



BMR & Associates

Tax and Regulatory

GST – The final frontier

**Conference on
EPC contracts - Tax and Legal Imperatives**

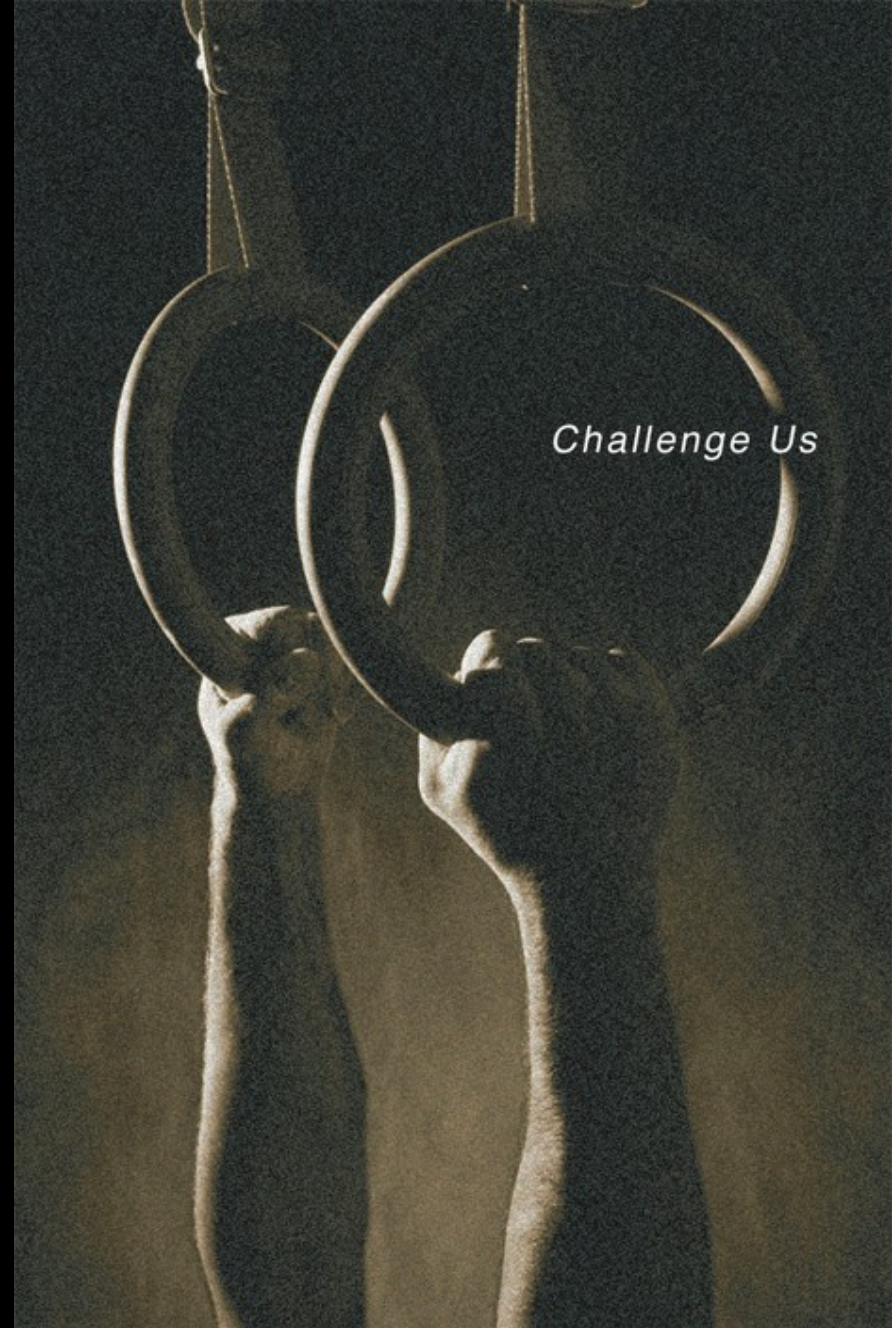
18 - 19 May 2007 | Hotel Imperial | Janpath | New Delhi | India

Sujit Ghosh

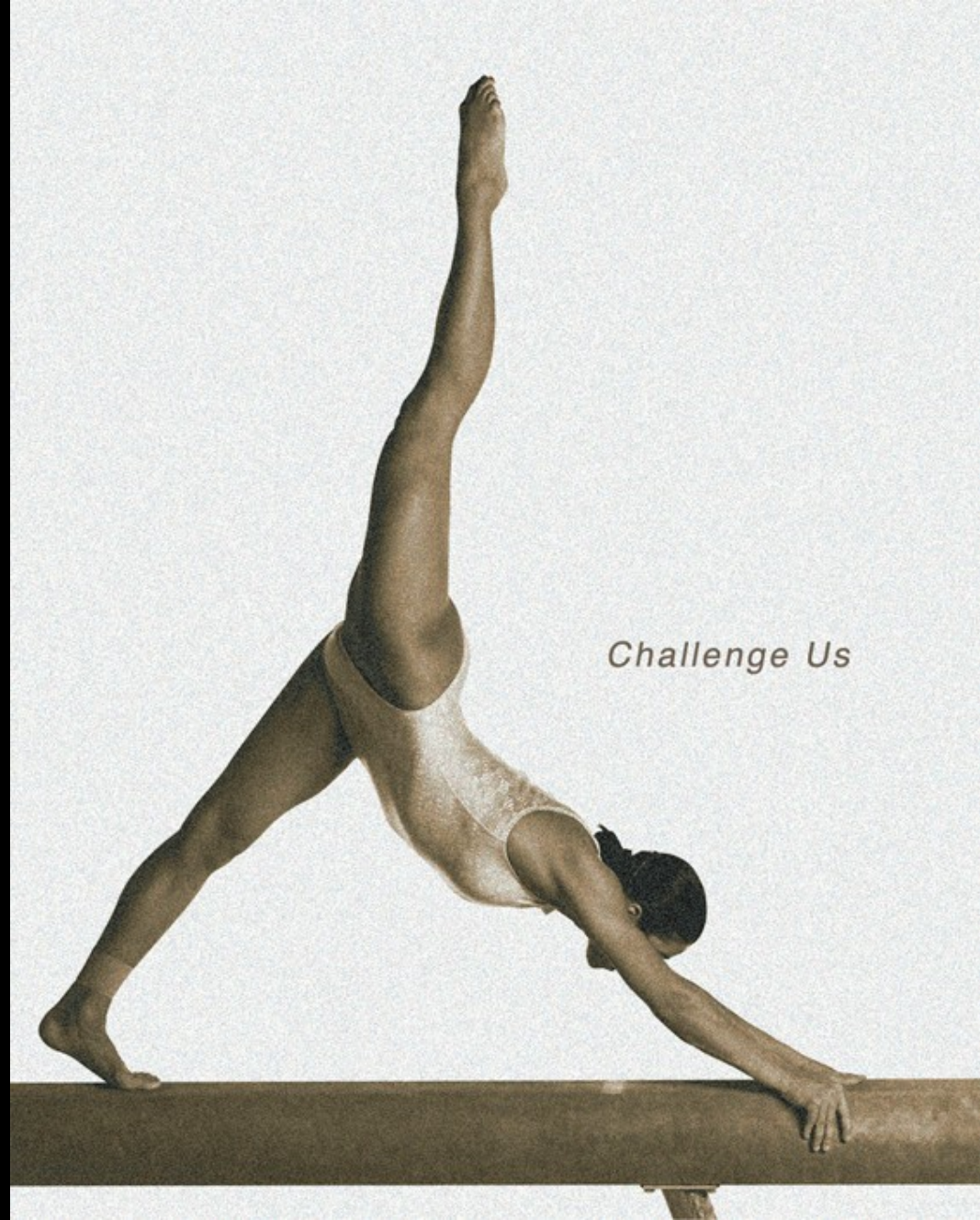
Executive Director, BMR & Associates

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- Possible models of GST and issues of relevance
- Government action so far
- Way forward



INTRODUCTION TO GST



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INTRODUCTION TO GST

- Goods and Services Tax (“GST”) is a comprehensive value added tax on goods and services
- Unlike VAT (as is in force in India currently), which applies only on sale of goods, GST would apply on goods as well as services under an integrated manner
- It offers benefits similar to that offered by VAT and much more...
 - Eliminates cascading effect of taxes across all supply chain by reducing cost of doing business and makes the economy competitive
 - Business to be free of taxes instead taxes to be borne entirely by consumers
 - Eliminates multiplicity of taxes, rates, exemptions and exceptions
 - Eliminates dual taxation of the same transaction (eg VAT & Service tax on EPC contracts)
 - Reduces cost of production

INTRODUCTION TO GST

- Achieves, uniformity of taxes across the territory, regardless of place of manufacture or distribution
- Provides, greater certainty and transparency of taxes
- Ensures tax compliance across the economy
- Augments and creates buoyancy in the economy

GLOBAL PERSPECTIVE

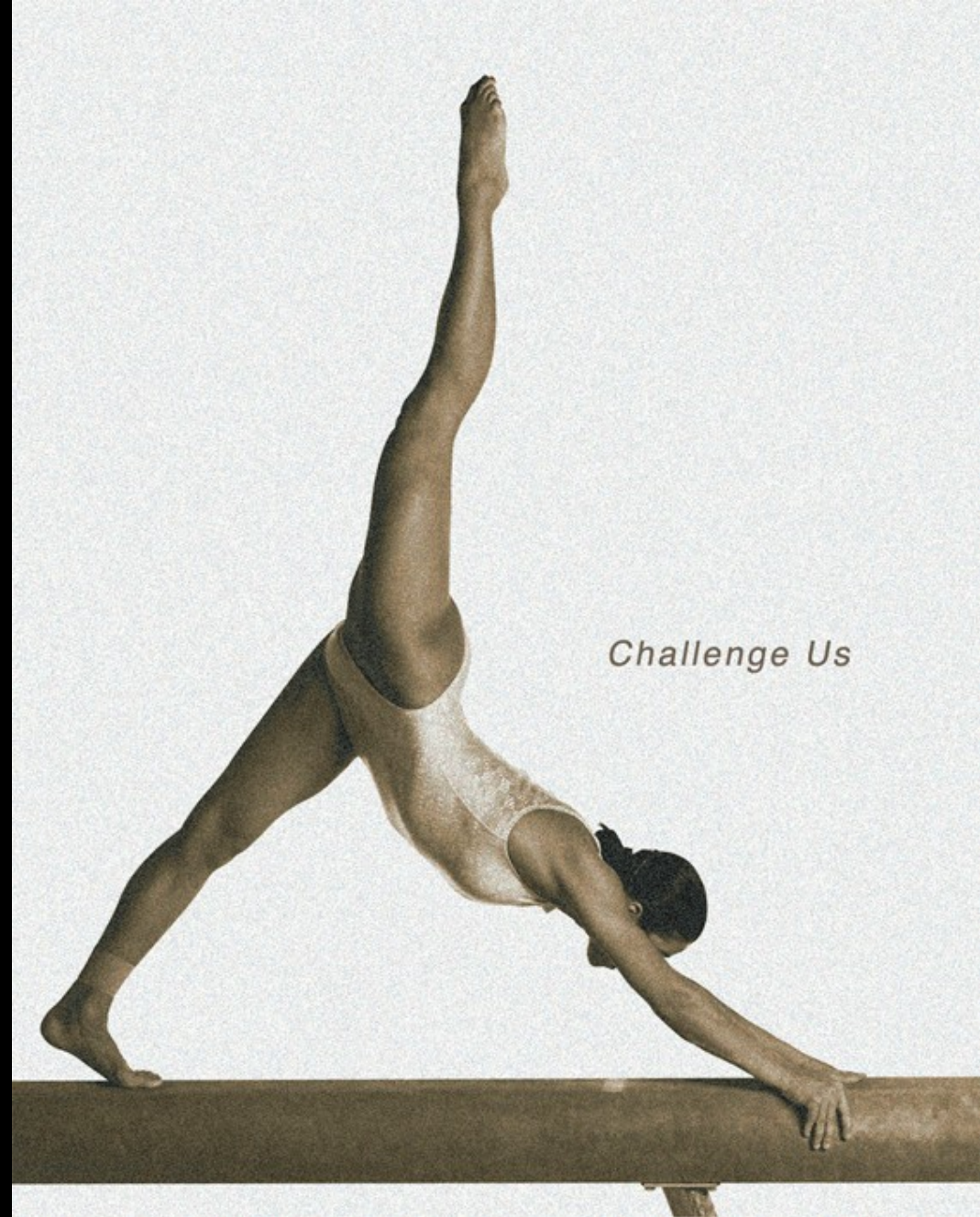
- Globally, more than 140 countries have introduced GST or Federal VAT in some form or the other
- Goods are subjected mostly to a single rate of tax or are either Exempt or Zero Rated

An indicative GST/VAT rate across countries is illustrated in the following slide

GST – INTERNATIONAL RATES

COUNTRY	STANDARD RATE (PERCENTAGE)	COUNTRY	STANDARD RATE (PERCENTAGE)	COUNTRY	STANDARD RATE (PERCENTAGE)
Austria	20	Greece	18	Norway	25
Belgium	21	Argentina	21	Denmark	25
Portugal	19	Chile	19	Sweden	25
Ireland	21	Spain	16	Finland	22
Poland	22	Romania	19	Italy	20
France	19.6	Luxembourg	15	Switzerland	7.6
Australia	10	Netherlands	19	U.K.	17.5
Barbados	15	Columbia	16	China	16
Canada	7	Japan	5	South Africa	14
Botswana	10	Mexico	15	Indonesia	10

POSSIBLE MODELS OF GST AND ISSUES OF RELEVANCE



MODELS OF GST

Australian Model

- A federal tax
- Collected by the Centre; and
- Distributed to the States

Canadian model

- A dual system between the Centre and the States and has three varieties:
 - Federal GST and Provincial Retail Sales Taxes (PST) administered by Centre & State respectively - followed by the largest majority
 - Single tax law administered federally (Harmonious Sales Tax - HST)
 - Separate federal and Provincial VAT laws, which is administered entirely by the State (QST) - only for Quebec

MODELS OF GST (CONTD.)

Kelkar Model

- States to be granted power to tax all services concurrently with the Centre
- Consequently, both Central and State Government would exercise concurrent but independent jurisdiction over common or almost common tax bases
- Three *ad valorem* rates proposed, in addition to zero rate
 - Centre – 6, 12, 20
 - State – 4, 8, 14
- Centre and States to agree on a commonality of exemption lists and threshold limits
- Imports to be liable to two part levy – Central GST & State GST
- Withdrawal of octroi, CST, entry tax, stamp duties, license fees, electricity duty, etc

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MODELS OF GST (CONTD.)

Kelkar Model

- Merger of Central Excise, Service Tax and State VAT into one common base
- The States will need to introduce corresponding legislation for taxation of goods and services

MODELS OF GST (CONTD)

Bagchi - Poddar model

- Combination of Central Excise, Service Tax and VAT to make it a common base
- Levied both by the Centre and the States separately
- Single RNR of 6% (though some goods could be at higher rate such as motor fuels)
- If more than one rate then, two rate system (Standard rate and lower rate, applicable to narrow list of basic necessities)
- Envisages Constitutional amendment by bringing the taxing powers on goods and services under the Concurrent List
- Envisages national harmonization agreement, agreement on place of supply rules, agreement on tax collection - interse between State and Centre, within constitutional framework

Bagchi - Poddar model - Issues

- Constitutional amendment – is it realistic
- It takes one Rouge State to trip the apple cart
- Cross credits between State and Central levy

MODELS OF GST (CONTD)

ASSOCHAM model

- Two separate laws at Centre and State
- A common tax base for Central and State GST with common definition and basis of tax computation barring a very few exceptions
- The charging section under the respective tax law to fix the notional taxable value linked to the transaction value for levy of tax under Central & State Legislation
- The taxable value to be split in the pre-determined ratio for taxation by Centre and States as per agreed ratio (example 60:40 or 70:30 or 55:45 etc)
- Such ratio can be either common for all goods and services or can be sector specific
- Assessee to make separate tax payments and return filings with the Centre and State, though if the Centre and States agree for common tax administration, then the Central and the State returns can be filed at a single point

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MODELS OF GST (CONTD)

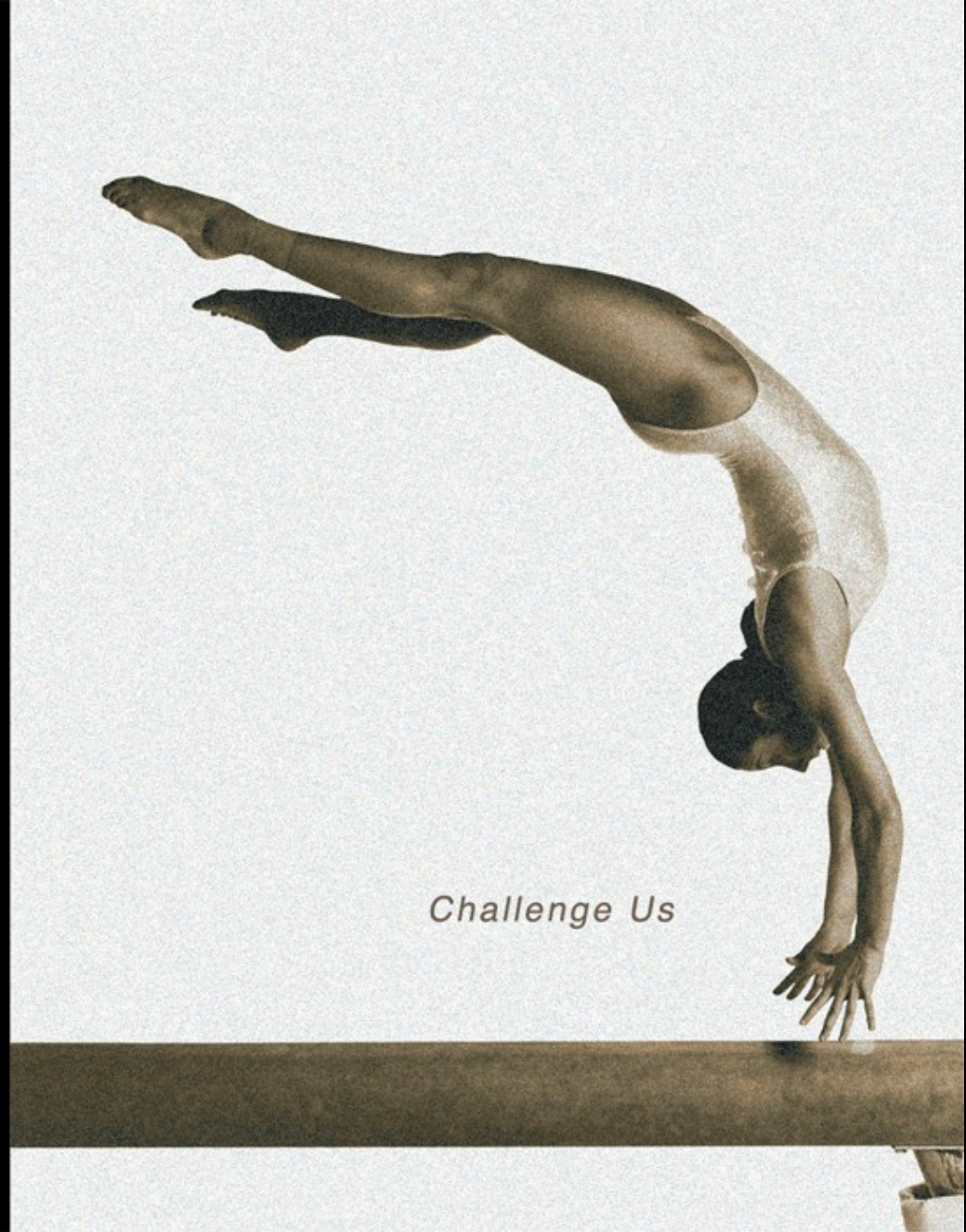
ASSOCHAM model

- Centre can levy Central GST on production, distribution and import of goods and services which under the charging section can fix taxable value as say 60 percent of the transaction value
- States can levy State GST on sale of goods and services and the charging section can fix taxable value as say 40 percent of the transaction value
- Does not require constitutional amendment, since Article 368 A permits Centre and the State to collect and appropriate the taxes on Services, even the power to levy taxes vests with the Centre

Issues

- Possibility of unilateral change of GST rate by States
- Taxation of interstate Services
- Ability to claim credit of Central GST against State GST and vice versa

GOVERNMENT'S ACTIONS



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PHASING OUT OF CST



**BUDGET
2007**

- Reduction of CST rate to 3 percent, wef April 1, 2007
- Section 8 of the CST Act has been amended to provide for ability to issue notification for further rate reduction
- The move is towards the gradual reduction of CST to 0 per cent by 2010

ROADMAP FOR GST



EMPOWERED COMMITTEE

- The Finance Ministry has tasked the Empowered Committee of State Finance Ministers on VAT to work with the Centre to prepare a roadmap for introduction of national level GST from April 1, 2010
- The Empowered Committee on VAT has further constituted a Working group to draw the road map for introduction of the GST
- The Working group headed by the Advisor to the FM has been mandated to submit its report to the ministerial panel within **four months**

ROADMAP FOR GST (CONTD)



OBJECTIVES OF THE WORKING GROUP

- Study various models of GST existing globally
- Identify possible alternative models and assess their suitability in India's fiscal federal context
- Present its findings before the Empowered Committee for decision on the most appropriate model of GST in India
- Identify the Central and State Taxes which could be appropriately subsumed under GST

ROADMAP FOR GST (CONTD)



**MANDATE OF THE
WORKING GROUP**

- GST should be so designed that it should be revenue neutral to the Centre and the States
- Interests of the Special Category, North-Eastern States and Union Territories are to be especially kept in mind
- The Group will examine different models and ensure that the power of levy, collection and appropriation of revenue must be vested with the Centre and the States by examining the pros and cons
- The various models would have to ensure that double taxation is avoided

ROADMAP FOR GST (CONTD)



**MANDATE OF THE
WORKING GROUP**

- The suggested models to take into account the problems faced during Inter-State transactions and possible revenue loss
- Focus on treatment of zero-rated goods and services and Non-VAT items
- The interests of the Centre, States, Trade, Industry, Agriculture and Services to be adequately represented
- The Working Group may constitute Sub-Working Groups and can also co-opt experts

WAY FORWARD – EPC PERSPECTIVE

- GST must recognize that unlike VAT, it must not
 - have separate set of rules for manufacturers & traders and separate set of rules for works contracts
 - permit the States to deviate from the principles of uniformity, convergence and harmonization of rates and procedures
 - have weak or non existent supply of services rules
 - permit any tax other than GST to apply in the system
 - permit concessions based on declaration form
- GST draft legislation must be made available to public much in advance
- Must have robust transition provisions for continuing contracts in view of change of law arrangements
- Must be cognizant of the peculiarity of the Industry and not be focused only on manufacturing and distribution – invoice formats, time of sale etc



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