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Beyond One Nation, One Tax: Constitutional Limits in Mohit Minerals

DR. VIKRAM KARUNA
Assistant Professor, School of Law, Justice & Governance, Gautam Buddha University, Greater Noida

***Abstract-** The Supreme Court's ruling in Union of India v. Mohit Minerals Pvt Ltd (hereinafter "Mohit Minerals") marks a pivotal moment in India's GST jurisprudence, scrutinising both the design of the "One Nation, One Tax" model and the constitutional limits of fiscal power. The Court struck down the IGST levy on ocean freight in CIF contracts, holding that a reverse charge impost created solely by delegated legislation contravened the concept of composite supply and Article 265's requirement of lawful authority. Simultaneously, it characterised the GST Council as a recommendatory body under Article 279A and affirmed that Parliament and State Legislatures possess simultaneous law-making power under Article 246A, rejecting the notion of binding "pooled sovereignty." This paper uses Mohit Minerals to explore three enduring constitutional boundaries: the limits of delegated taxation, the enforceability of fiscal federalism, and the balance between uniformity and autonomy in the post-101st Amendment order. It shows how the judgment restrains executive tax innovations, reinterprets "cooperative federalism" as equal legislative participation, and reanchors GST accountability in representative institutions rather than technocratic consensus. Ultimately, Mohit Minerals redefines India's fiscal federalism by reaffirming legislative supremacy and restoring the constitutional balance between efficiency and democracy.*

***Keywords:** GST Council, Fiscal Federalism, Article 265, Delegated Legislation, Cooperative Federalism*

I. INTRODUCTION

When the Constitution (One Hundred and First Amendment) Act, 2016 ushered in the Goods and Services Tax (GST), it was celebrated as India's most ambitious experiment in fiscal unification—a promise encapsulated in the slogan *"One Nation, One Tax."* Yet, beneath the rhetoric of uniformity lay complex constitutional questions about how far this new regime could reconcile national coherence with state autonomy. The Supreme Court's judgment in *Union of India v. Mohit Minerals Pvt Ltd* (2022) brought those tensions to the surface.

At its core, *Mohit Minerals* dealt with a technical issue: the validity of the Integrated GST (IGST) levy on ocean-freight services in Cost, Insurance and Freight (CIF) import contracts. But its implications went far beyond a single tax entry. By striking down the levy as ultra vires the IGST Act and Article 265, the Court reaffirmed that tax imposition—however complex the statutory framework—must rest on clear legislative authority, not executive creativity through notifications. More profoundly, the judgment recast the constitutional status of the GST Council, declaring its recommendations *persuasive rather than binding*. In doing so, the Court revived fundamental debates on fiscal federalism, legislative supremacy, and the meaning of "cooperative" governance in India's federative system.

Situated at the intersection of tax policy and constitutional design, *Mohit Minerals* is less about ocean freight and more about the limits of pooled economic sovereignty. It tests whether India's federal compact can sustain a hybrid tax architecture that centralises collection but promises shared control. This paper explores how the judgment redraws the boundaries of legislative power, challenges the unifying ambitions of the GST framework, and redefines the delicate balance between efficiency and autonomy in India's fiscal constitution.

II. BACKGROUND AND LEGAL CONTEXT

To appreciate the constitutional stakes in *Mohit Minerals*, it is essential to trace the evolution of the ocean-freight levy within India's GST framework and the pre-existing tax treatment of imports.

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2.1 Pre-GST Taxation of Imports and Ocean Freight

Prior to the rollout of GST on 1 July 2017, imports under Cost, Insurance and Freight (CIF) contracts—where the foreign seller arranges and pays for ocean freight—were subject to a well-settled regime. Basic Customs Duty (BCD) and Countervailing Duty (CVD, effectively excise duty) were levied on the entire CIF value, which explicitly included the cost of goods, insurance *and* freight up to the Indian customs station. Service tax on ocean freight, however, stood exempt under Notification No. 25/2012-ST (dated 20 June 2012), reflecting a deliberate policy choice to avoid double taxation on the freight component already embedded in the assessable value of goods.

This structure aligned with the "aspect theory" in *BSNL v. UOI* (2006), where distinct taxes on goods and services forming a composite supply were permissible provided they targeted different "aspects" without overlap.

2.2 The GST Notifications: Introducing Reverse Charge on Ocean Freight

The GST regime disrupted this equilibrium. Under the Integrated Goods and Services Tax Act, 2017 (IGST Act), imports of goods triggered IGST under section 5(1) on the same CIF value, mirroring the erstwhile CVD treatment. Critically, Notification No. 8/2017-Integrated Tax (Rate) (dated 28 June 2017) and Notification No. 10/2017-Integrated Tax (Rate) (dated 28 June 2017)—issued on the eve of GST launch—imposed a separate IGST @5% on ocean freight services under reverse charge mechanism (RCM). Entry 9(ii) of Notification 8/2017 deemed the importer (located in India) as the recipient of "transport of goods by a vessel" provided by a foreign shipping line. A Corrigendum (dated 30 June 2017) introduced a deeming fiction: where actual freight value was unknown, it would be pegged at 10% of CIF value, exacerbating the effective tax burden on importers who lacked visibility into freight costs borne by foreign sellers. The stated rationale—to create a "level playing field" for Indian shipping lines—rested on GST Council recommendations from its 18th and 23rd meetings, though the notifications bypassed fresh parliamentary legislation.

2.3 The Gujarat High Court Challenge

Mohit Minerals Pvt Ltd, an importer of non-coking coal from Indonesia under CIF terms, mounted a constitutional challenge before the Gujarat High Court (*Mohit Minerals Pvt Ltd v. UOI*, 2020). The petitioners advanced three core arguments:

- Double taxation: IGST on CIF value already captured freight; a separate RCM levy offended the composite supply principle under sections 2(30) and 8 of the CGST Act, 2017.
- Extra-territoriality: The service originated outside India with no discernible "place of supply" nexus under section 13 of the IGST Act, rendering the levy without territorial jurisdiction.
- Article 265 violation: Absent explicit charging provision in the IGST Act, the notifications exceeded delegated powers and usurped essential legislative functions (subject, rate, person).

In a landmark ruling (23 January 2020), a Division Bench quashed both notifications as ultra vires the IGST Act and unconstitutional, holding they created a novel taxable event unsupported by the parent statute. The Union appealed to the Supreme Court, framing two pivotal issues:

1. Whether the notifications validly imposed RCM on ocean freight as an "import of service" distinct from goods taxation.
2. Whether GST Council recommendations under Article 279A were binding on Parliament and States when exercising powers under Article 246A.

This set the stage for the Supreme Court's pronouncement on 19 May 2022—a judgment that would redefine not just ocean freight but the constitutional DNA of GST itself.

III. SUPREME COURT'S REASONING ON THE OCEAN-FREIGHT LEVY

When the Supreme Court delivered its judgment in *Union of India v. Mohit Minerals Pvt. Ltd.* (2022), it transformed what seemed an isolated fiscal dispute into a statement on the very structure of India's taxation powers. Authored by Justice D.Y. Chandrachud, the decision harmonised statutory interpretation with constitutional principle—

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deploying a layered reasoning that began with the Integrated Goods and Services Tax Act, 2017 (IGST Act), and culminated in a re-affirmation of legislative limits under Article 265.

3.1. Composite Supply and Duplication of Levies

At the first level, the Court grounded its analysis in the statutory scheme of "composite supply" under sections 2(30) and 8 of the Central Goods and Services Tax (CGST) Act, 2017. Under a CIF contract, the foreign exporter bears the cost of transportation, insurance, and delivery until arrival at the importer's port. Thus, the service of transporting goods by sea forms an inseparable element of the imported goods' value. The freight component already attracts IGST when tax is charged on the entire CIF value at the time of import under section 5(1) of the IGST Act.

Imposing an additional levy on ocean freight under reverse charge therefore amounted to double taxation and contradicted the statutory fiction of "composite supply". The Court underscored that once a transaction is characterised as a composite supply with a principal component (import of goods), the entire bundle must be taxed under a single heading. Any isolated levy on the service element would "fracture the scheme of GST and substantially distort neutrality," effectively taxing the same value twice.

3.1. Extra-Territorial Reach and Legislative Competence

The bench next interrogated the extra-territorial reach of the notifications. Under CIF arrangements, both supplier (foreign shipper) and service recipient (foreign exporter) are located outside India, with freight services rendered on the high seas. By deeming the Indian importer as the "recipient of service," the delegated legislation attempted to create a fictitious nexus within India's tax jurisdiction. The Court observed that such deeming could not be sustained absent explicit legislative sanction. Section 13 of the IGST Act determines "place of supply" of services, but does not treat such transactions as supplied in India.

Consequently, the notifications purported to enlarge the territory of taxation without statutory foundation. The principle of territorial nexus, integral to both Article 245(2) and settled international tax jurisprudence, prohibited such expansion.

3.2. Article 265 and the Limits of Delegated Power

Perhaps the most enduring facet of *Mohit Minerals* lies in its invocation of Article 265 — the assurance that no tax shall be levied or collected except by authority of law. The Court distinguished between subordinate legislation that fills procedural gaps and those that alter fundamental tax ingredients: subject, person, rate, or measure of levy. The impugned notifications, by treating importers as deemed service recipients and fixing freight value presumptively at 10% of CIF, sought to create an altogether new taxable event.

The bench held that neither section 5(3) nor any other provision authorised executive rule-making of this nature. Delegated authority cannot substitute legislative judgment; it merely implements choices already made by Parliament. By extending the levy through subordinate legislation, the executive crossed into the domain of essential legislative functions, rendering the notifications *ultra vires* both the IGST Act and Article 265.

3.3. The Message of Constitutional Discipline

While the ostensible victory was for importers, the deeper victory was institutional—the reaffirmation that in India's constitutional order, taxation is a matter of legislative accountability. Delegated legislation must remain tethered to statutory purpose; economic expediency, however pressing, cannot stretch the "authority of law" clause.

The judgment's careful statutory reading thus prepared the soil for its broader constitutional pronouncement on fiscal federalism and the role of the GST Council—issues that the Court addressed not as peripheral observations but as vital to understanding India's hybrid tax architecture.

IV. CONSTITUTIONAL ARCHITECTURE: GST COUNCIL AND FISCAL FEDERALISM

While the statutory reasoning in *Mohit Minerals* resolved the ocean-freight controversy, the Supreme Court used the case to engage with a larger constitutional question—what kind of federal structure did the GST Amendment create? In doing so, the Court delivered one of the most consequential interpretations of Articles 246A, 269A and 279A since the 101st Constitutional Amendment came into force.

4.1 The Framework of Simultaneous Taxing Power

The Court began by reading Article 246A—the new charging clause for GST—as a *special, simultaneous grant* of taxing authority to both Parliament and the State Legislatures. Unlike the earlier model of segregated legislative lists, Article 246A(1) vests power concurrently "notwithstanding anything contained in Articles 246 and 254." Parliament retains additional authority under Article 246A(2) only for inter-State supplies.

This drafting, the Court reasoned, signifies that the 101st Amendment did not collapse the federal division of power into a centralised regime but created a *shared fiscal space*. Each legislature now operates in parallel within its respective sphere. The Court cautioned that GST, though uniform in aspiration, cannot be construed as a unitary tax imposed exclusively through the Union.

4.2 The Role and Status of the GST Council

Moving to Article 279A, the Court confronted the argument that because the GST Council determines rates, exemptions, and procedural standards by consensus, its recommendations acquire *binding* force on legislatures. Rejecting this view, the bench described the Council as a constitutional institution of cooperative federalism—one that fosters harmonisation through dialogue rather than hierarchy. The judgment emphasised textual and structural reasons:

- The term "recommendation" in Article 279A(4) carries ordinary, non-binding meaning.
- Unlike Article 246A, Article 279A contains no non-obstante or "subject-to" clause subordinating legislatures to the Council.
- The Constitution omitted any repugnancy clause comparable to Article 254, indicating that Parliament and States may enact divergent GST laws provided they respect the integrated framework.

Thus, the Constitutional design envisages co-decision, not command. The Council's influence lies in political consensus, not constitutional compulsion.

4.3 Cooperative vs Centralised Federalism

Justice Chandrachud's opinion situates India's fiscal federalism within the continuum between cooperation and centralisation. The judgment recognises the GST as a mechanism of "pooled sovereignty," yet cautions that pooling does not extinguish legislative independence. The Council is described as "an area for political contestation," a space where Union and States must negotiate compromise.

This nuanced articulation departs from earlier judicial rhetoric portraying GST as evidence of *extreme* cooperative federalism. Instead, *Mohit Minerals* re-introduces asymmetry and accountability into the narrative: States remain distinct constitutional entities capable of deviation when circumstances demand—and such deviation, the Court implies, is constitutionally legitimate.

4.4 Implications for Fiscal Governance

By downgrading the binding character of Council recommendations, the Court preserved flexibility but introduced new tensions.

- Institutional implication: Future disagreements on tax rates or exemptions must be resolved through parliamentary or state legislative debate, preventing executive or bureaucratic overreach.
- Policy implication: Uniformity may rely more on consensus and less on coercion, making the "One Nation, One Tax" ideal a matter of continuous negotiation.
- Doctrinal implication: The decision re-storied fiscal federalism as a living process—neither purely cooperative nor adversarial, but structured around equality of participation and respect for political autonomy.

4.5 Constitutional Legacy

In *Mohit Minerals*, the Supreme Court reaffirmed that the 101st Amendment is an experiment in balanced federalism, not a departure from it. The GST Council was never intended as a supra-legislature; it is, in the Court's words, a "platform for discourse." This framing ensures that while GST achieves harmonisation through deliberative mechanisms, the core democratic principle—that taxing power must flow from elected legislatures—remains intact.

The judgement, therefore, stands at the intersection of tax administration and constitutional identity: it transforms the GST Council from a symbol of fiscal centralisation into a constitutional forum for negotiated federalism, restoring the primacy of representation and legislative choice within India's evolving fiscal polity.

V. IMPLICATIONS AND DOCTRINAL SIGNIFICANCE OF THE JUDGMENT

The *Mohit Minerals* judgment extends well beyond ocean freight or the GST Council; it rewrites the jurisprudence of fiscal power in contemporary India. Through its reasoning, the Supreme Court reaffirmed constitutional constraints on delegated authority, recalibrated the meaning of cooperative federalism, and reopened debate about how far fiscal uniformity can coexist with constitutional pluralism.

5.1 Reinforcing Article 265 and the Limits of Delegated Taxation

One of the most important doctrinal consequences of *Mohit Minerals* is the Court's strict reading of Article 265, which mandates that all taxation must rest on explicit legislative authority. The judgment effectively revives the classical rule that essential tax elements—*subject*, *person liable*, *rate*, and *measure*—must be prescribed by statute itself, not by executive notification.

In striking down the reverse-charge levy, the Court warned against "administrative creativity" in fiscal policy, restoring a sharp boundary between rule-making and law-making functions. This principle, once diluted by pragmatic accommodation in indirect tax administration, now imposes a heightened standard of legislative precision. For future GST or direct-tax schemes, delegated provisions will likely face stricter judicial scrutiny, particularly where they create fresh taxable events or extend liability through fiction.

5.2 Redefining Cooperative Federalism

By holding GST Council recommendations to be non-binding, the Court converted the Council from a quasi-supranational body into a deliberative forum of equals. This doctrinal re-positioning reclaims the States' fiscal voice within the federal compact. The judgment makes clear that harmony in GST cannot arise from compulsion; it must emerge from political consensus.

The Court thus articulates a new model of cooperative federalism—normative cooperation grounded in autonomy. India's federal design is presented as dialogic rather than hierarchical. Each legislature must legislate, each executive must negotiate, and the Council serves as the site of coordination rather than control. This subtle but decisive move safeguards constitutional pluralism while preserving GST's integrative purpose.

5.3 Consequences for Fiscal Uniformity and Policy Practice

The judgment inevitably introduces new administrative risks. If every State may now diverge from Council recommendations, India's tax map could fragment into a patchwork of rates and exemptions. Uniformity, once the GST's selling point, is now subject to the discipline of collective political will rather than constitutional mandate.

Yet this possibility can also be read positively. *Mohit Minerals* reinstates *legislative accountability*: any deviation must be defended in open debate, not executed by bureaucratic fiat. It demystifies the narrative that uniform taxation is an end in itself, reminding policymakers that constitutional legitimacy—the channel of democratic consent—is as important as efficiency.

5.4 Doctrinal Ripples across Jurisprudence

The reasoning in *Mohit Minerals* resonates with earlier constitutional doctrines:

- It echoes *In re Delhi Laws Act* (1951) and *Ajoy Kumar Banerjee v. UOI* (1984) by reaffirming the non-delegation principle in taxation.
- It aligns with *K.T. Plantations v. State of Karnataka* (2011) in insisting on "manifest authority of law" as a shield against arbitrary exactions.

- It parallels *State of Karnataka v. State of Tamil Nadu* (2017), where the Court underscored that federal cooperation must retain "space for disagreement."

Through these connections, *Mohit Minerals* consolidates a growing constitutional trend: the judicial re-federalisation of fiscal policy after two decades of executive-driven economic governance.

5.5 Broader Constitutional Significance

Beyond tax law, the decision contributes to two normative shifts. First, it anchors administrative efficiency firmly within constitutional legality—an assertion of rule of law over technocratic expediency. Second, it enriches India's federal imagination by portraying disagreement, negotiation, and asymmetry as legitimate features of a mature federal polity, not as threats to national unity.

In this sense, *Mohit Minerals* is not merely a commentary on GST notifications. It is a constitutional reaffirmation that fiscal unity must be built through democracy, not decree; through legislative participation, not bureaucratic design.

VI. CRITICAL APPRAISAL AND CONCLUSION

The *Mohit Minerals* decision deserves its reputation as a constitutional watershed, yet its legacy is far from settled. Its strength lies in re-grounding the GST regime in constitutional principle; its weakness lies in the administrability of those principles. A careful appraisal must weigh what the Court restored against what it arguably unsettled.

6.1 Normative Strengths: Reclaiming Legislative Supremacy

The foremost achievement of the judgment is its reassertion of legislative supremacy in taxation. By treating the impugned notifications as ultra vires, the Court drew a bright line between parliamentary competence and executive discretion. In an era when fiscal administration is increasingly shaped by delegated rules and circulars, *Mohit Minerals* re-centres accountability in elected bodies. This revival of Article 265 strengthens India's constitutional discipline in fiscal matters: taxation is not a matter of mere policy convenience but of legislative mandate and democratic consent. The judgment thus aligns tax practice with the classical idea that "no taxation without representation" is more than a slogan—it is the connective tissue of fiscal legitimacy.

6.2 Federal Rebalancing: Between Cooperation and Contestation

Equally significant is the Court's repositioning of the GST Council. By framing its recommendations as persuasive, not binding, the Court avoided converting a consultative body into a supra-legislative authority. This restores a degree of fiscal voice to the States, making the GST Council a genuine forum for bargaining rather than administrative endorsement. However, this autonomy carries its own challenge. Without binding harmonisation, rate and exemption variations may proliferate, potentially fracturing the federal tax space that the 101st Amendment sought to unify. The judgment therefore replaces *legal* uniformity with *political* negotiation—a shift that will test the maturity of India's intergovernmental relations.

6.3 Practical Constraints and Unanswered Questions

From an administrative standpoint, *Mohit Minerals* leaves several ambiguities. It does not specify clear parameters to determine when delegated taxation crosses into "essential legislative function," nor how far governments may rely on GST Council consensus to justify interim measures. The Court's insistence on legislative precision—though vital constitutionally—may slow future fiscal reform unless legislatures become more agile in amending tax statutes. Similarly, the judgment provides little guidance on resolving conflicts between parliamentary and state enactments should policy divergence emerge. The promise of cooperative federalism, in practice, depends less on judicial doctrine and more on political restraint.

6.4 Constitutional Modernism and the Road Ahead

Doctrinally, *Mohit Minerals* signals a turn towards constitutional modernism in fiscal law—a framework where legal limits accompany economic

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innovation. This is not judicial interference in governance but constitutional stewardship: ensuring that efficiency does not erode legitimacy. It challenges both central and state authorities to justify fiscal choices within the grammar of legality and representation.

Over time, the case may influence judicial review of other fiscal measures involving cesses, surcharges, or delegated schemes—reviving Article 265 as a living constraint on fiscal arbitrariness.

6.5 Conclusion

In the final analysis, *Union of India v. Mohit Minerals Pvt Ltd* transforms a narrow technical dispute into a foundational statement on India's fiscal constitution. It affirms that the success of GST cannot be measured solely by uniform rates or revenue gains; it must also be judged by fidelity to the values of federal balance, legislative accountability, and the rule of law.

By reaffirming that no tax can exist without clear legislative will and that cooperation among governments must rest on consent rather than command, the Supreme Court restored the moral axis of India's fiscal federalism. *Mohit Minerals* thus stands not merely as a judgment on ocean freight, but as a constitutional anchor for the GST era—a reminder that the strength of "One Nation" lies not in unity alone, but in the lawful harmony of its many voices.

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