

WHY A SIMPLIFIED TAX REGIME IS THE NEED OF THE HOUR

Relevant for: Indian Economy | Topic: Issues relating to Growth & Development - Public Finance, Taxation & Black Money incl. Government Budgeting

Four years ago, Indonesian finance minister Mulyani Indrawati had invited captains of industry and CEOs to banquets. As they would be having sumptuous meals, she reportedly would give presentations listing out who among them had — and, by omission, who had not — signed up to the tax amnesty offered by the government.

This is unthinkable in [India](#), which has announced a new [tax amnesty scheme](#), ‘Vivad Se Vishwas’ — literally, ‘from dispute to trust’ — which offers some tax forbearance in return for revenue, and an assurance to end litigation. Unlike a blanket tax amnesty, this scheme is open only to tax assesseees who have contested their dues in assorted tribunals. The taxpayer would have to pay the full amount of the disputed tax in return for a complete waiver of interest and penalty, if she opts for the scheme before the end of this fiscal.

This was the original proposal. Last week, the Cabinet approved some changes to make the scheme more attractive to taxpayers. So, in cases where a taxpayer has won earlier in a lower forum, and the department is in appeal, she will have to pay half the disputed amount.

Tweaks such as these are pragmatic to clear up the existing mess in disputed tax claims that reached a staggering Rs 9.32 lakh crore at the end of January 2019, almost close to the actual direct tax collections in 2018-19.

Expectations are that the new scheme will work better than similar schemes earlier, given the kind of cases that are in appeal. Disputed claims include cash deposits made by individuals during demonetisation announced on November 8, 2016.

The scrutiny of cash deposits of over Rs 5 lakh that came into the banking system may have unearthed unaccounted incomes, unless proven otherwise by the depositor, as the burden of proof rests on her. Many of these assessments are in appeal.

Penny Foolish

There are also legacy cases relating to penny stocks — alleged manipulation in their stock prices to convert black money into white. These are questions of fact, and the taxpayer would prefer a one-time settlement if she does not have a strong case, reckons Akhilesh Ranjan, former member of the Central Board of Direct Taxes (CBDT).

Tax claims on large public sector undertakings (PSUs) are locked up in appeals. Will PSUs be nudged to opt for the scheme? If they are independently convinced, it could yield significant revenues for the government. Technically, Vodafone and Cairn Energy, too, can settle their tax dispute with Gol under the new scheme. Doubts are being raised as they had earlier rejected a similar offer and, instead, sought to settle the dispute through international arbitration proceedings that are in the final stages now.

Even as tax officers burn the midnight oil to prepare the list of eligible cases, it is clear that India needs a system overhaul to prevent a build-up of arrears, which are, for the most part, nothing but disputed claims. Ambiguity in the tax law leads to varying interpretations and breeds litigation, pushing taxpayers to contest assessment orders, thereby delaying legitimate dues to

the exchequer.

Sure, there cannot be any justification for being soft on those who don't pay their taxes. But coercing taxpayers to pay up even though, in principle, taxes may not be due, leads to mistrust between the taxpayer and tax authorities. A negotiated settlement via mediation — between the taxpayer and CBDT — is a sensible way to resolve disputes without moving courts.

Appointing neutral mediators, chosen from a panel to negotiate, and to arrive at a settlement that should be binding on both sides, make sense. Dispute prevention must be the goal. Here, India's advance pricing arrangement programme, a pact between a taxpayer and the tax authority to compute transfer prices, in advance, for transactions within a group company has worked fairly well. So have advance rulings.

Nevertheless, tax officers should resist making high-pitched assessments in their zeal to meet collection targets. They often err on the side of revenue to pre-empt any subsequent charge — by enforcement agencies such as the Central Bureau of Investigation (CBI) — of wrongdoing. The exercise could be frivolous. Just as with bankers, the culture of viewing decisions taken by tax officials with suspicion must be abjured.

A complex tax law makes compliance more difficult for taxpayers who want to comply, and easier for those who want to evade. In either case, it leads to non-compliance and erosion of the tax base. In addition, complex laws raise the cost of compliance. Empirical evidence suggests that itemised deductions, as opposed to standard deductions, push up compliance costs.

Similarly, according to a panel appointed to rewrite the tax law chaired by former CBDT member Arbind Modi, complex tax laws also raise the burden of tax administration by increasing the cost of auditing and litigation.

Make It Clear

Tax rules must be clear-cut if the govt wants to lower tax arrears. Listed companies have no incentive really to hide their income, given that they want to maximise their market capitalisation.

The goods and services tax (GST), with its multiple audit trails, will broaden the base of direct taxes when data is mined, helping tap undisclosed incomes by individuals and businesses. Widening the base and a reform in the tax administration to induce tax collection, rather than wielding the bludgeon, is the best way to minimise disputes and avoid future tax amnesty schemes.

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