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THE JURISPRUDENTIAL EVOLUTION OF GST IN INDIA: BALANCING EXECUTIVE DELEGATION, ADJUDICATORY INDEPENDENCE, AND ECONOMIC EFFICIENCY

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ABSTRACT

The achievement of "Viksit Bharat" is reliant upon having effective and efficient tax administration balancing the needs of state revenues along with economic efficiency. The enactment of the Goods and Services Tax (GST) law can be considered as the most notable effort of co-operative federalism in India. However, the structural implementation of GST has raised many legal challenges, making the judiciary and quasi-judicial bodies the subject of discussion to resolve the legal conundrum. This paper assesses the jurisprudence of GST through doctrinal analysis of judicial trends along with criticism of administrative and enforcement practices. First, it looks into judicial scrutiny of GST law and the instances of excessive delegation and executive notifications that have created disruption in commercial certainty. Secondly, it examines the functioning of the Authority for Advance Rulings (AAR) by pointing out its systematic revenue orientation and subsequent inconsistent decisions across states, which have fragmented the concept of "One Nation, One Tax". Thirdly, the paper puts light upon the historic delay in setting up the GST Appellate Tribunal (GSTAT) that had forced the filing of numerous writ petitions in the High Courts. Lastly, the study analyses the use of enforcement measures such as provisional attachment of bank accounts and pre-assessment arrests in light of the fundamental principles of natural justice and protection of taxpaying citizens. Through the application of principles derived from landmark judgments and constitutional interpretation by courts, it is seen that an enabling legal environment is essential for facilitating ease of doing business in the contemporary modern-world. This paper

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culminates into certain recommendations for the future which in turn unlocks and streamlines the sustainable economic growth of the dynamic Indian economy.

Keywords: *Viksit Bharat, Goods and Services Tax (GST), Judicial trends, Constitutional interpretations, Landmark judgements.*

INTRODUCTION

The economic framework that aims at making India a “Viksit Bharat” till 2047 is based on creating a highly predictable, transparent in legal terms, and non-confrontational system of taxation. In order to meet the goal of \$30 trillion economy and to bring India among the advanced nations, India needs a system of taxation that encourages innovations, removes compliance irregularities and guarantees full adherence to law. The core of this policy is formed by the Goods and Services Tax (GST) regime, which was introduced by the 101st Constitutional Amendment Act in 2017². This major structural reform helped to overcome the fragmentation of the Indian system of indirect taxation, which faced numerous challenges such as cascading taxation, interstate trade barriers and administrative duplications, and brought together the national market around the concept of “One Nation, One Tax”.

The constitutional basis of this system of indirect taxation is laid down by Article 246(A) of the Constitution of India³. This innovative article created a new system of law in which sovereignty was shared between the two levels of government through giving concurrent power of taxation to Parliament and the respective State Legislatures. Unlike the previous method of bifurcating the legislative items under the Seventh Schedule, Article 246(A) provides the opportunity for both the levels of government to enact laws at one time concerning the supply of goods and services. In order to deal with the concurrent power, Article 279(A) of the Constitution⁴ has created a new constitutional body known as the Goods and Services Tax (GST) Council that consists of Union and State Finance Ministers⁵.

However, the administration of the GST regime has revealed significant structural weaknesses, which pose serious threats to the co-operative balance. Given the fast pace at which modern trade is developing, especially in the context of electronic transactions, the legislature has embedded the provision of Section 164 in the Central Goods and Services Tax (CGST) Act,

² The Constitution (One Hundred and First Amendment) Act, 2016 (India).

³ India Const. art. 246A.

⁴ India Const. art. 279A.

⁵ Saraf & P. Kumar, *The Shared Sovereignty Experiment: Assessing Article 246A after Five Years*, 12 Indian Const. L. Rev. 201 (2023).

2017⁶. Section 164 confers a wide-scope of discretionary power to the executive in making rules and notifications to give effect to the enactment. In fact, the tax administration has mistreated this delegated power so much that the system is now known to as "taxation by notification". Frequent and excessively complicated rules or circulars could exceed the limits prescribed by the parent statute.

It is this heavy reliance on the executive action that has resulted in a strange trilemma within the ambit of present-day GST law. The tax administration finds itself caught up in an institutional point of conflict due to three competing interests – speed of executory action, uncontrolled nature of adjudication and smooth movement of trade in goods and services. While the speed of executive action is inevitable for dealing with organized tax evasion and revenue loss, speed sometimes misses even the elementary norms of natural justice. There has been an institutional problem relating to dispute resolution too. It took almost seven years after the implementation of the law that the Goods and Services Tax Appellate Tribunal (GSTAT) could not be put into functioning due to which taxpayers had to move numerous writ petitions under Article 226⁷ before the High Courts for resolving simple factual issues. At the same time, the Authority for Advance Rulings (AAR) has been criticized for showing departmental bias since benches are constituted of revenue officials and not judges leading to inconsistency of decision making in different regions and thus disrupting the market flow.

In this paper, an analysis of the jurisdictional development of GST law in India has been conducted in the light of the intersection of executive activities, tribunal structure, and enforcement practices. In this regard, an examination of the conflict between executive convenience, independence of tax arbitrators, and economic efficiency has been provided. In particular, with the help of judicial decisions of the Supreme Court and High Courts in India, this paper analyses the judicial constraints on delegated legislation, reorganization of AAR and GSTAT and constitutional limits on enforcement actions. Thus, this paper concludes that for the GST law to serve as the driver for the vision of a Viksit Bharat, judicial limitations on executive delegation and strengthening of independence of tax tribunals are needed.

REVIEW OF LITERATURE

There has been a plethora of academic writings pertaining to the legal framework of the GST system in India and its implications for constitutional governance. In order to analyse the

⁶ Central Goods and Services Tax Act, 2017, § 164, No. 12, Acts of Parliament, 2017 (India).

⁷ India Const. art. 226

trilemma in the context of executive behaviour, judicial independence, and economic efficiency in contemporary times, it is necessary to identify specific thematic clusters within the current body of literature.

I. FISCAL FEDERALISM AND THE CONSTITUTIONAL FRICTION OF ARTICLE 246(A)

The structural transformation from the conventional federal borders to shared sovereignty has been one of the significant issues in constitutional scholarship. In his seminal work on Indian Constitutional Law, (Seervai, 2006)⁸ explained that the allocation of taxation powers in the Seventh Schedule was aimed at avoiding legislative overlapping and conflicts in the federation. Nonetheless, the introduction of Article 246(A) has completely upset this classic scheme. Datar (2021)⁹, in observation on indirect tax structures, noted that legislative concurrent powers over a single taxable event is a new constitutional experiment, needs constant bargaining process. The very process of bargaining, regulated by GST Council according to Article 279(A), has been extensively examined by academia. Legal scholars have maintained that, although the Council is an innovative step for co-operative federalism, the practice of seeking consensus often leads to a situation when the sovereign legislative powers of state assemblies are undermined (Saraf & Kumar, 2023)¹⁰. According to early economic analyses, this particular scheme was supposed to bring harmony to the national market. Nonetheless, according to recent legal scholarship, when regional fiscal interdependencies collide with revenue goals of the Centre, the cooperation system becomes severely hampered and creates gridlocks, which demand judicial interference (Mishra, 2025)¹¹.

II. DELEGATED LEGISLATION AND THE "TAXATION BY NOTIFICATION" CRITIQUE

The significant utilization of delegated powers for rule-making by the executive branch under Section 164 of the CGST Act has been severely criticized by administrative law experts. The public law literature is well-established regarding the fact that although there is a requirement of procedural flexibility on the part of the executive in dealing with

⁸ H.M. Seervai, Constitutional Law of India vol. 3 (4th ed. 2006).

⁹ Arvind P. Datar, Kanga & Palkhivala's The Law and Practice of Income Tax (11th ed. 2021).

¹⁰ Saraf & Kumar, *supra* note 3, at 201

¹¹ V. Mishra, Cooperative Federalism Under Strain: The Changing Dynamics of the GST Council, 60 Econ. & Pol. Wkly. 32, 35 (2025).

economic variables, the fundamental legislative policy cannot be changed (Jain & Jain, 2022)¹². Tax practitioners and academics consider the current administration of GST to be characterized by "taxation by notification." Legal analysis done by corporate lawyers shows that the continuous, swift issue of executive circulars and notifications often overrules statutory rights provided by Parliament (Singh & Sharma, 2024)¹³. For instance, academic analysis of Rule 36(4), which limits the availability of Input Tax Credit (ITC) on the grounds of supplier compliance, indicates a considerable shifting of state's enforcement burden upon the innocent buyer. Academics consider that the use of administrative rules retrospectively to affect the statutory claims is against the principles of legal certainty, increases compliance cost and reduces the predictability of the market for international investors in Viksit Bharat 2047 (Gupta, 2025)¹⁴.

III. ADJUDICATORY INDEPENDENCE VS. INSTITUTIONAL REVENUE BIAS

The design of the structure of quasi-judicial authorities in the context of GST is one of the significant points of dissonance in administrative law. The most prominent criticism put forth in the legal literature is the structure of the Authority for Advance Rulings (AAR). The literature suggests that due to the structure of the AAR in which only revenue officers can sit as members without any independent judicial members, the forum is inherently prone to "revenue bias" (Verma & Rao, 2024)¹⁵. The arrangement is contrary to the basic principle of 'nemo iudex in causa sua' (No one should be a judge in their own cause). Moreover, the international tax authorities point out that the absence of a centralized judicial co-ordinator has led to the fragmentation of regions, wherein there are different state AARs making conflicting decisions regarding the same business model (Bird & Gendron, 2021)¹⁶. Additionally, the long period of time that has passed before the GST Appellate Tribunal (GSTAT) came into existence has already been extensively discussed as an organizational

¹² M.P. Jain & S.N. Jain, *Principles of Administrative Law* (8th ed. 2022).

¹³ A. Singh & R. Sharma, *Taxation by Notification: A Public Law Critique of Indirect Tax Administration in India*, 66 *J. Indian L. Inst.* 310 (2024).

¹⁴ S. Gupta, *Executive Delegation vs Legislative Oversight: Rule 36(4) and the Erosion of Commercial Certainty*, 14 *J. Indian Revenue Juris.* 112, 118 (2025).

¹⁵ S. Verma & M. Rao, *Structural Bias in the Authority for Advance Rulings: The Case for Independent Judicial Oversight*, 89 *Taxman Indirect Tax J.* 178 (2024).

¹⁶ Richard M. Bird & Pierre-Pascal Gendron, *The Geography of GST: Lessons in International Tax Adjudication and Administration* (2021).

bottleneck. Scholars have extensively examined the impact of this situation upon the use of High Courts as the first appellate authority in factual tax matters (Narayan, 2025)¹⁷.

The literature has explored how this void resulted in the functioning of High Courts as the first appellate authority on questions of fact in tax matters, which created a huge number of writ petitions and hindered the development of tax jurisprudence (Narayan, 2025).

IV. STATUTORY ENFORCEMENT MEASURES AND BOUNDARIES OF DUE PROCESS

The issue of powers of aggressive tax enforcement against constitutional freedoms has turned out to be an important subject matter for contemporary academic research. Legal authors interpreting Section 83 (provisional attachment of bank accounts) and Section 69 (pre-assessment arrests) of the Central Goods and Services Tax (CGST) Act, 2017 infer that arbitrary use of these powers amounts to an infringement of the right to carry on business guaranteed by Article 19(1)(g) and the right to personal freedom under Article 21¹⁸. Chandrachud A. (2023)¹⁹, emphasizes that any actions undertaken by the government aimed at combating tax evasion should meet the criteria of proportionality. Nevertheless, according to reviews published in the scientific journals dedicated to tax law, asset freezes are often used during preliminary tax assessments as a technique for forcing taxpayers to make tax deposits before any assessment is concluded (Kapoor & Mehta, 2024)²⁰. It is noted that although protection of government revenues is a legitimate state interest, pre-assessment arrests made without criminal due process of law undermine natural justice principles.

V. THE GAP IN EXISTING TAX LITERATURE

Although much has been written about the advantages of a unified tax in terms of macroeconomic effects or the weaknesses in certain parts of the GST law, there is still a noticeable lack of analysis. The existing studies do not provide a comprehensive approach that would bring together the principles of executive delegations, the independence of the tribunals, and the bounds of the enforcement actions. This paper aims at filling the research

¹⁷ S. Narayan, The Seven-Year Vacuum: GSTAT Delays and the Writ Petition Explosion in High Courts, 37 Nat'l L. Sch. India Rev. 89 (2025).

¹⁸ India Const. art. 19, cl. 1(g); *id.* art. 21.

¹⁹ Abhinav Chandrachud, The Law of Provisional Attachment and Due Process under Indian Tax Statutes (2023).

²⁰ R. Kapoor & A. Mehta, Constitutional Boundaries of Provisional Attachments: A Critical Review of Section 83 of the CGST Act, 5 Sup. Ct. Cases (Acad. Sec.) 45, 52 (2024).

gap through the discussion of how judicial review needs to balance these opposing forces in order to create a sound economy.

RESEARCH METHODOLOGY

The present research adopts a qualitative and doctrinal research methodology in-order to analyse the evolution and development of GST jurisprudence in India. The reason behind it is that, in legal research, the application of the doctrine method requires critical analysis of legal doctrines, law and case decisions in order to reconcile the conflicting elements and suggest ways for improvement within the legal framework. The rationale behind the application of the doctrinal method in the current research study lies in the need to look into the conflict between executive rules, adjudicative independence, and economic efficiency.

Articles 21, 19(1)(g), 226, 246(A), 265 and 279(A) of the Constitution of India²¹; the Central Goods and Services Tax (CGST) Act, 2017; the Integrated Goods and Services Tax (IGST) Act, 2017; and other rules like CGST Rules, 2017; executive notifications and procedural circulars by Central Board of Indirect Taxes and Customs (CBIC); and secondary sources like books on Constitutional Law and Taxation, law reviews, Law Commission Reports and official press releases by GST Council and GSTAT Principal Bench, have been relied upon. The sample of case laws encompasses major decisions of the Supreme Court of India and state High Courts within the period of 2017 to 2026. Cases were chosen via purposive sampling based on the criteria of direct relevance to the main topic of the paper. They include landmark cases on the boundaries of delegated legislation; exercise of extraordinary enforcement powers and new rulings of 2025–2026 on the strict boundaries of the asset freezing as per Section 83²² of the CGST Act, 2017.

Data collection is analysed through standard approaches to statutory construction and constitutional interpretation. The executive's actions are subject to the doctrine of excess of delegation so that administrative regulations comply with the parameters laid down by the parent statute. Quasi-judicial bodies are assessed through the prism of administrative law with regard to institutional impartiality and the 'audi alteram partem' (hear the other side) principle. Lastly, international comparison is introduced into the research framework as a tool for examining the experience of tax tribunals in the US, UK, and Australia.

²¹ India Const. art. 19, cl. 1(g); *id.* art. 21; *id.* art. 226; *id.* art. 246A; *id.* art. 265; *id.* art. 279A.

²² Central Goods and Services Tax Act, 2017, § 83, Pub. L. No. 12 (2017) (India).

ANALYSIS AND DISCUSSIONS

I. EXECUTIVE DELEGATION VS. THE RULE OF LAW: NAVIGATING "TAXATION BY NOTIFICATION"

Rapid changes within modern business necessitate a tax administration that is able to adjust itself according to the emerging economic trends and digital business models along with complicated supply chain networks. In order to attain such flexibility, the legislation in the form of Section 164 of the CGST Act, 2017²³ provides extensive power to the executive authority to formulate rules and notifications in order to implement the act. Nonetheless, such delegation of powers has led to an administrative process whereby the tax liabilities, exemptions, and procedural requirements under the statute are continuously changing through notifications and circulars of the executive authority rather than through legislative amendments.

According to Article 265²⁴ of the Constitution of India, no tax shall be levied or collected except under the authority of law. Under such a constitutional requirement, it is mandatory for the legislature to determine any essential legislative policy, such as the taxable event, the rate of tax, and who will pay the tax. The executive does not have the power to exercise its rule-making power to change the basic structure of the statute enacted by the legislature or the rights conferred by such legislation.

The limits of the delegation of power to make rules in respect of the GST regime have often been the subject of judicial scrutiny. In the case of *VKC Footsteps India Pvt. Ltd. v. Union of India (2021)*²⁵, the Supreme Court considered the legality of Rule 89(5)²⁶ of CGST Rules, according to which the refund of tax under an inverted tax system was limited only to inputs but not to input services. The taxpayer contended that the rule in question infringed upon the general statutory right to receive a refund, provided for by Section 54(3)²⁷ of the CGST Act. While the rule was upheld by the Supreme Court in deference to the power of the executive branch to craft economic policies, it is important to stress that the delegation of legislative powers should always stay within the limits established by the parent statute.

²³ Central Goods and Services Tax Act, 2017, § 164, No. 12, Acts of Parliament, 2017 (India).

²⁴ India Const. art. 265

²⁵ *VKC Footsteps India Pvt. Ltd. v. Union of India*, (2021) 9 S.C.C. 630 (India).

²⁶ Central Goods and Services Tax Rules, 2017, Rule 89(5) (India)

²⁷ Central Goods and Services Tax Act, 2017, § 54(3), No. 12, Acts of Parliament, 2017 (India).

The interrelation between the central and state governments introduces yet another level of complexity into the delegation structure. In *Union of India v. Mohit Minerals Pvt. Ltd. (2022)*²⁸, the Supreme Court elaborated on the constitutional position of the GST Council. The case involved the legality of executive notifications for imposing GST on the ocean freight business. According to the Court's decision, the recommendations issued by the GST Council are not binding upon sovereign parliaments and assemblies but have only persuasive power. The decision made clear that neither Article 246(A) nor 279(A) establishes a hierarchical structure in which the Council overrules the legislative power of states; rather, the structure is based on the concept of co-operative federalism requiring co-operation. Therefore, executive notifications that seek to enforce the decisions of the Council without the necessary statutory approval of the respective legislature can be overridden in light of conflicting laws.

It could also pose operational compliance problems for companies due to changes in procedures that are either retrospective or frequent in nature. Changes in the process could be related to the qualifications for Input Tax Credit (ITC) and the documentation requirements related thereto, which would complicate planning for businesses and could impact their costs. A well-functioning tax system is of the same importance to international businesses operating in India as the tax rate itself. If changes are made to the tax liability definitions on a frequent basis through administrative notices, it impacts business certainty.

II. ADJUDICATORY INDEPENDENCE: STRUCTURING QUASI-JUDICIAL MECHANISMS

For an efficient tax system, there should be independent and impartial institutions which are responsible for dispute resolution where conflicts occurring between the taxpayer and the government are resolved. As far as the GST regime is concerned, the dispute resolution process at the first level involves quasi-judicial institutions, adjudicating authority, and Authority for Advance Rulings (AAR). This mechanism has attracted some criticism owing to the reason that it combines investigation, enforcement, and adjudication in one body.

One of the main advantages of the Authority for Advance Rulings (AAR) is its role in providing clarity in advance about the tax consequences of the intended operations of a taxpayer. This way, possible conflicts in the future could be avoided. Yet, the process of operation of the AAR has been problematic. Since benches of AAR are usually formed by senior tax officials from

²⁸ *Union of India v. Mohit Minerals Pvt. Ltd.*, (2022) 10 S.C.C. 700 (India).

the departments and not judges, there might be an institutional "revenue bias" when the panel is structurally forced to safeguard the interests of state revenues. Such approach is inconsistent with the general rule of *nemo iudex in causa sua* (no man should judge in his own case). That results in high percentage of decisions which favour revenues, dissuading taxpayers from using the tool. Moreover, since there is no unified judicial co-ordination of individual state AARs, they sometimes render conflicting decisions regarding identical commercial transactions.

This problem was exacerbated by the long delay in constituting the Goods and Services Tax Appellate Tribunal (GSTAT). It took almost seven years since the introduction of GST for the setting up of a tribunal which would fill the gap in the appeals process. In the absence of an independent forum for examining the facts and law of the matter decided by first-level appellate authorities, there was no intermediate statutory remedy available to the taxpayers. The need for such an intermediate remedy was fulfilled through thousands of writs filed under Article 226 of the Constitution in State High Courts.

To tackle this issue, the government started working actively towards the formation of GSTAT infrastructure with the help of a dedicated e-filing portal and the creation of localized benches. In order to ease out the whole process and deal with the number of pending disputes, certain practical changes have been made through GSTAT Principal Bench. As per the present guidelines of GSTAT, the lenient process of appeal scrutiny till December 31, 2026 has been made valid (GSTAT Principal Bench, 2026). These guidelines direct the tribunal registry and scrutiny officers to adopt a flexible attitude so that they should not reject the appeal on account of any minor issue in formatting, pagination or typing. Instead, they should concentrate only on legal and procedural flaws in the appeal. Apart from this, the administrative changes have helped in making the whole process easier as there is no need for submitting physical certified copy of the order being contested if it is already available on the GST Common Portal.

III. ECONOMIC EFFICIENCY AND JUDICIAL PRAGMATISM

The economic rationale of the GST law involves a chain of Input Tax Credits (ITC), which has to be smooth and uninterrupted. The economics behind the GST system has to do with a chain of Input Tax Credits (ITC) and it has to be consistent without any break. The reason why tax deduction on purchases has been considered is because in that way it would be possible to avoid the "tax on tax" phenomenon, which characterized previous indirect taxes. This is crucial for cost reduction and competitiveness of Indian manufacturing companies in foreign markets as well as for lowering consumer price levels. In other words, implementation of the

administrative regulation, which breaks the credit chain, automatically leads to the negative impact on the economic situation in the market. Considering strict administrative regulations that can break this credit chain, the courts have adopted the judicial pragmatism approach in interpreting the statutes. Instead of using the literal interpretation of the tax laws that contradicts the spirit of the law, the judges interpret the provisions in such a way that ensures consistency of the chain of supply. High Courts all over the country have repeatedly stated that Input Tax Credit is not an optional benefit given out as a favour by the executive authority but rather a statutory right and economic necessity.

Such a practical approach adopted by the courts can be seen in the way the courts deal with cases relating to Rule 36(4)²⁹ of the CGST Rules. In such cases, tax authorities have often relied on Rule 36(4), which precludes the buyer from claiming ITC in case their suppliers do not upload invoices appropriately in the government portal, to deny ITC to buyers who have in good faith paid the taxes to their suppliers. As a response to such a scenario, many high courts have taken it into their hands to come to the aid of the buyers who are not responsible for the situation. It has been ruled that the withholding of ITC from an innocent buyer who has made a full payment of the tax is not justified, provided that the transaction is a genuine one.

Furthermore, the courts have also taken up this approach in some other cases where tax law had a connection with economics. In the case of *State Tax Officer v. Rainbow Papers Ltd. (2022)*³⁰, the Supreme Court has assessed the relation between the claims of state taxes and the resolution plans of the companies under the Insolvency and Bankruptcy Code (2016)³¹. Initially, in this case, the Supreme Court decided that some of the state tax authorities were regarded as secured creditors due to the wording of the state tax law. But this decision could create some difficulties for the concept of ‘clean slate’, which is essential for the success of the resolution plan. Thus, some changes were done through legislation.

IV. STATUTORY ENFORCEMENT MEASURES AND THE BOUNDARIES OF DUE PROCESS

As far as tax evasion and tax fraud, like for example setting up a false invoicing network, are concerned, the regime of GST provides for some very strong administrative actions in respect of those. These include, for example, Section 83 of the CGST Act which provides for

²⁹ Central Goods and Services Tax Rules, 2017, Rule 36(4) (India).

³⁰ *State Tax Officer v. Rainbow Papers Ltd.*, (2022) 13 SCC 801 (Supreme Court of India).

³¹ Insolvency and Bankruptcy Code, 2016, Pub. L. No. 31 (2016) (India).

provisionally attachment of the property as well as bank accounts of the business, and Section 69 which provides for arrest of the person prior to the assessment of tax liability³². While it can be said that prevention of tax fraud does matter for regulators as an objective in itself, these extraordinary powers may have a damaging effect on the business when used uncalled for.

With all these dangers in mind, the higher judiciary has made certain constitutional provisions and principles of natural justice regarding the exercise of these powers. With regard to asset freezing, the most authoritative decision is Supreme Court of India's *Radha Krishan Industries v. State of Himachal Pradesh (2021)*³³. In this case, the Court emphasized the point that the power to temporarily attach the bank accounts of the people is a highly disruptive power. The Supreme Court held that such a power must not be used to recover tax at the stage of preliminary inquiry. On the contrary, the Commissioner should make an objective assessment based on certain factual circumstances that there is no way out other than temporary attachment of the bank accounts.

The need for reasonableness in the administrative decision has always been highlighted in many cases by the High Courts of the states. In one of the cases decided by the Gujarat High Court, *Chechani Trading Company v. Joint Commissioner of GST & Central Excise (2021)*³⁴, the freezing of the bank accounts of the corporations through boilerplate orders was done without any mention of the reasons and material on the basis of which this decision was taken, but merely repeated the Section 83. The court held that the orders that did not contain any evidence of the reasonableness of the order would show the lack of consideration of the administrative issues and cannot be maintained. Normally, the courts have always held that if a taxpayer has paid the tax in question or is taking part in the process of assessment, there must be an unwinding of the freeze on the assets.

V. GLOBAL COMPARATIVE PERSPECTIVES ON TAX ADJUDICATION

While India is formulating its GST adjudication and tribunals to achieve Viksit Bharat, it is worth considering the experiences of certain developed democracies concerning the question of how they have dealt with disputes in their tax systems. There exist several developed nations that have already undergone the experience of reconciling the need for revenue generation with the protection of taxpayers' rights. The institutional set-up that those countries have designed

³² Central Goods and Services Tax Act, 2017, §§ 69, 83, No. 12, Acts of Parliament, 2017 (India)

³³ *Radha Krishan Industries v. State of Himachal Pradesh*, (2021) 6 S.C.C. 771 (India)

³⁴ *Chechani Trading Co. v. Joint Comm'r of GST & Cent. Excise*, R/Special Civil Application No. 12498 of 2020 (Guj. H.C. Dec. 11, 2021) (India).

can serve as best practices for dealing with the aforementioned conflicting interests. For instance, in the United States, tax disputes are largely resolved in the United States Tax Court, which is an independent court established by Article I of the United States Constitution. One of the features of the American approach to resolving tax disputes is its complete independence³⁵ from the institution responsible for revenue collection. The United States Tax Court is totally independent from the Department of the Treasury and, therefore, its judges are free from any revenue targets and executive interference by the Department. Any taxpayer can file a petition in the Tax Court on deficiency prior to paying the disputed tax amount.

The United Kingdom has a well-structured and organized two-tiered tribunal system under the Ministry of Justice and totally independent of the HMRC (His Majesty's Revenue and Customs). Cases involving tax disputes start off at the First-tier Tribunal (Tax Chamber) that is divided into various specialized benches with professional judges and tax practitioners heading the benches. Appeals from the First-tier can then be made to the Upper Tribunal whose decisions have a binding effect on the whole tribunal system as they become precedents. The structured nature of the tribunal system ensures that regional inconsistencies and contradictions that occur within the Indian AAR system are not replicated in the UK system³⁶.

Another instance from Australia, where the country has established the Administrative Appeals Tribunal (AAT). The tribunal carries out independent reviews of different kinds of administrative decisions, which may also include administrative decisions made by the Australian Taxation Office (ATO). The AOT uses independent tax experts, experienced accountants and federal judges to be put in panels together. Thus, the tribunal gets technical expertise required for analysing corporate accounts and international transfer prices without undermining judicial objectivity. Moreover, the nation of Australia puts a lot of focus on the use of alternative dispute resolution (ADR) processes, which include mediation and conciliation at the early stage of appeals. Thus, the officials can resolve minor differences regarding valuation and accounting quickly, while the official judicial process is used to deal with the matters related to interpretation of statute. With the help of these foreign examples, India can find solutions for betterment of its advance ruling panel and GSTAT.

³⁵ U.S. Const. art. I; see also 26 U.S.C. § 7441

³⁶ Tribunals, Courts and Enforcement Act 2007, c. 15, § 3 (UK); see Richard M. Bird & Pierre-Pascal Gendron, *The Geography of GST: Lessons in International Tax Adjudication and Administration* 204 (2021)

CONCLUSION

The development of the system of the Goods and Services Tax (GST) in India from the jurisprudence point of view can illustrate how throughout the years there were efforts made to find the balance between the need of providing stable income for the state and constitutional governance. While trying to implement the ideas of Viksit Bharat 2047, the government of India should continue efforts to improve the legal framework of its major indirect taxation system. Some challenges could be identified during the first few years of existence of the GST system, including those related to the use of excessive delegated legislation, lack of operation of the appellate tribunal, and a tough approach to the enforcement of provisions. The recent trends such as the introduction of the GSTAT e-filing system and relaxing of procedural requirements until December 31, 2026, show that the problem is being addressed.

It should be emphasized that the judiciary has been integral in ensuring that the tax regime continues to uphold its integrity. Through the process of reviewing executive acts and making sure that the provisions of the Constitution prevail, the Supreme Court and High Courts have upheld certain fundamental laws. Judicial decisions have made it clear that executive notifications should not override the provisions of the statute (*VKC Footsteps, 2021*)³⁷, that the recommendations of the GST Council are merely persuasive in nature (*Mohit Minerals, 2022*)³⁸, and that any attachment of bank account provision should be based on objective evidence rather than administrative decision-making processes (*Radha Krishan Industries, 2021*)³⁹. Moreover, by means of judicial interpretation of the law through its intended purpose, continuity of the Input Tax Credits has been assured.

To build upon these judicial clarifications and ensure a fair, transparent tax environment, this study recommends certain structural and policy reforms:

Separation of Powers Within Adjudication: There needs to be separation of powers between the investigative and auditing departments of the tax department and the adjudicating departments within the quasi-judicial mechanism of the agency. The tax officials should not be doing both investigation and judging.

Judicial Participation in the Advance Ruling Framework: To solve the issue of inconsistency at the state level, the independent judges have to be incorporated into the AAR board. This can

³⁷ VKC Footsteps India Pvt. Ltd. v. Union of India, (2021) 9 SCC 630 (Supreme Court of India).

³⁸ Union of India v. Mohit Minerals Pvt. Ltd., (2022) 10 SCC 700 (Supreme Court of India).

³⁹ Radha Krishan Industries v. State of Himachal Pradesh, (2021) 6 SCC 771 (Supreme Court of India).

be done by taking into account that the GSTAT Principal Bench should be considered the National Appellate Authority for Advance Rulings. It would help to classify and tax according to the 'One Nation, One Tax' principle.

Automatic Compliance With the Asset Freeze Limitation Period: In light of the Supreme Court guidelines regarding Section 83, it is essential that the GST portal systems implement automatic systems that automatically release the provisional bank attachments within 365 days after issuance, unless there is a different liability acknowledged officially. It will ensure that there will not be any serial attachment misuses and that the corporate cash flow will not be affected negatively.

Permanent Implementation of Technology Based Dispute Settlement Mechanism: The above procedural changes such as focusing on genuine legal faults rather than superficial formatting problems that were introduced by GSTAT should be permanently followed. Elimination of the requirement for physical documents in case the document has been uploaded on the GST Common Portal will help in making the appeals process much easier and reduce the cases backlog in the higher courts.

With these changes to its structure, India will be able to convert its tax administration from being one of confrontation to one where the law prevails. This development will assist in protecting the rights of taxpayers, eliminating regulatory uncertainty, and creating the kind of environment that is conducive for growth and development of the business economy.