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IN THE CLASSROOM

Legislative Route To GST Rollout

The Rajya Sabha on Wednesday will consider the Constitution (122nd Amendment) Bill that seeks to amend the Constitution to introduce the Goods and Services Tax (GST). ET explains the legislative route for rollout of the proposed tax.

WHY IS A CONSTITUTIONAL AMENDMENT NEEDED?

The Constitution provides for clear division of powers in respect of taxation between the Centre and states. While the Centre at present does not have the right to tax sale of goods, except in the case of inter-state sale, states cannot levy tax on services. The divisions are mentioned in the Article 246 under the Seventh Schedule of the Constitution. The Constitution needs to be amended to provide for giving power to both the Centre and states in respect of GST, a single tax on goods and services. Therefore, the very first provision of the Bill is to add Article 246A after Article 246. It says Parliament and the legislature of every state will have the power to make laws with respect to goods and services tax imposed by the Union or by such state. In the case of inter-state supply of goods or services or both, only Parliament will have the power.

WHY WAS IT POLITICALLY SO DIFFICULT?

A constitutional amendment Bill has to be passed by a special majority of the total membership of the House and also by at least two third of the members present & voting. The NDA govt had the numbers to get the Bill passed in Lok Sabha but lacked strength in the Rajya Sabha. It needed to get Congress and most other parties on board to get it passed. Building a consensus was difficult and time consuming.

WHAT ARE THE VOTING RULES FOR BILLS TO BE PASSED BY SPECIAL MAJORITY?

The voting in such cases is always by a division. Each clause or schedule is put to the vote of the House separately and carried by the special majority. A group of clauses or schedules can be voted together with the concurrence of the House. Amendments to clauses or schedules are decided by simple majority as in the case of any other Bill.

WHAT HAPPENS AFTER THE BILL IS PASSED BY PARLIAMENT?

Since the Bill amends the Seventh Schedule, changing the distribution of powers between and the Centre and states, it also needs consent of the states. Once the Bill is passed, at least half of the state assemblies have to ratify it. Once approved by the required number of state legislatures, it will be sent to the President for his assent. The President is bound to give assent to such Bills passed via special majority.

WILL THIS COMPLETE THE LEGISLATIVE PROCESS?

No, there is more legislation left, but the difficult one would be done with this. After the constitutional amendment is endorsed by the states, the proposed GST Council will be set up. The GST Council a body of states and the Centre will deliberate the details of the GST, based on which a GST law and IGST law will be readied. States will need to work on their own GST laws. The legal process will be over only once all these are passed.

TAXES THAT WILL BE SUBSUMED IN GST

CENTRAL TAXES

Central excise duty, additional excise duties, excise duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act of 1955, service tax, additional customs duty, special additional duty of customs, central surcharges and cesses relating to the supply of goods and services

STATE TAXES

State value added tax sales tax, entertainment tax (other than the tax levied by local bodies), central sales tax (levied by the Centre and collected by states), octroi and entry tax, purchase tax, luxury tax, taxes on lottery, betting & gambling, state cesses and surcharges as they relate to supply of goods and services