

**STANDING COMMITTEE ON FINANCE
(2012-13)**

FIFTEENTH LOK SABHA

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

**THE CONSTITUTION
(ONE HUNDRED FIFTEENTH AMENDMENT) BILL, 2011**

SEVENTY THIRD REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2013, Sravana, 1935 (Saka)

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(2012-2013)**

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Presented to Lok Sabha on 7 August, 2013

Laid in Rajya Sabha on 7 August, 2013



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NEW DELHI**

August, 2013, Sravana, 1935 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON FINANCE (2012-13)

Shri Yashwant Sinha - Chairman

MEMBERS

LOK SABHA

2. Shri Suwendu Adhikari
3. Dr. Baliram
4. Shri Sudip Bandyopadhyay*
5. Shri Udayanraje Bhonsle
6. Shri Nishikant Dubey
7. Shri Gurudas Dasgupta
8. Shri Rahul Gandhi
9. Shri Deepender Singh Hooda
10. Shri Chandrakant Khaire
11. Shri Bhartruhari Mahtab
12. Dr. Chinta Mohan
13. Shri Sanjay Brijkishorlal Nirupam
14. Shri Prem Das Rai
15. Shri S.S. Ramasubbu
16. Vacant**
17. Shri Adv. A. Sampath
18. Shri Thakur Anurag Singh
19. Dr. M. Thambidurai
20. Shri Shivkumar Udasi
21. Shri Dharmendra Yadav

RAJYA SABHA

22. Shri Naresh Agrawal
23. Shri Rajeev Chandrasekhar
24. Smt. Renuka Chowdhury
25. Shri Piyush Goyal
26. Shri Satish Chandra Misra
27. Dr. Mahendra Prasad
28. Shri Ravi Shankar Prasad
29. Shri P. Rajeeve
30. Shri Praveen Rashtrapal
31. Dr. Yogendra P. Trivedi

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri Ramkumar Suryanarayanan - Additional Director
3. Shri Kulmohan Singh Arora - Under Secretary

* *Nominated as Member of the Standing Committee on Finance w.e.f 13th December, 2012*

** *Dr. Kavuru Sambasiva Rao, MP ceased to be the Member of the Committee w.e.f 17.06.2013 consequent upon his induction to the Union Council of Ministers*

INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Seventy-third Report on the Constitution (One Hundred Fifteenth Amendment) Bill, 2011.

2. The Constitution (One Hundred Fifteenth Amendment) Bill, 2011 introduced in Lok Sabha on 22 March, 2011, was referred to the Committee on 29 March, 2011 for examination and report thereon, by the Speaker, Lok Sabha under rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee took briefing/oral evidence of the representatives of the Ministry of Finance (Department of Revenue) at their sitting held on 8th June, 2012.

4. The Committee, at their sitting held on 8th June, 2012 heard the views of Dr. Asim Kumar Dasgupta, Former Finance Minister, West Bengal and Former Chairman, Empowered Committee of the State Finance Ministers. At the sitting held on 15th June, 2012, Shri Sushil Kumar Modi, Deputy Chief Minister, Bihar & Chairman, Empowered Committee of the State Finance Ministers, representative of Federation of Indian Chamber of Commerce and Industry (FICCI), Confederation of Indian Industry (CII), Petroleum Federation of India (PETROFED) and International Spirits & Wines Association of India (ISWAI) presented their views before the Committee. On 27th June, 2012, the Committee heard the views of the representatives of Indian Merchants' Association (IMA), Film and Television Producers Guild of India, All India Federation of Tax Practitioner (AIFTP) and Bhartiya Udyog Vyapar Mandal (BUVM). The Committee at their sitting held on 6th July, 2012 heard the views of the representatives of Government of Madhya Pradesh. On 13th July, 2012, the Committee heard the views of Dr. Parthasarathi Shome, Director & Chief Executive, Indian Council for Research on International Economic Relations (ICRIER), Dr. Vijay L. Kelkar, Chairman, National Stock Exchange of India Ltd. (NSE) & Former Chairman Thirteenth Finance Commission, and the

representatives of Governments of Odisha, Tamil Nadu and Maharashtra. The Committee also heard the views of the representatives of Government of Gujarat at their sitting held on 20th July, 2012. The Committee once again heard the views of Dr. Vijay L. Kelkar at their sitting held on 27th July, 2012.

5. The Committee considered and adopted the draft report and authorized the Chairman to finalise the same and present it to the Parliament at their sittings held on 28 June, 2013 and 19 July, 2013.

6. The Committee wish to express their thanks to the officials of the Ministry of Finance (Department of Revenue) concerned with the Bill for their cooperation and all the State Governments, Organisation, Associations and Experts for their valuable suggestions on the amendment Bill.

7. For facility of reference, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

New Delhi;
25 July, 2013
03 Sravana, 1935 (Saka)

YASHWANT SINHA,
Chairman,
Standing Committee on Finance.

REPORT

Part - I

The Constitution (One Hundred and Fifteenth Amendment) Bill, 2011, which has been referred to the Standing Committee on Finance of Parliament for detailed examination and Report seeks to bring fundamental systemic reforms in the indirect taxes dispensation prevailing in the country by integrating and harmonizing the tax structure across the country in the form of Goods and Services Tax (GST). The proposed amendments in the Constitution are targeted to achieve the objective of conferring simultaneous power on Parliament and State legislatures to make laws for levying GST simultaneously on every transaction of supply and goods & services. In addition, the proposed amendments would allow subsuming of a number of indirect taxes presently being levied by Central & State Governments into GST and thus will remove cascading of taxes and provide a common national market for goods and services. Before discussing at length the various issues emanating from the provisions of the Constitution (One Hundred and Fifteenth Amendment) Bill, 2011, it would be useful to have a brief overview of the proposed amendment Bill.

I. GST Design

2. GST is recognized internationally as a destination based consumption tax which is least distortionary. The broad objectives of introducing the Goods and Services Tax (GST) in India are to expand the tax base through wider coverage of economic activities and reduction in exemptions; mitigate cascading and double taxation and enable better compliance through the lowering of overall tax burden on goods and services. By removing hidden or embedded taxes, it would improve the competitiveness of domestic industry vis-à-vis imports and in international markets. By harmonizing the tax structure across States, this reform would also lead to the development of a common national market for goods and services.

3. The indirect tax system in the country has been going through a series of reforms over the last two decades. At the Central level, a Value Added Tax called, CENVAT, providing credit of tax paid on inputs and capital goods was introduced upto the manufacturing stage. Subsequently, in 1994, a tax on services (commonly known as Service Tax) was introduced by the Centre. The Service Tax has grown consistently in scope to cover more services and now applies to about 115 service categories with commensurate growth in revenue from this tax. In 2004, the input tax credit scheme for CENVAT and Service Tax was merged to permit cross flow of credit across these taxes. As for the States, they have switched over from a multiple point Sales tax to a Value Added Tax (VAT) covering all transactions of sale of goods within the State up to the retail stage in a phased manner starting from 2005-06.

4. Despite these measures, goods and services continue to be burdened with multiple indirect taxes at different stages of the value chain with significant tax cascading under the present indirect tax regime. The important reasons for this are as under:

- a) In respect of taxation of goods, CENVAT is confined to the “manufacturing” stage and does not extend to the distribution chain beyond the factory gate. As such, CENVAT paid on goods cannot be neutralized against State VAT payable on subsequent sale of goods. This is true both for CENVAT collected on domestically produced goods as well as that collected as additional duty of customs on imported goods.
- b) CENVAT is itself made up of several components in the nature of cesses and surcharges such as the National Calamity Contingency Duty (NCCD), education and secondary and higher education cess, additional duty of excise on tobacco and tobacco products etc. This multiplicity of duties complicates the tax structure and often obstructs the smooth flow of tax credit.
- c) While input tax credit of CENVAT or additional duty of customs paid on goods is available to service providers paying Service Tax, they

are unable to neutralize the State VAT or other State taxes paid on their purchase of goods.

- d) State VAT is payable on the value of goods inclusive of CENVAT paid at the manufacturing stage so that the VAT liability of a dealer gets inflated by this component without compensatory set-off.
- e) Inter-State sale of goods attracts the Central Sales Tax (CST) levied by the Centre and collected by the States. This is an origin-based tax and cannot be set-off against VAT in many situations.
- f) State VAT and CST do not directly apply to the import of goods on which special additional duties of customs are levied at a uniform rate of 4% by the Centre. Input tax credit of these duties is available only to those manufacturing excisable goods. Other importers have to claim refund of this duty as and when they pay VAT on subsequent sales.
- g) VAT dealers are unable to set-off any Service Tax that they may have paid on their procurement of taxable input services.
- h) State Governments also levy and collect a variety of other indirect taxes such as luxury tax, entertainment tax, entry tax etc. for which no set-off is available.

5. Introduction of GST is a logical culmination of the tax reform process involving the switch over to CENVAT; levy of service tax and the transition from sales tax to state VAT. By replacing a large number of taxes levied both by the Centre and the States, GST would integrate the tax base and allow seamless flow of input tax credit across the value chain of goods and services. This would eliminate multiplicity of taxes, cascading of taxes and overall simplification of indirect taxation regime. Seamless input tax credit chain will lead to reduced cost of goods and services. As the credit chain will function only if all the transactions are recorded, GST environment would lead to improved disclosure of economic transactions which may have a positive impact on direct tax collections also.

6. It is in the context of India's federal structure that a dual GST, wherein both the Centre and the States concurrently levy and collect the tax, has been envisaged. It would be mutually beneficial to both by allowing an expansion of their respective fiscal space; and better tax compliance.

7. Internationally, comprehensive Goods & Services tax has already been introduced in more than 100 countries across the world. The Empowered Committee of State Finance Ministers (EC) has visited and studied the best practices of many countries like Australia, Brazil, etc. which has similar political structure as that of India. At the same time, the Indian model would have to be unique owing to the quasi-federal nature of its polity.

8. Under the GST regime, both the Centre and the State would have the powers to tax the "supply" of goods and services right from their primary stage to final consumption. Such a regime with IGST on inter-state supplies would result in establishing a seamless Input Tax Credit (ITC) chain from the primary to the tertiary stage. Such seamless credit chain and the removal of differential in tax rates on inter-state and intra-state transactions are likely to lower costs for the consumers and will result in better tax compliance.

9. In addition since all the dealers will be given PAN based registration number under GST regime and will be required to file returns on a common portal, more robust information sharing and analysis between the Centre and the States as also amongst States would be feasible. This will definitely help in checking evasion and boost revenues of the Centre as well as States since currently, there is no systematic sharing of information between Central and State tax administrations allowing sufficient scope for wrong reporting by dealers and thus the tax evasion. Under the existing system, Centre and States have been granting relief from payment of tax to promote investments. This leads to a lot of inefficiency in the taxation system. It is expected that in Centre as well as States will not grant such tax relief in the GST regime to make taxation system more efficient.

10. The benefits of GST can be summarized as under :

- For business and industry
 - Easy compliance
 - Removal of cascading
 - Improved competitiveness
- For Central and State Governments
 - Simple and easy to administer
 - Better controls on leakage
 - Consolidation of tax base
 - Higher revenue efficiency
- For the consumer
 - Single and Transparent tax proportionate to the value of goods and services
 - Reduction of prices

11. GST, by its design, encourages the system to be transparent. There is an inbuilt system of Input Tax Credit i.e. the tax paid at earlier stage of the production distribution chain will be set off at the final stage of sale of goods and services. Also the rate arbitrage between the inter-state and intra-state supplies will get eliminated. This is because it is proposed to equalize the total rate of tax applicable to intra- and inter-state supplies unlike the present regime where the CST rate is 2% while the normal VAT rate is either 5% or 12.5%. Thus it is expected that tax evasion would be largely reduced. The Centre and States today fix rate of tax and grant exemptions many times not in sync with each other. States also try to compete with each other to attract investment etc. and offer reduced rate of tax on select goods, which leads to tax rate war between States and ultimately hurts them. The affected State today has no forum to go to get its grievance redressed. The Bill proposes to set up GST council which after discussion will recommend rate of tax etc. to Centre as well as States. Centre and States will be expected to follow the recommendations of the GST Council and State and Centre will have a forum in the form of GST Dispute Settlement Authority for seeking redressal of grievances related to loss of revenue because

of such deviating action of the other State which may have affected their revenue. This will bring transparency, accountability and efficiency in the tax administration and reduce the arbitrage opportunities available to tax avoidance and evasion.

II. Salient Features of Constitution (Amendment) Bill

12. The Constitution (One Hundred and Fifteenth Amendment) Bill, 2011 was introduced in Lok Sabha on 22 March, 2011 and subsequently referred by the Hon'ble Speaker, Lok Sabha to the Standing Committee on Finance on 29 March, 2011 for examination and Report thereon. The Salient features of the Bill are outlined below:

- (a) The term 'Goods and Services Tax (GST)' is proposed to be defined in the main body of the Constitution and no new entry is proposed to be added in any Union, State or Concurrent list.
- (b) A new Article 246A is proposed to be added, which will confer simultaneous power to Union and State legislatures to legislate on GST.
- (c) A Goods & Services Tax Council (Article 279A) will be created, which will be a joint forum for the Centre and the States to discuss important issues relating to GST so that the objective of having a harmonized structure for GST and a harmonized national market can be achieved. This Council would function under the Chairmanship of the Union Finance Minister and will have Minister in charge of Finance/Taxation or Minister nominated by each of the States & UTs with legislatures, as members. The Council will make recommendations to the Union and the States on important parameters like rates, exemption list, threshold limits, etc. The Recommendations made by this Council will act as benchmark or guidance to Union as well as State Governments. The Parliament as well as State Legislatures will be free to exercise their power on all issues recommended by the Council. One-third of the total number of Members of the Council will constitute the quorum of GST council. It is further provided that the decisions of the GST Council shall be with the consensus of all members present at the

meeting. This is to protect the interests of each State and the Centre when the Council takes a decision.

- (d) In exercise of their powers, these legislative bodies may deviate from the recommendations of the Council and may act in a manner which is prejudicial to the harmonious working of GST or which adversely impacts the revenue of some other State/Central Government. Such deviations or actions are required to be kept to the minimum, if the objective of having a common national market and smooth working of GST is to be achieved. It is accordingly proposed to set up Goods & Services Tax Dispute Settlement Authority (Article 279B), which may be approached by the affected Government (whether the Centre or the States) seeking redressal for any loss caused by any action due to a deviation from the recommendations made by the Goods & Services Tax Council or for adversely affecting the harmonious structure and implementation of the GST.
- (e) Subsuming of various Central and State indirect taxes and levies in GST is proposed to be ensured through this set of Constitutional amendments.
- (f) Power to levy Integrated GST on inter-State supply of goods & services is to be given to Centre.
- (g) Certain goods like Crude Petroleum, Diesel, Petrol, Aviation Turbine Fuel, Natural Gas and alcohol for human consumption etc. are proposed to be kept out of the ambit of GST.

Background

13. The Empowered Committee of State Finance Ministers (EC) was requested to prepare a design of the proposed GST. After several years of effort and constant interaction with the Department of Revenue, Government of India, the Empowered Committee of State Finance Ministers released the “First Discussion Paper on GST in India” in November, 2009. Following several rounds

of discussion between the EC and the Central Government, certain important design parameters of GST have been agreed as follows:

- (a) There will be a dual GST model for the country, wherein the first component, namely, Central GST will be levied and collected by the Central Government and the second component, namely, the State GST will be levied, collected and appropriated by each of the States. The proceeds of the Central GST would be shared between the Centre and the States on the basis of the devolution formula recommended by the Finance Commission and accepted by the Government.
- (b) The proposed Central and State GST would be levied on all transactions involving supply of goods and services except those that are exempt or kept out of the purview of the GST.
- (c) Central and State indirect taxes and levies listed below would be subsumed under the proposed GST:

Central tax/levies to be subsumed

- (i) Central Excise Duty;
- (ii) Additional Excise Duties;
- (iii) The excise Duty levied under the Medicinal and Toiletries Preparation Act;
- (iv) Service Tax;
- (v) Additional Customs Duty, commonly known as Countervailing Duty (CVD);
- (vi) Special Additional Duty of Customs – 4% (SAD);
- (vii) Surcharges; and
- (viii) Cesses.

State taxes and levies to be subsumed

- (i) VAT/Sales tax;
- (ii) Entertainment tax (unless it is levied by the local bodies);
- (iii) Luxury tax;

- (iv) Taxes on lottery, betting and gambling;
 - (v) State Cesses and Surcharges in so far as they relate to supply of goods and services; and
 - (vi) Entry tax not in lieu of Octroi.
- (d) Integrated GST (IGST) would be levied on inter-State transactions of Goods and Services. This IGST would be equivalent to the sum of CGST and SGST. The exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information will also be submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds. The IGST system would ensure that intended destination based system is followed under GST regime.
- (e) GST will also be levied on imports. The incidence of tax will generally follow the destination principle and the tax revenue corresponding to SGST will accrue to the State where the imported goods and services are consumed. Input Tax Credit will be available of the GST paid on the import of goods and services.
- (f) In terms of coverage of goods, the proposed Goods and Services Tax will not apply to five specified petroleum products viz. crude petroleum, diesel, aviation turbine fuel and natural gas. On these items, the Centre would continue to levy Central Excise duty (CENVAT) while the States would continue to levy Sales tax. State excises on alcohol for human consumption and electricity duty on sale and consumption of electricity would not be subsumed under GST to begin with. Tobacco and its products would be subject to

GST, but, they would continue to bear Central Excise duty over and above the GST.

- (g) The proposed GST would thus be leviable on all transactions involving supply of goods and services except for exempted transactions. Consequently, the existing levies of CENVAT by the Centre and VAT by the States which apply to the 'manufacture' and 'sale' of goods respectively would be replaced. The taxable event for GST would thus no longer be manufacture or sale of goods but the 'supply of goods and services'.

III. Impact of GST on :

(a) Economy

14. A National Council of Applied Economic Research (NCAER) study, commissioned by the Thirteenth Finance Commission has stated that Implementation of a comprehensive GST across goods and services is expected, ceteris paribus, to provide gains to India's GDP somewhere within a range of 0.9 to 1.7 per cent. The corresponding change in absolute values of GDP over 2008-09 is expected to be between Rs. 42,789 crore and Rs. 83,899 crore, respectively. The comparable dollar value increment is estimated to be between \$ 18, 550 million, respectively.

15. The additional gain in GDP, originating from the GST reform, would be earned during all years in future over and above the growth in GDP which would have been achieved otherwise. The present value of the GST-reform induced gains in GDP may be computed as the present value of additional income stream based on some discount rate. Assuming a discount rate as the long-term real rate of interest at about 3 per cent, the present value of total gain in GDP has been computed as between Rs.1,469 thousand crores and 2,881 thousand crores. The corresponding dollar values are \$325 billion and \$637 billion.

16. Gains in exports are expected to vary between 3.2 and 6.3 per cent with corresponding absolute value range as Rs. 24,669 crore and Rs. 48,661 crore.

The comparable dollar value increment is estimated to be between \$5,427 million and \$10,704 million, respectively. Imports are expected to gain somewhere between 2.4 and 4.7 per cent with corresponding absolute values ranging between Rs. 31,173 crore and Rs. 61,501 crore. The comparable dollar value increment is estimated to be between \$6,871 million and \$13,556 million, respectively.

17. GST would lead to efficient allocation of factors of production. The overall price level would go down. It is expected that the real returns to the factors of production would go up. Our results show gains in real returns to land ranging between 0.42 and 0.82 per cent. Wage rate gains vary between 0.68 and 1.33 per cent. The real returns to capital would gain somewhere between 0.37 and 0.74 per cent.

18. Based on certain computations, the revenue neutral GST rate across goods and services is expected to be positioned somewhere in the range of 6.2 per cent and 9.4 per cent, depending on various scenarios of sectoral exemptions.

19. In sum, implementation of a comprehensive GST in India is expected to lead to efficient allocation of factors of production thus leading to gains in GDP and exports. This would translate into enhanced economic welfare and returns to the factors of production, viz. land, labour and capital.

20. When asked as to how GST would help fiscal consolidation, Dr. Vijay L. Kelkar, Ex-chairman, Thirteenth Finance Commission in his post-evidence replies stated as under :

“The changeover to GST is designed to be revenue neutral at existing levels of compliance. Given the design of the ‘flawless’ GST, the producers and distributors will only be pass through for the GST. Further, given the single and low rate of tax the benefit from evasion will significantly reduce. Therefore, there will be little incentive for the producers and distributors to evade their turnover. Accordingly, this policy initiative should witness a higher compliance and an upsurge in revenue collections. This will also have an indirect positive impact on direct tax collections. Further, given the fact that GST will trigger an increase in the GDP, this in turn would yield higher revenues even

at existing levels of compliance. Another important source of gain for the Government would be the savings on account of reduction in the price levels of a large number of goods and services consumed by the Government.

However, to the extent, the Central Government will be required to incentivise the States to adopt the GST, there will be an increase in the budgetary outgo. Given the smallness of the size of the compensation, it is expected that there would be a net gain in the tax revenues. This should enable the Central Government to better manage its finances.

As regards the State Governments, the design and the road map of the GST recommended by us would lead to substantial gain in revenues. While the revenue neutral rate for the States is estimated to be 6 percent, we have recommended that the states should be allowed to impose GST at the rate of 7 percent. An increase in the RNR of the States by 1 percent implies a revenue gain of Rs. 31381 crores per annum in the base year 2007-08 (i.e. 16.67 percent increase in the revenues). This gain will be further augmented by better compliance.

Therefore, overall the implementation of GST should enable the Government at both levels to better meet the challenges of fiscal correction.

GST will positively impact the common man in many ways. **Firstly**, it will add to the overall economic growth by removing economic distortions. It will create new employment opportunities (about 20 million high end jobs over a period of time) thereby increasing the levels of income across a large section of the society. **Secondly**, it will reduce inflation if GST is levied at the combined rate of 12 percent as recommended by the Thirteenth Finance Commission. **Thirdly**, it will decentralize production to areas enjoying comparative advantage so more jobs can be expected to be created in rural areas. This will in turn slow down the pace of migration to urban areas. **Fourthly**, it will improve governance since the introduction of a comprehensive GST will bring about more transparency and an end to crony capitalism. **Finally**, GST can create further opportunities for relief under direct taxes over time since it is viewed as a revenue generating machine. Alternately, it will facilitate fiscal consolidation thereby reducing the debt burden of citizens in general”.

21. However, the representatives of Gujarat and Madhya Pradesh Government disagreed with the assessment of Dr. Vijay L. Kelkar and submitted as under :

(i) **Views of Government of Gujarat :**

22. The most critical aspect of the proposed Amendment and introduction of GST in the country related to the expected revenue losses to the states. While the loss of revenue is expected due to removal of cascading effect, unacceptable revenue losses would arise mainly on account of the inability to achieve Revenue neutral rates, the loss of CST revenues and the sub-optimal collections from services sector.

23. The Task Force on GST of Thirteenth Finance Commission (TFC0 has worked out a Revenue-Neutral Rate (RNR) of 12% (5% CGST and 7% SGST) assuming there is a single GST rate and stamp duty & electricity duty are also subsumed in the GST. It is not clear whether services and goods will have the same rate or be subjected to tax at different rates. The proposed RNR by the NIPFP does not match the rates suggested by thirteenth Finance Commission. Our calculations show that RNR will be as high as 19.68%. Such high rates cannot be levied on all goods and services and therefore revenue losses will certainly occur. The anticipated revenue losses to the State of Gujarat would be around Rs. 9,000 crore.

(ii) **Views of Government of Madhya Pradesh :**

24. Fiscal health of States is likely to be deteriorate because of the substantial tax revenue loss, they will not be able to mobilize additional resources for development as they cannot change the rates structure of the most important tax instrument available to them and they cannot raise additional resources through borrowing as their borrowing limit is determined by the Centre and has been fixed at 3% of GSDP.

25. Backward States generally have poor fiscal health and are more dependent on Central Devolution and Grants. The share of taxable services in the

“consumption basket” of the poor is always smaller as compared to the better off sections off the society. Therefore, the additional revenue accruing to backward States from “final consumption of services” in GST will be meager to compensate the loss of tax revenue from taxation of primary commodities only on the “Destination Principle”.

26. When asked as to how GST will affect the fiscal health of the states Shri Sushil Kumar Modi, Chairman, Empowered Committee of State Finance Ministers in his post-evidence reply has stated as under :

“With the introduction of GST, the cascading effects of CENVAT and service tax would be removed with a continuous chain of set-off from the producer’s point to the retailer’s point, major Central and State taxes would be subsumed in GST and CST will also be phased out, the final net burden of tax on goods, under GST would in general fall. Since there would be a transparent and complete chain of set-offs, this will help widening the coverage of tax base and improve tax compliance. This may lead to higher generation of revenues which may in turn lead to the possibility of lowering of average tax burden on the stakeholders. Hence, implementation of GST will provide a better environment for growth and possibly may result in the increase of the GDP. Therefore, in long run implementation of GST is not likely to affect the fiscal health of the States. On the contrary, it may improve the generation of the revenue of the States. However, in the initial few years of the implementation of GST, because of subsumation of several State Taxes, removal of the cascading affect, provision of additional set-offs may result in some State specific losses and, therefore, there may be a need for provision of GST compensation to such States in the initial few years”.

(b) Prices

27. When asked as to how GST will impact prices, Dr. Vijay L. Kelkar, Ex-Chairman, Thirteenth Finance Commission in his post-evidence reply stated as under :

“Prices of agricultural commodities and services are expected to rise. Most of the manufactured goods would be available at relatively low prices especially textiles and readymade garments.

There are two opposing forces which determine the changes in price levels. First, increased payments to the primary factors of production, viz. land, labour and capital, increase the cost of production and hence tend to have upward pull on prices. Second, sectors under imperfect competition (manufacturing sectors) get benefits of cost reduction through increasing returns to scale which are not reaped by sectors assumed to be in perfect competition. The relative impact of the force determines the overall price change. It may also be noted that the share of primary inputs (land, labour and capital) in total output is relatively high in agricultural and services sectors.

Another factor that impacts the price levels refers to the quantum of intermediate input purchases from sectors under perfect competition versus imperfect competition. Relatively low proportions of intermediate inputs purchased by agriculture and service sectors (i.e. sectors under perfect competition) are sourced from manufacturing sectors and hence these sectors do not reap the benefit of relatively low cost inputs from manufacturing sectors. Therefore, fall in prices of manufactured goods should benefit agriculture and services sectors.

Further, the terms of trade can also be expected to improve in favour of agriculture vis-a-vis manufactured goods. The prices of agricultural goods would increase between 0.61 percent and 1.18 percent whereas the overall prices of all manufacturing sector would decline between 1.22 percent and 2.53 percent. Consequently, the terms of trade will move in favour of agriculture between 1.9 percent and 3.8 percent.

The increase in agricultural prices would benefit millions of farmers in India. Similarly, the urban poor will also benefit from new employment opportunities. With regard to the food crops the poor would continue to remain secured through the public distribution system. The prices of many other consumer goods are expected to decline. These include sugar; beverages; cotton textiles; wool, silk and synthetic fibre textiles; and textile products and wearing apparel.

Further, moving forward, the combined lower rate of Union Excise Duty (UED) and State level VAT on inputs and goods consumed by vulnerable section of the society is already 11 percent which will be marginally increased to 12 percent when GST is introduced. Similarly, the present rate of Service Tax of 12 percent is already aligned to the 12 percent combined GST rate recommended by the Thirteenth Finance Commission. However, the combined standard rate of 25.5 percent under the UED and State-VAT is substantially higher than the 12 percent. With the introduction of GST the 25.5 percent will have to be reduced to 12 percent which will have a strong downward effect on inflation. In addition, the service tax coverage has also been extended to all services except a negative list. Therefore, overall inflationary

impact of GST will be negative through lower prices, lower fiscal deficit and higher output”.

(c) Consumer prices – international experiences

28. In a note submitted to the Committee, the Government of Madhya Pradesh has cited some studies illustrating adverse impact of GST upon consumer prices which has been reproduced as below :

- (a) The empirical data relating to the consumer price changes in Australia, Canada and New Zealand is given by (Bolton & Dollery, 2004). On the issue of the effect of GST on consumer price inflation Tom Bolton and Brian Dollery have drawn the following conclusion from the empirical data :

“It seems useful to frame the comparison of the macroeconomic inflationary effect in terms of Alston’s (1996) case study methodology. At the time of New Zealand’s GST introduction all three countries had roughly 4% to 6% annual consumer price inflation rates. In the year following the introduction of the GST in Canada, the average of the three countries had dropped to between 1% and 2%. The average was still low in the year before the introduction of the GST in Australia. Accordingly, the observed spike in price levels that occurred in all three countries should not be compared directly inter temporally with regards to economic performance since almost all the other factors impinging on the rate of inflation were different. However, while all three countries did exhibit a spike in price level, there was nonetheless no indication of subsequent wage-price spirals”.

- (b) Ruggeri and Wart have examined the effects of GST in Canada. They have come to the following conclusion :

“The GST has contributed substantially to higher inflation and has seriously weakened the Canadian economy in 1991. Statistics Canada has estimated that the GST is responsible for most of the first-quarter 1991 increase in the consumer price index (CPI) of 1.5 percent and has contributed to a decline of 1.2 percent in real GDP (which is equivalent to an annual compound decline of 4.6 percent). The CPI jumped by 2.6 percent from December 1990 to January 1991, with 1.6 percentage points of that rise attributed by Statistics Canada to the GST.

The introduction of the GST has added to the inflation rate, first because it entails a tax rise of about \$1.5 billion over what the MST would have yielded in 1991, 7 and, second, because not all the savings from the elimination of the MST were passed forward immediately. In the medium term, the effect of the initial price shock depends upon the degree of competition on affected industries, the price sensitivity of demands for affected good, the state of labour relations, and aggregate demand. The inflationary pressure generated by this rise in consumption taxation has restricted the ability of the Bank of Canada to soften the impact of the current recession through lower interest rates, and as a result it has taken a prolonged and deep economic slide to bring interest rates down to the levels experienced before 1989”.

- (c) Tom Bolton and Brian Dollery have drawn the following conclusions regarding the effect on GDP of New Zealand, Canada and Australia.

“It is immediately apparent that the economic impacts of the GST package were quite varied across countries, suggesting no common denominator. For example, the dramatic jump in GDP in 1987 in New Zealand can hardly be attributed to GDP growth since both Australia and Canada experienced a simultaneous boom period. For the same reason, the Canadian recession could not have been induced by the introduction of the GST because it formed part of the (then) global recession”.

29. The Ministry of Finance in their post-evidence reply inter-alia stated that however, in most of the countries it has been a success though each one of them has been carrying out changes post rollout. In Europe, New Zealand, South Africa, Canada, Australia etc. the effects of GST/VAT have been encouraging and have led to buoyancy in collections and moderation of rates.

(d) Producing States and Consuming States

30. Some States like Gujarat and Madhya Pradesh in their memoranda have stated that public investments in infrastructure are a critical factor in inducing and sustaining economic growth. Infrastructure such as roads, power and water supply do not only promote industrial growth, but also agricultural development, services sector, and enhanced quality of life. GST is proposed as a destination

based tax, with tax revenues moving to the consuming states. The states which consume the most shall be the importing states and the states like Gujarat which are having a large manufacturing base, will be one of the net exporting states. This will lead to a situation where the net exporting states which have made heavy investments in infrastructure and industrial promotion measures will lose their tax revenues to the net consuming states as the tax will be destination based and the CST would be done away with. There will not be incentive to the net exporting states to invest further in industrial infrastructure. It may be appreciated that this is likely to lead to de-acceleration in public investments in infrastructure, across the states. On the other hand, net exporting states that have already invested heavily in such infrastructure, would be hard pressed to recover the investment from tax revenues. It is required to be examined, whether this is a healthy condition to create.

31. The Ministry of Finance in their post-evidence reply stated that there is no scientific data yet available to gauge the impact of the proposed GST on the producing States viz-a-viz consuming States. However, under GST the states which are net importers of goods and services will gain while the states which are net exporters (manufacturing states) may lose on account of destination based IGST. However, this is in consonance with the basic philosophy of the GST that the burden of taxes should not be imposed on non-residents of a State.

(e) MSMEs and Employment Generation

32. The Government of Gujarat in their memorandum submitted to the Committee has stated that at present threshold under Central Excise is Rs. 1.5 crore. The proposed threshold limit of Rs. 10 lakhs under CGST would bring many of the Micro Small and Medium Enterprises (MSMEs) under the central tax net. This is likely to adversely affect the employment generating units under MSME sector. Some of the units may become financially unviable and lose competitiveness due to additional burden of tax, cost of compliance and dual

control. Around 30,000 MSME s will be affected in Gujarat alone and this contributes to employment of 2.18 lakh families.

33. The importance of the MSME sector in the economic arena cannot be under-estimated. Not only is the direct employment generated per unit of capital deployed generally much higher, but the MSME also provide ancillary and support services to large industries, in a cost-efficient manner. The spirit of innovation and enterprise thrives in the MSME sector. The contribution of MSMEs in export competitiveness of the country is considerable. These aspects are likely to be adversely affected, by bringing in the MSME into the central tax net.

34. When asked to comment upon the impact of GST on MSMEs, Dr. Vijay L. Kelkar in his post-evidence reply stated as under :

“At present small scale industries are entitled to exemption from payment of CENVAT in respect of their turnover upto Rs.1.5 crores. However, there is no such threshold exemption in respect of state level VAT. The main reason for exemption from payment of CENVAT is to liberate them from the onerous compliance burden under the CENVAT regime particularly in the context that, in general, the small scale industries are managed by one or two entrepreneurs with the support of a handful of semi-skilled office staff.

In the context of the GST, it has been recommended that the reporting of payment and transaction information of both CGST and SGST should be allowed through a combined Form. Therefore, in any case the small scale industry has to comply with the reporting of payment and transaction information of SGST. No additional burden is cast upon the small scale industry for compliance with the CGST. Hence, the case for continuing with the existing exemption upto Rs.1.5 crores of turnover is extremely weak. Accordingly, it is recommended that this exemption should not be continued under the GST framework.

Further, the small scale industries are generally wary of dealing with multiple tax administrations. Therefore, in order to inspire confidence of the small scale industry in the new GST framework, it is also recommend that the scrutiny/audit of the small scale industry should be conducted only by the state tax administration. However, the State tax administration may seek the assistance of the central tax administration or any other state tax administration if the operations of the small scale industry transcend the state boundaries. Since the CGST and the SGST are proposed to be levied on an identical GST

tax base, the outcome of any investigation impacting SGST will also have a corresponding impact on CGST. Therefore, enforcement by the State tax administration would be adequate to even deal with CGST evasion.

Further, it must be noted that the combined GST rate of 12 percent recommended by the Thirteenth Finance Commission will be less than the 13.5 percent liability under State VAT and the burden of embedded input tax under Union Excise duty and Service Tax. Therefore, withdrawal of exemption will not be onerous for the MSME sector. In fact the liability will substantially reduce”.

PART-II

IV. Issues relating to Amendment Bill

34. Certain key issues emanating from some of the provisions of the Amendment Bill were raised by the Committee and discussed with the representatives of Ministry of Finance (Department of Revenue) State Governments experts, associations, organizations and Empowered Committee of the State Finance Ministers. Written information /replies was also obtained from the Ministry.

(a) Power to make laws with respect to Goods and Services Tax

(Insertion of new Article 246 A)

35. Clause 2 of the Amendment Bill reads as :

After article 246 of the Constitution, the following article shall be inserted, namely:—

‘246A. Notwithstanding anything contained in articles 246 and 254, Parliament and the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by that State respectively:

Provided that Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Explanation.— For the purpose of this article, “State” includes a Union territory with Legislature.’

36. On the above amendment, the Empowered Committee of the State Finance Ministers have expressed their views as under :

“Most of the States agree to this amendment. Gujarat and Madhya Pradesh are, however, of the opinion that this amendment will take away the fiscal autonomy of the States given by the Constitution since 1950 and also the proposed Article 246A inflicts severe blow on provision of distribution of legislative powers by introducing a separate category. States of Himachal Pradesh and Jharkhand feel that it should be ensured that the Constitutional Amendments should not affect the fiscal autonomy of the States as enshrined in the Indian

Constitution. Jammu & Kashmir basically have no objection to the proposed Article 246A except they feel that keeping in view the special Constitutional status of Jammu & Kashmir, adequate safeguards need to be incorporated in the Constitutional Amendment Bill with respect to Jammu & Kashmir. Madhya Pradesh, Mizoram and Rajasthan feel that proposed Article 246A provides for concurrent jurisdiction for both Union and the States and, therefore, in case of conflict of interests between them, it should be clarified which legislative power shall prevail. West Bengal is of the opinion that the proviso in the proposed Article 246A should refer to “supply or receipt of goods or of services, or both”.

37. The Ministry of Finance (Department of Revenue) have clarified their position as under :

“It is true that both Centre and States will have power to simultaneously levy GST on supply of goods and services but this power is not being given through an entry in the Concurrent List but through insertion of an Article in the main body of the Constitution itself. It is correct that the proposed Article 246A does not limit the legislative power of the States as the intention is to allow autonomy to the State legislature on the basis of the recommendations of the GST Council until it affects the harmonized working of GST”.

38. In this regard during the course of oral evidence Dr. Vijay L. Kelkar, Ex-chairman, Finance Commission further elaborated that the existing independent power of the State has yielded a distortionary tax system. Autonomy has neither served the objective of collection of revenue nor sub-served the attainment of any socio-economic objective. There is widespread tax evasion, poverty, malnutrition, and social and economic inequity. The ability of a State to achieve its socio-economic policies is determined by its expenditure policies. At present, the distortionary tax system in States has limited its ability to raise sufficient resources for its residents thereby severely undermining its ability to pursue an independent expenditure policy. Tax policy is only a means to an end. The proposed harmonized tax system will help mobilize larger resources and enhance the power of the States to pursue an independent expenditure policy. The proposed GST regime will lead to harmonization of tax base, tax rate and tax infrastructure. This will promote economic efficiency, and reduce compliance and administrative cost.

(b) Integrated Goods and Services tax (IGST)

Insertion of Article 269A

39. Clause 9 reads as under :

‘269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be prescribed by Parliament by law. *Explanation I.* — For the purposes of this clause, supply of goods or of services or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce. *Explanation II.* — For the purpose of this article, “State” includes a Union territory with Legislature. (2) Parliament may, by law, formulate the principles for determining when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

40. The Chairman, Empowered Committee of State Finance Ministers has submitted to the Committee as under on the above clause :

“This amendment is generally acceptable to the States except some observations made by some of the States. Assam, Himachal Pradesh and Kerala feel that Article 269A should, in clear terms, provide for levy of GST on “Destination Principle” on supply of goods and services. Gujarat and West Bengal feel that the word “apportioned” should be replaced by the word “distributed” or “assigned”. Several States like Himachal Pradesh, Jharkhand and Uttar Pradesh feel that the revenue received from IGST should be under the divisible pool. Gujarat opposes inclusion of GST on import of goods within the purview of Union Government as it goes against the consensus of delegating the powers to the States on VAT on imports on “Destination Principle”. He further added that :

“This amendment can be retained in view of the fact that there should be an institutional mechanism to extend the GST credit chain in the course of inter state trade and commerce and the proposed Article 269A contemplates providing just such a legal framework. However, the word “apportioned” used in Article 269A(1) should be replaced by the word “distributed”. The word “distributed” has also been used in Article 270”.

41. On the above clause, the Ministry of Finance (Department of Revenue) in their written submission commented as under :

“It is correct that terms “distribution” and “assignment” have been used in the Constitution. The distribution has been used in terms of one way flow from Centre to the States like devolution of funds from Central pool of taxes. The assignment has been used for taxes like Central Sales Tax, where tax is collected and kept by the State from where the trade originates. The IGST will follow a system under which money would move from Centre to the States or vice-versa, depending upon the fact whether the State is net exporter or net importer for the given period of settlement. That is why a different word “apportioned” has been used in the proposed amendment to denote a two-way flow of funds, post settlement”.

42. The Ministry further clarified that IGST proceeds will not follow the devolution formula nor would get assigned to the States.

43. When asked about the modalities of the IGST model and its revenue implications, the Ministry of Finance in a written reply stated as under :

“IGST model envisages that the Centre will levy tax at a rate approximately equal to (CGST+SGST) rate on inter State supply of goods and services. IGST will be levied and collected by the Centre. This levy will basically meet the objective of providing a continuous credit chain across States. The funds under the mechanism will required to be transferred from one State to another by the Centre depending upon the goods supplied to and from the State during the settlement period under consideration. The settlement of accounts will be done by the Centre that would function as a clearing house for this purpose. The model would obviate the need for refunds to exporting dealers (to enable full neutralization of input taxes) as well as the need for every State to settle accounts with every other State. To the extent, goods or services are supplied from one State to another for further distribution, IGST transactions would be revenue neutral (the tax paid in the exporting State would be available as credit to the buyer in the importing State). Since GST will follow destination principle, the net importing States will be the gainers while net exporting States will be the losers after this system is put in place. For the Centre, IGST will not have any revenue implication, either positive or negative”.

44. While submitting his suggestions on this clause, Dr. Vijay L. Kelkar during the course of oral evidence deposed as under :

“There is no reason why the Centre should get involved in the collection of inter-sate trade tax. The proposed IGST is extremely complex and therefore place a very high level of compliance burden on the taxpayer and the clearing house agency. A simpler Model is the Modified bank

Model as recommended by the Task Force on GST set-up by the Thirteenth Finance Commission. It does not require any involvement of the Central Government”.

(c) GST Council

(Insertion of new Article 279A)

45. Clause 12 of the amendment Bill reads as under :

“After article 279 of the Constitution, the following articles shall be inserted, namely: -

‘279.A(1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and Fifteenth Amendment) Act, 2011, by order, constitute a Council to be called the Goods and Services Tax Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely:-

(a) the Union Finance MinisterChairperson;

(b) the Union Minister of State in charge of RevenueMember;

(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State GovernmentMembers

(3) The Members of the Goods and Services Tax Council referred to in sub-clause(c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on-

(a) the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed in the goods and services tax;

(b) the goods and services that may be subjected to or exempted from the goods and services tax;

(c) the threshold limit of turnover below which goods and services tax may be exempted;

(d) the rates of goods and services tax; and

(e) any other matter relating to the goods and services tax, as the Council may decide.

(5) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(6) One-third of the total number of members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(7) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(8) Every decision of the Goods and Services Tax Council taken at a meeting shall be with the consensus of all the members present at the meeting.

(9) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of –

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a member of the Council; or

(c) any irregularity in the procedure of the Council not affecting the merits of the case.

Explanation.- For the purposes of this article, “State” includes a Union Territory with Legislature.

46. On the above clause, Shri Sushil Kumar Modi, Chairman, Empowered Committee of State Finance Ministers while stating the concerns expressed by some State Governments submitted as under :

“Most of the States agree to the setting up of a GST Council. Gujarat and Nagaland, however, feel that there is no need of creation of a new body as the Empowered Committee of State Finance Ministers is working for last several years on consensus basis and may be converted into GST Council. Following views have also been expressed by different States on the various provisions of proposed Article 279A.

(i) Flexibility should be provided to the States in time of economic exigencies, disasters and natural calamities.

- (ii) Special schemes for the North-Eastern States and the Special Category States should be provided.
- (iii) Harmonization of the GST structure should be in line with the 'destination principle' and should be clearly defined.
- (iv) The quorum of 1/3rd provided is not adequate and it should be somewhere half to 3/4th of the total number of members of the GST Council.
- (v) The mention of local bodies in sub-clause 4(a) should not be there as the revenues of the local bodies are not to be subsumed under GST.
- (vi) The recommendations under clause 4 to be made by the Council should be subject to the provisions of Article 246A.
- (vii) Sub-clause 4(d) should be amended so as to provide for a system of floor rates and rate band instead of fixing a uniform rate of tax and the prescribed floor rate should apply to inter-state transactions.
- (viii) Issue of GST compensation should also be one of the issues on which the Council should be in a position to make its recommendations.
- (ix) Keeping in view the special position of the State of Jammu & Kashmir, suitable provisions need to be kept in Article 279A and 279B so that no decision of the Council should be applicable to Jammu & Kashmir without expressed consent of the State.

47. On the issue of achieving consensus (Clause 8) during the meeting of the Committee, the Chairman, Empowered Committee of State Finances elaborated as under :

“It is a fact that sometimes it may be difficult to achieve consensus and it may lead to stalemate in the functioning of the GST Council. Therefore, the word “consensus” has to be properly defined. One alternative could be that “every decision of the Goods and Services Tax Council taken at the meeting should be with a majority of 2/3rd or 3/4th of the members present at the meeting. Every decision regarding Central Goods and Services Tax may also require the agreement of the Union Finance Minister”.

48. On the flexibility to be given to the States in times of economic exigencies, the Ministry have stated that Article 279A (4)(e) allows Council to make recommendations on any matter related to GST in addition to the threshold rate of tax etc. The flexibility is available to the GST Council depending upon the need and mentioning in the body of the Bill that flexibility will be available only in case of economic exigencies, disasters and natural calamities, will only limit the flexibility already intended to be provided to the GST Council.

49. On the Special Scheme for North Eastern States and Special Category States, the Ministry have commented that the flexibility to GST Council is available in the existing formulation also. The mention of flexibility only in certain situations as proposed will limit the flexibility available to the Council unintentionally. The special schemes for NE and special category States have been launched under the concerned tax laws and not through the Constitution, and therefore, the same cannot be mentioned in the Constitution itself.

50. On the tax incentives available to North Eastern States and Special Category States, the Ministry of Finance in their post-evidence reply stated that since it is proposed to subsume Central Excise Duty within GST, it would not be possible to continue with area-based exemptions (from central excise duty) operating in Jammu & Kashmir, Himachal Pradesh, Uttarakhand, Sikkim, North East and Kutch in their present form. Besides, such exemptions are incompatible with the concept of GST that presupposes a moderate neutral tax across the entire value chain and seamless flow of credit. As such, it is envisaged to convert these schemes into cash subsidy schemes. This would not have any adverse impact on the units currently availing of the area based exemption benefits.

51. On subsuming of taxes levied by the local bodies, Ministry stated that It appears appropriate to empower GST Council to make recommendations with respect to subsuming of taxes levied by the local bodies also so that at later point of time when it is decided to subsume taxes like Octroi, it could be done with a recommendation of the GST Council. The subsuming of any tax will anyway

involve a long drawn process of Constitution amendment during which States will have sufficient opportunity to present their views.

52. On the harmonized structure of the GST, the Ministry have commented that harmonized structure of the GST will mean that there is no serious conflict between the systems followed by Centre and the States during GST regime. Harmonized national market means that there would not be unnecessary preferences available to anyone to set up a business or industry in a particular part or a States because of tax related concessions. These words are clearly understood and may be further detailed by the GST Council, depending upon the need from time to time.

53. On the issue of Quorum and consensus the Ministry clarified that the various options in this regard have been discussed. The Central revenue being subsumed in the GST is almost equal to all the States revenue proposed to be subsumed in it. In the GST Council, however, 2/3rd of the States will be able to take a decision against the interests of the Centre if the given formulation is accepted. It has accordingly been proposed that decision in the GST Council be taken on the basis of consensus.

54. Regarding formula for compensation to the States, the Ministry clarified that GST Council would be able to make recommendation on any matter only when all the States and Union Finance Minister agree to the proposal. If such a formulation of compensation formula can be worked out, there appears to be no difficulty in Union Government accepting the same even if it is not recommended by the Council. The Council is generally expected to make recommendations on matters related to GST to both Union and States to ensure harmonization.

55. On floor rate the Ministry have stated that GST Council may decide to make recommendations about the floor rate or a band within which tax rates may be kept depending upon the discussions in its meeting. The proposed amendment will allow such flexibility. However, in their post evidence reply the Ministry of Finance on floor rate/band stated that a high level of harmonization helps in minimizing the aberrations in the implementation of the GST. Dispersal in rates across various States compromises the objectives of a single common market

significantly. The matter becomes even more complex if such variation in rates is permitted in the case of services. Services, being intangible, are difficult to be related to geographical locations and pose significant challenges in deciding the precise place where they are liable to be taxed. If the autonomy is permitted only in respect of goods, (and not services), it leads to different problems of distinguishing between goods and services, which is not easy in a modern economy where such distinctions are withering away fast. Moreover, variations in rates across States lead to arbitrage opportunities, resulting in evasion and distortion in production and supply chain. Thus the benefits of keeping harmonized structure far outweigh the desire to provide unrestricted autonomy.

56. On floor rates, Dr. Parthasarathi Shome, Director & Chief Executive, Indian Council & Research on International Economic Relations in his memorandum submitted to the Committee has stated that states should be allowed to have floor rates under SGST allowing them to move up the rate if they wished. The reason presumably is that some advanced economies do this. It is important to keep India's SGST rate structure as simple as possible. The states have performed this task well so far under their VAT structure where they essentially have one general rate and one lower rate, with a list of goods of local importance from which they can select about a dozen commodities to exempt to suit local conditions. There is no reason why they should sacrifice under the SGST the uniformity that they have already achieved under the VAT. Otherwise, in practice, the SGST would become unmanageable; and administration and monitoring of interstate trade may become untenable.

57. On the threshold limit of turnover below which goods and services tax may be exempted, the Government of Madhya Pradesh in their post-evidence reply have stated that "low threshold for both CGST and SGST will increase the tax incidence on the products of small producers and adversely affect the employment in small scale industries. The threshold for taxation in Central Excise regime at present is Rs. 1.5 crore. This threshold should continue in CGST otherwise the tax burden on small producers will adversely affect them. A

relatively high threshold for CGST will also protect small business from dual tax administration”.

58. On the threshold limit, the Government of Gujarat added further that States are of the view that the threshold for Central GST should be Rs. 1.5 crore or more, but the Union Government wants Rs. 10 lakhs turnover as the threshold for Central GST. This will bring about additional 30 lakh dealers approximately, under levy of CGST, which in turn, will increase the transaction costs and impact competitiveness.

(d) Goods and Services Tax Dispute Settlement Authority (Article 279 B)

59. Clause 12, Article 279 B reads as under :

“279B. (1) Parliament may, by law, provide for the establishment of a Goods and Services Tax Dispute Settlement Authority to adjudicate any dispute or complaint referred to it by a State Government or the Government of India arising out of a deviation from any of the recommendations of the Goods and Services Tax Council constituted under article 279A that results in a loss of revenue to a State Government or the Government of India or affects the harmonised structure of the Goods and Services Tax.

(2) The Goods and Services Tax Dispute Settlement Authority shall consist of a Chairperson and two other members.

(3) The Chairperson of the Goods and Services Tax Dispute Settlement Authority shall be a person who has been a judge of the Supreme Court or Chief Justice of a High Court to be appointed by the President on the recommendation of the Chief Justice of India.

(4) The two other members of the Goods and Services Tax Dispute Settlement Authority shall be persons of proven capacity and expertise in the field of law, economics or public affairs to be appointed by the President on the recommendation of the Goods and Services Tax Council.

(5) The Goods and Services Tax Dispute Settlement Authority shall pass suitable orders including interim orders.

(6) A law made under clause (1) may specify the powers which may be exercised by the Goods and Services Tax Dispute Settlement Authority and provide for the procedure to be followed by it.

(7) Notwithstanding anything in this Constitution, Parliament may by law provide that no Court other than the Supreme Court shall exercise

jurisdiction in respect of any such adjudication or dispute or complaint as is referred to in clause (1).

Explanation- For the purposes of this article, “State” includes a Union Territory with Legislature’.

60. On the GST Dispute Settlement Authority, the Chairman, Empowered Committee of State Finance Ministers stated that most of the States have expressed the view that the provision pertaining to the GST Dispute Settlement Authority should be omitted as this authority shall have powers of overriding the supremacy of the Parliament and the State Legislatures. It shall affect the fiscal autonomy of the States.

61. The Constitution confers autonomy on the Parliament and the State Legislatures to legislate within the respective fields assigned to them and the fact that a statute enacted by a competent Legislative body can be called into question on grounds of deviations from the recommendations of an essentially executive body, albeit Constitutional, is being construed as undermining the supremacy of the Legislature. Keeping in view the concerns expressed by the States, and the fact that the proposed provision of GST Dispute Settlement Authority will affect the fiscal autonomy of the Parliament and the State Legislatures, the proposed Article 279B providing for GST Dispute Settlement Authority may be omitted. However, any dispensation involving multiple partners does require a mechanism to resolve disputes. A provision can be made in Article 279A itself empowering the GST Council to decide about the mechanism to resolve the disputes arising out of its recommendations.

62. The Ministry have clarified their position on this issue as under :

“The Law of Natural Justice says that nobody should be Judge in its own cause. Since the GST Council is to make recommendations only with consensus, making the Council responsible for adjudicating disputes will not be feasible as the State against which a complaint will be expected to be filed may block it in the GST Council itself. Moreover, GST Council is not supposed to decide the amount of compensation to be paid by the deviating State but to make recommendations about the key GST parameters and, therefore, the suggestion cannot be accepted”.

Legality of Goods and Services Tax Council (GSTC) and Dispute Settlement Authority (DSA)

63. When asked about the legality of the setting up of Goods and Services Tax Council (GSTC) and Dispute Settlement Authority (DSA) and whether the setting up of a DSA would be unconstitutional, the Ministry of Finance (Department of Revenue) sought the opinion of the Attorney General of India on the matter through Department of Legal Affairs which is as under :

“This is an important point which has been raised and the short answer to it is that it is certainly open to Parliament to approve any recommendation. However, this does not mean that the GSTC recommendations will have no value. Having regard to the nature of the Constitution of GSTC, the Council would have performed useful role in making recommendations but the ultimate authority whether to accept such recommendations can and must rest only in the Legislatures, namely, Parliament and the State Legislatures.

In this view of the matter, the setting up of the GSTC does not strike at the root of the legislative powers over Finance. The powers of the legislature over Finance are sacrosanct and are not affected by the setting up of the GSTC”.

64. On the legality of DSA, the Attorney General of India further stated which is as under :

“Here again, I wish to state that the question of the Parliament and the State Legislatures becoming mute spectators does not arise. The Dispute Settlement Authority is primarily with regard to the aspect of disputes in relation to deviation from any recommendation of the GSTC, and it is not just any deviation but a deviation which results in loss of revenue to a State Government or the Government of India, or affects the harmonized structure of the Goods and Service Tax. Notwithstanding the decision on the DSA, the ultimate control over finance will always be that of the legislatures.

In the premises, my answer to the two queries are as above. The supremacy of the legislatures over Finance are not affected by the proposed amendments”.

(e) Declared Goods (Article 286)

65. Clause 13 Article 286 reads as under :

“In article 286 of the Constitution -

(i) in clause (1),-

(A) for the words “the sale or purchase of goods where such sale or purchase takes place”, the words “the supply of goods or of services or both, where such supply takes place” shall be substituted;

(B) in sub-clause (b), for the word “goods”, at both the places where it occurs, the words “goods or services or both” shall be substituted;

(ii) in clause (2), for the words “sale or purchase of goods takes place”, the words “supply of goods or of services or both” shall be substituted;

(iii) for clause (3), the following clauses shall be substituted, namely:-

“(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of tax as Parliament may by law specify.

(4) Nothing in clause (3) shall apply to a law of a State insofar as it imposes or authorises the imposition of goods and services tax”.

66. On the above amendment, Shri Sushil Kumar Modi, Chairman, Empowered Committee of State Finance Ministers has submitted as under :

“Most of the States are opposed to the clauses (3) and (4) of this amendment. Clauses (3) and (4) allow the Union Government to take a unilateral decision of restricting the rates of petroleum products and alcoholic liquor for human consumption which may substantially affect the revenues of the States without their consent. In some cases, the Union Government had taken such decisions in past. It bears mention at this stage that the first three drafts of the Amendment Bill did not contain such a provision which suddenly appeared for the first time in the Amendment Bill introduced in the Lok Sabha. In terms of the proposed sub-clause (4), such restrictions will apply only to goods kept out of the ambit of GST viz. Crude oil, Petrol, Diesel, Aviation Turbine Fuel, Natural gas and alcoholic liquor for human consumption. The aforesaid items are major revenue earners for the States and any

restriction on the authority to tax the same will be inimical to the interests of the States.

In view of above, I feel that clauses (3) and (4) should be omitted. Alternatively, in clause (3), after the words, “subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of tax as Parliament by law specify”, the words “on the recommendation of the Goods and Services Tax Council constituted under article 279A” may be added”.

67. The Madhya Pradesh Government in their written submission on the above amendment have stated as under :

“The revised draft imposes the restriction on the States with respect to imposition of tax on sale or purchase of declared goods (not supply of declared goods). This can’t be acceptable as inter-state supply of declared goods are zero-rated and any restriction on the State to levy of tax on declared goods adversely affects the fiscal autonomy of the State in the GST regime”.

68. The Ministry on the above amendment have furnished their comments as under :

“The Central Government today has power under the Constitution to restrict rate of tax a State can levy on sale of a good. The proposal here is to restrict the Centre’s existing power to the goods kept outside the GST as it is expected that rate of tax on goods brought within GST will be decided on the basis of consensus between the Centre and the States and will follow a discipline. No new power is being sought by the Centre through the proposed amendment and in fact, the existing power available in the Constitution is proposed to be restricted”.

(f) Goods and Service Tax (Article 366)

69. Clause 14 in the amendment Bill reads as under ;

14. In article 366 of the Constitution, -

(i) after clause (12), the following clause shall be inserted, namely:-

‘(12A) “goods and services tax” means any tax on supply of goods or services or both except taxes on the supply of the following goods, namely:-

- (i) petroleum crude;
- (ii) high speed diesel;
- (iii) motor spirit (commonly known as petrol);

- (iv) natural gas;
- (v) aviation turbine fuel; and
- (vi) alcoholic liquor for human consumption.’;

(ii) clause (29A) shall be omitted

70. On the definition aspect of Goods and Services Tax, Dr. Vijay L. Kelkar, Ex-Chairman, Thirteenth Finance Commission, during the course of oral evidence submitted before the Committee that the proposed definition of GST in Clause 14 of the Constitutional Amendment Bill is incomplete. It is essential that it is defined as a sales tax rather than a VAT-type tax.

71. On the proposed definition of GST, the Ministry of Finance in their written reply stated that the detailed contours off the GST will be worked out by the GST Council who will take a decision on the extent to which input tax credits will be allowed. It does not seem necessary to define the GSTT as a VAT-type tax, as that word is capable of being understood in a variety of manners. The existing entries in the Constitution pertaining to Excise and State VAT also define the tax in terms of its taxable event even though they are both VAT type of taxes. Likewise, GST has been defined in terms of its taxable event namely the supply of goods and services.

72. On the exclusion of petroleum crude, high speed diesel, motor spirit, natural gas, aviation turbine fuel; and alcoholic liquor for human consumption from the purview of Goods and Services Tax, Shri Sushil Kumar Modi, the Chairman, Empowered Committee of State Finance Minister’s in his post evidence reply stated as under :

”The States are in agreement that petroleum products, alcohol liquor for human consumption and electricity should not be, for the time being, brought within the ambit of GST. Mainly this decision has been taken as petroleum products and alcoholic liquor for human consumption are major revenue earner for the States. Regarding electricity, the decision has been taken to keep ‘electricity’ outside the GST for the time being only. At present ‘Coal’ is under VAT, and, therefore, it has been kept under the purview of the GST.

However, Federation of Indian Chambers of Commerce and Industry (FICCI), Confederation of Indian Industry (CII), Petroleum Federation of India (PetroFed), International Spirits & Wines Association of India (ISWAI) and Confederation of Indian Alcoholic Beverage Companies (CIABC) have represented before the Committee that the petroleum products and alcoholic liquor for human consumption should be kept under the ambit of GST and specific levies can be imposed by the Centre and the States to address their revenue concerns. In case, it is decided not to bring them immediately under GST, then these products should not be “Constitutionally” debarred from bringing them under GST. Exclusion of specific goods by way of Constitutional Amendment would dilute the flexibility for levy of GST on these products in the future, even if the Centre and the States were to reach a consensus later. It will also remove flexibility to cover these goods in stages as their subsequent inclusion would require another Constitutional Amendment which could be a long drawn process.

There is considerable ground for concurring with the views expressed by the Trade and Industry Associations that the petroleum products and alcoholic liquor for human consumption should not be Constitutionally debarred from the ambit of GST. The decision to extend GST to any category of goods should, vest with the GST Council. The said goods may be kept under GST and the revenue shortfall (on account of their being taxed at the standard rate, which is expected to be lower than the current tax rate on such goods, and also on account of providing input tax credit on these goods) can be made good by having recourse to additional non-creditable levies, in line with the best practices being followed internationally vis a vis such goods. Excluding goods from the Constitutional definition of “goods and service tax” would call for another Constitutional amendment, if, at some time in the future, a consensus emerges to bring these goods in the GST fold, and we are all aware that a Constitutional amendment may be a difficult proposition. Therefore, the clause (12A) may be re-worked as “ ‘Goods and Services Tax’ means any tax on supply of goods and services or both” and the remaining portion of the clause (12A) may be omitted and the word “supply” should be clearly defined in article 366.”

73. On the issue of coal to be kept outside the purview of GST, the representatives of Odisha Government during the oral evidence submitted that Coal should be kept out of GST along with natural gas. According to them, Excise duty was not levied on coal and it was subjected to only VAT at 4%. Bringing coal into the purview of excise duty may escalate the prices of coal. If coal is brought under GST, the tax rate of coal will be 12 to 16%, which will

further escalate the price of coal. Coal is an important input for generation of electricity. As Electricity Duty is not going to be subsumed under GST, there will be no set off available for generation of power. So if coal is brought into GST purview, the cost of electricity generated by the coal based thermal power stations will go up which will adversely affect the industries as well as general consumer.

74. When asked as to what will be the impact on economy if petroleum and electricity are kept out of GST. Dr. Vijay L. Kelkar, Ex-chairman, Thirteenth Finance Commission in his post-evidence reply has stated as under :

“To the extent, petroleum and electricity are kept out of GST, the cascading effect of commodity taxation will increase. This will add to the economic distortions and hence impact economic growth. A lower economic growth will lead to lower growth in GST collections”.

75. On this question, the Ministry have submitted their comments as under :

“Centre wanted all the items to be subsumed in the GST but States have insisted that certain goods be kept out of GST and an explicit provision to this effect be made in the Constitution itself. Article 366(12A) has been drafted accordingly. If these exclusions are not enumerated, States would enjoy the power to levy GST on these goods in addition to the powers to levy Sales tax, State excise etc. which are being separately retained. This would neither be desirable nor is it the intention”.

76. On the question of exclusion of certain items from the purview of GST, Dr. Asim Kumar Dasgupta, Ex-Chairman, Empowered Committee of State Finance Minister’s deposed as under before the Committee :

“Clause 14 basically invokes article 366. It basically gives the definitions and categories. In doing so, it says, “except taxes on petroleum, high speed diesel, alcohol, liquor”. If we want just say, “as may be recommended by the GST Council”. That is because today we may keep these things out of the GST. After some time we may like to have a formulation. So, for each thing you have to come back for constitutional amendment. So, if we have just this clause because normally the names of the commodities do not find place in the constitutional amendment. It normally should not. It should be in the CST laws”.

(g) Amendment of Sixth Schedule to the Constitution

77. Clause 16 of the Amendment Bill reads as under :

In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3), -

- (i) in clause (c), the word “and” occurring at the end shall be omitted;
- (ii) in clause (d), the word “and” shall be inserted at the end;
- (iii) after clause (d), the following clause shall be inserted, namely:-

“(e) taxes on entertainment and amusements”.

78. On the above clause Confederation of Indian Industry (CII) and the Film and Television Producers Guild of India Limited furnished the following views :

“Clause 16 of the Bill proposes to insert a new clause (e) in Paragraph 8, sub paragraph 3 of the Sixth Schedule to the Constitution to empower District Councils and Regional Councils to levy tax on entertainment and amusement. Further, Clause 17 of the Bill proposes to amend the Seventh Schedule to the Constitution and substitute a new entry 62 for the current entry 62, to retain the States’ power to levy taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.

One of the basic objectives of the GST is to replace the current multiplicity of taxes with a single, comprehensive tax. Continuation of levies such as the entertainment tax levied by the local bodies would defeat this objective. Such specific taxes balkanize the common market and give rise to significant controversies about the scope of taxes.

The current entertainment tax structure is a patchwork of many taxes and the entertainment tax rates are abnormally high. The impact of cascading taxes on the industry is significant. Exclusion of entertainment tax from GST would lead to cascading in many instances and impose a serious burden on the industry.

Supplementary levies in addition to the GST are warranted only for products that are harmful to health (e.g. alcohol) or give rise to negative externalities (e.g. petroleum products). However, there are no negative externalities associated with entertainment and it deserves to be treated at par with other goods and services.

Imposing a separate tax on entertainment outside GST would pose serious practical difficulties. Entertainment is not well defined and includes

a large variety of activities. With the advent of modern technology, entertainment has assumed many diverse forms and has become highly mobile. Already many disputes have arisen about the scope of entertainment tax.

A recent example is that of the entertainment tax levied by the State of Madhya Pradesh that covers a wide range of telecom and other activities. The provisions of the MP Entertainment tax Act could be interpreted to include even the non-entertainment value added services offered by telecom operators such as news updates, messenger/ email services, money transfers and bill payment services to name a few. Moreover, the entire telecom business is structured based on the telecom circle jurisdictions and not for individual State within the circle. Thus, the jurisdiction of levy (only the State of Madhya Pradesh) does not coincide with the telecom jurisdiction (both Madhya Pradesh and Chhattisgarh) thus raising serious compliance issues.

A separate tax at the national or State level is bad enough, it would be worse at the local or municipal level, as evident from the above example. Businesses do not maintain records / books of accounts that identify transactions at the local level.

Moreover, the quantum of revenues earned by States from entertainment tax is not significant and constitutes less than one percent of their total revenue from the indirect taxes. The revenue apportioned to / collected by the local bodies is an even smaller proportion. It is expected that the States' revenue would witness an overall increase. The States would have enough scope to provide funds to the local/municipal bodies.”

(h) Amendment of Seventh Schedule to the Constitution

79. Clause 17 (b) reads as under :

(b) in List II – State List, -

(i) for entry 52, the following entry shall be substituted, namely:-

“52. Taxes on the entry of goods into a local area for consumption, use or sale therein to the extent levied and collected by a Panchayat or a Municipality.”;

(ii) for entry 54, the following entry shall be substituted, namely:-

“54. Taxes on the sale, other than sale in the course of inter-State trade or commerce or sale in the course of international trade and commerce of, petroleum crude, high speed diesel, natural gas, motor spirit (commonly

known as petrol), aviation turbine fuel and alcoholic liquor for human consumption.”;

(iii) entry 55 shall be omitted;

(iv) for entry 62, the following entry shall be substituted, namely:-

“62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.”

80. The Chairman, Empowered Committee of State Finance Ministers in his written memorandum submitted his views on the above amendments in the Seventh Schedule to the Constitution as follows :

“Entry 52 : Most of the States are strongly opposed to this amendment. The Empowered Committee had unanimously decided that the Entry Tax will be subsumed under GST except Entry Tax levied in lieu of Octroi. However, as per new proposed Entry 52, the levy of Entry Tax by local bodies would create barriers to trade and commerce and would induce complexities in the business environment by distorting the tax structure and raising compliance burdens. In fact, at present States have introduced Entry Tax in lieu of Octroi for obviating certain fundamental problems with the levy and collection of Octroi by the local bodies and proceeds are distributed to the local bodies. It will not, therefore, be desirable to go back to the earlier system of levy and collection of Octroi by local bodies, as it will bring back the old issues and hinder free movement of goods as well as free flow of trade. The revised draft seeks to take away the Legislative powers of the States to levy and collect “Entry Tax in lieu of Octroi. Therefore, the proposed formulation of Entry 52 of the State list is not acceptable to most of the States”.

81. In view of this, he has suggested that the following formulation may be considered :

“The Entry 52 may read as “Taxes on the entry of goods into a local area for consumption, use or sale therein, in lieu of octroi”. In case, in the Constitution, the word “octroi” has not been used, then the same could be suitably defined. Alternatively, following formulation can be considered:

52. Taxes on the entry of goods into a local area for consumption, use or sale therein when such taxes are collected by or for the Panchayats or Municipalities or District Councils / Regional Councils constituted under the Sixth Schedule of the Constitution and are assigned to them”.

82. He further explained on this point as follows :

“Several States like Bihar, Gujarat, Haryana, Jharkhand, Maharashtra, Rajasthan and Tamil Nadu feel that since Central Government has retained the power to tax ‘tobacco and tobacco products’, therefore, suitable provision should also be made under Entry 54 for States to levy tax on tobacco and tobacco products in addition to GST. In the original Entry 54, after the taxes on sale the word “or purchase” was used and, therefore, several States are of the view that “or purchase” word should be added after ‘sale’. States like Odisha, Chattisgarh, Jharkhand and Meghalaya feel that ‘coal’ should be included in the list while a few States like West Bengal want that ‘light diesel oil’ should be included. Some States like Karnataka want that ‘Natural Gas’ should be out of the list.

I feel that Entry 54, as suggested, can be agreed after adding the words “or purchase” after the word “sale”.

“Several States namely Andhra Pradesh, Assam, Karnataka, Jharkhand, Chhattisgarh, Uttar Pradesh and West Bengal are objecting to omitting Entry 55. Under Entry 55, tax is levied by the local bodies on the advertisements through hoardings etc. If Entry 55 is omitted, the source of revenue for the local bodies will diminish which will create difficulty for them in discharging their responsibilities. Hence, it is not appropriate to omit Entry 55.

I feel that this entry should not be either omitted or alternatively modified as indicated below:-

“55. Taxes on advertisements, other than advertisements published in the newspapers and advertisements broadcast by radio or television, to the extent levied and collected by the Panchayats or Municipalities or other local bodies or by the District Councils or Regional Councils constituted under the Sixth Schedule of the Constitution.”

“States of Andhra Pradesh, Assam, Kerala and West Bengal wanted that “taxes on Betting and Gambling” should be kept outside GST, while the States namely Himachal Pradesh, Jharkhand, Karnataka, Rajasthan and Uttarakhand feel that local bodies do not have capability to levy entertainment and amusement tax and, therefore, power should be given to the States to levy these taxes and distribute them to the local bodies.

In the First Discussion Paper, it was decided by the Empowered Committee that Entertainment Tax (unless it is levied by the local

bodies) and taxes on Lottery, Betting and Gambling should be subsumed under GST. Therefore, I feel that the Entry 62, as proposed, can be retained”.

83. On this issue of entry tax the Confederation of Indian Industry (CII) have furnished their views as follows :

“Clause 17 of the Bill proposes to amend the Seventh Schedule to the Constitution and substitute a new entry 52 for the current entry 52, to retain the States’ power to levy taxes on the entry of goods into a local area for consumption, use or sale therein to the extent levied and collected by a Panchayat or a Municipality.

Entry tax imposes a major cost burden on the industry and is a deterrent for their operations and expansion plans. The problems get compounded when entry taxes levied on the industrial inputs and on transit sales. Such taxes go against the concept of the common market. Further, Entry tax has been a subject of protracted litigation at all levels. Article 301 of the Constitution provides for freedom of trade and commerce throughout the territory of India and precludes the States from taxing inter-state transactions to prevent/minimize barriers to inter-state trade. On the other hand, Article 304 of the Constitution allows the legislature of the State to impose tax on goods imported from other States or the Union territories, in line with the tax imposed on similar goods produced in that State, to avoid any discrimination between imported goods and locally manufactured goods.

Continuation of entry tax outside the GST would perpetuate such complexities and litigation and impose barriers to trade. It is therefore suggested that entry tax should be fully subsumed in the GST”.

(i) Transitional Provision

84. Clause 18 of the Bill reads as under :

“Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier”.

85. On the above clause, Dr. Asim Kumar Dasgupta, Ex-chairman, Empowered Committee of State Finance Minister's expressed his following views before the Committee :

“On Clause 18, I would say that the commencement period has been kept at one year. Suppose a State election is declared, then that State would not be able to implement the GST. So, we need to be a little more tolerant. Instead of ‘one year’ if it is ‘two years’, then it would be better”.

V. Administration and IT Mechanism

86. In their memorandum submitted to the Committee, the Government of Gujarat has stated that to implement flawless GST design, the basic prerequisites are seamless IT infrastructure, uniform administrative paradigms (threshold, common list of exemptions) unified tax credit clearing mechanism and provision of compensation for revenue losses.

87. Establishment of a seamless value chain and tax credit mechanism on such a chain, would presuppose a common IT platform where all the e>Returns, e-payments and e-registration are received and processed. With the threshold limit being proposed at Rs. 10 lakh, the total number of dealers would be at least 30-35 lakhs. The quantum of data exchange that would be required for adjusting credits available under SGST and CGST against IGST, would be enormous. At present, the states which are getting 100 percent e>Returns, e-payments and e-registrations are Kerala and Maharashtra. Gujarat has achieved 90% e-compliance in payments, returns and 100% e-registrations. Gujarat has been making steady progress in use of IT in tax administration and has done process re-engineering to facilitate quick and efficient service delivery and at the same time use of IT as a tool to plug leakages.

88. On IT infrastructure, the Ministry of Finance clarified as under :

“An Empowered Group on IT Infrastructure (EG) headed by Shri Nandan Nilekani has been constituted to put in place a strong IT infrastructure for GST. The group is working to achieve this objective in a time bound manner. Further, in order to IT enable commercial

tax administrations of States/UTs, a Mission Mode Project has been launched to provide financial support to the States and UTs”.

VI. Compensation Mechanism

89. Shri Sushil Modi, Chairman, Empowered Committee of State Finance Ministers in his post-evidence reply has stated that there is a trust deficit between the Centre and States on account of non-payment of CST compensation to the States. The States feel that they have to go with a begging bowl for the CST compensation to the Centre asking for compensation. So the States want that in Article 279A for GST Council itself, there should be a provision for the GST compensation mechanism so that GST compensation can be recommended by the GST Council.

90. The Gujarat Government in their written memorandum has stated that given that service tax alone would not be able to compensate loss of revenue in many states, and that Revenue Neutral Rate (RNR) will not be achieved, the issue of GST compensation becomes paramount to maintain fiscal balances in these states. There is no clarity about the GST compensation package for loss to the States. The experience of CST compensation has been very painful. Any compensation-based system is a blow to the fiscal self-reliance of the states and is open to disputes on eligibility, calculation and amount of outstanding claims. Statutory devolution of compensation is not provided for under the proposed GST model. Total losses to all the States are estimated by the National Institute of Public Finance and Policy (NIPFP) at a level of Rs. 32,000 crore based on calculations taking 2007-08 as the base year. On the other hand, Task force under 13th Finance Commission has suggested a provision of Rs. 50,000 crore as compensation for 5 years. Thus, adequate amount of compensation needs to be planned for.

91. Thirteenth Finance Commission in their Report (Volume 1) on GST have stated that states had requested that an objective compensation mechanism to support possible revenue losses after implementing GST be put in place. In this regard, they recommended the following :

- i. The present Empowered Committee be transformed into a statutory Council of Finance Ministers with representation from the Centre and states. A GST Compensation Fund should be created under the administrative control of this Council.
- ii. The Central Government shall transfer to the GST Compensation
- iii. The amounts in the Fund should be used for compensating states for any revenue loss on account of adoption of the model GST.
- iv. The amount will be disbursed in quarterly instalments on the basis of the recommendations made by a three-member Compensation Committee comprising of the Secretary, Department of Revenue, Government of India; Secretary to the EC and chaired by an eminent person with experience in public finance. This person would be appointed by the Union Government.

92. To a specific query as to whether compensation to the States should be made a part of the Constitution Amendment, the Ministry of Finance in their post-evidence reply stated that the proposed model of the GST, in particular the RNR that will be finally decided, is expected to ensure that there is no loss because of the CST or any other aspect of the GST. States are expected to gain substantial revenue on account of the power to tax services and to obtain the share of taxes by the levy of GST on importation of goods. Nevertheless, the Centre has assured compensation for a specified period if there is a loss. The detailed understanding on the same would be worked out in the run up to the GST. There is no need to build the same in the Constitution Amendment Bill. In any case, the Constitution provides for the setting up of a Finance Commission every five years or earlier if required, to examine the issue of fiscal transfers from the Centre to the States and their distribution among the States.

VII. GST Monitoring Cell (GMC)

93. Dr. Parthasarathi Shome, Director & Chief Executive, Indian Council for research on International Economic Relations in his memorandum stated that the GST introduction must be accompanied by a strong GST Monitoring Cell (GMC). This was not done adequately for the VAT in terms of requisite post-introduction monitoring and analysis. At least for the GST, the GMC, with an adequate

allocation of qualified staff, should follow closely the immediate impact of the GST, for example, on inflation and any possible hoarding, as well as the unfolding ramifications for tax administrative ease, lowering of compliance costs for taxpayers, elimination of moral hazard for both taxpayer and tax administrator, and the success of the ICT mechanism put in place for interstate trade to assess whether India becomes a truly common market.

VIII. Alternative to GST Model

94. The State Governments of Madhya Pradesh and Gujarat have offered alternatives to GST model which is enunciated as under :

Gujarat Model

The GST model as proposed by the Central Government and being introduced through the Constitution (115th Amendment) Bill, 2011 suffers from imbalance in the division of resources and functions between the union and States, absence of reliable and accurate State-wise data on services, different, contradictory reports / estimates, adverse impact on prices and employment generation, etc. pending transition / operational issues. An alternative model to achieve the major objectives of reforms in indirect taxes was therefore, proposed by Gujarat in January, 2010, as follows :

- States retain the subject of CGST in Centre's list and SGST in State list under Constitution as is the case of VAT now.
- Collection by States of CGST and SGST as is being done now for CST. Transfer of CGST amount collected by the respective State tax authorities to Central Government. States collect and retain SGST and CGST. Subsequently CGST to be transferred to the Centre.
- Revenue Neutral Rate (RNR) to be finalized jointly by the Centre and States in the Empowered Committee.
- The principle of protection of revenue of the States, in the base year and subsequent projection as per CGAR, would be followed.

Views of Madhya Pradesh Government on GST

95. It is understood that need for GST is driven by the need to have common national market and to reduce the number of indirect taxes. However, this cannot be done at the cost of reducing revenues of the States and rendering them bereft of financial autonomy. The better way to achieve this end would be to help States integrate most of the State taxes and bring them on an IT platform, which would reduce the problems for tax payers. The payment of VAT should also be on IT platform and national and inter-State transactions should be freely shared. This would not only reduce malpractice but also help in seamless movements of goods. States have already made substantial progress in this direction.

96. Regarding services, Centre should consider the transfer of the administration of tax on services as provided in Article 268A. States can integrate administration of tax on services with State VAT just as has been done with CST through the mechanism of ITR. Centre can retain administration of certain services like financial services, railways and air services which can pose difficulties at the State level. It can progressively reduce excise duties and custom duties so as to keep industries more competitive as is the case in US. This scheme can be implemented with minor amendments in CST Act and the Service Tax legislation.

97. The Ministry of Finance has submitted their following comments on the above alternative models of GST :

“This model is unacceptable to the Centre for the following reasons:

- Domestic taxes still account for a very high proportion of total tax revenues of the Centre for the collection of which it cannot be dependent on 32 States/UT Governments.
- In the proposed arrangement, the “assignment” to the Union is envisaged on the basis of the devolution formula stipulated by the Finance Commission. But the final share of the State may not correspond to the amount it retains in this manner. This implies that each State would be required to settle accounts with every other State for final settlement.

- For inter-state supply of goods and services, centralized agency would still be required for levy and collection.

The alternative model of Gujarat and Madhya Pradesh have not been accepted by the Empowered Committee of State Finance Ministers itself”.

IX. Latest position of the Empowered Committee of State Finance Ministers on the provisions of the Bill

98. When asked to indicate the latest position of the Empowered Committee on the provision of the Bill, the Chairman, Empowered Committee vide his communication has stated that the views of the States and his own observations on the Bill furnished to the Standing Committee on Finance in the year 2012 may be treated as valid and taken into consideration. However, the Chairman, Empowered Committee furnished the following supplementary observations on the Bill :-

SUPPLEMENTARY OBSERVATIONS

Option to the States to join GST

- States may be given option to join GST from the date of implementation or even at a later date by making suitable amendments in the Constitution (One Hundred and Fifteenth Amendment) Bill, 2011.
- States may be provided incentives/compensation by the Central Government to encourage them to join GST regime.
- Obligations and flexibilities of the Central Government and States may be properly defined and a common forum for discussion on GST between the States and the Central Government should be established (The Bill already provides for setting up of a GST Council).
- Appropriate legislation to determine precise place of supply rules and the taxability of inter-state transactions would also need to be prepared by the Central Government in consultation with the States.

Fiscal Autonomy of the States

- Fiscal autonomy of the States is required to be ensured. This can be achieved by giving some flexibility to the States in deciding GST rates, exempted items and thresholds, keeping in view the local needs of each State.
- A State may be allowed to exempt few additional items subject to the condition that the total revenue implication of the same is limited to certain percentage of its GST revenue.
- Floor rates in fairly narrow band are workable and that should be allowed. [As suggested in earlier observation for Clause 12 of the Bill].

Consultation with and Education of the Stakeholders

- The general public and the stakeholders have to be properly educated and made aware of the benefits of the GST to ensure their acceptability. Support of the key associations of trade and industry is also necessary.
- The rules and procedures should be simple and unambiguous so that confusion and litigations could be avoided. Significant stakeholder consultation is required in finalising the rules and procedures. Practical guidelines should be provided by the Central and the State Governments to the stakeholders and there should be a mechanism with the law makers and administrators to solve matters as they arise on the new rules and procedures.
- Adequate lead time is required to be provided to the trade and industry so that they are able to change their accounting systems and other procedures well in time.
- Tax officials and personnel have to imparted adequate training to manage the transition smoothly.
- Precise rules of transition need to be evolved and publicised much in advance.
- These are legislative and administrative matters and are required to be undertaken at the time of implementation of GST.

Rates and Special Provisions

- Efforts should be made to have standard rate as low as possible to reduce the burden on the consumers. To ensure this, possibilities of tax-evasion are required to be minimized and the Central Government may have to adequately compensate the States, in case, they suffer losses on account of implementation of GST during the initial years.
- To ensure that small scale industries/traders are not affected adversely due to the implementation of GST, special provisions are required to be made for them. This may also include income tax incentives to be given by the Central Government in this regard.
- Keeping in view the psychology of the consumers, possibility of making the GST as 'invisible tax' and merging it with MRP may have to be considered.

Avoidance of Dual Control

- One of the lessons learned from the visit is that it is always preferable that only one agency collects the tax. In case, it is not feasible then at least new areas of dual control should be avoided. It has, therefore, been suggested by the Empowered Committee that the Government of India should retain their existing threshold of Rs.1.5 crores for goods in GST regime also so that those small dealers and manufacturers who are not subjected to CENVAT at present, are also not subjected to the dual control in the GST regime.
- The GSTN portal should be made to go live as soon as possible so that common front end solutions like registration, returns and payments can roll out in order to lessen the impact of dual control in core functions.

Taxation of Tobacco & Tobacco Products

- As per the existing provisions of 'The Constitution (One Hundred and Fifteenth Amendment) Bill, 2011', States can only impose GST on Tobacco and Tobacco Products while the Centre can impose both GST and Excise Duty. Keeping in view the requests received from several States and the fact that the States are already levying VAT at very high rate on Tobacco and Tobacco Products, therefore, the States may also be allowed to levy State Excise Duty or any other tax in addition to GST on Tobacco and Tobacco Products. This could be achieved by making

amendment in Entry 51 in the State List of Seventh Schedule of the Constitution by incorporating “(c) tobacco and tobacco products.”

X. Consensus between Centre and States on GST Design and CST Compensation

99. In a written communication, the Ministry of Finance (Department of revenue) informed the Committee that the Hon'ble Finance Minister held a meeting with the State Finance Ministers on 8th November, 2012 where issues relating to GST were discussed. In accordance with the decision taken in the meeting with the Sate Finance Ministers, two Committees have been constituted to finalise the GST design and to consider the issue of CST compensation to the States for the revenue loss on account of reduction of CST rate from 4% to 2%. These two Committees are likely to submit their Reports by 31st December, 2012. Ministry of Finance (Department of Revenue) intends to finalise its views after the Reports of these two Committees are received.

100. In the meantime the two Committees constituted by the Ministry have submitted their reports to the Ministry on 21st January, 2013. These two reports were considered by the Empowered Committee (EC) of State Finance Ministers in its meetings held in Bhubaneswar on 28th - 29th January, 2013.

101. Subsequently, the Ministry of Finance (Department of Revenue) through a written communication have informed the Committee that the recommendation of Empowered Committee as contained in the minutes of the meetings held on 28th – 29th January, 2013 (as reproduced below) on the reports of the Committees on GST Design and CST Compensation are being examined in the Ministry of Finance (Department of Revenue) and a Committee has been constituted to look into the changes required in the Constitution (One Hundred and Fifteenth Amendment) Bill, 2011. Also an amount of Rs. 9,000 crore has been allocated in the Budget for the year 2013-14 payment of the first installment of balance amount of CST compensation for the State:

Suggestions made during meetings of Empowered Committee (EC)
held at Bhubaneswar on 28-29 January, 2013

- “(i) A change of drafting nature in Article 249 - The Amendment proposed in Article 249 reads as follows: **In article 249 of the Constitution, in clause (1), after the words ‘with respect to’, the words ‘goods and services tax or’ shall be inserted.** As, ‘with respect to’ appears twice in clause (1) of Article 249, it therefore needs to be clarified whether the words ‘goods and services tax or’ should be inserted after the first or second or both places where ‘with respect to’ appears in the Article.
- (ii) Amendment to sub-clause (d) of clause (4) of Article 279 to provide for floor rates with bands. The present formulation envisages a single rate of GST.
- (iii) Insertion of a new sub-clause in clause (4) Article 279A to provide States and Centre flexibility to raise additional resources during the time of natural calamities and disasters.
- (iv) The need for amendment to clause (4) of Article 279A to provide for special schemes, for North-Eastern State and the State of J&K.
- (v) Amendment to clause (6) of Article 279A, for increasing the proposed quorum to half from the present proposed one-third.
- (vi) Changes to clause (8) of Article 279A to provide for voting instead of ‘consensus’ for decisions of the GST council with Central representatives **present in the Council meeting** having one-third weightage and State representatives having two-thirds weightage, with the decision being taken **with more than three-fourths weightage votes of the representatives present in the meeting.**
- (vii) Deletion of Article 279B to omit the **GST Dispute Settlement Authority.** Simultaneously, a reference to Article 279B in the proposed amendment to Article 368, will need to be deleted.
- (viii) Amendment in Article 286 for doing away with the concept of **declared goods** in case it is proposed to include petroleum products under the GST.
- (ix) Amendment to clause (12A) of Article 366 to delete petroleum products from the list of goods on which GST will not apply.
- (x) Including a definition of ‘Service’ in the Constitution itself.
- (xi) Modifying the proposed amendment to entry 52 in the State List to allow only ‘entry tax in lieu of octroi.’”

PART- III
OBSERVATIONS / RECOMMENDATIONS

Background

1. The Constitution (115th Amendment) Bill, 2011 relating to GST was referred to the Standing Committee on Finance of Parliament on 29 March, 2011 for detailed examination and Report thereon. A Press Communiqué was issued in May, 2011 inviting comments / suggestions. More than hundred memoranda comprising of several suggestions were received in response to the Press Communiqué. Since then, the Committee, while apportioning their limited time between various other Bills referred to them, including the ones the Government wanted returned urgently held regular meetings conducting several oral hearings on this Bill on a regular basis involving the Ministry of Finance and various stakeholders like Federation of Indian Chamber of Commerce and Industry (FICCI), Confederation of Indian Industry (CII), Petroleum Federation of India (PETROFED), International Spirits & Wines Association of India (ISWAI), Indian Merchants' Association (IMA), Film and Television Producers Guild of India, All India Federation of Tax Practitioner (AIFTP), Bhartiya Udyog Vyapar Mandal (BUVM), etc. The Committee also heard experts like Dr. Asim Kumar Dasgupta, Dr. Vijay Kelkar and Dr. Parthasarathy Shome. The Committee also took special permission of the Hon'ble Speaker to call representatives of various State Governments like Odisha, Maharashtra, Tamil Nadu, Madhya Pradesh and Gujarat in order to have a cross-section of opinion on the Bill. The Committee thus made it a point to hear

divergent views on certain complex issues related to the Bill. During this period, the Committee also had extensive interaction with the Empowered Committee of State Finance Ministers and heard the views of their Chairman, Shri Sushil Kumar Modi. The Committee also gathered useful inputs from the overseas tours undertaken by the Empowered Committee.

2. The various points raised by the Members during their sitting held in June, 2012, were sent to the Ministry for their reply. The Committee were keen to submit their report in the monsoon session of Parliament , 2012. However the Ministry submitted their interim replies only in August, 2012. Subsequently, the Committee requested the Ministry of Finance to submit their final views on the Bill and sought clarification as to whether any review was being conducted with regard to any of the provisions of the Bill with a view to arriving at a consensus since there were reports to that effect in the media. The Ministry informed the Committee that the position of the Ministry would be communicated by the end of January, 2013 on submission of the reports of the Committees on GST design and CST compensation issues. Further, during the month of March, 2013, the Ministry informed the Committee that the recommendations of the Empowered Committee made in their meetings held on 28th-29th January, 2013 on the reports on GST Design and CST Compensation were being examined in the Ministry and a Committee had been constituted to look into the changes required in the Bill. They also informed that in the meantime, an amount of Rs. 9,000 crore had been allocated in the Budget

for 2013-14 for payment of first instalment of balance amount of CST Compensation for the States. The Committee were also given to understand that a conclusive view on the changes to be made in the Bill would, however be taken only after taking into account the observations and recommendations of the Standing Committee on Finance. The Committee are surprised however, to note that there was no finality in the thinking of the Ministry during the whole period the Committee were engaged in the examination of the Bill with the result that it remained work in progress *simultaneously* at both ends. The matter continues to be in a state of flux. However, the Committee have decided to pronounce their views on the Bill and fulfill their mandate, so that they are not *blamed* for stalling the Bill. The Committee have thus sought to finalise and present their Report on the far-reaching Constitution (Amendment) Bill after thorough deliberations involving as many stakeholders as possible so that a fair consensus can be achieved on the provisions of the Bill and issues connected therewith.

GST Design

3. The Committee note that the proposed Bill envisaged harmonization of the indirect tax regime by subsuming a variety of taxes levied by the Centre and the States. The implementation of GST would allow the Centre and State Governments to avoid multiple layers of taxation that currently exists in India leading to the creation of a single market. The most important aspect of the Bill is the consensus required with all the States in

the design of the GST structure and all the other contours. The Committee note that there has been divergence in views amongst States, who have serious apprehensions on erosion of state autonomy. A fine balance is therefore required to be maintained between the imperatives of a common market with unified tax structure vis-à-vis the fiscal requirements of States. The Centre needs to play a pro-active role in this regard.

The Committee are of the view that any tax reform should have an objective of improving economic efficiency, encouraging economic activity and benefiting the common man and should be put in place giving due regard to the Constitutional Scheme of distribution of powers and fiscal autonomy of the States. In a federal set up, implementation of a comprehensive tax reform like GST hinges on mutual trust and cooperation between Centre and State Governments. The Committee are of the opinion that before proceeding to enact 'The Constitution (One Hundred and Fifteenth Amendment) Bill, 2011, broad consensus on key issues concerning the implementation of GST should be arrived at between the Centre and the State Governments. While designing the desired tax reforms, the Government should also learn from the experience in other countries, while taking into account the political, social and economic variations obtaining in our country. Adequate groundwork would thus be essential before setting upon to operationalise the proposed GST regime. Keeping in view the apprehensions expressed by States, a credible study would also be required to evaluate the impact of the GST regime on the

revenues of States. If the success of VAT in States has to be replicated, it may be necessary to leave enough flexibility and fiscal space for the States. It may also be made optional for States as was done in the case of VAT. In the succeeding paras, the Committee have commented upon specific issues arising out of some of the clauses in the Constitution (Amendment) Bill and have suggested changes, wherever required.

Compensation Mechanism

4. The Committee note that differences had emerged between the Centre and States on account of CST compensation to the States arising out of phasing out of CST. Further, during their interactions with State Governments, the Committee observed that one of the major concerns over implementation of GST is Revenue Neutrality Rate (RNR). Some States generating high tax revenue have expressed apprehensions on the possibility of suffering revenue losses after the implementation of GST. The Committee note with concern that no structured mechanism has been formulated so far *to attend to this problem*. The Committee would, therefore, recommend that a well-defined automatic compensation mechanism may thus be built in, which would ensure that trajectories of revenues being contemplated are maintained at least in the short turn. Suitable amendments may accordingly be made in the Bill providing for a built-in permanent compensation mechanism with a view to addressing the legitimate revenue concerns of States. For this purpose, a GST

Compensation Fund may be created under the administrative control of the GST Council.

Administration and Information Technology (IT) Mechanism

5. The Committee concur with the view that for flawless implementation of GST, the basic prerequisites are seamless IT infrastructure, uniform administrative paradigms, unified tax credit clearing mechanism etc. The Committee note that in this regard an Empowered Group on IT Infrastructure headed by Shri Nandan Nilekani has been constituted to put in place a strong IT infrastructure on GST in a time bound manner. For smooth and effective implementation of GST, the Committee would urge the Central Government to provide technical assistance and capacity building at State level, which would help in developing robust IT practices, ranging from overall procedure of e-filing of tax return to audit of tax and result in enhanced GST collections at the State level. Without well-designed IT infrastructure across the country, the benefits of GST may remain elusive. It is also imperative that although a dual GST regime has been proposed, a situation of trade / business dealing with a dual administration and multiplicity of authorities should be avoided, as it may create more hassles rather than ease them. Though not part of the Constitutional Amendment Bill, this issue needs clarity, so that dual GST regime becomes acceptable to trade and commerce at large and fosters tax compliance.

Integrated Goods and Services Tax (IGST)

6. The IGST model envisages that the Centre will levy tax at a rate approximately equal to (CGST + SGST) rate on inter-State supply of goods and services. It will be collected by the Centre and transferred to States depending upon whether the State is net exporter or net importer for the given period of settlement. The Committee note that the settlement of accounts will be done by the Centre that would function as a clearing house for this purpose. The proceeds of the IGST arising out of inter-state trade or commerce shall thus be used for the settlement of accounts among the States for the flow of input tax credit in the course of Inter-State transactions based on 'destination principle' thereby providing a continuous credit chain across States. The Committee further note that to the extent, goods or services are supplied from one State to another for further distribution, IGST transactions would be revenue neutral. However, in practice, there may be a possibility of a positive balance in the proceeds of IGST at the end of a fiscal year. The Committee, therefore, desire that a suitable proviso in the Article 269A in both Clause 9 and Clause 10 of amendment Bill may be made for distribution of remaining proceeds of IGST when the accounts of the fiscal year have been settled.

It has also been submitted to the Committee by some experts that the IGST model could be onerous in terms of compliance and administrative burden and that since it is meant for effectively tax inter-state trade on destination principle, the Central Government need not get

involved in this process. A simpler model (Modified Bank Model) as recommended by the Task Force on GST set up by Thirteenth Finance Commission has been suggested for settlement of proceeds arising out of inter-state trade. The Committee note that the Central Government will only act as a clearing agent with regard to IGST, which remains in effect a clearing mechanism between States for inter-State transactions. The Committee would thus suggest that the alternate model, suggested by the Task Force on GST constituted by the 13th Finance Commission could be considered with a view to simplifying and easing compliance and administrative burden and ensuring a smooth clearing house mechanism between States for facilitating the process of IGST after consideration by the GST Council.

Further, as the destination-based IGST model favours predominantly consumer States more than producer States, the revenue concerns of these States also needs to be factored in and duly addressed. The proposed model should not thus act as a dampener or dis-incentive for States with a strong manufacturing base.

GST Dispute Settlement Authority

7. In concurrence with the views expressed by State Governments and the Chairman, Empowered Committee, the Committee believe that the proposed provision of GST Dispute Settlement Authority would affect the fiscal powers of Parliament and the State Legislatures. The Committee, therefore, desire that the proposed Article 279B providing for GST Dispute

Settlement Authority should be omitted, as this body would have the effect of overriding the supremacy of Parliament and the State Legislatures. However, since any dispensation involving several entities / interests requires a mechanism to resolve disputes / differences, it may be expedient to make a provision in Article 279A itself empowering the GST Council to decide about the modalities to resolve disputes arising out of its recommendations.

Harmonized Tax Structure

8. The Committee note that Clause 5 of the proposed Article 279A require the GST Council to be guided by the need for a harmonized structure of goods and service tax and for the development of a harmonized market for goods and services. However, since the words have not been defined in the proposed Bill, the Committee are of the view that such ambiguity should not remain in the Bill. They would therefore recommend that the word ‘harmonized structure’ may be clearly amplified or defined. It should also be clarified that the provisions contained in Clause 5 are in the nature of guiding principles for the Council and not mandatory or obligatory in nature.

Consensus

9. The Committee note that the decisions in the GST Council, would be taken, based on consensus which implies that all the members present would have to agree to a proposal; even if one State differs, the decision

cannot be passed. The Committee feel that keeping in view the diversity in socio-economic interests of the States, achieving such a consensus is likely to be very difficult. As it would be critical in ensuring that all the valid interests are properly reflected in the recommendations of the GST Council, the Committee would therefore recommend amendments to Clause (8) of Article 279 A so as to provide for voting instead of consensus for decisions of the GST Council. Accordingly, as agreed upon by the Empowered Committee, one-third weightage for central representatives and two-thirds weightage for state representatives may be provided with the decision taken by the Council being passed with more than three-fourths votes of the representatives present in the meeting. Similarly, amendment to Clause (6) of Article 279A may also be made for increasing the quorum to half from the proposed one-third. In this context, the Committee would recommend that in tune with the spirit of cooperative federalism, it would be in order if the proposed GST Council functions like the present Empowered Committee, which has had a good track record of not only reforming the tax system but also resolving differences amicably in an institutional mode.

Declared Goods

10. In order to ensure that there is no unilateral decision by the Centre regarding taxation of 'declared goods' kept outside the purview of GST (clauses 3 and 4 of amendment proposed in Article 286) and also to uphold the spirit of cooperative federalism, which is crucial for the structure of

dual GST, the Committee recommend that Clause 3 may be amended so that in place of “subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of tax as Parliament may by law specify”, the phrase “subject to such restrictions and conditions of tax as Parliament may by law specify on the recommendations of the GST Council constituted under 279A” may be substituted. This change is expected to allay the fears of States to some extent on loss of fiscal autonomy.

In this context, it would also be expedient to insert a new sub-clause in Clause (4) of Article 279A to provide both States and Centre the requisite flexibility to raise additional resources during period of natural calamities and disasters. The proposed Clause 4 of Article 279A may also be suitably amended to provide for special schemes for North-Eastern States, the State of J & K and other special category States. Similarly, the Central Government should also have the flexibility to levy surcharge or cess whenever required or during extra-ordinary circumstances.

Entry Tax

11. The Committee note that entry 52 of Seventh Schedule is worded in the Bill as “taxes on the entry of goods into a local area for consumption, use or sale therein to the extent levied and collected by a Panchayat or Municipality”. As most of the States seem to be opposed to this proposed amendment, the Committee do not agree with this formulation. It will not be desirable to go back to the earlier system of levy and collection of octroi by local bodies and this will be a retrograde step, which would hinder free

flow of trade and increase compliance burden. The Committee therefore desire that entry tax in general should be subsumed in GST. The relevant Clause / sub-clause in the Bill may be modified accordingly so as to empower the States to collect entry tax for distribution to local bodies instead of leaving it to be collected by different local bodies.

Floor Rate

12. Tax on sale of goods is the biggest and most buoyant source of revenue for States. The Committee are of the opinion that the States should have some limited leverage to vary the rate of tax depending on exigencies. The Committee, therefore, desire that a system of band with floor rate should be adopted while introducing GST, so that States have some elbow-room within stipulated limit to calibrate the rate of tax depending on needs of the situation and the dynamics of circumstances. The Committee are of the view that based on the European model, there could be a floor rate and a ceiling rate within which the States will have the freedom to have a high or a low rate. Taking into account the need for State autonomy, the States may thus be allowed to increase their GST rate within a narrow band. There could however be provision to levy higher rates on demerit goods, whenever necessary. The proposed Article 279 (A) may accordingly be modified *providing for* such a flexibility in rate.

Threshold of limits of turnover etc. for exempting certain class of taxpayers like small traders / manufacturers / service-providers may also be left to the wisdom of the GST Council. Although it is ideally desirable that the GST regime is made comprehensive and all encompassing for the present, the existing exemption for small business may continue in line with the Government policy to encourage and promote small enterprises including self-employed sector.

Exclusions

13. Article 366 of the Constitution is proposed to be amended vide Clause 14 in the Bill, wherein taxes on the supply of specified goods is proposed to be excluded from the purview of GST. The Committee believe that such specific exclusions need not be provided in a Constitution (Amendment) Bill, as this will needlessly make the GST regime very rigid. Since the ultimate goal is to have an integrated, comprehensive and seamless GST regime subsuming various Central and State indirect taxes and levies, the Committee recommend that the above-mentioned exclusion provision may be omitted from the Constitution (Amendment) Bill. In any case, the proposed provision inserting Article 279A in the Constitution empowers the GST Council vide Clause 4(a) and (b) to make recommendations on subsuming or exempting or excluding certain goods / services from the purview of GST. The Committee thus believe that the constitutional mandate being provided to the GST Council is resilient enough to address emerging situations.

GST Monitoring

14. Considering the fluidity and uncertainties involved in ushering in radical changes in the tax system, the Committee believe that there is a need to set up a GST Monitoring / Evaluation Cell, which should closely follow on a continuous basis the immediate impact of GST on key aspects such as growth in GDP, inflation, hoarding, compliance costs for taxpayers, administrative bottlenecks and, last but not the least, the retail prices paid by the ultimate consumer. The efficacy of the proposed GST model in lieu of the existing CST dispensation with regard to inter-state trade / transactions and the requirement for a robust, error-free IT platform also needs to be monitored with a view to assessing and ensuring that India becomes a truly common market. Certain pro-consumer measures should be initiated as well, such as, passing on tax credit benefit to retail consumers for cushioning them against possible increase in prices post-GST and ensuring that cascading effect on consumer prices is well and truly avoided as envisaged. The GST Monitoring / Evaluation Cell may function under the aegis of the proposed GST Council. This may be incorporated as a clause / sub-clause in the proposed Article 279A of the Bill so as to put monitoring of GST on a firmer footing.

Conclusion

15. In conclusion, the Committee are of the considered view that fears expressed in some quarters about the proposed GST Council being made a constitutional body and infringing upon or even overriding the supremacy of Parliament or State Legislature is not correct as it is envisaged as a recommendatory body. The fruitful experience with the Empowered Committee of State Finance Ministers so far does not seem to give any credence to such apprehensions. This body has provided a useful platform for consensus-building between Centre and States and has evolved democratic practices over time to discuss and resolve issues. The Committee would thus expect the proposed GST Council to follow the principles of cooperative federalism and democratic governance. As this will be a political and a recommendatory body, it would be in a position to play a constructive and enabling role vis-à-vis the Legislature, which needless to emphasise, would remain supreme in matters of legislation including taxation. In the Committee's view the mandate entrusted to the GST Council under the proposed Article 279A of the Constitution (Amendment) Bill does not in any way alter the existing constitutional scheme in so far as the Legislature, both Union and State, is concerned.

On the whole, the Committee are of the view that the Constitutional (Amendment) Bill should not ideally include specific aspects relating to rates, exemptions, exclusions, thresholds, administrative arrangements etc. What should be included in the laws and rules should not form part of

the Constitution of India. The present Bill relating to GST, in the Committee's view, has not been well-drafted from this perspective and, therefore, requires amendments as suggested above.

New Delhi;
25 July, 2013
Shravana 03, 1935 (Saka)

YASHWANT SINHA
Chairman
Standing Committee on Finance

NOTE OF DISSENT

Naresh Agrawal, MP (RS)

01/07/2013

The Standing Committee on Finance is sending its report on GST to Government. Whereas the Prime Minister and Finance Minister are continuously giving statements that Union Government are reconsidering over this issue. I have objected but you were adamant on sending your report.

Sir, I am sending my objections as well as of Uttar Pradesh Government. Please attach the annexure to the report to be sent to the Union Government so that our objects are also registered.

Objections:

- ❖ The way by which taxes collected by Union Government through GST will be allocated to the States and what will be its time limit?
- ❖ Initially huge resources are needed for GST collection and for this purpose, how Union Government is going to provide assistance to the States?
- ❖ How Union Government is going to compensate the States in the next five years of the financial loss suffered by the States due to implementation of GST?
- ❖ Municipal Corporation, Municipality, Town Area, Zila Prishad etc. impose taxes at local level, so what is the provision in GST regarding this.
- ❖ Uttar Pradesh Government is totally against GST because due to this Union Government will have direct interference in State Governments head, which will be direct interference in sovereignty of States.
- ❖ There are 11 States in total having special status. Whether those States will retain the reliefs which they were receiving even after implementation of GST? If so, the manner in which this will be done.

Sd/

(NARESH AGRAWAL)

MINUTES OF THE TWENTY SECOND SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Friday, the 8th June, 2012 from 1130 hrs to 1600 hrs.

PRESENT

Shri Yashwant Sinha – Chairman

MEMBERS

LOK SABHA

2. Shri Shivkumar Udasi
3. Shri Bhakta Charan Das
4. Shri Gurudas Dasgupta
5. Shri Bhartruhari Mahtab
6. Shri Anjan Kumar Yadav M.
7. Shri Prem Das Rai
8. Shri R. Thamaraiselvan

RAJYA SABHA

9. Shri Vijay Jawaharlal Darda
10. Shri Piyush Goyal
11. Dr. Mahendra Prasad

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri R.K. Jain - Director
3. Shri Ramkumar Suryanarayanan - Deputy Secretary
4. Shri Kulmohan Singh Arora - Under Secretary

**Part I
(1130 hrs. to 1345 hrs.)**

WITNESSES

Ministry of Finance (Department of Revenue)

1. Shri R.S. Gujral, Finance Secretary & Secretary (Revenue)
1. Shri S.K. Goel, Chairman, CBEC
2. Shri Laxman Das, Chairman, CBDT
3. Shri Shashi Shekhar, Addl. Secretary (Rev)
4. Smt. Sreela Ghosh, Member (CX)
5. Shri M.S. Badhan, Member (Customs)
6. Ms. Praveen Mahajan, Member (P&V), CBEC
7. Ms. Sheila Sangwan, Member (Service Tax)
8. Ms. J.M. Shanti Sundharam, Member (L&J, Budget)
9. Shri M.L. Meena, Joint Secretary (Rev)

10. Shri V.K. Garg, Joint Secretary (TRU-II)
11. Shri Vivek Johri, Joint Secretary (TRU-I)
12. Shri Arun Sahu, Director General (Systems)

2. The Secretary, Ministry of Finance (Department of Revenue) briefed the Committee on the provisions of 'The Constitution (One Hundred Fifteenth Amendment) Bill, 2011' (GST). Members sought clarifications from the witnesses on the issues pertaining to the Bill, which inter-alia included objectives behind the Bill, rationale of dual GST model for the country, Integrated GST (IGST) to be levied on Inter-State Transaction of Goods and Services, exemption of specified petroleum products, electricity and alcohol for human consumption from the purview of GST, Constitution of proposed Goods and Services Tax Council and Goods and Services Tax Dispute Settlement Authority. Other issues discussed included impact of GST on the fiscal autonomy of the States, provision of compensation to States for loss related to introduction of GST. The Chairman directed the witnesses to send written replies in response to the queries posed by the Members at the earliest.

The witnesses then withdrew.

Part II
(1415 to 1600 hrs.)

WITNESS

Dr. Asim Kumar Dasgupta, Former Finance Minister, West Bengal and Former Chairman, Empowered Committee of the State Finance Ministers.

1. The Committee then heard Dr. Asim Kumar Dasgupta on 'The Constitution (One Hundred Fifteenth Amendment) Bill, 2011'. The major issues discussed broadly related to empowerment of the States and Centre to levy tax on Goods and Services and tax on inter-state transactions, the setting up of GST council with representation of the Centre and the States, for recommending the GST rates and other matters of GST with a view to uphold the need for a harmonized tax structure and the development of a harmonized national market for goods and services. The other issues discussed included the setting up of a GST Dispute Settlement Authority for necessary adjudication and to uphold the

proposed dual GST structure. Dr. Asim Kumar Dasgupta replied to the queries raised by the Members during the sitting.

A verbatim record of the proceeding was kept.

The witness then withdrew.

The Committee then adjourned.

MINUTES OF THE TWENTY THIRD SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Friday, the 15th June, 2012 from 1130 hrs to 1630 hrs.

PRESENT

Shri Yashwant Sinha – **Chairman**

MEMBERS

LOK SABHA

2. Shri Shivkumar Udasi
3. Shri Bhakta Charan Das
4. Shri Gurudas Dasgupta
5. Shri Bhartruhari Mahtab
6. Shri Prem Das Rai
7. Shri Sarvey Sathyanarayana

RAJYA SABHA

9. Shri Naresh Agrawal
10. Shri Piyush Goyal
11. Dr. Mahendra Prasad
12. Shri P. Rajeeve

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri R.K. Jain - Director
3. Shri Ramkumar Suryanarayanan - Deputy Secretary
4. Shri Kulmohan Singh Arora - Under Secretary

Part I

(1130 hrs. to 1330 hrs.)

WITNESSES

The Empowered Committee of State Finance Ministers

1. Shri Sushil Kumar Modi, Chairman & Deputy CM, Bihar
2. Shri Satish Chandra, Member Secretary

2. The Chairman, Empowered Committee of State Finance Ministers briefed the Committee on the provisions of the 'The Constitution (One Hundred Fifteenth Amendment) Bill, 2011' (GST). Members sought clarification on issues like article

269 (A), CGST and on GST Dispute Settlement Authority. Members also deliberated upon the quality of collection agency and how a particular transaction of goods and services would be taxed simultaneously under CGST and SGST. Members also deliberated upon taxes (Central and State) to be subsumed under GST, cascading effect i.e. tax on tax and how to remove it. Some topics like positive balance proceed at the year end with the IGST, positive impact because of the integration of markets, reduction in prices and treatment of North Eastern States and special category States were also raised. Clarification on the definition of 'harmonized structure' was also sought. Concern were also raised on Central GST and State GST being separate and complication thereon and securing the fiscal autonomy of the State Governments. The Chairman, Empowered Committee also informed the Members about increase in growth of revenue post VAT implementation. The Chairman directed the witness to send written replies in response to the queries posed by the Members at the earliest.

The witnesses then withdrew.

Part II
(1430 hrs. to 1600 hrs.)

WITNESSES

Federation of Indian Chambers of Commerce and Industry (FICCI)

1. Dr. Rajiv Kumar, Secretary General
2. Shri S. Madhavan, Co-Chairman, GST Task Force
3. Shri Sachin Menon, Co-Chairman, GST Task Force
4. Shri J.K. Batra, Advisor-Taxation

Confederation of Indian Industry (CII)

1. Shri Sunil K. Munjal, Past President CII, Chairman, CII Economic Policy and Jt. Managing Director, Hero Autocorp. Ltd.
2. Shri D.D. Goyal CGM-Finance, Maruti Udyog
3. Shri Rajiv Khandelwal, Head-Taxation, ICICI Bank

3. The Committee then heard the representatives of Federation of Indian Chambers of Commerce and Industry (FICCI) and Confederation of Indian Industry (CII) on the provisions of the 'The Constitution (One Hundred Fifteenth

Amendment) Bill, 2011' (GST). The major issues discussed broadly related to the GST Council, the Dispute Settlement Authority (DSA), exclusion of certain sectors like petroleum, alcohol, real estate from the purview of GST, issues regarding the positive effect on growth, taking onboard the North Eastern States, special category States and public policy of getting rid of regional imbalances under this particular regime were also discussed. Questions were also raised on the impact of introduction of GST on the creation of jobs and livelihoods in the country and on social sector. Members also enquired about GST and effect of exclusion or inclusion of particular products on Indian economy. Members also took into account the plight of special category States especially the North Eastern States and the issue of integration of market, effect on social sector, tax structure and frivolous disputes. The Chairman directed the witnesses to send written replies in response to the queries posed by the Members at the earliest.

The witnesses then withdrew.

Part III
(1600 hrs. to 1615 hrs.)

WITNESSES

Petroleum Federation of India (PETROFED)

1. Shri B.C. Tripathi, Chairman & Managing Director, GAIL (India) Ltd.
2. Shri S.K. Srivastava, Chairman & Managing Director, Oil India Ltd.
3. Shri A.K. Hazarika, Director (Onshore), ONGC

3. The Committee then heard the representatives of Petroleum Federation of India (PETROFED) on 'The Constitution (One Hundred Fifteenth Amendment) Bill, 2011'. The major issues discussed related to cascading effect of non-inclusion of petroleum products under the proposed amendment Bill. Moreover, they were also advised by the Committee to look into strengthening of awareness campaign regarding conservation of petroleum products for which they promised to look into. The Chairman directed the witnesses to send written replies in response to the queries posed by the Members at the earliest.

The witnesses then withdrew.

Part IV
(1620 hrs. to 1630 hrs.)

WITNESSES

International Spirits & Wines Association of India (ISWAI)

1. Shri I.P. Suresh Menon, Executive Director, UB Group
2. Shri S. Madhvan, Executive Director, PriceWaterhouse Coopers
3. Shri Ajit Jha, Director, SAB Miller, India

4. The Committee then heard the representatives of International Spirits & Wines Association of India (ISWAI). They submitted that the ISWAI has been pursuing with the States and presenting the GST for alcoholic beverages as a win-win situation for the States too. When asked by the Committee, the representatives of ISWAI promised to send in hard copies of relevant information and international experience regarding implementation of GST on this sector. The Committee advised the representatives of ISWAI that at this stage only the issues pertaining to Constitution Amendment Bill might be raised and other matters could be taken after the GST Council had been constituted.

A verbatim record of the proceeding was kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE TWENTY FOURTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Wednesday, the 27th June, 2012 from 1130 hrs to 1430 hrs.

PRESENT

Shri Yashwant Sinha - Chairman

MEMBERS

LOK SABHA

2. Shri Gurudas Dasgupta
3. Shri Chandrakant Khaire
4. Shri Bhartruhari Mahtab
5. Shri Anjan Kumar Yadav M.
6. Shri Prem Das Rai
7. Dr. Kavuru Sambasiva Rao
8. Shri Rayapati S. Rao
9. Shri Magunta Sreenivasulu Reddy
10. Shri G.M. Siddeswara
11. Shri Yashvir Singh

RAJYA SABHA

12. Shri Naresh Agrawal
13. Smt. Renuka Chowdhury
14. Shri Piyush Goyal
15. Dr. Mahendra Prasad
16. Shri Ravi Shankar Prasad
17. Dr. K.V.P. Ramachandra Rao

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri R.K. Jain - Director
3. Shri Ramkumar Suryanarayanan - Deputy Secretary
4. Shri Kulmohan Singh Arora - Under Secretary

Part I
(1130 hrs. to 1330 hrs.)
WITNESSES

Indian Merchants' Association (IMA)

Shri Arvind Pradhan, DG, IMA

2. DG, Indian Merchants' Association (IMA) briefed the Committee on the provisions of 'The Constitution (One Hundred Fifteenth Amendment) Bill, 2011' (GST). Members sought clarifications from the witness on the issues pertaining the Bill, which inter-alia included subjects and issues like Articles 279(A), 279(5), 279(a)(8) which gives the functions of the GST Council, its composition, coverage of taxes on items like electricity, renewable energy sector, stamp duty on shares / contracts, toll taxes, entertainment tax etc. Other issues discussed included effect on income of local bodies, effect of GST on industrial development, economic growth, harmonisation and increase in tax and its effect on the economic scenario of the country. The Chairman directed the witnesses to send written replies in response to the queries posed by the Members at the earliest.

The witness then withdrew.

Part II
(1130 hrs. to 1330 hrs.)
WITNESSES

Film & Television Producers Guild of India

1. Shri Ramesh Sippy, President
2. Shri Mukesh Bhatt, Vice President
3. Shri Uday Singh, Member
4. Shri Shibasish Sarkar, Member
5. Shri Srinivas Shenoy, Member
6. Shri Kulmeet Makkar, CEO

3. The Committee then heard the views of Film & Television Producers Guild of India (FTPGI) on 'The Constitution (One Hundred Fifteenth Amendment) Bill, 2011' (GST). The major issues discussed broadly related to remaining taxation power of the States after GST (like entertainment tax) and its effect on the growth of the film industry. There were also discussion of films being taxed at a punitive rate similar to alcohol and tobacco. The other issues discussed included topic of investment of black money in film industry, the effect of inclusion of entertainment tax in GST on local bodies and how taxes will be transferred to the local bodies. The representatives of the Film & Television Producers Guild of India replied to the queries raised by the Members during the sitting.

The witnesses then withdrew.

Part III
(1130 hrs. to 1330 hrs.)
WITNESSES

All India Federation of Tax Practitioners (AIFTP)

1. Shri J.D. Nankani, Deputy National President
2. Shri Mukul Gupta, Chairman, central GST Committee, AIFTP
3. Shri Narendra Kumar Arora, Chairman, North Zone
4. Shri P.S. Sarin, Past Chairman, North Zone
5. Shri Sandeep Goel, Member National Executive

3. The Committee then heard the views of All India Federation of Tax Practitioners (AIFTP) on 'The Constitution (One Hundred Fifteenth Amendment) Bill, 2011' (GST). The came up with suggestions that under Article 279-B, in addition to dispute referred or complaints referred to Dispute Settlement Authority by State Government or Government of India, the dispute or complaint referred by any Industrial/Trade Association or Professional Association or Institutions or Organisations of national repute must also be added. They further suggested for appropriate definition of Goods and Services, inclusion of Petroleum and electricity

sectors under the proposed GST regime, prevention of artificial credit restrictions, no restriction over moratorium for large infrastructure projects etc. However, under due guidance and brainstorming, the representatives of AIFTP withdrew certain submissions made before the Committee. Moreover, they were directed by the Chairman to send a comprehensive written replies to the questions asked by the Chairman and Members. The representatives of AIFTP promised to comply and send the same at the earliest.

The witnesses then withdrew.

Part IV
(1130 hrs. to 1330 hrs.)
WITNESSES

Bhartiya Udyog Vyapar Mandal (BUVM)

1. Shri Babu Lal Gupta, Senior Vice President
2. Shri Vijay Prakash Jain, Secretary General
3. Shri Kishor C Mehta, General Secretary
4. Shri Hemant Gupta, Organising Secretary

4. The Committee then heard the representatives of Bhartiya Udyog Vyapar Mandal (BUVM) who came for advocating the cause of small and medium level traders. Primarily, they requested for a single and unified GST model. However, upon seeing their misinterpretation of certain clauses in the proposed amendment Bill and divergent views of the representatives over the implementation of GST, the Committee directed the concerned representative to send a comprehensive and unified text with proper suggestions, observations and answers to the questions raised by the Members of the Committee. The representatives of Bhartiya Udyog Vyapar Mandal (BUVM) promised to comply and send the same at the earliest.

A verbatim record of the proceeding was kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE TWENTY FIFTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Friday, the 6th July, 2012 from 1130 hrs to 1330 hrs.

PRESENT

Shri Yashwant Sinha - **Chairman**

MEMBERS

LOK SABHA

2. Shri Harishchandra Deoram Chavan
3. Shri Bhakta Charan Das
4. Shri Gurudas Dasgupta
5. Shri Nishikant Dubey
6. Shri Chandrakant Khaire
7. Shri Bhartruhari Mahtab
8. Shri Prem Das Rai
9. Dr. Kavuru Sambasiva Rao
10. Shri Rayapati S. Rao
11. Shri Yashvir Singh

RAJYA SABHA

12. Shri Naresh Agrawal
13. Smt. Renuka Chowdhury
14. Dr. Mahendra Prasad
15. Shri P. Rajeeve
16. Dr. K.V.P. Ramachandra Rao
17. Shri Yogendra P. Trivedi

SECRETARIAT

1. Shri R.K. Jain - Director
2. Shri Ramkumar Suryanarayanan - Deputy Secretary
3. Shri Kulmohan Singh Arora - Under Secretary

WITNESSES

Government of Madhya Pradesh

1. Shri Raghavji, Finance Minister, Government of Madhya Pradesh
2. Shri A.P. Shrivastava, Principal Secretary, Commercial Tax Department
3. Shri Amit Rathore, Commissioner, Commercial Tax

2. At the outset, the Chairman welcomed the Hon'ble Finance Minister, Government of Madhya Pradesh and his colleagues to the sitting of the Committee. The Chairman then asked them to present their views on the Constitution (One Hundred Fifteenth Amendment) Bill, 2011 to the Committee. The representatives of Government of Madhya Pradesh in their presentation before the Committee strongly opposed the proposed GST model and advocated for an alternate model which is similar to present VAT regime but with more seamlessness. They put forth their argument in light of the fact that though VAT system being quite novel, their State is doing well with the system and generating adequate resources. Moreover, they raised certain apprehensions regarding Dispute Settlement Authority that it might turn into a super-legislature thereby eroding the basic structure of our Constitution, cooperative federalism and especially the fiscal autonomy of the States. However, the Committee enlightened them that the institutions similar to or even with lesser Constitutional mandate than Dispute Settlement Authority viz. Finance Commission, Planning Commission etc. are effectively functioning in our political set up. And if GST mechanism is not in the interest of the Country, the States have full opportunity to pull down the proposed Constitution Amendment Bill in their respective Assemblies. The representatives of the State of Madhya Pradesh further submitted that the proposed GST is nothing but VAT plus service tax and a better Information Technology platform holds the key for better and seamless tax structure. The Committee directed them to send their written replies at the earliest, which they promised to comply with.

A verbatim record of the proceeding was kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE TWENTY SIXTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Friday, the 13th July, 2012 from 1100 hrs to 1600 hrs.

PRESENT

Shri Yashwant Sinha – **Chairman**

MEMBERS

LOK SABHA

2. Shri Shivkumar Udasi
3. Shri Jayant Chaudhary
4. Shri Nishikant Dubey
5. Shri Chandrakant Khaire
6. Shri Bhartruhari Mahtab
7. Shri Prem Das Rai
8. Dr. Kavuru Sambasiva Rao
9. Shri Rayapati S. Rao
10. Shri Manicka Tagore
11. Shri R. Thamaraiselvan
12. Dr. M. Thambiduarai

RAJYA SABHA

13. Shri Naresh Agrawal
14. Shri Satish Chandra Misra
15. Dr. Mahendra Prasad
16. Shri Ravi Shankar Prasad
17. Shri P. Rajeeve
18. Dr. K.V.P. Ramachandra Rao

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri R.K. Jain - Director
3. Shri Ramkumar Suryanarayanan - Deputy Secretary
4. Shri Kulmohan Singh Arora - Under Secretary

Part I
(1100 hrs. to 1230 hrs.)

WITNESSES

Indian Council For Research On International Economic Relations (ICRIER)

Dr. Parthasarathi Shome - Director & Chief Executive, ICRIER

2. Dr. Parthasarathi Shome, Director & Chief Executive, Indian Council For Research On International Economic Relations (ICRIER) briefed the Committee on the provisions of the 'Constitution (One Hundred Fifteenth Amendment) Bill, 2011' (GST). Members heard the views and sought clarifications from the witness on the issues pertaining the Bill, which inter-alia included issues like States relation with Centre, problems in raising sufficient funds for States, direct relationship of GST with GDP growth, effect on trade, relevance of appellate body, Revenue Neutral Rates (RNR), effects on common man and on federal system of the constitution. Other issues discussed included distinction between zero rating and exemption, effect on revenue base, the need for dual GST, time period for its (GST) implementation and taxation of inter-state transactions of Goods and services. The Chairman directed the witnesses to send written replies in response to the queries posed by the Members at the earliest.

The witness then withdrew.

Part II

(1230 hrs. to 1400 hrs.)

WITNESSES

1. Shri Vijay L. Kelkar, Chairman, National Stock Exchange of India Limited (NSE)
2. Shri Arbind Modi, Consultant, Planning Commission and Ex-Chairman of the Task Force on GST (Set up by the 13th Finance Commission)
3. The Committee then heard the views of Dr. Vijay L. Kelkar, Chairman, National Stock Exchange (NSE) on 'the Constitution (One hundred fifteenth Amendment) Bill, 2011' (GST). Major issues discussed broadly related to bypassing of the State legislatures, mechanism in place to solve problems between two States on issues like

taxation, surcharge and collecting benefit for the common man, dual tax system, illegal transaction and tax evasion. Other issues discussed included concern of States on exclusion of petrol and diesel, co-operative federalism, role of GST in fiscal consolidation, impact of GST on GDP and inflation. Also, GST's effect on rural economy (especially agriculture) in a State was also raised. Dr. Vijay L. Kelkar replied to the queries raised by the Members during the sitting. The Chairman directed the witnesses to send written replies to the queries raised by the Members at the earliest. The Committee desired to hear the views of Shri Kelkar once again after they have received and read the written replies from him to which Shri Kelkar agreed.

The witnesses then withdrew.

Part III
(1430 hrs. to 1600 hrs.)

WITNESSES

Government of Odisha

1. Shri Prafulla Chandra Ghadai, Minister, Finance, Excise & Public Enterprises
2. Shri J.K. Mohapatra, Principal Secretary, Finance Department

Government of Tamil Nadu

Shri Sunil Paliwal, Secretary, Commercial Taxes Department

Government of Maharashtra

Shri Sudhir Srivastava, Principal Secretary (Finance), Finance Department

4. Welcoming the Hon'ble Minister from the Government of Odisha and other officials, Hon'ble Chairman then opened the floor for their submissions. The representatives of the Government of Odisha focused their deliberations on impact on the autonomy of States due to Dispute Settlement Authority, non subsumption of entry tax and exclusion of Coal from the proposed GST regime

and a range or band within which the States will have power to levy tax in case of any exigency.

5. Moreover, the representative of Government of Maharashtra advocated for more clarity in jurisdiction of Dispute Settlement Authority, calculation of revenue neutral rates, well defined automatic compensation mechanism., avoidance of dual administration for GST and requirement of massive computerization.

6. Furthermore, the representative of Government of Tamil Nadu appended the issues of exclusion of petroleum products and alcoholic beverages out of the proposed Bill, cascading effect of taxes, encroachment on the mandates of the State Governments by the GST Council, assigning power to levy tax on tobacco to the State Governments or excluding it as petroleum and alcoholic beverages, and impact assessment of GST on the revenue of State Government and the Central Government.

7. Further the Committee also enquired and discussed about the apprehensions of the representatives regarding the GST Council becoming the super-legislature body, plight of states having low tax base, the smaller and poorer States, inconsistency in stand of States over GST Council vis-à-vis Dispute Settlement Authority, trust deficit between the States and the Centre etc. The Committee directed them to send their written replies at the earliest which they promised to comply with.

A verbatim record of the proceeding was kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE TWENTY SEVENTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Friday, the 20th July, 2012 from 1500 hrs to 1715 hrs.

PRESENT

Shri Yashwant Sinha – **Chairman**

MEMBERS

LOK SABHA

2. Shri Shivkumar Udasi
3. Shri Jayant Chaudhary
4. Shri Bhakta Charan Das
5. Shri Gurudas Dasgupta
6. Shri Nishikant Dubey
7. Shri Bhartruhari Mahtab
8. Shri Anjan Kumar Yadav M.
9. Shri Prem Das Rai
10. Dr. Kavuru Sambasiva Rao
11. Shri Rayapati S. Rao
12. Shri G.M. Siddeswara
13. Shri Yashvir Singh
14. Shri R. Thamaraiselvan

RAJYA SABHA

15. Shri Naresh Agrawal
16. Smt. Renuka Chowdhury
17. Shri Piyush Goyal
18. Dr. Mahendra Prasad
19. Shri Ravi Shankar Prasad
20. Shri P. Rajeeve
21. Dr. K.V.P. Ramachandra Rao

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri R.K. Jain - Director
3. Shri Ramkumar Suryanarayanan - Deputy Secretary
4. Shri Kulmohan Singh Arora - Under Secretary

WITNESSES

Government of Gujarat

1. Shri Saurabh Patel, Minister of State for Finance, Government of Gujarat
2. Shri M.M. Srivastava, Additional Chief Secretary
3. Ms. S. Aparna, Secretary (Economic Affairs)

2. At the outset, the Hon'ble Chairman, welcomed the Hon'ble Minister of State for Finance, Government of Gujarat and his colleagues to the sitting of the Committee. The Chairman then requested them to present their views on the Constitution (One hundred fifteenth Amendment) Bill, 2011' (GST). Thereafter, Shri Saurabh Patel, MOS Finance, Government of Gujarat, briefed the Committee on the provisions of the 'Constitution (One Hundred and Fifteenth Amendment) Bill, 2011' (GST). The representatives of Government of Gujarat opposed the proposed GST model and advocated for an alternate to GST model to achieve the major objectives of reforms in indirect taxes in the Country. Members heard the views and sought clarifications from the witnesses on issues pertaining to the Bill, which included issues like effect of GST on GDP especially on agriculture, farming community, employment generation and balance of payment. Questions of Cooperative Fiscal federalism, increase in threshold limit for MSME, effect on consumers especially farmers and people below poverty line (BPL), meaning of the word "consensus" with respect to the GST Council, administrative difficulties regarding CGST and SGST operability were also discussed. The Chairman directed the witnesses to send written replies in response to the queries posed by the Members at the earliest.

A verbatim record of the proceeding was kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE TWENTY EIGHTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Friday, the 27th July, 2012 from 1100 hrs to 1620 hrs.

PRESENT

Shri Yashwant Sinha - **Chairman**

MEMBERS

LOK SABHA

2. Shri Shivkumar Udasi
3. Shri Jayant Chaudhary
4. Shri Bhakta Charan Das
5. Shri Gurudas Dasgupta
6. Shri Nishikant Dubey
7. Shri Bhartruhari Mahtab
8. Dr. Kavuru Sambasiva Rao.
9. Shri Rayapati S. Rao
10. Shri Sarvey Sathyanarayana
11. Shri Yashvir Singh
12. Shri R. Thamaraiselvan

RAJYA SABHA

13. Shri Naresh Agrawal
14. Smt. Renuka Chowdhury
15. Shri Piyush Goyal
16. Dr. Mahendra Prasad
17. Shri Ravi Shankar Prasad
18. Dr. K.V.P. Ramachandra Rao
19. Shri Y.P. Trivedi

SECRETARIAT

- | | | | |
|----|------------------------------|---|------------------|
| 1. | Shri A.K. Singh | - | Joint Secretary |
| 2. | Shri R.K. Jain | - | Director |
| 3. | Shri Ramkumar Suryanarayanan | - | Deputy Secretary |
| 4. | Smt. Reena Gopalakrishnan | - | Deputy Secretary |
| 5. | Shri Kulmohan Singh Arora | - | Under Secretary |

Part I (1100 hrs. to 1230 hrs.)

WITNESSES

1. Shri Vijay L. Kelkar, Chairman, National Stock Exchange of India Limited (NSE)
2. Shri Arbind Modi, Consultant, Planning Commission and Ex-Chairman of the Task Force on GST (Set up by the 13th Finance Commission)

2. The Hon'ble Chairman welcomed and thanked Dr. Vijay L. Kelkar and Shri Arbind Modi for once again presenting themselves before the Committee. Giving cue to the representatives, the Committee streamlined certain crucial topics for their deliberations, viz. Centre-State fiscal relationship, fiscal autonomy of States, fiscal federalism, voting rights in the GST Council and flexibility in taxation etc. The Committee also invited views from them on alternative model of GST as suggested by the Government of Gujarat and Madhya Pradesh.

3. Apart from the above-mentioned issues the Committee was briefed and discussed issues regarding harmonizing impact of GST over Indian economy and coming up of a common market, impact of GST Council on legislative process, impact of proposed GST regime on role of Finance Commission, international experiences with respect to GST, role and need of sufficient Information Technology mechanism for effective implementation of GST, inclusion of various sectors such as, petroleum, real estate, electricity, railways and telecommunication etc. under proposed GST regime, abolition of octroi, rural exemptions in GST, crony capitalism etc.

4. Moreover, issues such as impact of GST on prices, agriculture, common man, international trade, MSMEs and fiscal consolidation were also discussed elaborately.

The witnesses then withdrew.

Part II
(1230 hrs. to 1620 hrs.)

5	XX	XX	XX	XX
	XX	XX	XX	XX

A verbatim record of the proceedings was kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE NINTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2012-13)

The Committee sat on Monday, the 21th January, 2013 from 1130 hrs to 1230 hrs.

PRESENT

Shri Yashwant Sinha – **Chairman**

MEMBERS

LOK SABHA

2. Dr. Baliram
3. Shri Nishikant Dubey
4. Shri Bhartruhari Mahtab
5. Dr. Chinta Mohan
6. Shri Sanjay Brijkishorlal Nirupam
7. Shri Prem Das Rai
8. Shri S.S. Ramasubbu
9. Shri Adv. A. Sampath
10. Shri Thakur Anurag Singh
11. Shri Shivkumar Udasi

RAJYA SABHA

12. Shri Naresh Agrawal
13. Smt. Renuka Chowdhury
14. Shri Piyush Goyal
15. Shri Satish Chandra Misra
16. Shri P. Rajeeve
17. Dr. Yogendra P. Trivedi

SECRETARIAT

1. Shri P.C. Tripathy – Director
2. Shri Ramkumar Suryanarayanan – Additional Director
3. Shri Sanjay Sethi – Under Secretary

2. At the outset, Hon'ble Chairman welcomed the Members to the sitting of the Committee. Thereafter, he briefed the Members on the work done so far on 'The Constitution (One Hundred and Fifteenth Amendment) Bill, 2011' (GST) and the latest communication received from the Ministry of Finance in this regard, wherein they have stated that they will report back to the Committee about the findings of the two Committees set up by them and the views of the Ministry thereon. Members expressed the view that draft Report may be attempted on the Bill based on the deliberations made thus far. In the meantime, the Ministry may be asked to furnish

the latest position at their end at the earliest so that the Report of the Committee is not held up on this count.

The Committee then adjourned.

MINUTES OF THE NINETEENTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2012-13)

The Committee sat on Friday, the 28th June, 2013 from 1100 hrs to 1300 hrs.

PRESENT

Shri Yashwant Sinha – **Chairman**

LOK SABHA

2. Dr. Baliram
3. Shri Nishikant Dubey
4. Shri Gurudas Dasgupta
5. Shri Deepender Singh Hooda
6. Shri Chandrakant Khaire
7. Shri Sanjay Brijkishorlal Nirupam
8. Shri Prem Das Rai
9. Shri Adv. A. Sampath
10. Dr. M. Thambidurai
11. Shri Shivkumar Udasi
12. Shri Dharmendra Yadav

RAJYA SABHA

13. Shri Naresh Agrawal
14. Shri Rajeev Chandrasekhar
15. Shri Piyush Goyal
16. Dr. Mahendra Prasad
17. Shri Ravi Shankar Prasad
18. Shri P. Rajeeve
19. Shri Praveen Rashtupal

SECRETARIAT

1. Shri Ramkumar Suryanarayanan – Additional Director
2. Shri Kulmohan Singh Arora – Under Secretary

2. The Committee took up draft report on 'the Constitution (One Hundred and Fifteenth) Amendment Bill, 2011' relating to GST for consideration and adoption. After long deliberations, the Members suggested some changes in the draft report. The Chairman then directed that the changes as suggested by the Members may be incorporated in the body of the draft report and the same may be circulated to the Members. The Committee then decided to consider and adopt the draft Report at their next sitting scheduled to be held on 19 July, 2013.

The Committee then adjourned.

MINUTES OF THE TWENTIETH SITTING OF THE STANDING COMMITTEE ON FINANCE (2012-13)

The Committee sat on Friday, the 19th July, 2013 from 1100 hrs to 1330 hrs.

PRESENT

Shri Yashwant Sinha – **Chairman**

LOK SABHA

2. Shri Nishikant Dubey
3. Shri Gurudas Dasgupta
4. Shri Deepender Singh Hooda
5. Shri Chandrakant Khaire
6. Shri Bhartruhari Mahtab
7. Shri Sanjay Brijkishorlal Nirupam
8. Shri S.S. Ramasubbu
9. Shri Adv. A. Sampath
10. Dr. M. Thambidurai
11. Shri Shivkumar Udasi

RAJYA SABHA

12. Shri Naresh Agrawal
13. Smt. Renuka Chowdhury
14. Shri Piyush Goyal
15. Shri Satish Chandra Misra
16. Dr. Mahendra Prasad
17. Shri Ravi Shankar Prasad
18. Shri P. Rajeeve

SECRETARIAT

1. Shri A.K. Singh – Joint Secretary
2. Shri Ramkumar Suryanarayanan – Additional Director
3. Shri Sanjay Sethi – Deputy Secretary

2. At the outset, the Chairman informed the members that the changes suggested by them in the draft report on 'the Constitution (One Hundred and Fifteenth) Amendment Bill, 2011' relating to GST at the sitting of the Committee held on 28 June, 2013 had been suitably incorporated. The Committee then considered the

draft report and adopted the same without any changes. The Committee authorised the Chairman to present the same to Hon'ble Speaker/Parliament.

3. XX XX XX XX
 XX XX XX XX

WITNESS

Shri Vinod Dhall, Consultant & Former Secretary, Ministry of Corporate Affairs

4. XX XX XX XX
 XX XX XX XX

A verbatim record of the proceedings was kept.

The witness then withdrew.

The Committee then adjourned.