

Supreme Court's GST verdict

What is the issue?

The apex courts verdict on GST upholding federal rights of states should not hamper the functioning of the GST council.

What was the case before the Supreme Court?

- A writ petition was filed before the Gujarat High Court challenging the levy of IGST on the component of ocean freight paid by a foreign seller to a foreign shipping line, on a reverse charge basis.
- As customs duty was already levied on the component of ocean freight, levy of IGST amounted to double taxation.
- Gujarat HC has ruled in favour of importers.
- So, Revenue Department has filed a special leave petition challenging the Gujarat HC order.
- SC dismissed the petition and ruled in favour of the importers thereby upholding Gujarat HC order.

What observations did the SC make on GST while delivering the verdict?

- Article 246A gives both Union government and states equal and co-ordinate power to legislate on matters of Goods and Services Tax (GST).
- It treats both the Union and the States as "equal units".
- There are no provisions in the GST Act 2017 to deal with situations where there is repugnancy between the laws drawn up by the Centre and states.
- In case of repugnancy it is for the GST Council to advise them suitably.
- However the advice and recommendations of the GST Council are not binding on the Centre and states.
- Its recommendations only have a persuasive value.
- In the GST Council, Centre and states have an unequal voting structure.
- The states collectively have a two-third voting share and the Union has a one-third voting share.
- GST council must work in harmonious manner to achieve workable solution.

How have the Centre and states reacted?

- Few states welcomed the judgment stating that it provides space for greater flexibility for states in the GST structure.
- The Centre feels that this would lead to an impasse and the entire GST structure would crumble.
- Problems could get compounded if any state decides not to accept the recommendation of the Council.

- This opens up the question whether different states could have different rate structures for a similar supply and such a deviated position would fundamentally affect the concept of one nation, one tax.

What needs to be done?

- The situation can trigger more contestations in Council meetings.
- This comes at a time when there are many pending reforms that require the Centre to work more cohesively with States to take India's economy forward and lift those left behind
- This calls for infusing a fresh sense of responsibility among members.
- The Centre should strive to be more conciliatory towards States concerns and fiscal dilemmas especially at a time when compensation assured to certain states winds down.
- The Council should meet more often to nurture the critical fiscal federalism dialogue in the right direction and minimise trust deficits.

Reference

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