GOODS AND SERVICE TAX (GST) IN INDIA – Challenges Ahead

February 28, 2016
Indian truck drivers clock an average of 280 km per day as against world average of 400 km per day and 700 km per day in US.

Truck drivers in India spend 60% of their time off roads negotiating check posts & toll plazas.

There are 650 odd check posts in the country and 11 categories of taxes.

Introduction of GST will help in improving the Indian truck productivity.
Similarly, many companies in corporate India are getting jittery on increasing working capital without complete visibility on tax rates and coverage of goods.

- A foreign company was advised by its tax planners to hold on its investment for a proposed manufacturing plant till the time country rolls out the GST regime.

- With an investment of around Rs. 100 crore, the company would have saved Rs. 10 to Rs. 15 crore through input tax credits under the GST regime.
At present the Restaurants are charging both Central Tax (Service Tax) and State Tax (VAT).

After introduction of GST single tax will be applicable.
## PRESENT SCENARIO: ISSUES & CONCERN

<table>
<thead>
<tr>
<th>Within State Uttar Pradesh</th>
<th>Amount</th>
<th>Outside State: Maharastra</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturer sells the product to Wholeseller</td>
<td>100</td>
<td>Manufacturer sells the product to Wholeseller</td>
<td>100</td>
</tr>
<tr>
<td>Add: Excise Duty @ 12.5%</td>
<td>13</td>
<td>Add: Excise Duty @ 12.5%</td>
<td>13</td>
</tr>
<tr>
<td>Add: VAT @ 14% (12.5%+1.5%) on Rs.113/-</td>
<td>16</td>
<td>Add: CST @ 2% on Rs. 113/- (100 + 13)</td>
<td>2</td>
</tr>
<tr>
<td><strong>Selling Price</strong></td>
<td><strong>128</strong></td>
<td><strong>Selling Price</strong></td>
<td><strong>115</strong></td>
</tr>
<tr>
<td>Wholeseller sells the product to Retailer within the State</td>
<td>150</td>
<td>Wholeseller sells the product to Retailer within the State</td>
<td>125</td>
</tr>
<tr>
<td>Add: VAT @ 14% (12.5%+1.5%) on Rs.150/-</td>
<td>21</td>
<td>Add: VAT @ 12.5%</td>
<td>16</td>
</tr>
<tr>
<td><strong>Selling Price</strong></td>
<td><strong>171</strong></td>
<td><strong>Selling Price</strong></td>
<td><strong>141</strong></td>
</tr>
<tr>
<td><strong>Impact Analysis:</strong></td>
<td></td>
<td><strong>Impact Analysis:</strong></td>
<td></td>
</tr>
<tr>
<td>Wholeseller paid Excise Duty at the time purchase</td>
<td>13</td>
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<td>13</td>
</tr>
<tr>
<td>Wholeseller paid VAT at the time purchase</td>
<td>16</td>
<td>Wholeseller paid CST at the time purchase</td>
<td>2</td>
</tr>
<tr>
<td><strong>Input Tax Credit (ITC)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wholeseller takes Input Tax Credit on VAT</td>
<td>16</td>
<td>No Input Tax Credit (Rs.13+ Rs.2)</td>
<td>15</td>
</tr>
<tr>
<td>No Input Tax Credit on Excise Duty paid</td>
<td>13</td>
<td>Output VAT liability</td>
<td>16</td>
</tr>
<tr>
<td>Output VAT liability</td>
<td>21</td>
<td>Net amount to be paid to Tax Department (Rs.16-0)</td>
<td>16</td>
</tr>
<tr>
<td>Net amount to be paid to Tax Department (21-16)</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impact of double taxation @14% on Rs. 13/-</td>
<td>2</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Present Scenario: GST

### Within State Uttar Pradesh

<table>
<thead>
<tr>
<th>Description</th>
<th>Present</th>
<th>GST</th>
<th>Outside State: Maharashtra</th>
<th>Present</th>
<th>GST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturer sells the product to Wholeseller</td>
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<td>Add: VAT @ 14% (12.5%+1.5%) on Rs.113/-</td>
<td>16</td>
<td></td>
<td>Add: CST @ 2% on Rs. 112/- (100 + 12)</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>CGST @10%</td>
<td>1</td>
<td></td>
<td>GST (CGST@10%+SGST@10%)</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>SGST @10%</td>
<td>1</td>
<td></td>
<td>1% additional tax</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Selling Price</td>
<td>128</td>
<td></td>
<td>Selling Price</td>
<td>115</td>
<td></td>
</tr>
<tr>
<td>Value addition @ 15%</td>
<td>17</td>
<td>15</td>
<td>Value addition @ 15%</td>
<td>17</td>
<td>15</td>
</tr>
<tr>
<td>Wholesaler sells the product to Retailer within the State</td>
<td>145</td>
<td></td>
<td>Wholesaler sells the product to Retailer within the State</td>
<td>132</td>
<td>136</td>
</tr>
<tr>
<td>Add: VAT @ 14% (12.5%+1.5%) on Rs.150/-</td>
<td>20</td>
<td></td>
<td>Add: VAT @ 12.5%</td>
<td>16</td>
<td></td>
</tr>
<tr>
<td>CGST @10%</td>
<td>14</td>
<td></td>
<td>CGST @10%</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>SGST @10%</td>
<td>14</td>
<td></td>
<td>SGST @10%</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>Selling Price</td>
<td>166</td>
<td>162</td>
<td>Selling Price</td>
<td>148</td>
<td>163</td>
</tr>
<tr>
<td>Value addition @ 15%</td>
<td>22</td>
<td>20</td>
<td>Value addition @ 15%</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Retailer sells the product to Customer within the State</td>
<td>187</td>
<td>182</td>
<td>Retailer sells the product to Customer within the State</td>
<td>168</td>
<td>184</td>
</tr>
<tr>
<td>Add: VAT @ 14% (12.5%+1.5%) on Rs.150/-</td>
<td>26</td>
<td></td>
<td>Add: VAT @ 12.5%</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>CGST @10%</td>
<td>18</td>
<td></td>
<td>CGST @10%</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>SGST @10%</td>
<td>18</td>
<td></td>
<td>SGST @10%</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Selling Price</td>
<td>214</td>
<td>219</td>
<td>Selling Price</td>
<td>189</td>
<td>221</td>
</tr>
<tr>
<td>Tax collected by Govt.</td>
<td></td>
<td></td>
<td>Tax collected by Govt.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Central Govt tax</td>
<td>13</td>
<td>18</td>
<td>Central Govt tax</td>
<td>13</td>
<td>19</td>
</tr>
<tr>
<td>State Govt</td>
<td>26</td>
<td>18</td>
<td>State Govt</td>
<td>23</td>
<td>18</td>
</tr>
<tr>
<td>Total tax collection</td>
<td>39</td>
<td>36</td>
<td>Total tax collection</td>
<td>36</td>
<td>37</td>
</tr>
</tbody>
</table>
PRESENT INDIRECT TAX SCENARIO IN INDIA

INDIRECT TAXATION

CENTRAL

- Central Excise
- Custom Duty
- Service Tax
- Central sales Tax

STATE

- Sales Tax / VAT
- Entertainment Tax
- Luxury Tax
- Taxes on lottery, betting and gambling
- Entry Tax
- Octroi etc.
Multiple Taxes

**CENTRAL**
- Customs Duty
  - Basic Custom Duty
  - Countervailing Duty
  - Special Additional Duty
- Excise Duty:
  - Basic Excise Duty
  - Add. Excise Duty
- Service Tax
- Product Specific Cess like Automobile Cess
- Research and Development Cess
- Swachh Bharat Cess
- Central Sales Tax

**STATE**
- Value Added Tax (VAT)
- Entry Tax
- Octroi charged by Municipality
- Local Body Tax
- Entertainment Tax
- Luxury Tax
- State cess & surcharge
- Stamp Duty & Registration Fees
SALIENT POINTS OF GST

A Comprehensive Tax on Goods and Services

Multi-point Tax on value added at each stage

Tax is only cost to the end customer

Consumption based tax not origin base

No cascading due to input credit mechanism

Self policing or voluntary compliances

Reduction of Tax evasion /Widens the taxation base
Lower taxes lead to better compliance and higher revenues

Enormous scope for augmenting revenue

Good opportunity to jointly work for better enforcement

Uniform tax rate across the entire common market

Reduces distribution cost as there is not tax barrier among the States

GST will spur Growth and increase the GDP like Canada

Making exports more competitive
FM announces GST in India from 01.04.2010

2007
Joint Working Group set up by Empowered Committee of State Finance Ministers

Joint Working Group submitted Report to Empowered Committee

Report of Joint Working Group discussed by Empowered Committee and some changes made.

2008
Views of Empowered Committee was sent to Government of India

Comments received by Empowered Committee from Government of India

Comments of Government of India considered by Empowered Committee and Committee was constituted to consider these comments

2009
Views accepted by Empowered Committee, a Working Group was formed by State/Central Govt office to submit recommendations of structure of GST.

Interaction between Finance Minister and Empowered Committee for compensation for loss of Revenue to the State for phase out of the CST.

First Discussion Paper released by Empowered Committee
The Prime Minister’s Economic Advisory Committee (PMEAC), Chairman C. Rangarajan has said “The Centre could follow the pattern in which there is only one rate for goods and one rate for services, or one rate which is common to both goods and services”.


The Constitution (One Hundred and Fifteenth Amendment) Bill, 2014 introduced in Parliament on December 19, 2014

Lok Sabha cleared the Constitution (122nd Amendment )Bill on May 6, 2015
More than 160 countries have already introduced GST/National Level VAT

Typically GST is a unified Tax System in most of the Countries

Canada and Brazil only have dual GST

Standard rate of most of the Countries ranges between 16-20%

As per KPMG international indirect tax survey 2014: Out of 132 countries: Hungary- 27% and Aruba: 1.5%
## COMPARISON OF FEDERAL VAT SYSTEMS

<table>
<thead>
<tr>
<th>Nature of VAT</th>
<th>Country Examples</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independent VATs at Centre and States</td>
<td>Brazil, Russia, Argentina</td>
<td>Differences in base and rates weaken administration and compliance. Inter-state transactions difficult to manage</td>
</tr>
<tr>
<td>VAT levied and administered at Centre</td>
<td>Australia, Germany, Austria, Switzerland, etc.</td>
<td>State government relieved of responsibility of raising taxes which also takes away fiscal discretion of States</td>
</tr>
<tr>
<td>Dual VAT</td>
<td>Canada and India today</td>
<td>A combination of the above two and hence limits both their disadvantages</td>
</tr>
<tr>
<td>&quot;Clean&quot; dual VAT</td>
<td>India's GST</td>
<td>Common base and common or similar rates facilitate administration and compliance, including for inter-state transactions, while continuing to provide some fiscal autonomy to States.</td>
</tr>
</tbody>
</table>

Source: World Bank
# GST – GLOBAL SCENARIO

<table>
<thead>
<tr>
<th>Country</th>
<th>Year of implementation</th>
<th>Standard Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>France</td>
<td>April 10, 1954</td>
<td>20%</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>April 01, 1973</td>
<td>20%</td>
</tr>
<tr>
<td>South Korea</td>
<td>1977</td>
<td>10%</td>
</tr>
<tr>
<td>Japan</td>
<td>April 01, 1989</td>
<td>8% (to be raised to 10% in 2017)</td>
</tr>
<tr>
<td>Canada</td>
<td>January 01, 1991</td>
<td>HST (PST +GST) 15%/ 14%/ 13%</td>
</tr>
<tr>
<td>Singapore</td>
<td>April 01, 1994</td>
<td>7%</td>
</tr>
<tr>
<td>Australia</td>
<td>July 01, 2000</td>
<td>10%</td>
</tr>
<tr>
<td>Malaysia</td>
<td>April 01, 2015</td>
<td>6%</td>
</tr>
</tbody>
</table>
INDIA: GST RATE SUGGESTED BY VARIOUS PANEL

13th Finance Commission task force:
- Centre – 5%
- State - 7%
- Combined -12%

Sub panel of Empowered committee:
- Centre -12.77%
- State -13.91%
- Combined-26.68%

Select committee of RS:
- GST Rate-20%
### Summary of Recommended Rate Options (in %)

<table>
<thead>
<tr>
<th></th>
<th>RNR</th>
<th>Rate on precious metals</th>
<th>&quot;Low&quot; rate (goods)</th>
<th>&quot;Standard&quot; rate (goods and services)</th>
<th>&quot;High/Demerit rate or Non-GST excise (goods)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Preferred</strong></td>
<td>15</td>
<td>6</td>
<td>12</td>
<td>16.9</td>
<td>40</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
<td></td>
<td>17.3</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td>17.7</td>
<td></td>
</tr>
<tr>
<td><strong>Alternative</strong></td>
<td>15.5</td>
<td>6</td>
<td>12</td>
<td>18.0</td>
<td>40</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
<td></td>
<td>18.4</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td>18.9</td>
<td></td>
</tr>
</tbody>
</table>

Source: Committee’s calculations
Note: All rates are the sum of rates at Centre and States
GST MODEL

- DUEL GST
- CENTRAL GST (CGST)
- STATE GST (SGST)
## Key Features - Dual GST

### Dual GST

<table>
<thead>
<tr>
<th>Transactions within the State</th>
<th>Interstate Transactions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SGST</strong></td>
<td><strong>CGST</strong></td>
</tr>
<tr>
<td>Levied by State</td>
<td>Levied by Centre</td>
</tr>
<tr>
<td>Implemented through Multiple Statues</td>
<td>Implemented through Single Statue</td>
</tr>
<tr>
<td>Paid to the account of State Govt.</td>
<td>Paid to the account of Central Govt.</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td></td>
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</tr>
</tbody>
</table>
SUBSUMING OF CENTRAL GST

Central GST

- Additional Excise Duty
- Additional Custom Duty (CVD)
- Central Excise Duty
- Service Tax
- Excise Duty levied under the MTP Act
- Special Additional Duty of Customs
- Central Surcharges and Cesses
SUBSUMING OF CENTRAL GST

- State GST
- State Cesses & Surcharges
- Purchase Tax
- Entry Tax
- VAT / Sales Tax
- Luxury Tax
- Entertainment Tax (other than levied by local body)
- Octroi and Entry Tax
- Taxes on lottery, betting & gambling
NOT-SUBSUMING IN GST:

- Petroleum products
- Tax on alcoholic liquor for human consumption
- Tax on entertainment and amusement levied and collected by Panchayat /Municipality/District Council (Local body of State)
- Stamp duty
- Customs duty
- Taxes on consumption or sale of electricity

Petroleum products and natural gas are within the ambit of GST but will be kept in abeyance until GST council decides.
Centre would impose the following taxes after the implementation of GST:

- Taxes on goods or passengers carried by railway, sea or air
- Stamp duty on bill of exchange etc.
- Taxes on sale or purchase of newspaper and advertising etc.
State would impose the following taxes after the implementation of GST:

- Taxes on lands and buildings;
- Taxes on the consumption or sale of electricity;
- Taxes on goods and passengers carried by road or on inland waterways;
- Taxes on animals and boats
- Tolls
- Taxes on professions, trade etc.
- Stamp duty in respect of documents other than those specified of List 1;
122nd Amendment Bill introduced in LS on 2014

Key Features

- Concurrent jurisdiction for levy of GST by the Centre and the States – proposed Article 246A

- Authority for Centre to levy & collect of IGST on supplies in the course of inter-state trade or commerce including imports – proposed Article 269A

- Authority for Centre to levy non vatatable Additional Tax – to be retained by originating State

- GST defined as any tax on supply of goods or services or both other than on alcohol for human consumption – proposed Article 366 (12A)
FEATUERES OF CONSTITUTIONAL AMENDMENT BILL contd....

- Goods includes all materials, commodities & articles – Article 366(12)

- Services means anything other than goods- proposed Article 366 (26A)

- Goods and Services Tax Council (GSTC) – proposed Article 279A

  ✓ To be constituted by the President within 60 days from the coming into force of the Constitutional Amendments
  ✓ Consists of Union FM & Union MOS (Rev)
  ✓ Consists of all State Ministers of Finance
  ✓ Quoram is 50% of total members
  ✓ Decision by majority of 75% weighted votes of members present & voting
  ✓ 1/3rd weighted votes for Centre & 2/3rd for all States together
Council to make recommendations on
- Taxes, etc. to be submitted in GST
- Exemptions & thresholds
- GST rates
- Band of GST rates
- Model GST Law & procedures
- Special provisions for special category States
- Date from which GST would be levied on petroleum products

To be constituted by the President within 60 days from the coming into force of the Constitutional Amendments

- Compensation for loss of revenue to States for five years
Analysis of GST Bill

- Introduction of concurrent powers to levy the dual GST
- Inter-state sale of goods to attract additional tax @1%
- Effect on make in India Campaign
- Additional 1% tax: confusion of origin vs. Destination tax
- Exclusion of Petroleum, alcohol, electricity and real estate negate the boost the GDP?
- Role of GST Council
- Reduced States’ fiscal and political autonomy
- States can’t exempt some goods & services
- States would lost its right to fix own tax rate
- Centre can veto any measure under proposed GST
- Clause 20 of Amendment Bill: Transitional Provisions
- Export would be zero rated
- Similar benefits will be given to Special Economic Zones (SEZs).

- Industrial incentives & Special Industrial Area Scheme:
  - The tax exemption, remission etc. related to industrial incentives would be converted into cash refund scheme after collection of tax.
  - Area based exemptions will continue up to legitimate time.
  - No new exemption, remission etc. would be allowed.
IGST (CGST+SGST) on all inter-state transactions of taxable goods and services

Supplier will pay IGST after set-off available credit of IGST, CGST & SGST on his purchases.

The exporting state will transfer to the central agency the credit of SGST used for payment of IGST.

The importing taxpayer will claim ITC of IGST against his IGST, CGST and SGST tax liability.

The central agency will transfer to the importing state the credit of IGST used in payment of SGST.
Uninterrupted ITC chain on inter-state transactions

No upfront payment of tax or substantial blockage of funds for the inter-state seller or buyer

No refund claim in exporting State

Uniform E-registration /E-Return/common periodicity of return/ uniform cut-off date

System based verifications /validations etc.
Existing registered business entities migrated to the GSTN portal

Newly incorporated business entities would submit application within 30 days from turnover crossing taxable threshold

State-wise registration

May opt for multiple registrations for different business verticals within the same State

Option for voluntary registration

Taxable threshold for inter-state supplies and reverse charge would be Zero

No ITC for default of application within the prescribed time.

Regular defaulter’s profile would be posted in public domain
Draft Reports by the Joint Committee on GST Business Processes - Payment

- Fill details of amount to be paid
- E-Payment
  - Internet Banking
  - Debit/Credit Cards
- OTC
- NEFT/RTGS
  - Cheque
  - DD
  - Cash
Every registered person is required to file a return for the prescribed tax period – even if there is no business activity (i.e. Return).

Government entities / PSUs, etc. not dealing in GST supplies or persons exclusively dealing in exempted / Nil rated / non-GST goods or services would neither be required to obtain registration nor required to file returns under the GST law.

Self-assessment

E-Return shall be common for CGST, SGST, IGST

Following shall be the various returns for different categories:
- Normal / Regular & Casual Taxpayer (GSTR – 1,2,3 & 8)
- Compounding Taxpayer (GSTR – 4 & 8)
- Foreign Non-Resident Taxpayer (GSTR-5)
- Input Service Distributor (GSTR-5)
- Tax Deductor (GSTR – 7)
Verification shall take place online to the extent possible.

Communication through SMS and E-mail.

Dealer can check status of application on portal.

90% of refund claimed by the taxpayer may be sanctioned automatically by the system.

Balance 10% of refund claims, amount of refund may be granted after completion of verification of documents / accounts to be done at the end of the financial year and to be completed within a period of three months.

Rate of interest in case of delayed refund may be around 6% and that in case of default in payment of taxes may be around 18%.
GST Impact across all business....
**IMPACT OF GST - ON INDIAN ECONOMY**

- **Internationally preferred**
  - Unified GST is preferred internationally and will lead to ease of doing business in India

- **GDP growth**
  - Expected increase in Gross Domestic Product by 1-2%

- **Goods cheaper, Services expensive**
  - Many products would become cheaper, except goods on which lower rate of Excise duty is charged (e.g. mobile phones, pharmaceutical products)
  - Services like eating out, travelling etc. would become more expensive

- **Inflation**
  - If GST rate is higher than 18-22% effect on inflation is anticipated

- **Increased tax base**
  - Due to wide coverage on all goods and services and increase in number of taxpayers

- **Fiscal deficit**
  - GST is expected to reduce fiscal deficit
Status of Existing Input Credit lying under CENVAT and VAT

- Unutilized Cenvet credit in respect of inputs, capital goods and input services
- 50% Cenvat credit not availed on capital goods
- Rejection of materiel out of the material procured from the date of implementation and treatment of duty thereof
Transitional Issues

- Goods in Transit or sale of goods on approval basis;
- Ongoing contract / agreements, purchase orders, work orders
- Goods are supplied prior to GST but the invoice is not raised
- Services are provided / completed prior to GST but the invoice is not raised
- Services are provided partially and the invoice for the part of the services is not raised
Transitional Issues

- Where advances has been received but goods are not dispatched from the factory till implementation of GST and Excise duty is yet to be discharged.

- Advances for services received and taxes thereon also has been paid prior to GST but the invoice and provision of services takes place under GST regime.

- Advance for service received and the corresponding invoices also raised prior to GST but services is yet to be provided.

- The invoices for goods/services has been raised prior to GST but activities are yet to be completed.
Transitional Issues

- Various forms like Form “C”, “F” not provided in relation to the transaction pertaining to pre GST regime
- In case of imported goods, Bill of Entry not filed / assessed till the time of implementation of GST
- Sales made prior to GST but sales return under GST regime
- Goods and services taxable at different rate(s) under pre and post GST regime
- Pending refund claims, litigations, assessments prior to GST
Creating awareness / imparting training or education on GST

Transitory Provisions

Taxable Event in GST: The term ‘supply’ has not been defined in the Constitution Amendment Bill.

Advance Ruling
OPPORTUNITY FOR CS & OTHER PROFESSIONS

- Advisory /Support to Government
- Training to Corporate Staff
- Decision making functions such as market strategies, stock transfer etc.
- Registration of service tax in each State and cancellation of CST etc.
- Special Audit /Certification like non applicability, exemption etc.
- Helping the small business for composition scheme
- Impact on various sectors
“Law cannot stand still, it must change with the changing social concepts and value. If the law fails to respond to the needs of the changing society, then either it will stifle the growth of society and choke its progress”

P N Bhawati

• THANKS