

Consumer Protection Through Anti-Profiteering Act: A Provision Under Gst, 2017

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Abstract

On the 1st of July 2017, GST was introduced in India with aim of removing multiple taxation systems on goods and services. A major aim of implementing GST was to reduce the price of products and services and to pass the benefits to the end consumer. A tax of GST is levied at different stages of production therefore; the supplier has to pass the benefits to the consumer. To stop the illegal profiteering, the provision of Anti-Profiteering was introduced. Consumers are benefited in terms of price reduction by the supplier due to input tax credit. If suppliers do not provide benefits to the consumer, in this case, the consumer's interests are protected by the authority of National Anti-Profiteering. This study tries to examine the impact of provisions related to Anti-Profiteering on consumer welfare. Our study found a positive impact of Anti-Profiteering on Consumer Protection. We have used secondary data for the study.

Keywords: GST, Anti-Profiteering, Single Taxation, Indirect Taxation.

Introduction:

Goods and Services Tax (GST) was introduced in July 2017 with the aim of "one tax, one nation, one market". The major aim of GST was to eliminate the cascading system from taxation. Before the implementation of GST, various taxes are levied by state and central governments such as VAT, Sales tax, etc. after the implementation of GST only one kind of tax is levied by the central government which is shared by state and central governments equally. It was implemented after a long discussion of about 18 years. This was not an easy step for the government as various obstacles have been removed. The rate of GST will be one rate on a single set of goods across the nation. GST is levied on each stage of production from supplier to consumer. Tax under GST is value added tax levied from manufacturers, sales, and consumption of goods and services. GST has been classified in three forms namely, CGST, SGST, and IGST. Central goods and services tax is levied by the central government, State goods and services tax is levied by the respective state government where transactions took place and Integrated goods and services tax is levied when transactions take place between the states called inter-state transactions.

The remainder of the study includes a review of the previous study, followed by the rationale of the study and objectives, the fourth part documents the methodology adopted for the study and the last part concludes the study preceding discussion on GST and its impact on consumer welfare.

Review of literature

Research conducted by Abbasi (2018) concluded that the new tax regime in terms of GST is a simple taxation system that aimed to eliminate multiple taxations. He also said that GST made a simpler tax transition. Anjaneyulu (2018) said that over 140 countries around the world have implemented VAT or GST as required in their countries. according to him GST has reduced the problems of black money, helped in increasing employment, prices of goods and services, and government revenue has increased. Consumers are treated as king due to the benefits

received by them through tax reduction and input tax credit. Rathod M (2017) in his study stated that the implementation of GST leads to a price reduction and a way forward for the economic development of India. Nishita Gupta (2014) concluded that GST benefited our economy and society in terms of single taxation and reduction of prices. Dutta (2018) conducted a study and stated that a single taxation system is an important source of income for the government for social and economic welfare. He has reported the benefits of GST in terms of price reduction, transparent taxation system, and revenue government has increased.

Naik and Sudina (2017) investigated the impact of GST on the FMCG sector. Their study utilized secondary data. They said that due to the implementation of GST prices of commodities have reduced except for a few products. removal of cascading effect has reduced the rates. Another study by Pathan (2017) has stated that GST was implemented with the slogan of "one tax one nation" to eliminate the various indirect taxes. He concluded that the new taxation system is meant for the benefit of people and the economy.

Goods were typically charged at 12.5% of excise duty and 5%-15% of VAT. After the implementation of GST, a standard rate of 18% applies to all commodities except a few products. This also helps in passing the benefits to the end consumer in terms of tax reduction and input tax credit system under the GST Act (Dr. R. Vasaathagopal 2011). Anita Modi (2017) concluded that the new tax regime in form of GST. She said that the new tax system has ensured a uniform tax regime, removal of the double taxation system, transparency in the pricing of goods and services, and eradication of black money. Kour, Chaudhary, Singh, and Kaur (2016) have concluded that GST is an origin base taxation system that enables the government to collect the tax from producer to retailer.

The rationale for Research:

This study tries to examine the impact of the provision of Anti-Profiteering under GST on consumer welfare. GST was implemented to replace the existing indirect system in India. This is single taxation which brings all indirect taxes under one umbrella of GST. This taxation has removed the cascading effect of taxes on the production and distribution of goods and services.

The objective of the study:

- To understand the GST and its structure
- To understand the Effect of the provision of Anti-Profiteering on consumer welfare

Methodology:

This research study is descriptive and tries to explore the impact of the Anti-Profiteering provision under the GST Act. This study documented the concept of GST in India and various provisions are also conceptualized. Our study also examined the impact of GST on the economy and society. We have used secondary data collected from various journals, books, and websites.

Discussion

Various laws exist in India for the protection and welfare of consumers such as the "Consumer Protection Act, 1986" and "Anti-Profiteering" under the GST Act.

Consumer protection

The concept of consumer protection arose due to inequality between the seller and buyer. The protection of the consumer is ensured by setting the standard or mechanism of quality and proper safety for goods and services bought. Consumer protection is a very old concept in India like trade. The concept of consumer protection is also mentioned in Kautilya's Arthashastra where consumers are protected from exploitation by producers or retailers in terms of less weight, poor quality, and any adulteration of goods. Till the 1970s there was no systematic safeguard for consumer interest. Now everyone has realized that consumer protection and education are very important for the development of the economy and country. The major reason behind consumer protection is the availability of a variety of products and services. In addition, the increasing size of the market, complexity in production and distribution, and various kind of advertising practices adopted by the marketer gave reason for consumer protection.

Consumer Protection Act, 1986:

The act was introduced with the aim of consumer protection against fraudulent activities, and unfair trade practices which is based on a compensatory motive. This act applies to all kinds of goods and services except those goods which are specified in the act. This act is applicable for-

- Those goods and services are hazardous for any life and property of any individual.
- Consumers are provided the right to have information about quality, quantity, purity, and price.
- This act provides the right of access to a variety of goods at the lowest possible price or competitive price.
- The act also provides the right to be heard or redressal against UTP (unfair trade practices) or RTP (restrictive trade practices)
- Another right provided by the act is consumer education.

Anti-Profiteering

Profiteering: According to section 171 of the CGST Act, 2017, the receiver of goods and supplier must get the benefit of tax reduction and ITC (Input tax credit) by way of reduction in prices of goods and services. The supplier must provide these benefits. If any will full action of not passing such kind of benefits to the consumer or receiver of goods and services has been prescribed as "Profiteering".

The learning experience from the implementation of VAT provided the path for the term Anti-Profiteering in GST laws. The report of the Comptroller & Auditor General on "Implementation of Value Added Tax in India-Lessons for transition to GST" mentioned that the reduction in prices of goods and services due to reduction in taxes or input tax credit is not passed by the supplier to consumers.

The detailed mechanism and procedure are specified in chapter XV of the CGST Act 2017, which is comprised of Sixteen rules from rule 122 to rule 137. There are various statutory provisions regarding Anti-Profiteering of Section 171 of the GST act. This section includes- any reduction in the tax rate, and benefit of ITC received by any supplier or registered. NAA (National Anti-Profiteering Authority) is authorized to take action regarding compliance with Anti-Profiteering. The authority has to take necessary action against the person who has not passed the benefits of an input tax credit, tax reduction which has resulted due to commensurate reduction in the price of goods and services. The authority may pass the order to reduce the prices, to return the amount to the recipient, to return the amount equivalent to the benefit not passed with interest, and the authority may cancel the registration or imposition of penalty.

If any recipient of such benefit is not identifiable then the authority can pass the order to deposit such amount in the "Consumer Welfare Fund". There are various provisions to file a complaint against any kind of profiteering in the name of GST.

Mechanism of filing complaints

Any aggrieved person of profiteering may file a suit at the local level in a proper format to the standing committee on Anti-Profiteering. Such complaint may also be filed to State Level Screening Committee. State Level Screening Committee after the examination of such complaint may forward to Standing Committee formed at a national level if they feel a case of profiteering exists.

The standing committee may forward it to the Director General for detailed investigation if prima facie evidence exists. The Director General has to submit the investigation report to NAA which has been constituted by Central Government for taking appropriate action.

National anti-profiteering authority

This authority is responsible to determine three months from the date of filing the complaint that the registered person has passed the benefit of tax reduction or input tax credit to the recipient. If the authority realized that such a thing has not happened then the authority can order a reduction in prices, cancellation of registration, and return the amount equivalent to the amount of benefit. The authority shall also ensure that such order must be followed immediately. If a registered person does not follow such order the authority shall recover the amount or may pass further order according to the GST Act.

Table 1. Rate of GST on Various Products and Services

Tax Rate	Item Covered		
Exempted (No Tax)	7% Items		
5% GST	14% Items		
12% GST	17% Items		
18% GST	43% Items		
28% GST	19% items	With Cess	Luxury Cars, Tobacco, Pan masala

Source: <https://www.kotak.com/en/stories-in-focus/gst-rate-slabs.html>

GST Exempted Goods and services: 7% of total goods are kept outside of the GST coverage. Such goods are of regular consumption, for example, besan, bread, various salt, jaggery, milk, curd, natural honey, judicial papers, printed books, newspaper, jute, and handloom, kajal, bangles, coloring books, etc.

5% GST: A total of 14% of goods come under this category. Cream, tea, coffee, pizza bread, rusk, sabudana, cashew nut, raisin, ice, fillet, kerosene, coal, medicine, agarbatti, postage, revenue stamps, etc.

12% GST: Frozen food products, packed milk products, dry fruits in packed form, sausages, namkeen, ayurvedic medicines, ludo, playing cards, umbrella, sewing machine, cellphones, spoons, forks, tooth powders, caron board, etc.

18% GST: 43% of total goods are included in this category. Biscuits, cornflakes, printers, mineral water, footwear costing, telecoms services, branded garments, financial services, tissues, aluminum foil, bamboo furniture, sanitary napkins, etc.

28% GST: 19% of total goods are included in this category. Goods that are not in the previous category will be included in this category such as chewing gum, bidi, molasses, chocolate, waffles, wafers, pan masala, personal care items like deodorants, shaving creams, hair shampoo, dye, private lottery, automobiles, etc.

Conclusion

This study aimed to examine the impact of the provision of Anti-Profiteering under the GST Act 2017. This study indicated that due to the provision of the GST Act 2017 prices of commodities and services are reduced and the economy and society benefit. Benefits of tax reduction and input tax credit have to be passed by the supplier of goods and services must be passed to the receiver commensurate with such activities. The study also concludes that if such kind of benefits is not passed by a such identified person to the receiver, which is called profiteering various provision are made in GST Act. GST Act applies to the whole of the nation and a committee, "National anti-profiteering authority" is formed to investigate the complaints or to redressal of such complaints. Further, research can be conducted to know the benefits of GST.

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