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The GST Imbroglia in India: Political and Economic Costs

Political grand-standing on the alleged complicity of a Central Minister and two State Chief Ministers, all belonging to the ruling Bharatiya Janata Party, has stalled the passage of a reforms-linked Constitution Amendment Bill in India's Parliament. To salvage this bill, which is designed to introduce the General Sales Tax (GST) and create a uniform nationwide tax structure, the Narendra Modi Government is exploring various scenarios that might also address the concerns of some parties opposed to this measure. The popular focus, however, remains centred on the economic costs of political disruptions in India.

Vinod Rai¹

The entire political spectrum in India's Parliament has lost. The monsoon session of parliament commenced on the 21 July 2015. It was scheduled to last until 13 August. The legislative agenda included the consideration of 11 bills which were already pending, 9 new bills which were proposed to be introduced and 3 bills which were listed for withdrawal. The parliament did meet on all the scheduled days, but it is assessed that the Rajya Sabha or the Council of States (Upper House) did not function for 91% of its scheduled time, and the Lok Sabha or Council of the People (powerful Lower House), did not function for 52% of its

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scheduled time. It is not that the Houses do not have the capability to function effectively – in the Budget session earlier this year, the productivity was 100%.

The parliament is avowedly the most important pillar of democracy. It represents the will of the people and is meant to safeguard the interest of the common man through the legislators whom they elect to represent them. The legislature is constituted to make laws, the executive to implement them and be accountable to the legislature, while an independent judiciary is mandated to enforce and interpret the laws. The parliament is also tasked to deliberate on issues of critical importance to the country. Parliamentarians are not expected to disrupt proceedings or block the very functioning of parliament. In recent times, such disruptive behaviour has been frequently witnessed in India. The National Democratic Alliance (NDA) had resorted to such disruptive tactics in 2011, when the entire winter session got wiped out. The United Progressive Alliance (UPA) now seems to be paying the NDA back in the same coin without considering the heavy toll it is taking on the nation or the economy. Such a tit-for-tat trend will only worsen the quality of democracy in the country. Elders on both sides need to play the role of statesmen and stop such pursuits of strident agenda.

Background

The opposition Congress Party in the UPA, with 44 members in the Lok Sabha, has now sought to settle scores with the ruling Bharatiya Janata Party in the NDA. The Congress Members of Parliament (MPs) did manage to muster support among the opposition ranks on the one-point agenda that the External Affairs Minister (EAM), Sushma Swaraj, and the Chief Minister of Rajasthan (state or province), Vasundhara Raje, both BJP leaders, must resign and face an inquiry for their alleged roles in variously assisting Lalit Modi, who is being accused of financial irregularities in the conduct of the Indian Premier League (IPL) cricket tournaments. At another level, the Congress MPs sought the resignation of the Chief Minister of Madhya Pradesh, Shivraj Singh Chouhan, also a BJP leader, for his alleged cover-up of the *Vyapam* scam in public education, a widely-reported scandal in the conduct of selection-level public examinations. The position of these MPs was non-negotiable: first seeking the resignations of these BJP leaders, and only then permitting any parliamentary discussion on any issue. No amount of pleadings from the Treasury benches to come forward for a discussion, not even a statement by the EAM, found favour with the opposition MPs. On the other hand, the government, it is alleged, did not reach out to the opposition parties

with any degree of flexibility in its approach. This is said to have caused the logjam. Some constituent parties in the opposition camp, especially the Samajwadi Party led by Mulayam Singh Yadav, was getting frustrated at the disruptions of the proceedings, and made a couple of statements to end the logjam. However, the Lok Sabha Speaker's suspension of 25 Congress Party MPs for repeatedly disrupting the House, rejuvenated a tiring opposition, and the demand for resignations gained momentum. It is not that suspensions had not been ordered earlier. There has been a history of suspensions of MPs from 1989.

Under Rule 373 of parliamentary procedures, the Speaker can ask a member to withdraw from the House for disorderly behaviour. Such withdrawal is for the remainder of the day's proceedings. Under Rule 374A, a member, on being named, stands suspended from the House for five days. Incidentally, the Rajya Sabha Chairman has no such power of suspending members. Under Rule 255, the Chairman can name a member who merely has to withdraw from the Upper House just for that day. For disorderly behaviour in the Upper House, the Chairman can name a member, but the House has to adopt a motion to suspend that person.

Legislative Agenda

The disrupted parliamentary session was, inter alia, expected to pass two very important bills. One related to land acquisition, and the other was the constitutional amendment bill to introduce the Goods and Services Tax (GST) for the purpose of a unified taxation structure in the country. The National Council of Applied Economic Research (NCAER) and the 13th Finance Commission had carried out a study to analyse the likely impact of the proposed countrywide GST on India's growth and on its international trade. The study showed that India's GDP would grow in the range of 1% to 1.9% as a result of GST. Later-day assessments have in fact pegged this figure at 2%. As designed, the GST will subsume several taxes now levied at the union (federal) and state (provincial) levels, and create a pan-India composite tax regime. It is expected to capture value-addition at each stage over the supply chain to ensure that a cascading tax structure is avoided, thereby reducing the cost of production.

Cost Computation of a Session Washed Out

Serious public concerns have been voiced over the productivity of parliamentarians and the loss to the exchequer when business is not transacted due to disruptions. These concerns go beyond a few or stray incidents of disruption and cover the issue of a whole session getting wiped out as did the monsoon session now. The Policy Research Studies (PRS), a non-profit organisation which conducts research to make the legislative process better, has computed that the functioning of the Lok Sabha for one hour costs the national exchequer about Rs 15 million, whereas an hour's session of the Rajya Sabha costs Rs 11 million. Thus, the entire session would have cost the exchequer Rupees 2.6 billion (Rs 260 crores, approx. US\$ 40 million). The official estimated cost of serving both the Houses is put at Rs 250,000 per minute. India can ill-afford such wastage or unproductive application of its scarce resources. The more critical factor is the financial loss to the nation when the session gets washed out, as now, without any business being transacted, given especially that the intended parliamentary business would have in fact mobilised new resources.

Present Concern

The more immediate concern is how the Constitution Amendment Bill, designed to introduce the GST, will be enacted in time for the targeted date of implementation, 1 April 2016. A Constitution Amendment Bill requires to be passed by not less than a majority of the total membership of each House and by a two-thirds majority of those present and voting in that House. The GST Bill has also got to be ratified by half the number of state legislatures, followed by the passage of three enabling legislations, one at the Centre and two by the states. This Bill has been passed by the Lok Sabha, but since the Congress has 68 MPs in the Rajya Sabha, the party has been able to block its passage in that House. The government has been sounding out political parties over scheduling a special two-day session of parliament, probably in September, ahead of the elections in Bihar state. The plan is to seek the support of some opposition parties, and when the government is sure of being able to muster two-thirds majority in Rajya Sabha, the Cabinet Committee on Political Affairs would be convened to fix the date for a special sitting of parliament. That is why the monsoon session of parliament has not been prorogued. It is to retain the option of convening a special sitting at short notice. The overall plan is to get the bill passed by the Rajya Sabha, by incorporating some of the amendments suggested by the opposition, and then have it cleared by the Lok

Sabha in its new form in the proposed special session. Meanwhile, attempts are being made by the government to reach out to the political parties to win their support for the bill. There is an indication that Prime Minister Narendra Modi may have solicited the support of the All India Anna Dravida Munnetra Kazhagam (AIADMK) when he met its leader and Tamil Nadu Chief Minister J Jayalalithaa in Chennai recently. The AIADMK, with 11 members in the Rajya Sabha, had initially showed reluctance to support the bill, as Tamil Nadu is a manufacturing state. The Modi Government is understood to have offered to address Tamil Nadu's concerns. The Congress, despite having piloted the GST Bill in 2006, now wants at least three amendments, the main demand being the capping of the tax rate at 18%. The Janata Dal (United), which has a membership of 12 in the Upper House, has not made its stand clear, as this is written. The other major parties are amenable to supporting the Bill.

The Way Ahead

The current strength of the Rajya Sabha is 244; so, 163 members will constitute a two-thirds majority if all the members are present and voting. Presently, 156 members support the GST Bill. So it requires 7 additional votes to pass the Bill. [Congress with 68, Left with 10 and AIADMK with 11, are opposed to the Bill]. The government is working on one of the following scenarios:

1. In case the Left votes for the GST Bill it would be passed by three votes, but the rules of procedure mandate that the House needs to be in 'order' (with no disruptions of the proceeding by those opposed to this bill and/or by those with other concerns) when this (or any other) constitutional amendment is being voted on. The Left has supported the Bill in the Lok Sabha.
2. The concerns of the AIADMK are satisfactorily addressed and it comes on board; then the GST Bill gets passed by 4 votes. Alternatively, the AIADMK MPs stage a walkout from the Rajya Sabha, reducing the strength of those present and voting to 233. Two-thirds of that is 156 – the Bill may then just scrape through. This is considered rather risky.
3. The government persuades more than one party, not inclined to vote in favour of the bill, to stage a walkout during the voting; in this scenario, the bill is likely to get the requisite two-thirds majority among those present and voting. This is a tactic which has been resorted to in

the past. The opposing MPs register their protest by walking out, but this would allow the passage of the legislation.

Much has been said about convening a Joint Session of the two Houses of Parliament to pass this constitutional amendment; but this option can be exercised only after a bill, passed by any one House, is rejected by the other, that too only after a period of 180 parliamentary working days (i.e. days when parliament sits in session) from the date of submission of the bill to the House concerned. Such a situation has not arisen as yet, for convening a joint session. In the past, the Dowry Prohibition Bill (in 1960), the Banking Services Repeal Bill (in 1977) and the Prevention of Terrorism Bill (in 2002) were passed in joint sittings of both Houses.

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