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# Goods and Services Tax on Financial Institutions: A Comparative Study of India with Select Developed Countries

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**ABSTRACT**

*Goods and services tax in India has been a concept which is still at its toddler stages while in nations such as Australia, New Zealand, and Canada, the taxation system has been in place for more than a decade or two. There remains to be no ambiguity in the taxing system in those countries. With financial institutions forming the backbone of an economy, it is essential to see how it is taxed. In the present paper, the authors undertake a study of these institutions and their taxing in India, Australia, Singapore and New Zealand. We would see how the concept of zero GST or taxing on the financial sector in the aforesaid developed countries acted as a simulator for boosting the economy. Unlike in India, we have zero GST only on essential commodities which restricts our investments opportunities to a large extent.*

**Keywords:** *Goods and services tax (GST); Financial institutions; India, Australia; New Zealand; Singapore.*

## 1.0 Introduction

The term financial system is a set of interrelated activities/services working together to achieve some predetermined purpose or goal (Bhanje, 2018). It includes different markets, the institutions, instruments, services and mechanisms which influence the generation of savings, investment capital formation and growth. Financial sector plays an indispensable role in the overall development of a country.

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The most important constituent of this sector is the financial institutions, which act as a conduit for the transfer of resources from net savers to net borrowers, that is, from those who spend less than their earnings to those who spend more than their earnings (Muraleedharan, 2014). The financial institutions have traditionally been the major source of long-term funds for the economy. These institutions provide a variety of financial products and services to fulfil the varied needs of the commercial Sector. Besides, they provide assistance to new enterprises, small and medium firms as well as to the industries established in backward areas.

A financial institution is an institution that provides financial services for its clients or members. Any institution that collects money and puts it into assets such as stocks, bonds, bank deposits, or loans is considered a financial institution. There are two types of financial institutions primarily; Depository institutions and non-depository institutions (Kumar, 2015). Depository institutions pay you interest on your deposits and use the deposits to make loans. Non-depository institutions, on the other hand, undertake the function of selling financial products. In India, the financial system includes the financial authorities, commercial banks, Regional Rural Banks (RRBs), Non-banking Financial Companies (NBFCs) and co-operative societies.

The two main reasons for the existence of financial institutions are economic development and financial stability (Khan, 2015). In the first place, banks offer deposits that claim to be capital certain. If this promise is to be honoured, then there must be limits to the range and nature of assets that a bank can reasonably take on to its balance sheets. More generally, financial institutions perform a plethora of activities through their provision of liquidity, divisibility, informational efficiencies and risk pooling services which broaden the spectrum of risks available to investors. In this way, they encourage and improve the efficiency of investment and savings in the economy. The financial institutions play an important role in complementing the facilities offered by the banks in an economy. In fact, the existence of Banking Financial Institutions (BFIs) and Non-banking Financial Institutions (NBFIs) supported by efficient money and capital markets, keep the financial sector complete and enhance the overall growth of the economy.

Finance is an emerging sector especially for the developing economies like those of India. This is because of the cash flows that are regulated by the way this sector alone. The greater the deposits made by the people into banks or by the way of investments the greater is the cash flow in the economy thus making the economy boost. Before the coming in of GST there was tax charged at each stage thereby causing cascading effects, however the single tax-single nation or GST was introduced in the year 2017. There are 5 slabs in the system which are enumerated as follows (Business, 2019).

- 0% GST on essential commodities such as milk, curd, unpackaged grains etc. Also, education and healthcare
- 5% GST on eatables and other necessities (LPG, footwear, dry fruits, spices, medicines)
- 12% GST on certain edibles however not necessities (ghee, butter etc). Services such as non-a/c restaurants and mobile phones.
- 18% GST on items such as toothpastes, soaps, cornflakes and services such as a/c restaurants, financial services etc. These are basically items which are neither an essential nor a luxury.
- 28% GST on luxury items like cars, electronic items, cigarettes etc.

From the above classification, one can deduce that financial services also fall under the bracket of standard service II. In the following sections we will show how GST has impacted the financial services in India.

## 2.0 History

Before the implementation of GST, all the banks and NBFCs maintained their service tax compliance via a centralised process of registering. Even when these banks had different branches in various states and union territories, the compliance registration was not done separately. With the new structure, all branches have to register separately which would help to reduce the tax paid in the previous stage. Before GST, banks and NBFCs were able to opt for a 50% reversal of Central Value Added Tax credit that was acquired from input services and inputs. The credit for CENVAT on capital goods was reversed without applying any conditions. Now, the terms for this reversal have been changed and for input services, inputs, as well as capital goods, only 50% of availed CENVAT credit is reversed. This is an advantage as the new rule provides for 50% reduced credit on capital goods and the cost of capital is overall raised.

Previously, banks and NBFCs had to resort to a particular state regulator, in which that branch was registered, for assessment of service tax. With GST, every branch of banks and NBFCs has to justify its chargeability position in the respective state and provide a reason for input credit tax usage in different states. Additionally, under GST, multiple adjudication authorities are involved.

This would lead to delay in adjudication as there may be different opinions on one underlying issue. Pre-GST only one adjudication authority was to be contacted for an underlying issue, which was obviously feasible, fast, and convenient for banks.

Loans offered by banks and NBFCs are not affected as these are money-to-money transactions. Hence, no GST on loan as well on the interest charged on loans. In banks or NBFCs, the lease can be either supply of goods or supply of services, both of which attracts GST charges similar to the services and goods that are being leased (Impact of GST on Banks and NBFCs, 2021).

Hire/ purchase is a process in which the buyer of an asset pays regular instalments and takes possession of the asset from the starting of the agreement. However, the ownership is only transferred once all the instalments are paid. In this transaction, both the cost price and the leasing charges are applicable to GST which wasn't the case earlier. With the application of GST, the tax bracket has been increased to 18%, which was earlier 15% with service tax. For example, after exceeding the ATM cash withdrawal limit, a certain charge such as INR 25 plus tax is applicable. With service tax, it amounted to INR 28, but, with GST, it is INR 28.60. Table 1 summarizes the rates of tax applicable in the pre-GST and post-GST period.

**Table 1: Rates of Tax Applicable in Pre-GST and Post-GST Period**

| **Financial service** | **Pre-GST** | **Post-GST (GST rates applicable)** |
|---|---|---|
| ATM Services | 15% | 18% |
| Investments (Mutual Funds) | 15% | 18% |
| Insurance | 15% | 18% |
| Loans (Other than Home Loans) | 15% | 18% |
| Home Loan | 8.5% | 18% |
| Banking Transactions | 15% | 18% |
| Locker Facility | 15% | 18% |
| Deposits | Non-taxable | Non-taxable |
| Pension (Other than NPS) | 1.5% | 1.8% |

### 3.0 Understanding the Scope of Financial Institutions and Services in India

The following section shall delve into the various definitions given under numerous laws pertaining to financial institutions and financial services in India:

**3.1 S. 45I (c) of Reserve Bank of India Act, 1934** (Reserve Bank of India Act, 2021)

"Financial institution" means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:

(i) The financing, whether by way of making loans or advances or otherwise, of any activity other than its own;

(ii) The acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature;

(iii) Letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972 (26 of 1972);

(iv) the carrying on of any class of insurance business;

(v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;

(vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lump sum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or king, or disbursing monies in any other way, to persons from whom monies are collected or to any other person, [but does not include any institution, which carries on as its principal business:

(a) agricultural operations; or (aa) industrial activity; or] [Explanation: For the purposes of this clause, "industrial activity" means any activity specified in sub-clauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964 (18 of 1964);]

(b) the purchase, or sale of any goods (other than securities) or the providing of any services; or

(c) the purchase, construction or sale of immovable property, so, however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;]

(d) "firm" means a firm as defined in the Indian Partnership Act, 1932 (9 of 1932) 8[***];

**3.2 S.45I (f) of Reserve Bank of India Act, 1934 (Reserve Bank of India Act, 2021)**

"Non-banking financial company" means-
(i) a financial institution which is a company;
(ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;
(iii) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.]

**3.3 S. 65 (12) Finance Act, 1994** (banking services, n.d.)**:**

"Banking and Other Financial Services" means:
(a) the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate or [commercial concern] *, namely: -
(i) financial leasing services including equipment leasing and hire-purchase;
*Explanation:* For the purposes of this item, "financial leasing" means a lease transaction where-
(*i*) contract for lease is entered into between parties for leasing of a specific asset;
(*ii*) such contract is for use and occupation of the asset by the lessee;
(*iii*) the lease payment is calculated so as to cover the full cost of the asset together with the interest charges; and
(*iv*) the lessee is entitled to own, or has the option to own, the asset at the end of the lease period after making the lease payment;
(ii) Omitted
(iii) merchant banking services;
(iv) securities and foreign exchange (forex) broking, and purchase or sale of foreign currency, including money changing;
(v) asset management including portfolio management, all forms of fund management, pension fund management, custodial, depository and trust services,
(vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy;
(vii) provision and transfer of information and data processing; and
(viii) banker to an issue service; and
(ix) other financial services, namely, lending, issue of pay order, demand draft, cheque, letter of credit and bill of exchange, transfer of money including telegraphic transfer,

mail transfer and electronic transfer, providing bank guarantee, overdraft facility, bill discounting facility, safe deposit locker, safe vaults, operation of bank accounts;";

(b) foreign exchange broking and purchase or sale of foreign currency including money changing provided by a foreign exchange broker or and authorised dealer in foreign exchange or an authorised money changer, other than those covered under sub-clause (a);

[Explanation. - For the purposes of this clause, it is hereby declared that "purchase or sale of foreign currency, including money changing" includes purchase or sale of foreign currency, whether or not the consideration for such purchase or sale, as the case may be, is specified separately;]

**3.4 S.2 (102) of Central Good and Services Act, 2017**

"Services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

**3.5 S.17 (4) of Central Goods and Services Act, 2017**

A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of 50% shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

Thereby the scope of financial services deduced from the aforesaid provisions is summarized as follows:

a) Deposits and Banking
b) Loans
c) Pensions
d) Insurance
e) Investment
f) Mutual funds

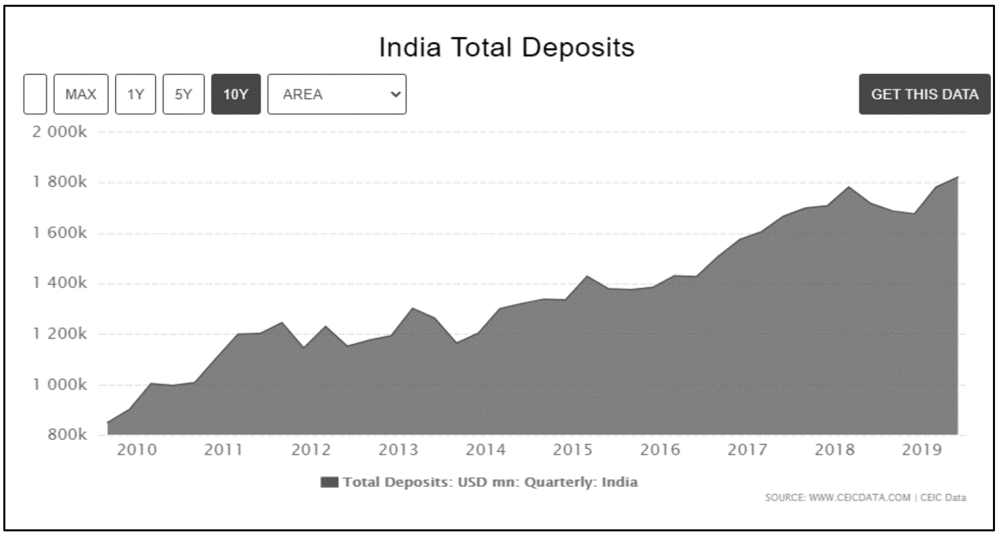
## 4.0 Quantitative Analysis

In this section we shall see how the citizens of the nation were dependent upon the various financial services offered by the financial institutions:

The following data shows the number of deposits made in the past 10 years in the nation[1]. While Figure 1 gives us the total increase in deposits over the past 10 years, Figure 2 represents the quarterly deposits made in India in USD mn. We see that over the past decade, the deposits have seen an increase of almost 55.5%. This is a clear indication that the people have become aware of bank deposits. Let that be the safety or the interest that such deposits reap. This is a good indication for the nation as greater amounts of money enters the cash flow in the economy and boosts the purchasing power of the people.

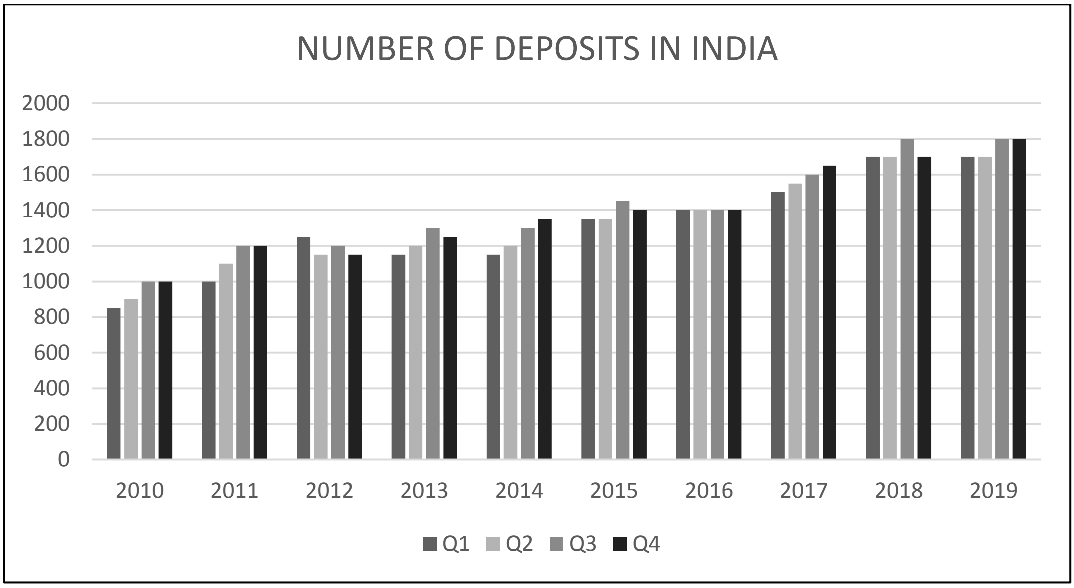
Since, deposits are made tax free now and also the interest reaped on the same, it is an increased incentive for people to deposit. Also, the Pradhan Mantri Jan Dhan Yojana (Pradhan Mantri Jan-Dhan Yojana (PMJDY), 2021) which was launched in the year 2014 has clearly reflected its impact on the number of deposits. One can see from Figure 1 that post 2014 there has been an increase in the number of deposits by leaps and bounds. Figure 3 is a representation of the Indian loan growth rate over the past 5 years[2].

**Figure 1: Total Deposits in India: 2010-2019**



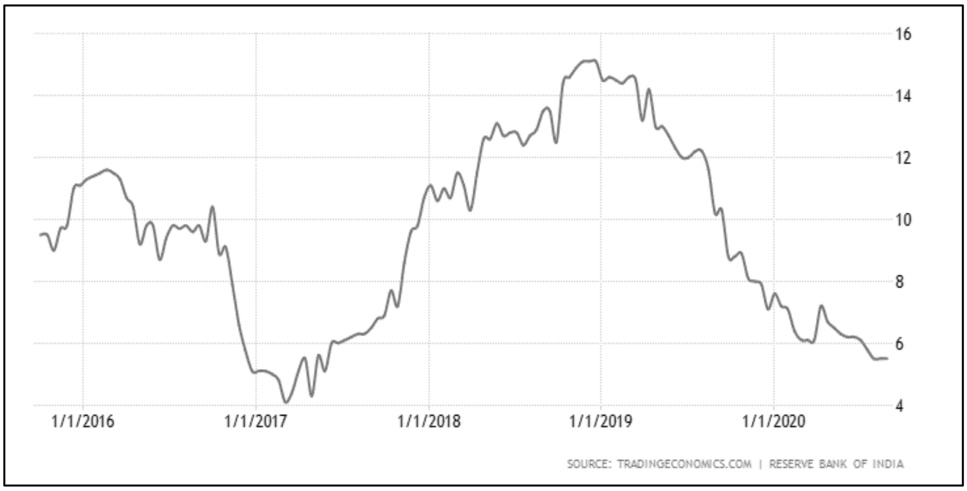

*Source: https://www.ceicdata.com/en/indicator/india/total-deposits*

**Figure 2: Number of Quarterly Deposits in India**




*Source: https://www.ceicdata.com/en/indicator/india/total-deposits*

**Figure 3: Indian loan growth rate: 2016-2020**

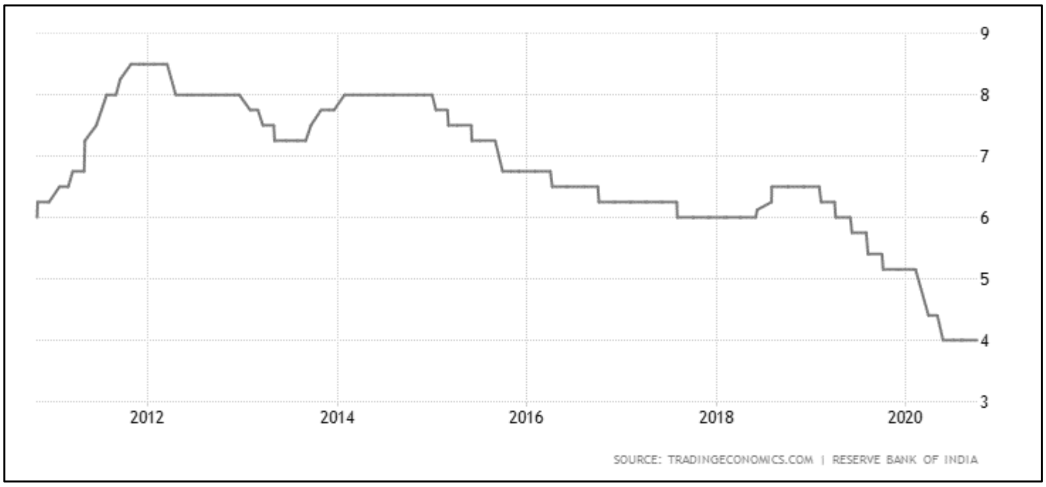



*Source: https://tradingeconomics.com/india/loan-growth*

From Figure 3, one can see that the Indian economy is largely driven by loans taken in this regard. Even the government takes loans from foreign institutions to fund its deficit however with the coming of GST the loans have become costlier and the same is reflected in the graph where loans taken almost crashed because of the coming in of GST. Despite the deductions one might avail the loans in general became costlier especially the home loans.

Figure 4 represents the changes in bank rate (repo rate by RBI) over the past 10 years[3]. It can be seen that over the past years the RBI has reduced the bank rate. This is to stimulate growth in the economy and stipulate people to take loans from various financial institutions. And that too the recognised institutions or the formal sector, which gives loans at a reasonable in comparison to the informal sector or sources.

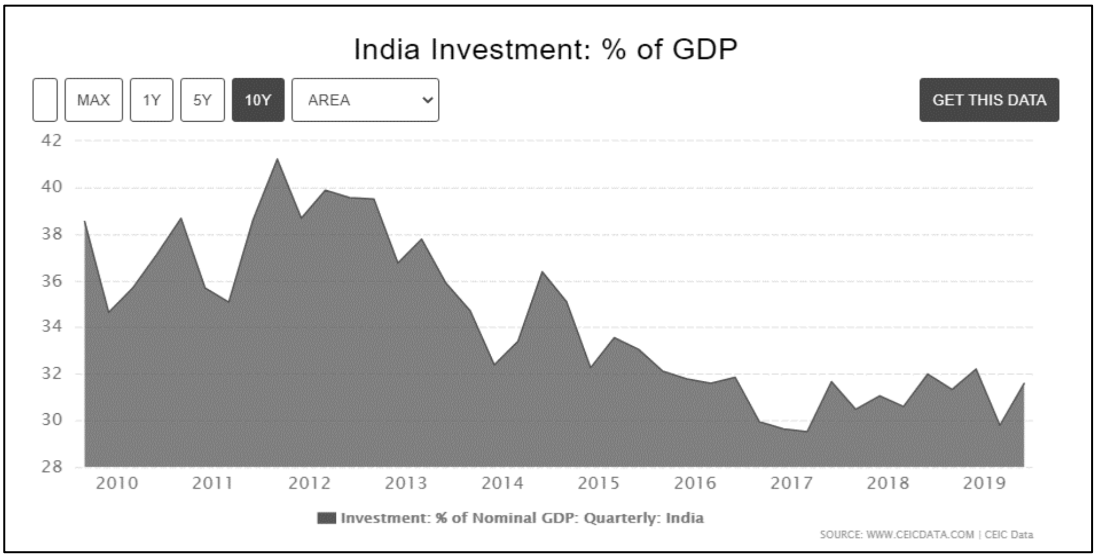
**Figure 4: Changes in Bank Rate (Repo Rate by RBI)**




*Source: https://tradingeconomics.com/india/interest-rate*

Figure 5 portraits the investments made in the nation as a % of GDP over the past 10 years[4]. Investments are made into various sectors of the economy and these are largely the result of excessive cash in hand of the people or loans undertaken for a particular purpose. A majority of investments are driven by the way of loans and one can see from the above graph that in 2017 (i.e., the year of introducing GST) there was a sudden dip in the investments this was because of the coming in of GST, where people withheld their business plans to assess the impact of GST also, the loans had become costlier.

**Figure 5: Investments Made in India as a % of GDP**




*Source: https://www.ceicdata.com/en/indicator/india/investment--nominal-gdp*

## 5.0 Comparative Analysis

Here we shall compare the tax regime of India with respect to financial services with other developed countries. This shall help us contrast as to what all things the nation can probably borrow from them in order to stipulate growth.

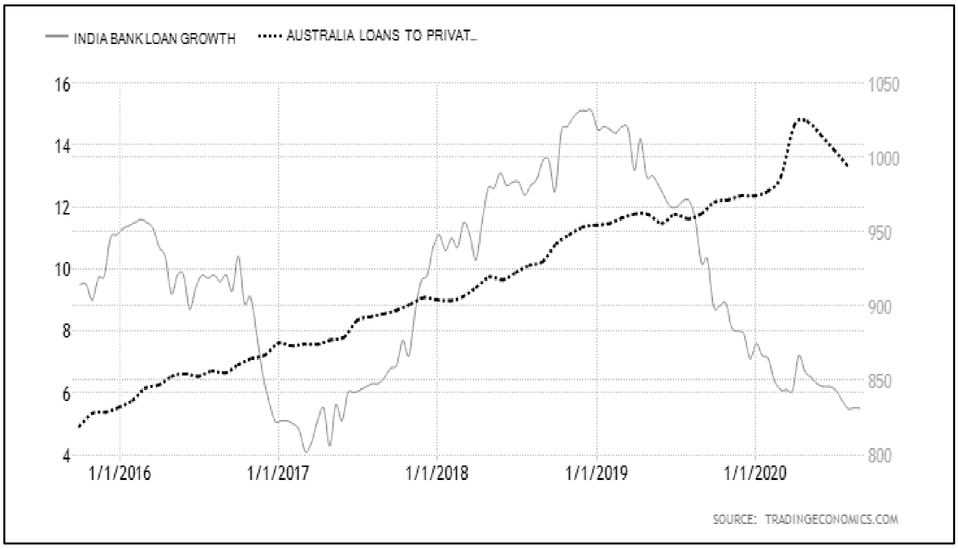
### 5.1 Australia

In Australia, the term "financial supply" is used instead of term financial services used in India. According to Section 9-10(1) of the regulation[5], *"Supply is any form of supply whatsoever*". While, Section 9-10(2)(f) states that supply includes "Financial supply". According to the regulation[6] 40-5.08 states that the supply is a financial supply, if it is a financial supply under Section 40-5.09 and not excluded by Section 40-5.12, or if such supply is incidental to financial supply given under Section 40-5.10 (A New Tax System (Goods and Services Tax) Regulations 2019, 2021). Financial supply usually includes granting the credit to the customers or lending or borrowing the money, purchasing or selling shares or other securities, creation transfer or assignment of an interest, receiving or providing credit under a hire purchase agreement (GST and financial supplies, 2021). Here financial institutions are included under financial supplies. Presently, the financial supplies are subjected to input taxation. (McMahon, 2000).

This means that a maker of financial supplies does not have to pay GST on the consideration it receives for the supply but will not as a general rule be able to claim input tax credits for GST charged on its business inputs to the extent that the acquisition of the inputs relates to the making of financial supplies.

Thus, as a consequence of this is that the banking, non-banking financial service providers have to absorb the GST costs passed in by their suppliers as they cannot pass the GST costs to their customers in the way the taxable supply makers do. The reason why financial suppliers are subject to GST on the input tax basis is because it is not easy to identify the value added to the financial supplies on transaction-to-transaction basis in order to charge GST in the ordinary way[7]. Thus, the makers of financial supplies are treated as the end consumers on who the burden of GST is passed. However, this mode of collection of tax may lead to the banks or other financial institutes raising their charges. For instance, it may raise the margin or the fees charged by it to its customers to recover the input GST costs.

**Figure 6: Comparison of the Growth Rate of Loans in India and Australia**




*Source: https://tradingeconomics.com/india/loan-growth*

We see that even though the burden of GST is not passed on customers unlike in India there are other ways by which the banks are recovering the charges from the customers. The same remains to be the case in India as well, on the services which there is no GST applicable the financial institutions are recovering their costs from the customers (Dave, 2018).

In India, it is not the services per se but the delay in instalments etc. are taxable. Thereby, making the tax regime of Australia almost similar to that in India. Figure 6[8] is a comparison of the growth rate of loans in the two countries.

It can be observed that while in Australia the trend is always positive, in India there was a dip in the years 2017(implementation of GST) and 2020 (pandemic). In India, it is not the loan that is chargeable but the processing fee is taxable and other defaults. Taking the same analogy further, even the investments would see a boost in Australia when the growth rate of loans is increasing.

**5.2 New Zealand**

Like Australia, even in New Zealand the financial services are considered to be exempt supplies for the purpose of GST. The list of services that are considered as financial services has been mentioned in Section 3(1)[9] of the GST Act of New Zealand. This essentially means that the taxpayers don't charge tax for the supply of exempted financial services to domestic consumers or businesses, moreover, they cannot claim input tax credits for the GST paid on purchases to the extent it was used while making the exempt supplies[10].

Section 14(1)(a) states[11]

"The supply of any financial services (together with the supply of any other goods and services, supplied by the supplier of those financial services, which are reasonably incidental and necessary to that supply of financial services), not being a supply referred to in subsection (1B):"

Sub-section 14 (1B)[12] states:

"The following supplies are excluded from the exemption under subsection (1):

(a) a supply of financial services that, in the absence of subsection (1)(a), would be charged with tax at the rate of 0% under section 11A:

(b) a supply described in paragraph (b) of the definition of associated supply:

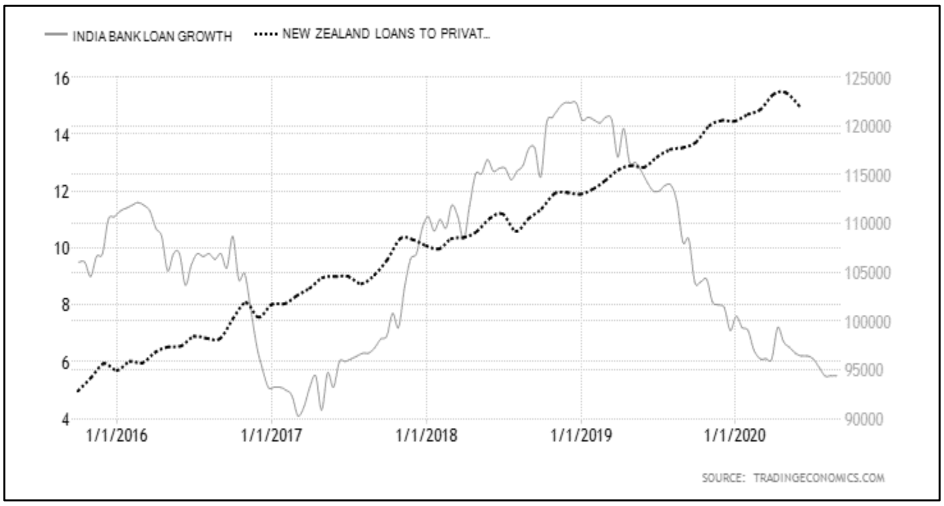
(c) A supply of goods and services which (although being part of a supply of goods and services which, but for this paragraph, would be an exempt supply under subsection (1)(a)) is not in itself, as between the supplier of that first-mentioned supply and the recipient, a supply of financial services in respect of which subsection (1)(a) applies."

The first point states that zero rating shall take precedence over the exempt status. This situation is usually applicable in cases of non-residents where the financial supply will be considered to be zero rated supply rather than exempt supply and in such cases the input tax credit can be claimed.

Another important aspect that must be noted is that the provision states that though the supply forms a part of the exempt financial supply, it will not be exempted unless it is between the supplier and the recipient. In the case of *CIR v. Databank Systems Ltd*[13]., the Databank provided computer services to New Zealand Trading banks, which enabled them to provide financial services to their customers. The issue as to the GST treatment arose. The Privy council held that while the services provided by the Databank were part of wider financial services, as among the Databank and the banks, such services were not financial services.

It is pertinent to note that the above mentioned provision is the extension of exemption to goods and services that are provided with financial services and not financial services that are incidental to or necessary for the financial services. This part of the provision causes issues, as unlike Australia, New Zealand's legislation has not laid down clearly as to when such goods and services will be considered as necessary or incidental to such financial services (Sitt, 2001).

**Figure 7: Comparison of the Growth Rate of Loans in India and New Zealand**




*Source: https://tradingeconomics.com/india/loan-growth*

Just as how the laws of New Zealand extend special focus to the financial institution and financial service definition, even in the Indian laws the same is of vital importance because India has numerous institutions working in regard such as NABARD etc but can they be permitted to avail the benefits of GST is a question of vital importance. We see that the tax exemption of financial services goes a long way. From Figure 7[14] we can deduce the analogy extended in the case of Australia stands true here as well.

**5.3 Singapore**

It is pertinent to note that like Australia and New Zealand, even in Singapore, the financial services are exempted from GST as it was found to be difficult to tax. Moreover, the financial services are complex and can seem to be very conceptual. However, another reason for the exemption is that, Singapore is the key point for financial service and the application of a different treatment may risk the viability of the financial service industry (Examining GST implications for the Financial Services Industry, n.d.). While they are not required to remit the GST to Inland Revenue Authority of Singapore (IRAS), they are required to report the value of the services that were exempt in their GST return. (Examining GST implications for the Financial Services Industry, n.d.)

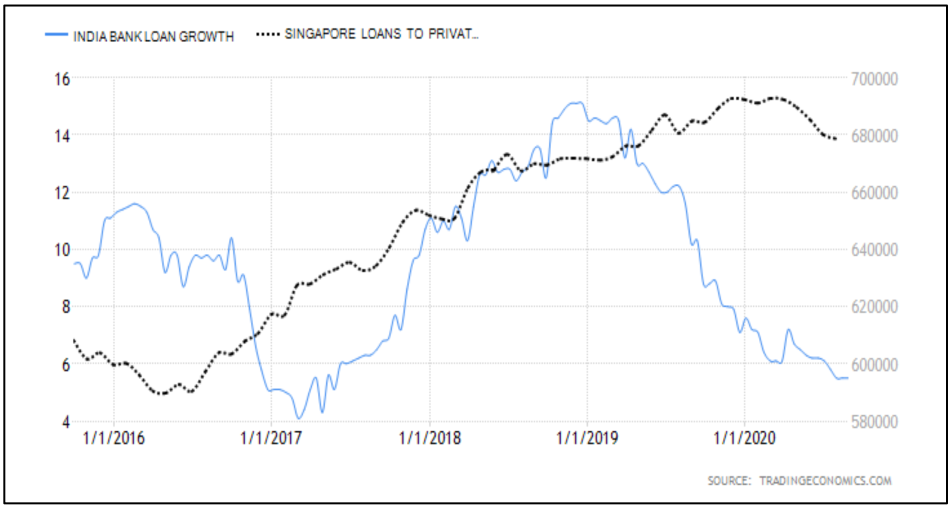
According to Section 22 of the GST Act of Singapore[15], the services of description given in Schedule 4 part 1 are exempt from GST. The fourth schedule of the GST Act lays down the list of Financial Services[16] that are exempt from GST, some of them being, charges for the operation of bank accounts, sale of shares, provision of loans, exchange of currency etc. Majority of the Financial Services are provided by the banks however, in certain cases they are provided by the insurance companies and money lenders as well. However, it is pertinent to note that provided financial advice on the financial transactions cannot be considered as exempt supplies and are charged the standard rate of 7 percent to the local customers of Singapore.[17]

Generally, the GST registered businesses cannot recover input tax credits on the GST paid for services where it is directly attributed to the exempt supplies. However, certain concessions have been made to permit the GST registered business to recover input tax credit on the GST paid towards the exempt supplies, in cases the value of such exemption is equal to or less than, 40 thousand dollars a month and five percent of the total value of exempt and taxable supplies made in an accounting period. This is also known as the De Minimis Rule (Claiming Input Tax Incurred to Make Exempt Supplies, 2021).

We observe that in Singapore, tax exemption or zero GST are of much importance however, the same is not the case in India. In India, input tax credit can be availed by the financial institutions provided they satisfy the conditions discussed in the preceding part of the paper.

From Figure 8,[18] we see the loan growth rate in India and Singapore. We see that the zero-tax application to financial services under GST has been a stimulator for growth and greater loans have been availed. This structure has rather been acting beneficial not only to the customers but also the banks who can avail greater benefits.

**Figure 8: Comparison of the Growth Rate of Loans in India and New Zealand**




*Source: https://tradingeconomics.com/india/loan-growth*

The summary of the above analysis is placed in Table 2.

**Table 2: Comparative Analysis of India with Other Countries**

| Parameter | India | Australia | New Zealand | Singapore |
|---|---|---|---|---|
| GST RATE | Financial services are charged at the rate of 18%. | Financial services are exempted from GST | Financial services are exempted from GST for residents. But for non-residents it shall be zero rated | Financial services are exempted from GST |
| INPUT TAX CREDIT | Currently, financial institutions majorly opt for the | Financial suppliers are subject to GST on the input tax basis as | Financial suppliers cannot claim input tax credits for the GST paid on | The GST registered businesses cannot recover |

| | | | | |
|---|---|---|---|---|
| | option of reversal of 50% of the Central Value Added Tax (CENVAT) credit availed against inputs and input services. Under GST, 50% of the CENVAT credit availed against inputs, input services, and capital goods is to be reversed which leaves them with a position of reduced credit of 50% on capital goods thereby increasing cost of capital. | identification of the value added to the financial supplies on transaction-to-transaction basis in order to charge GST in the ordinary way | purchases to the extent it was used while making the exempt supplies | input tax credits based on the GST paid for services where it is directly attributed to the exempt supplied, but certain concessions have been made to permit the GST registered business to recover input tax credit on the GST paid towards the exempt supplies, in cases the value of such exemption is equal to or less than, 40 thousand dollars a month and five percent of the total value of exempt and taxable supplies made in an accounting period. |

## 6.0 Case Studies

GST is a concept which was implemented just three years back in India and there are as such no breakthroughs in the economy as yet, however we have certain cases which had come up before the authorities to interpret the meaning and the scope of the law and its application

### 6.1 Maharashtra v. Bajaj Finance Limited[19]

In the present case Bajaj Finance was a NBFC dealing with lending practices (loans) such as those for car, property, personal, consumer durables etc. While entering into an agreement with the customer/ borrower with respect to the loan it was specified that the outstanding dues can be cleared by electronic modes, cheque, ECS and NACH. In case of dishonouring of payment either of the instrument or the instruction, the company will be collecting penalty for the same. the question before the Authority of Advance Ruling whether such bouncing charges (here with respect to cheque bounce) can be treated as supply under GST? The Authority answered the same in affirmative, thereby bringing it into the definition of *S.No. 5(e) of Schedule II of CGST Act, 2017*. Thereby the same is taxable under GST.

**6.2 Bajaj Finance, In re[20]**

In the present case, the Authority of Advance Ruling was to answer whether the penalty of delayed EMI was considered as supply and thereby taxable under GST? Again, the Authority held that the penalty paid is not a part of the interest or EMI but a defaulting charge. Therefore, the same would be taxable under GST.

**6.3 M/s. National Dairy Development Board case[21]**

The Advance Ruling Authority here was to answer whether the applicant in the present case i.e., M/s. National Dairy Development Board (NDDB) was a financial institution under GST? It referred to definitions under s. 13(8) (c) of IGST Act, 2017 and Section 45-I of Reserve Bank of India Act, 1934 and thereby looking into the functions performed by it. It was held that NDDB was a financial institution for the purpose of s.17 (4) of CGST Act, 2017 and can claim input tax credit.

**7.0 Analysis**

In the present study we looked into the taxing of financial services in India in comparison to a few developed nations such as Australia, New Zealand and Singapore. The aforesaid countries were selected for the purpose of the present study, as the nation’s apart from being developed have an established GST model in place. With the taxing module in place for over a decade, it shall give us an idea how over time the things should change.

In comparison to the previous rates the present rates under the GST in India are on a higher end, it is said by the analysts that the GST shall go a long way for the sector. The government has tried to make most services under sector tax free however the GST is applicable at the processing stages, maturity and in cases of default in the payment. On the other hand we have the input tax credit which comes in as an added advantage to the financial and non-financial institutions. Some of the examples are[22]:

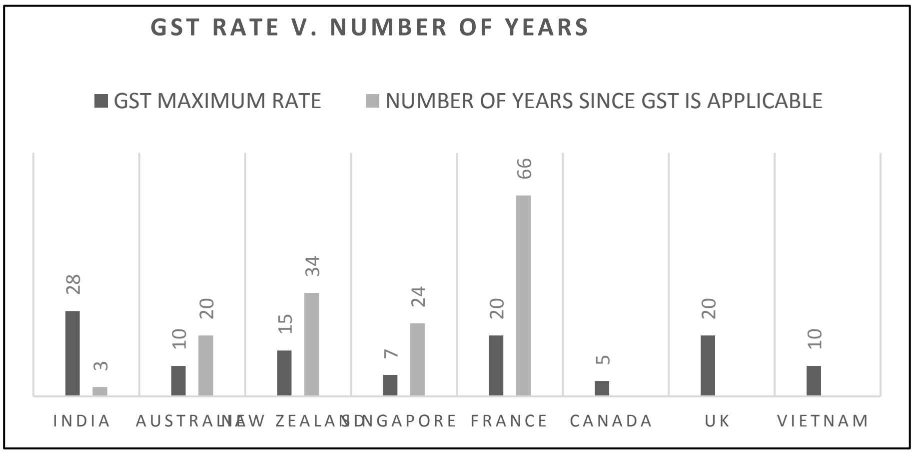
- Late payment fee

- Late payment of EMI
- New cheque book: Beyond the prescribed number
- Loan transfer: The processing fee of transferring loan from one bank to another is taxed under GST
- Insurance Policy to NRIs
- Closure of banks accounts: If closed within 14 days of opening then no GST and basic saving and Jan Dhan Account. However, closing of other accounts within a year is taxed.

However, to infuse the habit of online banking, GST was made applicable on ATM transactions which exceeded the prescribed limit per month. And all such measures were infused to defer the customers from defaulting on the payments.

The authors have compared the taxing of the sector with other developed countries (Australia, New Zealand and Singapore) and all the countries being developed countries have exempted the services from tax because they wish to infuse the economy with greater fluidity and cash flows. India even though has made most services tax free it has imposed tax on defaults and this is one reason to deter the borrowers or customers from defaulting or taking such services for granted. One drawback which India faces is that we have varied laws governing a subject matter, for instance the definition of financial institution is given in almost 5 to 6 legislations which makes it difficult for a common man to understand which law is applicable where. Figure 9 presents the difference in GST regime in India compared to other developed countries.

**Figure 9: GST in India versus Other Countries[23]**




*Source: https://blog.saginfotech.com/gst-india-vs-foreign-gst*

We can see that India has the highest tax slab across the globe and has been implemented for the shortest period of time. The short period of implementation is probably the reason for the highest slab because over the years the other countries eventually reduced the tax and their respective slabs. Tax on the financial sector is especially vital for the economy because that decides how much the people will lend and invest apart from other day to day banking transactions. Even though we find no limitation of the system however there were difficulties in the registration process where the banks had to register each branch and file the accounts accordingly. With the loans especially the home loans which have become costlier is a cause of concern however, if the borrower is diligent enough they should avoid the unnecessary penalties and payments.

## 8.0 Conclusion

The world at the current juncture is witnessing the pandemic and other crises such as the economic ones. People are losing their jobs and businesses are in slump, it is for the government to bring in measures to address the same. Even though RBI cut the repo rate by 40 base points (Arora, 2020), thereby bringing down the repo rate at 4% little has it impacted the market. Also, RBI has extended the facility of moratorium for credit card bills and EMIs, where the customer can defer the bill payment & EMI however the interest still accrues on it and this doesn’t amount to waiver of the EMI or loan or the interest of bill payment.

At this juncture, when the country is in dire need of tax reforms with certain relaxations be given to the financial sector to boost the economy. Developed countries such as Australia, New Zealand and Singapore have already reformed the financial sector in a way that they are able to provide the best possible boost to the economy. Zero tax on these financial services or a selected financial services especially the banking services makes it a lot easier for people to fetch loans especially in times such as this when businesses are drooping and investment by the government is not the only way forward. We not only need to reduce taxes on essential commodities to cater to the rich-poor gap but also invest more in the economy so that the poor can get jobs from this investment and this rigorous cycle comes to an end.

## Endnotes

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