

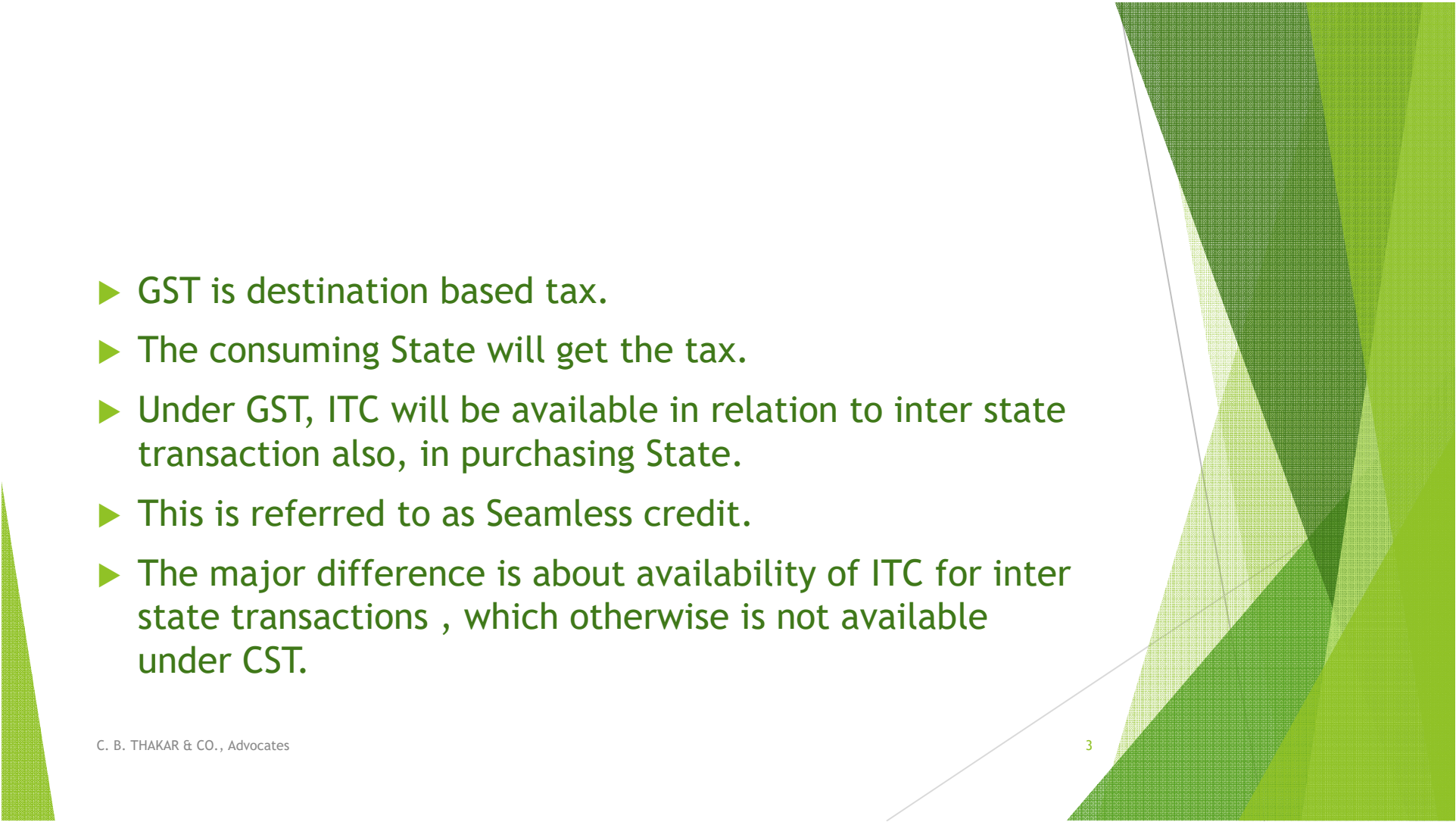
Critical issues arising in transition from VAT To GST.

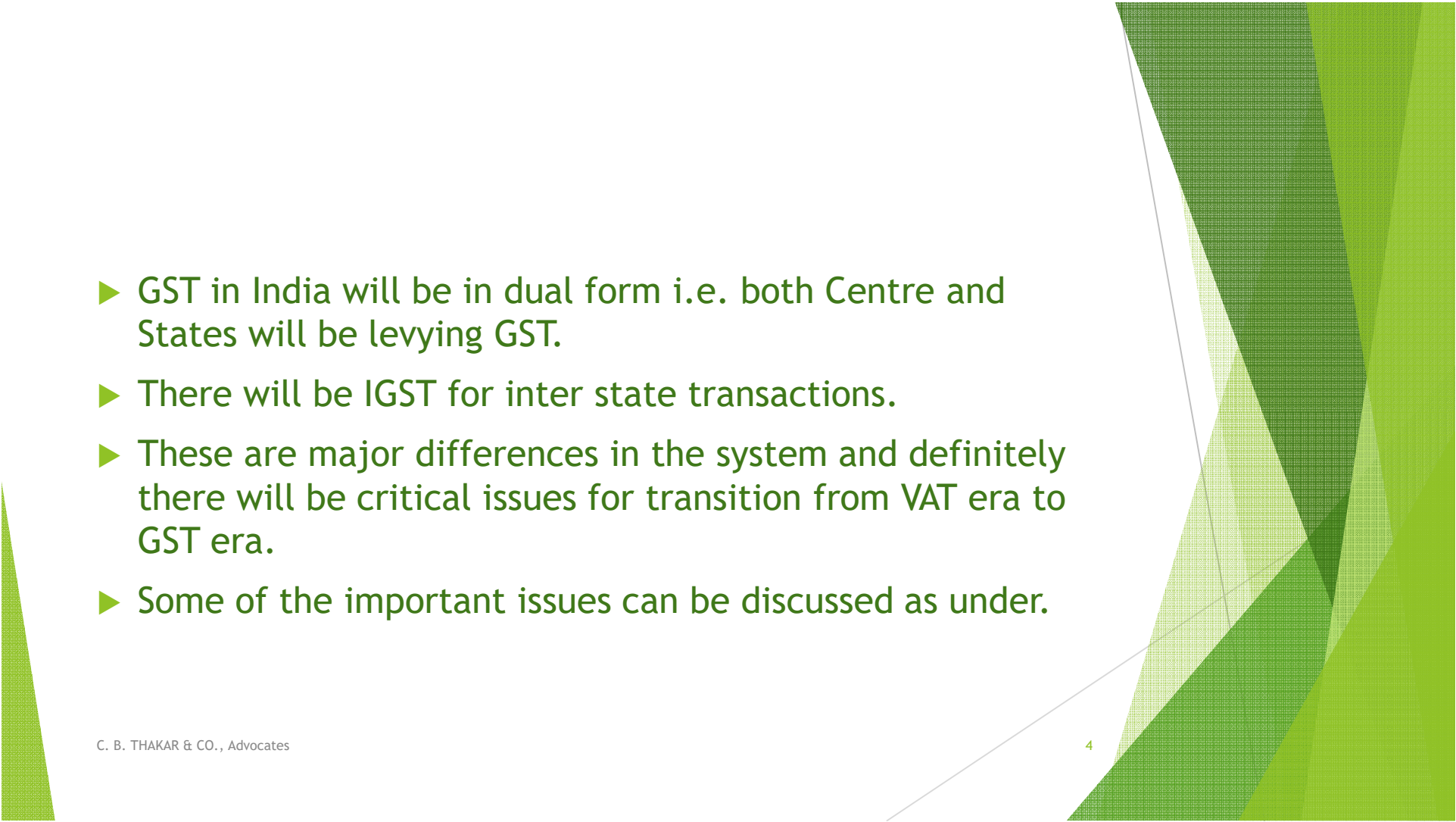
By Adv C. B. THAKAR

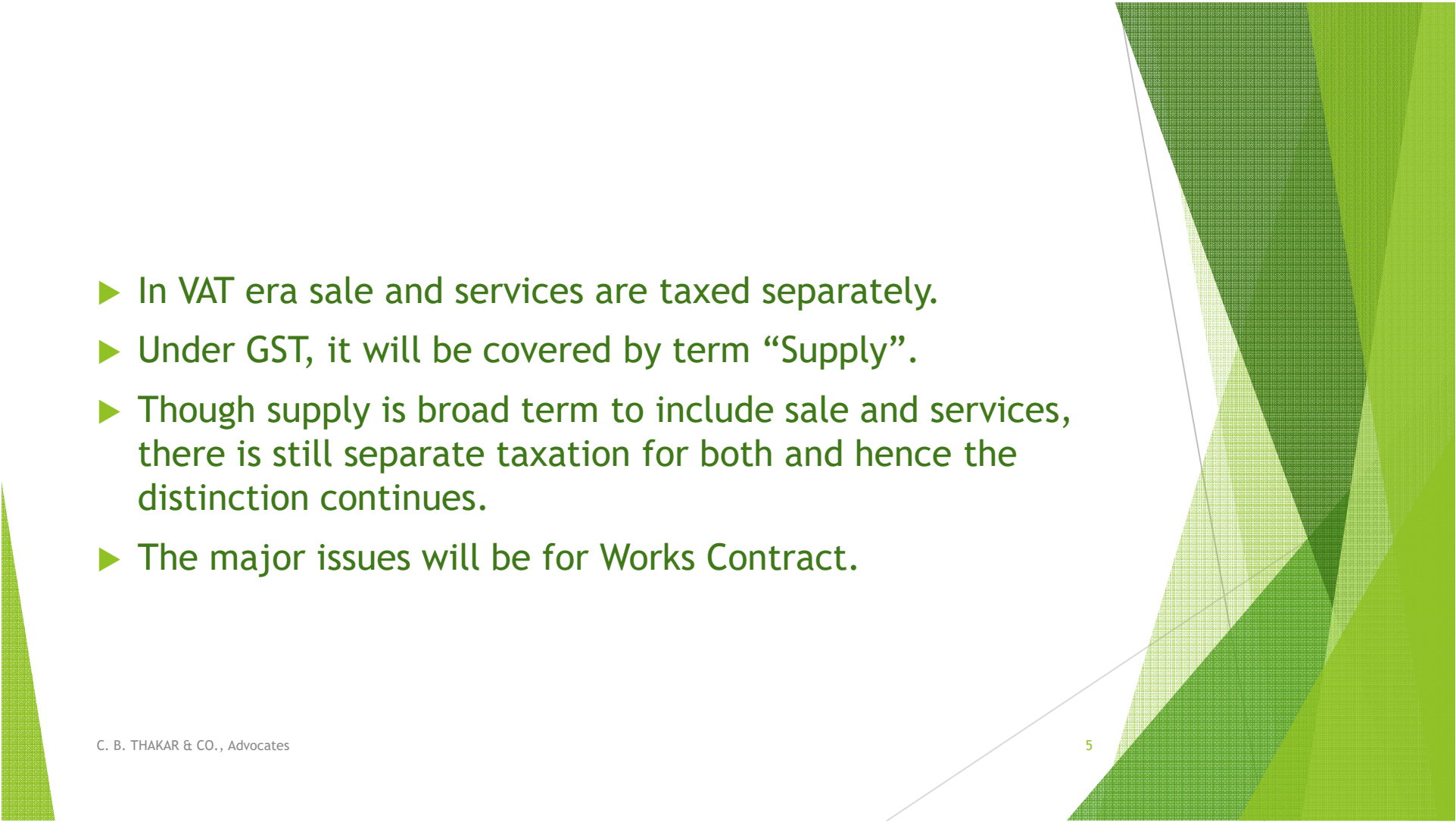
C. B. THAKAR & CO., Advocates

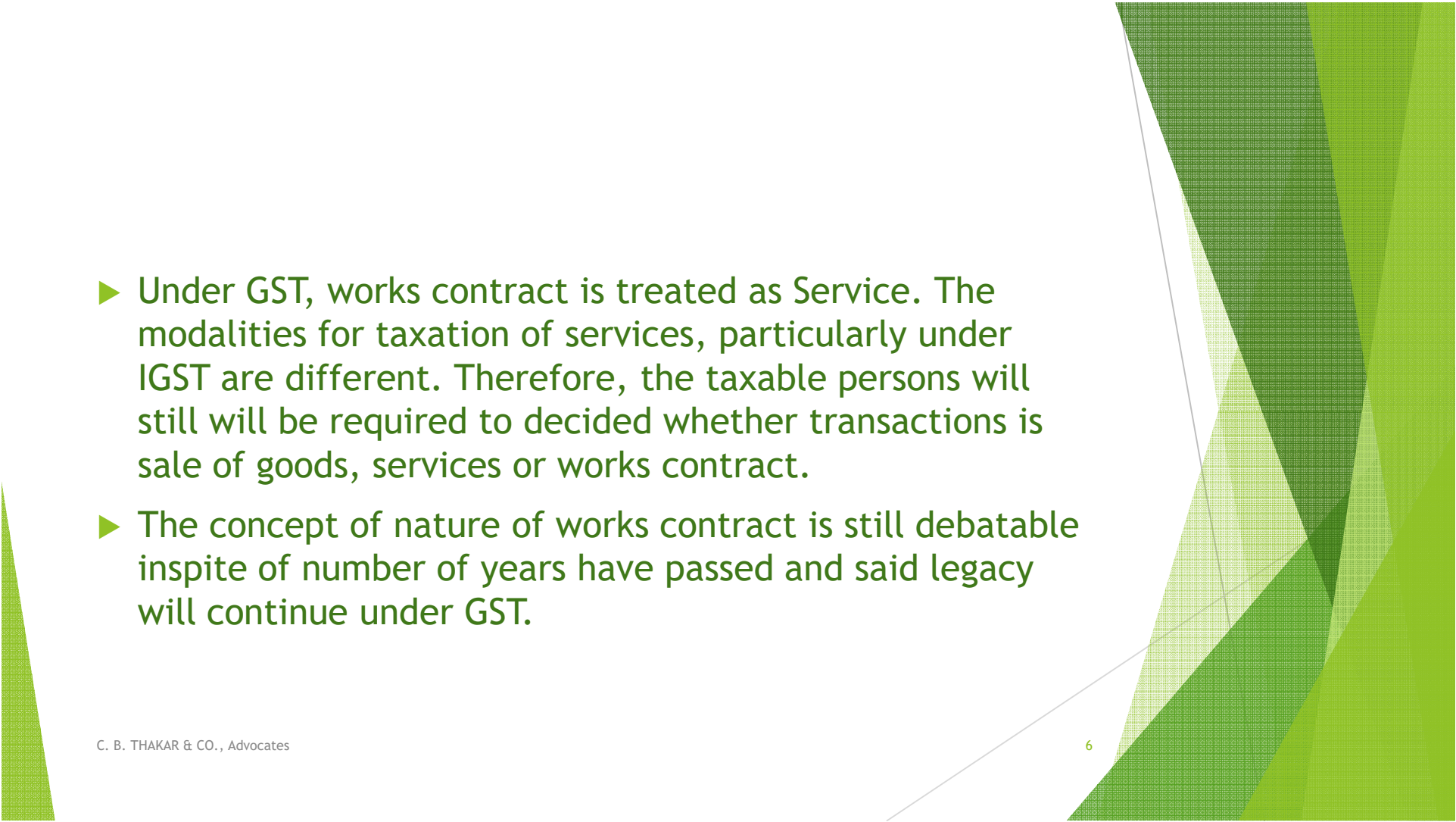
VAT and GST are based on principle of avoiding cascading effect

- ▶ In VAT era there is also existence of CST.
- ▶ VAT and CST, both are origin based tax.
- ▶ The selling State get the tax.
- ▶ The only demerit of this system is about non availability of ITC for CST.

- 
- ▶ GST is destination based tax.
 - ▶ The consuming State will get the tax.
 - ▶ Under GST, ITC will be available in relation to inter state transaction also, in purchasing State.
 - ▶ This is referred to as Seamless credit.
 - ▶ The major difference is about availability of ITC for inter state transactions , which otherwise is not available under CST.

- 
- ▶ GST in India will be in dual form i.e. both Centre and States will be levying GST.
 - ▶ There will be IGST for inter state transactions.
 - ▶ These are major differences in the system and definitely there will be critical issues for transition from VAT era to GST era.
 - ▶ Some of the important issues can be discussed as under.

- 
- ▶ In VAT era sale and services are taxed separately.
 - ▶ Under GST, it will be covered by term “Supply”.
 - ▶ Though supply is broad term to include sale and services, there is still separate taxation for both and hence the distinction continues.
 - ▶ The major issues will be for Works Contract.

- 
- ▶ Under GST, works contract is treated as Service. The modalities for taxation of services, particularly under IGST are different. Therefore, the taxable persons will still will be required to decided whether transactions is sale of goods, services or works contract.
 - ▶ The concept of nature of works contract is still debatable inspite of number of years have passed and said legacy will continue under GST.

- ▶ The scope of “Supply” is wider as compared to VAT.
- ▶ The transactions without consideration are also included.
- ▶ Interpretation issues may arise.
- ▶ Registration : State wise turnover is disregarded.
- ▶ Consideration : Concept of money is given go by.
- ▶ Concept of actual price (**Rajasthan Chemists Association (147 STC 542 (SC))** becomes irrelevant.
- ▶ Even transactions of barter are also supply.
- ▶ Valuation aspects introduced.

- The burning topic whether transaction is Works Contract or Sale or Service, still continue under the GST, which should have been resolved.

ITC

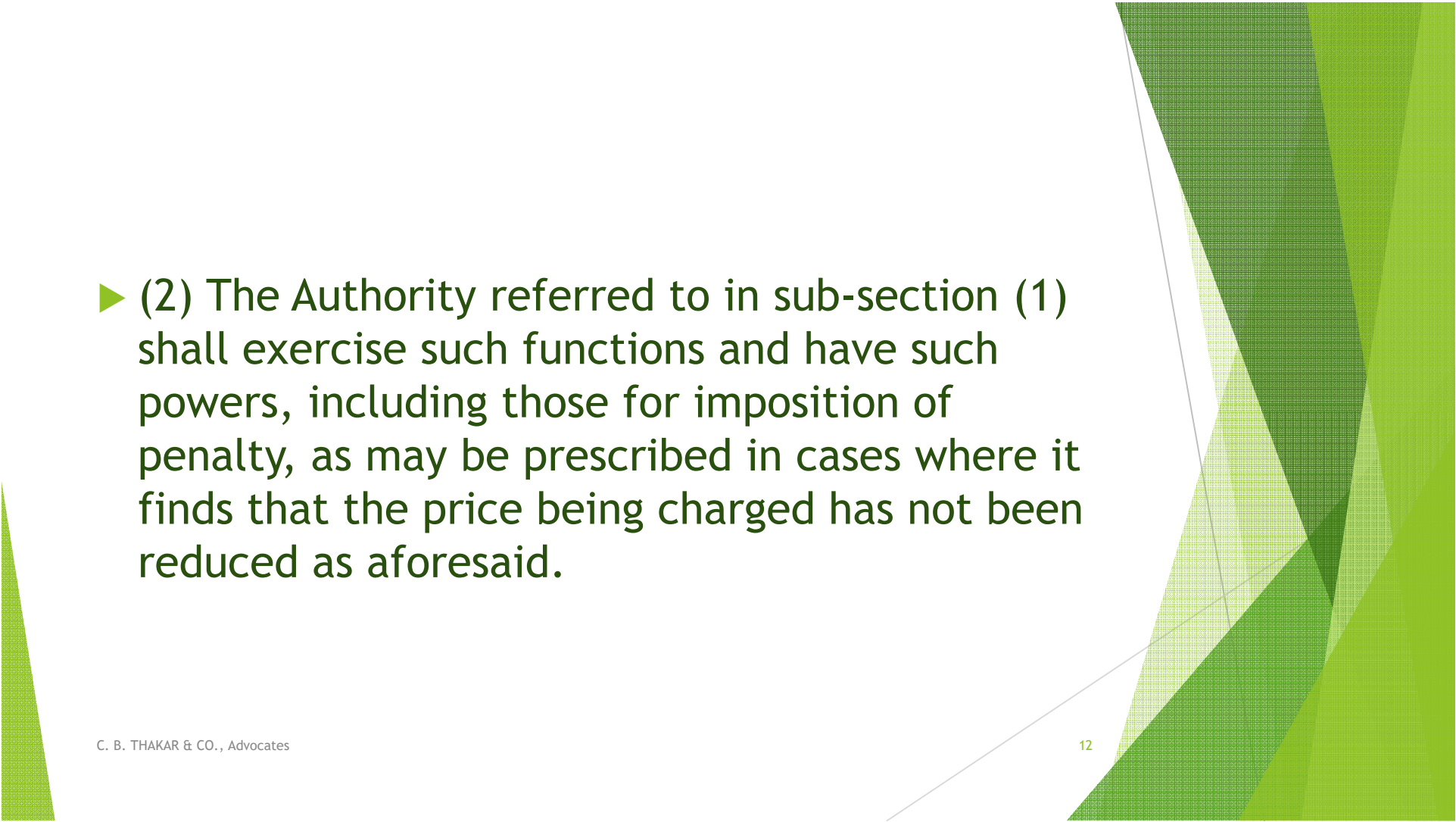
- ▶ Compared to VAT, conditions for grant of ITC under GST made stringent.
- ▶ The burden about receipts of Goods and Services put on taxable person.
- ▶ It will be difficult to comply, may require elaborate stock records with supporting.
- ▶ The issue will be more difficult for services.
- ▶ Disallowances proposed on assumption basis which will create difficulty in assessment.

- ▶ Inter State versus Intra State.
- ▶ The concept of available today as per Section 4(2) of CST Act will not be applicable.
- ▶ New criteria set as per section 7 of IGST.
- ▶ Interpretation vis-à-vis facts will arise.

Unexpected ideology

Anti-profiteering Measure- Section 163

- ▶ (1) The Central Government may by law constitute an Authority, or entrust an existing Authority constituted under any law, to examine whether input tax credits availed by any registered taxable person or the reduction in the price on account of any reduction in the tax rate have actually resulted in a commensurate reduction in the price of the said goods and/or services supplied by him.

- 
- ▶ (2) The Authority referred to in sub-section (1) shall exercise such functions and have such powers, including those for imposition of penalty, as may be prescribed in cases where it finds that the price being charged has not been reduced as aforesaid.

Thank You

C. B. THAKAR & CO., Advocates