

GST Compensation Cess

What is the issue?

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GST Compensation Cess intended to compensate the losses of states for the first 5 years of GST doesn't stand on strong constitutional ground.

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What is a Cess?

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- A cess is a tax on tax, levied by the government for a specific purpose.

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- The contributor and beneficiary of a cess must be relatable.

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- Under Article 270 of the Constitution, proceeds of a cess can be retained exclusively by the Union and need not be shared with States.

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- The objective is to ensure that expenditure goes for that specific purpose.

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What is GST compensation cess?

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- As part of the GST reforms, this Cess has been introduced through the GST (Compensation to States) Act, 2017.

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- It is levied on inter- and intra-State supply of notified goods such as aerated drinks, coal, tobacco, automobiles for 5 years.

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- The proceeds will be distributed to loss-incurring States on the basis of a prescribed formula as compensation.

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What are the shortcomings?

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- Once the money is transferred to State governments, it can be used to fund any scheme.
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- It may even be used to fill the government's fiscal deficit.
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- Further, there is no relation between the persons contributing to the cess and the recipients, the State governments.
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- The goods earmarked for the cess, such as aerated drinks, coal, tobacco, automobiles and "other supplies", do not form a distinct category deserving the liability to pay this cess.
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- The sin goods argument also fails as the luxury goods & jewellery are not covered.
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- The term "other supplies" leaves much to the discretion of the government.
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Is it constitutionally valid?

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- The 122nd Constitution Amendment Bill initially proposed a 1% additional tax to compensate States but this was later withdrawn.
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- Article 271 has been amended to state that an additional tax/surcharge cannot be imposed over and above the GST rates.
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- The GST Council's power to recommend a special rate is confined to raising resources only during any natural calamity or disaster.
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- So this cess cannot be justified under such power either.
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Source: The Hindu

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