

Trends Of Distribution Of Revenue Resources Under Indian Constitution In Present Scenario

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Introduction

The imposition and collection of any tax is a legislative function which is assigned to parliament and state legislature in art 246 read with the relevant entries in list 1 and 2. Major taxes such as income tax excise duty, corporate tax, wealth tax, estate duty, service tax, and any residuary tax are assigned exclusively to parliament while taxes such as land service tax on agricultural income, estate duty on agricultural land, excise duty on alcoholic and intoxicating drugs, tax on entry of goods, sales tax, passenger tax, goods and vehicle tax are assigned to the states as the revenue from the state taxes is expected to be inadequate to discharge their constitutional obligations. Part xii makes provision for the distribution of revenue from the taxes between the union and the states. Both the union and the states are required to maintain consolidated and contingency funds for receiving and depositing any revenue from any source (art 266-267) for the distribution of revenues between the union and the states some taxes are levied by the parliament but collected and appropriated by the states (art 268). Service tax is levied and collected by the union but appropriated by both the union and states (art 268A). Some taxes are levied and by the union and are distributed between the union and states (art 269). The union is also required to make some grants to the states (art 273-275). Provisions are also made for the union and states to borrow money (art 292, 293). The other provision for the finance commission, which The President appoints at the end of every five years for recommending distribution of revenues between the union and the states, principles for grants –in-aid, measures for augmenting the consolidated fund of the states for supplementing the resources of panchayats and any other matter referred to it. The recommendations of the commission are placed before parliament and are invariably implemented. Thus the commission performs an important role in establishing the balance between the responsibilities of the governments and the revenues available for discharging them, something that is often a contentious and delicate matter in federal constitutions.

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The Trends of allocations of taxing powers to the union and the states has certain characteristics. These are the followings.

1. There is a definite entry in the lists of the 7th schedule authorizing parliament or state legislature to impose a particular tax. The power to tax cannot be derived from a general legislative power in *International Tourist Corporation v. State of Haryana AIR 1981 entry 56* of the state list authorizes a state legislature to impose tax on passengers or goods carried by road or inland waterways. The state of Haryana had imposed the tax in the exercise of this power. Entry no 23 of the union list relates to the national highways and it is a general legislative entry and not a tax entry.
2. The constitution is not particular about the ensuing that the resources allocated to meet the governmental responsibilities imposed on it. Moreover, the future demands of expenditure could not be accurately foreseen nor could the elasticity of a tax structure be measured correctly in advance. The state can keep with themselves what they collect by using their own tax resources, the taxes imposed by union parliament either go exclusively to the coffers of the states or become part of a divisible pool which is distributed between the union and the states. After the 80th amendment all the tax entries in the union list have become part of the arrangement.
3. The distribution of resources clearly indicates that the constitution aims at bringing about some parity in the social services and other opportunities that may be available to the citizens of the countries living in its different parts and regions.
4. The constitution disfavor double taxation. That is the reason to put the taxing entries either in the union list or in the state list.

The political federalism initially embedded in the constitution through the design of state-level governments was subsequently enhanced by the creation of a layer of elected local governments. At the same time, the political structures have been complemented by the fiscal structures also included in the constitution, that provided the lifeblood of political federalism, fiscal federalism covers matters of expenditure and revenue at different levels of governments as well as the fiscal links between levels of government. These links can be direct, in the case of intergovernmental transfers or indirect, as when different levels of government raise revenue from the same or overlapping tax bases. The expenditure authority assigned to sub national governments is an obvious corollary of political federalism, since the power to elect a government is meaningless if that government has no control over spending. The

initial constitutional assignment of tax power in India based on a principle of separation, with tax categories being exclusively assigned either to the centre or to the states, through the union and the state lists. At the sub-national level, a long list of assigned to the states, but only the tax on the sale of goods has turned out to be significant for the state revenues. This narrow effective tax base was largely a result of political economy factors (eg. rural landed interest were initially quite powerful in government at the state) that have eroded or precluded the use of taxes on agricultural land or incomes by state government. The large vertical fiscal imbalance between the levels of government was not unanticipated, and provisions were included in the original constitution to cover centre –state transfers through creation and operation of Finance commission. There is a theoretical case for this kind of arrangement, based on the greater economic efficiency of national tax collection combined with sub-national spending for many kind of goods and services. A final area that impinges on federal finance is that of government borrowing. Art292 of the constitution gives the centre the power to borrow, subject to the security of the consolidate fund of India and to any limits that might be placed on it by Parliament similarly Art 293(1) has provisions for borrowing by state government, though they may not borrow abroad. Art293 (2) allows the centre to make loans to the states or provide guarantees to loans taken by them, subject to the possible conditions laid by the parliament.

Amendments in fiscal relations:

The first time the constitutional assignment of taxes was in 1956, when the language governing inter-state sales taxes was sharpened and clarified. Art 269, Art286 and the 7th schedule of the constitution were on all modified in 6th amendment. Inter-state sales tax were to be levied and collected in accordance with an Act of Parliament, but with the proceed accruing to the states and not going into the consolidated fund of India. The constitution 80th amendment in 2000 substitute a new Article for Art 270. The recent modification of tax assignment is GST 101st Amendment inserted Art246A, Art269A, and Art 279A in the Indian Constitution.

Taxing power of union and states:

1. The Parliament can make laws for imposing taxes on the items of the union list.
2. The state legislature can make laws for imposing taxes on the items of the state list
3. In case of tax legislation .There is no concurrent jurisdiction .That is, the concurrent list does not include any tax.

4. The parliament has the residuary power of taxation , for instance gift tax and expenditure tax

TYPES OF REVENUE DISTRIBUTION BEFORE 80TH AMENDMENT IN 2000

1. Taxes Imposed By the Union but Collected and Used By the States

- I. Stamp duty on bill of exchange, cheques, and promissory notes.
- II. Excise duties on medicinal and toilet preparation containing alcohol.

These taxes collected by the union when such duties are imposed with in any union territory. Proceed of these duties imposed with in any state shall not form a part of the consolidated fund of India, but shall be assigned to the States.

2. Taxes Imposed and Collected By the Union But Assigned To the States

- i. Duties on succession to property (other than agricultural land)
- ii. Estate duty on property on property (other than the agricultural land)
- iii. Terminal taxes on goods and passengers carried by railways ,see and air.
- iv. Taxes on railways fares and freight.
- v. Taxes on transactions in stock exchanges and future markets (other than stamp duties).
- vi. Taxes on the sale or purchase of news papers and taxes on advertisement published in sthem.
- vii. Taxes on the sale or purchases of goods in the course of inter –state trade or commerce.

The net proceeds of these duties and taxes are assigned to the states in accordance with the principles laid down by the parliament

3. Taxes Imposed and Collected By the Union and Compulsorily Distributed Between the Union and States.

Taxes on income (other than agricultural income and corporation tax) shall be imposed and collected by the union but compulsorily distributed between the union and the states in such manner as prescribed by the President on recommendation of the Finance commission. The obligatory sharing of income tax is provided by Art 270 of the Constitution

4. Taxes Imposed and Collected By the Union & May Be Distributed Between the Union and States. Under this category falls the excise duties included in the union list except those on medicinal and toilet preparations. These are Imposed and collected by the union. The net proceed of such duties can be paid to the states out of consolidated fund of India only if the parliament so provides further ,the principles of distribution shall also be laid down by the parliament. Income tax proceeds sharing obligatory , while that of excise duties is permissible (under Art 272) of the constitution.

5. Taxes Imposed and Collected and Retained By States

These are the taxes belonging to the states exclusively. Every state is entitled to impose, collect and use these taxes. Some of these are:

- (i) capitation taxes
- (ii) duties on succession to agricultural land
- (iii) Estate duty on agricultural land
- (iv) land revenue
- (v) taxes on agricultural income
- (vi) taxes on land and building
- (vii) taxes on mineral rights
- (viii) taxes on the consumption or sale of electricity
- (ix) Taxes on vehicle
- (x) Tolls

Distribution of Revenue after 80th Amendment

There was a major reconstruction of distribution of tax between the centre and states in 2000. Till 2000, only a few central taxes were shareable between the centre and states. The 10th finance commission suggested that the present be substituted by new scheme in which the states shared in which the states shared in total revenue of the centre. The commission also suggested that the share of the states in gross receipts of central taxes be fixed at 26% and that this ratio is reviewed after 15 years. In new scheme the states can share in aggregate buoyancy of central taxes, the central government can pursue tax reforms without the need to consider whether a tax is shareable with the states or not, the impact of fluctuations in central tax revenue would be felt alike by the central and state governments. At present, if centre needs more revenue for its own need, it has to take recourse to non shareable taxes which

distort the pattern of central taxation. The 80th amendment has altered in a fundamental manner the pattern of sharing of central taxes with the states which has been prevailing hitherto. In 2003 Art 268-A was introduced in the constitution by the constitution 88th amendment act 2003, which provides that the tax on services shall be charged by the union of India and shall be appropriated by the union of India and the states. A new Art 270 has substituted for the old one. The new Art 270(1) provided that the net proceeds of all taxes and duties referred to in union list, except the following, levied and collected by the centre shall be distributed between the centre and states. The exception to this are:

1. Duties and taxes referred to in Art 268, 268-A, 269 respectively.
2. Surcharge on taxes and duties referred in Art 271.
3. Any cess levied for specific purposes under a law made by parliament.

The new Article 270 does not fix the percentage of the net proceeds of the central taxes which must be distributed among the states. In practice, the percentage of the distributable percentage of the central taxes has been left to be settled to the Finance Commission. Art 269 has also been recast by the 80th amendment. The new article includes two taxes now, viz, taxes on the sale or purchase of goods in the course of inter-state trade or commerce, taxes on consignment of goods in the course of inter-state trade and commerce. These two taxes are levied by the centre but are assigned as a whole to the states. Article has been repealed.

14th Finance Commission Recommendation Regarding Revenue Distribution

The 14th finance commission was constituted on 2 Jan 2013 under the chairmanship of Y.V.Reddy. The recommendations came in to force on April 2015. The recommendations accepted on 24 Feb 2015. For increasing share of states in central taxes to 42%. The single largest ever recommended. It has recommended distribution of goods to states for local bodies using 2011 population data with weight of 90% & area weight of 10%.

Revenue System Post GST

GST is a comprehensive indirect tax on manufacturing sale and consumption of goods and services throughout India. The GST is consumption based tax. It would be imposed and collected at each stage of sale or purchase of goods or services based on the input tax credit method. The constitution (101st Amendment) act, 2016 has inserted clauses (1-A) and 1-(B) in Article 270. According to clause (3) the word “prescribe” in Art 270 means Finance Commission which will give its recommendation to the Government about the actual amount

of net proceeds from all taxes and duties leviable by the Central Government and shall be distributed among the states. This amendment will enhance the income of the states. In GST there is no provision for an aggrieved state. Recommendations of the Finance Commission are placed before the parliament and states have no role in the debate. Taxable goods and services are not distinguished from one another and are taxed at single rate in a supply chain till the goods or services reach the consumer. Administrative responsibility would generally rest with a single authority to levy tax on goods and services. GST would immediately allow the union to levy tax on the sale of goods which has states similarly would be able to levy tax on service which until now was mostly in the domain of the union government.

In GST era, state governments control only 35% of their revenue. States primarily depend on two sources for their revenues own revenue and central transfers. Central transfer consist receipts from devolution of union taxes and grant –in –aid from centre. GST rates decided by GST council states have limited flexibility in making decision regarding tax rates on goods and services.

Conclusion

Politically and economically, the Centre is in a much stronger position to tax than the States are. From the state point of view, the disadvantage of scheme may be that they do not have control over the level of taxation, and they do not enjoy flexibility of varying the rates of taxation to suit their needs, as they could have done had the taxes been in their own legislative domain. But, as the situation exists today, the rates at which the centre is levying these taxes are pretty high and it is very doubt full if the states could have collected as much revenue themselves from these taxes as they secure now as their share from the central levy.

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