

## **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

1. <https://www.thehindu.com/opinion/editorial/a-timely-reminder-the-hindu-editorial-on-supreme-courts-gst-verdict/article65439674.ece>
2. <https://indianexpress.com/article/explained/supreme-court-ruling-gst-council-decision-centre-states-7927786/>
3. <https://www.hindustantimes.com/india-news/centre-states-have-equal-power-to-make-laws-on-gst-supreme-court-101652941425696.html>