

Sugar cess negates spirit of GST: Experts

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It is ironical that the government is trying to bring in the sugar cess, which it abolished just a year ago to make the transition to the new indirect tax regime.

Also, experts say the Goods and Services Tax (GST) Council has the powers to impose a cess other than those meant for compensating states under the new tax system only when there is a natural disaster.

In June last year, the government did away with the Sugar Cess Act, 1982. The Act was abolished, along with 12 other kinds of cess, on July 1, 2017, when the GST was introduced.

Now, a committee headed by Assam Finance Minister Himanta Biswa Sarma is looking at levying a sugar cess at ₹300 a quintal, which divided the GST Council last week. Experts say such a move would contrast with what the government had stated in its press statement in June last year. The government had stated

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Through Taxation Laws Amendment Act 2017, 13 cesses are abolished. However, the date of the implementation will coincide with the date of GST roll-out. These 13 cesses include:

- The Rubber Act, 1947: Cess on rubber
- The Industries (Development and Regulation) Act, 1951: Cess on automobiles
- The Tea Act, 1953: Cess on tea
- The Coal Mines (Conservation and Development) Act, 1974: Cess on coal
- The Beedi Workers' Welfare Cess Act, 1971: Cess on beedis
- The Water (Prevention and Control of Pollution) Cess Act, 1977: Cess levied on water consumed by certain industries and by local authorities
- The Sugar Cess Act, 1982, the Sugar Development Fund Act, 1982: Cess on sugar
- The Jute Manufacturers Cess Act, 1983: Cess on jute goods manufactured or produced

that through the three Budgets — 2015-16, 2016-17, and 2017-18 — it had abolished various kinds of cess on goods and services to prepare the ground for the GST.

"The central government has taken this step in stages by abolishing various kinds of cess so that it is easier

to fit in various goods and services in different tax slabs for the GST," it had stated. The statement went on to say that the remaining 13 varieties of cess would also be abolished with effect from July 1, 2017.

The Sugar Cess Act, 1982, was amended in 2016 to raise the



amount of cess from ₹25 a quintal to ₹200 a quintal. The aim was to increase the accruals to the Sugar Development Fund (SDF). Then too, the objective was to help sugarcane growers. This time the cost of producing sugar has risen beyond ₹3,500 per quintal and the market

price is between ₹2,600 and ₹2,800 per quintal. "Sugarcane farmers are in deep distress," Finance Minister Arun Jaitley had said. As far as the constitutional validity of the move is concerned, Article 279 A (4f) of the Constitution Amendment Act empowers the Council to impose any special rate or rates for a specified period to raise additional resources during any "natural calamity or disaster".

"Any such move has to be linked to natural calamity or disaster. The government will have to face the constitutional bar and amend it if it decides to impose the sugar cess," Abhishek Rastogi, partner with Khaitan & Company, said. He said though addressing farmers' distress was laudable, it should not be through a cess.

Abhishek Jain, partner with EY India, said though the Council had the powers to levy a cess, doing so might not be a good idea as it would mean bringing in a new law and increase in compliances and input credit issues.

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