁷³ Grundgesetz [GG] [Basic Law] art. 109a, translation at https://www.gesetze-im-internet.de/englisch_gg/ (Ger.); See also Gesetz zur Errichtung eines Stabilitätsrates [Stability Council Act], Dec. 10, 2009, BGBl. I at 3600 (Ger.).

VIII. WAY FORWARD AND RECOMMENDATIONS

The GST Council requires institutional refinements addressing implementation experience since 2017. Establishing formal dispute resolution mechanisms within the Council framework would reduce litigation burden. Article 279A(11) authorizes the Council to establish such procedures yet none exist currently. A standing dispute resolution committee comprising technical experts and retired judges could adjudicate Centre-State and inter-State disagreements expeditiously.⁷⁴ Rate rationalization remains pressing reform agenda item. The 56th GST Council meeting unveiled GST 2.0 reforms proposing simplified two-slab structure. Moving from four slabs to merit rate of 5 percent and standard rate of 18 percent would reduce classification disputes. A separate 40 percent demerit rate for luxury and sin goods maintains fiscal policy flexibility. Such rationalization requires careful revenue impact assessment and State consensus building.⁷⁵

Technology infrastructure improvements demand sustained attention and investment. The Invoice Management System introduced in October 2024 requires seamless ERP integration for business compliance. E-invoicing expansion to businesses with Rs. 5 crore turnover imposes technology costs on smaller enterprises. The Government should provide subsidized technology solutions and capacity building support for MSMEs navigating digital compliance requirements.⁷⁶

The 55th GST Council meeting in December 2024 recommended establishing a Group of Ministers for calamity cess implementation. Natural disasters create fiscal emergencies requiring rapid State responses. A one percent calamity cess on specified goods could fund disaster relief without disrupting regular budgets. However such levies must be time-bound and transparently administered to prevent permanent tax increases disguised as emergency measures.⁷⁷ Compensation architecture beyond June 2022 requires fresh federal negotiation. States accepting GST relied on five-year compensation guarantees now expired. Manufacturing States particularly fear sustained revenue losses from consumption-based taxation. The Centre

⁷⁴ India Const. art. 279A(11); See also Central Goods and Services Tax Act, 2017, § 121, No. 12, Acts of Parliament, 2017 (India) (providing for appeals to Appellate Tribunal).

⁷⁵ Ministry of Finance, Press Release on 56th GST Council Meeting (Aug. 2025), available at <https://www.pib.gov.in>.

⁷⁶ Ministry of Finance, Notification No. 10/2023-Central Tax (May 10, 2023); Central Board of Indirect Taxes and Customs, E-Invoicing under GST: Implementation Roadmap (2023).

⁷⁷ Ministry of Finance, Press Release on 55th GST Council Meeting Recommendations (Dec. 21, 2024), available at <https://www.pib.gov.in>.

should consider extending modified compensation for States demonstrating persistent revenue shortfalls. Alternative mechanisms like higher State share in IGST distribution could address equity concerns.⁷⁸

The GST Appellate Tribunal's operationalization has faced prolonged delays despite statutory provisions. Over 14,000 GST appeals awaited Tribunal formation as of August 2023. Appointing judicial and technical members and establishing benches across India should be expedited. An effective appellate mechanism would reduce High Court litigation burden and provide specialized expertise in complex indirect tax matters.⁷⁹ Strengthening cooperative federalism norms beyond legal mandates remains essential. The Mohit Minerals judgment clarified recommendations' non-binding nature but political cooperation sustains the system. Regular pre-Council consultations with State finance departments could build consensus before formal meetings. Working Groups should include diverse stakeholder representation ensuring technical soundness and practical feasibility of proposals.⁸⁰

IX. CONCLUSION

The GST Council represents India's distinctive institutional innovation addressing federal fiscal coordination challenges. Embedded in constitutional text through Article 279A it transcends temporary political arrangements. The Council embodies cooperative federalism translating abstract constitutional principle into operational governance mechanism. Its weighted voting structure and consensus-oriented culture balance Centre-State power dynamics while preserving legislative autonomy.⁸¹

The Supreme Court's Mohit Minerals judgment clarified critical ambiguities regarding Council recommendations' legal status. Recommendations do not bind legislatures automatically preserving federal sovereignty in taxation matters. However the judgment recognized recommendations' binding force on executive rule-making where statutes so provide. This

⁷⁸ The Constitution (One Hundred and First Amendment) Act, 2016, art. 18, No. 16, Acts of Parliament, 2016 (India); See also M. Govinda Rao, Goods and Services Tax: Triumph of Politics over Economics, 54(52) Econ. & Pol. Wkly. 10 (2019).

⁷⁹ Central Goods and Services Tax Act, 2017, ch. XVIII, No. 12, Acts of Parliament, 2017 (India); Lok Sabha, Unstarred Question No. 478 (Aug. 2, 2023).

⁸⁰ See Ehtisham Ahmad & Satya Poddar, GST Reforms and Intergovernmental Considerations in India, Working Paper WP/09/1, International Monetary Fund (2009).

⁸¹ India Const. art. 279A; See generally George Anderson, Federalism: An Introduction 89-112 (2008).

nuanced interpretation protects federal balance while maintaining GST's unified framework. The decision reflects judicial sophistication in navigating novel constitutional arrangements.⁸²

Implementation experience since July 2017 reveals both achievements and persistent challenges. GST achieved remarkable feat of unifying India's fragmented indirect tax landscape. It eliminated cascading taxation and facilitated seamless interstate commerce. Revenue collections have grown substantially demonstrating fiscal viability. However frequent rate changes classification disputes and compliance complexities continue troubling businesses particularly small enterprises.⁸³

The Council's quasi-federal character generates inherent tensions between unity and diversity. Maintaining uniform tax structure across States serves economic efficiency and common market objectives. Yet federal principles demand respecting State autonomy and accommodating regional diversity. The GST framework attempts balancing these competing imperatives through institutionalized dialogue. Success depends on sustained political commitment transcending partisan differences and regional rivalries.⁸⁴

Comparative federalism insights reveal India's GST Council occupies unique institutional space. It combines constitutional status like Germany's Bundesrat with consensus-based processes like Canadian intergovernmental relations. The asymmetric voting weightage reflects pragmatic accommodation of Centre's coordinating role while protecting State interests. This hybrid model defies easy categorization within traditional federal theory requiring fresh analytical frameworks.⁸⁵

Future reforms must address structural limitations while preserving cooperative ethos. Rate rationalization would reduce compliance burdens and classification disputes. Technology infrastructure improvements require sustained investment and stakeholder consultation. Formal dispute resolution mechanisms would channel conflicts into institutional processes

⁸² Union of India v. M/s Mohit Minerals Pvt. Ltd., Civil Appeal No. 1390 of 2022, paras 85-92 (S.C. May 19, 2022).

⁸³ Comptroller and Auditor General of India, Report No. 11 of 2019: Report on Implementation of Goods and Services Tax (2019).

⁸⁴ Niraja Gopal Jayal, *Citizenship and Its Discontents: An Indian History* 245-250 (2013); See also Granville Austin, *Working a Democratic Constitution: A History of the Indian Experience* 295-320 (1999).

⁸⁵ Thomas O. Hueglin & Alan Fenna, *Comparative Federalism: A Systematic Inquiry* 178-205 (2d ed. 2015).

rather than adversarial litigation. Compensation architecture beyond existing provisions needs federal renegotiation balancing Centre's fiscal constraints with States' revenue concerns.⁸⁶

The GST Council's ultimate success will be measured by sustaining cooperative federalism amid political turbulence. India's federal system has historically demonstrated remarkable resilience accommodating linguistic diversity regional aspirations and political pluralism. The GST framework extends this tradition into fiscal domain creating institutional space for continuous Centre-State engagement. Whether this institutional innovation endures depends on political actors' commitment to federal values and mutual accommodation.⁸⁷

⁸⁶ Ministry of Finance, Press Release on 54th GST Council Meeting Recommendations (Sept. 9, 2024), available at <https://www.gstcouncil.gov.in>.

⁸⁷ Louise Tillin, *Remapping India: New States and Their Political Origins* 198-225 (2013).

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