Ushering in a New Era of Tax Reforms

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The present Government from its very inception has shown its commitment to tackle the menace of black money. The very first decision of the present Government after taking over in May 2014 was to set-up a Special Investigation Team (SIT) headed by the Hon'ble Mr. Justice M.B. Shah, former Judge of the Supreme Court as Chairman and Hon'ble Mr. Justice Arijit Pasayat, former Judge as Vice Chairman. The constitution of Special Investigating Team (SIT) was approved by the Union Cabinet in its First Meeting to implement the decision of the Hon'ble Supreme Court on large amounts of money stashed abroad by evading taxes or generated through unlawful activities.

The SIT has since then given its various reports to unearth black money and undisclosed assets beside suggesting/recommending various other measures to that effect. Many SIT recommendations have been already accepted by the Government such as mandatory quoting of PAN for cash transactions etc.

Another major step undertaken by the present Government to unearth black money from domestic market was the Income Declaration Scheme (IDS)-2016 which was a huge success. This Scheme was the latest initiative of the Government of India to tackle the menace of domestic black money. It was announced by the Union Finance Minister in his Budget Speech of 2016. Accordingly, the Government had formally launched the Income Declaration Scheme (IDS) 2016 from 1st June, 2016 which was kept open for four months i.e. till 30th September, 2016. It provided an opportunity to persons who had not paid full taxes in the past to come forward and declare their domestic undisclosed income and assets. Declarations could have been made online as well in printed copies of the prescribed form up to the midnight on 30th September, 2016.

Under IDS-2016, 64275 declarations were filed upto the midnight of 30th September, 2016 with an aggregate of Rs.65,250 crore worth of hitherto undeclared incomes in the form of cash and other assets being declared. With the final stock taking of declarations being filed in physical printed forms all over the country, this number is likely to be further revised upwards.

The response to the Scheme was much higher than the expectations of the tax experts and others. Under IDS-2016, the declarer had to pay 45 per cent tax on the declarations made which include a penalty of 15 per cent.

Before that, the Government had brought a Scheme i.e. Undisclosed Foreign Income and Assets and

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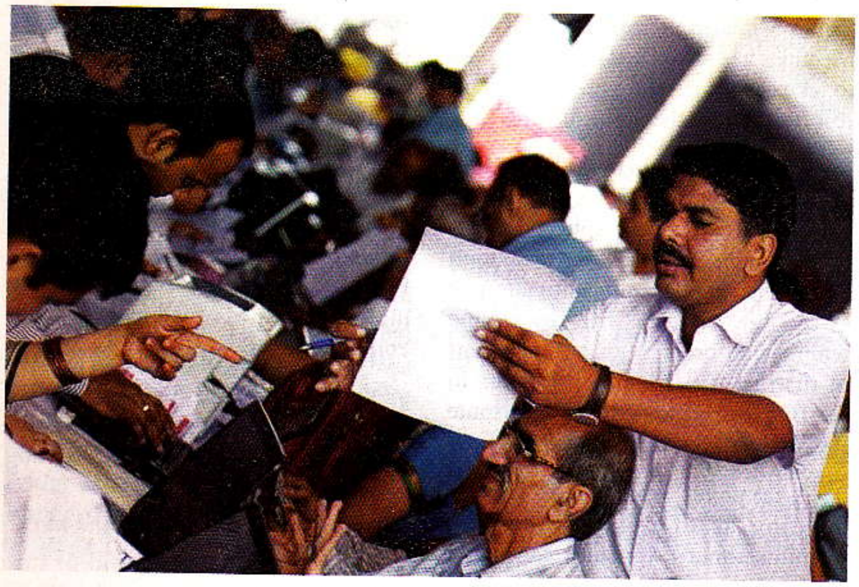
Imposition of Tax Act, 2015 to unearth the black stashed outside the country. The Act provided for one time compliance window to declare assets held abroad and pay due taxes and penalty on the value of assets declared. The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 came into force with effect from 1st July, 2015.

A total of 644 declarations were made under the compliance window provided in the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.The amount involved in these 644 declarations was 4,164 crores. The declarants were liable to pay tax at the rate of 30 per cent and a like amount of 30 per cent by way of penalty on the value of assets declared, by 31st December, 2015. The amount received by way of tax and penalty upto 31st December, 2015 is Rs 2,428.4 crore. The shortfall was primarily on account of certain declarations, in respect of which, there was prior information under the provisions of Double Taxation Avoidance Agreements (DTAAs)/Tax Information Exchange Agreements (TIEAs) or receipt of payment after 31st December, 2015. Other major steps taken by the Government to tackle black money include making tax crimes predicate offence under PMLA; amendment of FEMA to provide for confiscation of domestic assets in place of foreign assets; enactment of Black Money Law and Amendment to Benami Act among others.

Besides above, various international treaties were signed for exchange of information about tax evasion and undisclosed assets including signing of FATCA with USA; amendment of Mauritius Treaty; Initiative for signing of Automatic Exchange of Information Treaty with all major countries including Switzerland, initiatives under BEPS (Based Erosion and Profit Sharing) such as country by country reporting, PoEM (Place of Effective Management) etc.

An assessment of Rs.8000 crore in HSBC cases as well as filing of 164 prosecution complaints in 175 HSBC cases; detection of Rs.5, 000 crores of undisclosed deposits in foreign accounts made out of ICIJ cases, 55 prosecution cases filed in those cases; big investigation in Panama cases has led to 250 references being made to other countries asking for details about tax evaders and bank accounts among others The quantum jump in the searches and survey has resulted in seizure of Rs.1986 crores as well as undisclosed income of Rs.56, 378 crore in the last two and half years. The upgradation of IT capabilities has led to non-intrusive methods of detection of tax evasion. Rs.16, 000 crores received as tax out of one such system of Non-filers of Monitoring System (NMS). 3626 cases of prosecution and compounding in the last two and half years which is more than double as compared to previous two years.



Income Tax: Direct Tax for the Comman Man

The effort of the Government is to widen the tax base by including maximum people who are liable to pay the taxes under its tax net and make the people tax compliant by making payment of due taxes in time. This will not only increase the revenue collections of the Government, but would also help in bringing down the tax rates to a reasonable level.

Other major tax initiatives in case of Direct Taxes undertaken by the Government include reversal of retrospective tax laws, increase in the threshold limit for filing appeals by the Income Tax Department and making the tax laws simpler and transparent so that more and more people become tax compliant. The efforts of the Government is to widen the tax base by including maximum people who are liable to pay the taxes under its tax net and make the people tax compliant by making payment of due taxes in time. This will not only increase the revenue collections of the Government, but would also help in bringing down the tax rates to a reasonable level. The Government focuses to provide maximum tax based services online so that there is minimum human interaction i.e., Minimum Government, Maximum Governance. This will bring down not only corruption, but would also bring more transparency and efficiency in the tax system. Accordingly, to prevent undue harassment, the Income Tax Department is also focusing on electronic based communication with the tax payers at large. Providing a fair environment to not only corporate but individual taxpayers seems to be the key focus of the Government. The

Prime Minister in various PRAGATI Meetings had also asked the tax officials to take care of pending grievances and resolve them at the earliest.

Similarly, in a bid to settle pending tax disputes with companies, the Union Budget 2016-17 also announced a one-time settlement window for resolution of tax disputes. Terming litigation as a "scourge" for a tax friendly regime which also creates an environment of distrust, the Finance Minister in the Budget had announced a Dispute Resolution Scheme (DRS).

A taxpayer who has an appeal pending as of today before the Commissioner (Appeals) can settle his case by paying the disputed tax and interest up to the date of assessment, the Finance Minister had announced. The Scheme, which is currently open, allows for no penalty in respect of Income-tax cases with disputed tax up to Rs 10 lakh will be levied. A penalty of up to 25 per cent of the minimum imposable penalty on cases with disputed tax exceeding Rs 10 lakh will be imposed for both direct and indirect tax cases. Any pending appeal against a penalty order can also be settled by paying 25 per cent of the minimum of the impossible penalty.

Domestic and foreign investors are also gaining comfort from the Government's attempt to have transparent tax policies and its efforts to reach out and discuss all policy changes.

A case in point, for instance, was the plugging of the tax loophole with Mauritius. India and Mauritius amended the double Tax Avoidance Agreement in May this year, which allowed India to levy capital gains tax from the sale of shares of an Indian company from April 1, 2017 onwards. Soon after the announcement, the Finance Ministry swung into action and met with foreign institutional investors as well as domestic companies to clarify their doubts.

It also announced its intent to plug similar tax loopholes with other countries such as Singapore and the grandfathering period till April next year gave investors the opportunity to transition smoothly into the new tax environment.

Another area of tax reforms includes the field of Corporate Tax. India, companies are also looking forward to Budget 2017-18 when the Finance Minister is expected to throw more light on his roadmap to lower corporate taxes.

In Budget 2015-16, the Finance Minister had announced a plan to lower the corporate tax rate from the existing 30 per cent to 25 per cent over a four year period, which would be in line with the rates of other Asian countries and enhance India's competitiveness as an investment destination. This would, in turn, be done with an elimination of incentives to companies.

The GST, which is seen as the most ambitious and most significant tax reform in the history of indirect tax laws, would subsume not only the Union Levies including the Central Excise Duty, Service Tax etc, but also the State Level levies such as Value Added Tax, Octroi, Entry Tax, Purchase Tax and Entertainment Tax among others. It is the culmination of efforts of over 13 years by the successive Central and State Governments to reach the present level.

As far as tax reforms in the field of Indirect Taxes are concerned, the historical tax reform being undertaken by the present Government as a challenge is the Goods and Services Tax (GST), which is at present under the process of implementation. The Government has decided to implement this law with effect from 1st April, 2017. The Economic Survey 2015-16 had termed GST as a reforms measure "perhaps unprecedented in the modern global tax history." In fact, this is the result of the present Government's strenuous efforts to carry every political party on board and get the 122nd Constitution Amendment Bill passed by both the Houses of Parliament unanimously in the first week of August this year during the last Monsoon Session. This Constitution Amendment Bill was stuck for the last more than ten years I.e. since 2006, in the Parliament for one reason or the other.

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The Union Finance Minister who chairs the GST Council that includes State Finance Ministers as its members, has set a target date of 22nd November 2016 to finalise all the modalities of the tax, including the model legislation and the crucial rates for the tax.

In the last two meetings held on 22nd, 23rd and 30th September, 2016, the GST Council has already decided on issues including the threshold for businesses on which GST would be levied, the Draft Business Rules, the future of Area Based Exemptions as well as control over small businesses among others.

Businesses with an annual turnover of up to Rs 10 lakh in North Eastern States and upto Rs 20 lakh in other States will be exempted from GST. On the issue of administrative control, States will have the sole control over manufacturing businesses with an annual turnover of up to Rs.1.5 crore. For those above the threshold, there will be an element of dual control and either the State or Centre will have control over the businesses based on the risk assessment.

Some analysts have however, pointed out certain concerns with regard to the implementation of GST from April next year. One such concern is that certain number of items are exempt from the tax, e.g., petroleum and petroleum products and electricity will not be under GST. States and the Centre will continue to levy taxes on them.

However, a pragmatic approach will allow the Centre and States to reach a consensus on issues easily, and allow for the timely roll-out of GST.

Notwithstanding these concerns, the Centre is hopeful that the model Bills for Central GST, State GST and Integrated GST will be finalized by next month i.e. November, 2016 and can be passed by the Parliament and respective State Assemblies during their respective Winter Sessions before the end of December, 2016.

Simultaneously, the work on IT infrastructure for GST – GST Network (GSTN) that will provide a common system to States, Centre and taxpayers, is almost complete. Working of GST Network will be tested in January and February next year.

The GST Law is being keenly awaited by domestic and foreign investors as well as global rating agencies have, as it would promote Ease of Doing Business and cut down on internal tariff barriers put-up by each State Government. The Government expects that it would give a boost to the country's ranking in the Ease of Doing Business Report, where it is currently placed at 130 out of 189 countries. The Prime Minister hopes to bring India amongst the top 50 countries on the rankings.

The International Monetary Fund (IMF) in its recent World Economic Outlook had said that the advent of GST would boost India's medium term growth prospects. Noting that it is positive for trade and investment, the IMF report said, "This tax reform and the elimination of poorly targeted subsidies are needed to widen the revenue base and expand the fiscal envelope to support investment in infrastructure, education and healthcare."

The Union Finance Minister said during his recent visit to Washington in October 2016 that structural reforms like GST can only add to India's growth prospects. The IMF and the World Bank have pegged India's growth rate to 7.6 per cent in the next two years.

As per various estimates, GST will boost revenue collections by plugging leakages and evasion and will have the potential to boost the country's gross domestic product by as much as 2 per cent.

Thus, this overall gamut of large scale tax reforms both in case of Direct and Indirect taxes will go a long way in making India one of the fastest growing emerging economy in the world with a tax friendly base. ❑

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