

Allocation and share of resources distribution of grant-in-aid

Inter-governmental financial relationship in a federation is a vital or even critical matter. The way in which the relationship between center and states function affects the whole content and working of federal polity finance is an essential and pre-requisite of good government.

In the words of D.D. Basu.-“No system of federation can be successful unless both union and states have at their disposal adequate financial resources to enable them to discharge their respective responsibilities under the constitution.”

In Canada and Australia the sources of revenue allotted to the units are so meager that they have to be substantially satisfied by centre grants.

In India the scheme of distribute of sources of revenue between the Centre and states is based on the scheme laid down in the Government of India Act 1935.

The constitution of India provides for the appointment of finance commission under Art. 280 which itself whose very unique feature of flexibility.

Taxing powers are divided between the centre and states. The constitution provides separate provisions relating to taxation by centre and states. The taxes enumerated in the union List (List I) are leviable by centre exclusively while those mentioned in the state list (List II) are leviable by the state exclusively. Art. 265- Article 256 says that no tax can be levied or collected except by the authority of law.

Grants-in-aid to the states serve two purposes—

1. Through grant-in-aid the central Government exercises strict control over the states because grants are granted subject to certain conditions. If any state does not agree to the condition the Central Government may withdraw the grants.
2. It generates the centre state co-ordination and co-operation if a state wants to develop its welfare schemes for the people of the state it may ask for the financial help from the centre.

Distribution of Revenue between Union and states – Art. 268.

Article 268 provides for scheme of distribution of revenue between the Union and states. The state process exclusive jurisdiction over taxes enumerated in the state List. The union is entitled to the proceeds of taxes in the Union List. The concurrent list includes no taxes. However there are certain taxes in the Union List which may be allowed to be retained by the states – wholly or partially. These are--

1. Duties levied by the Union but collected and appropriated by the states- These are stamp duties and duties of medicinal and toilet preparations though mentioned in the Union List, levied by the Central Government but proceeds are assigned to the states.
2. Service Tax levied by Union and collected and appropriated by Union and states- Art 268 A. It is inserted by 80th Amendment Act. 2003. Such taxes are collected and appropriated by the Union and states as per the principles formulated by the parliament although they are levied by the Union of India.
3. Taxes levied and collected by Union and assigned to the states (constitution 80th Amendment Act 2000) on the recommendation of the tenth finance commission the amendment was made

that out of total income obtained from certain central taxes and duties 29% shall be given to the states Accordingly Art. 269 was amended.

4. Taxes levied and collected by the Union but distributed between the Union and states. The constitution (80th Amendment) Act. 2000 which says that –

“All the taxes and duties returned to in Union List excepts the duties and taxes referred to in Art. 271 and any cess levied for specific purposes under any law made by parliament shall be levied and collected by the Government of India and shall be distributed between the Union and states in the manner provided in clause (2) of Art. 270.

5. Taxes for the purpose of Union : It says that if the parliament at any time increases any of the duties or taxes mentioned in Art. 269 and 270 by imposing a surcharge, the whole proceeds of any such surcharge shall from part of the consolidated fund of India.
6. Grants-in-aid- The constitution provides for three kinds of grants-in-aid to the states from the Union resources—

Under Art. 273 – grants-in-aid will be given to the states of Assam, Bihar, Orissa and west Bengal in lieu of export duty on the jute products. The sums of such grants are prescribed by the president with the consultation of finance commission. The sums will be given to the states for the period of 10 years from the commencement of the constitution.

Under Art. 275- empowers parliament to make such grants, as it may deem essential to the states which are in need of financial assistance. The constitution also provides for special grants given to the states which undertakes schemes of development for the purpose of promoting the welfare of the scheduled tribes or raising the level of administration of the scheduled areas. A Special grant to Assam is given for this purpose.

Under Art. 282-- both the Union and States make grant for any Public purpose even if it relates to a subject over which it cannot make laws. The central government can under this Article make grants to hospitals or to schools.

Under Art. 271-- Parliament is empowered to increase any of the duties or the tax mentioned in Arts. 269 and 270 by a surcharge for the purposes of the union and entire proceeds of any such surcharge shall go to the Union and from part of the consolidated fund of India according to Art. 274 no Bill which imposes or varies any tax or duty in which states are interested or which varies the meaning of ‘agricultural income’ or which affects the principle of distribution of moneys to states or which imposes a surcharge for the purpose of Union, shall be introduced or moved in either house of parliament except on the recommendation of the president.

Taxes for the purposes of States-

Article 276 and 277 save the authority of the state to levy taxes on subject now forming part of Union List. Thus taxes which are being levied by a state or a Municipality or other local authority notwithstanding those taxes are mentioned in the union list continue to be levied by those authorities until parliament by law makes contrary provisions. Art. 276 empowers the states to impose taxes on professions, trades callings and employment for the benefit of the state or of municipality district board, local boards or other local authorities. But the provisions of Art.277 does not extend to taxes levied under a law passed after the constitution came into force.

No other federal constitution makes such elaborate provisions as the constitution of India with respect to relationship between union and states in the financial field. In fact, by providing for the establishment of finance commission for the purpose of allocating and re-adjusting the receipts from

certain sources the constitution has made an original contribution in this extremely complicated aspect of federal relationship.'