

# Good intentions are not enough, implementation is key

The Govt should regularly do a status check of the implementation status of schemes, and taxmen should be accommodative in their approach



**SHSHANK SAURAV**

**F**ormer President late Pranab Mukherjee had quoted Kautilya in his 2010 Budget speech highlighting the fact that financial prosperity depended on public affluence. Policy certainty is essential to bring financial prosperity to a nation and the ruling BJP promised this in its 2014 election manifesto. Bringing on board all State Governments for adopting the Goods and Services Tax (GST), addressing all their concerns, overhauling the dispute resolution mechanism and providing a non-adversarial and conducive tax environment were also part of the poll promise which the saffron party made in that election year.

To its credit, the Government made some notable structural reforms in the areas of indirect tax-

ation and insolvency cases. GST was the biggest-ever indirect tax reform in the country which helped in simplification and unification of the tax regime. As with all big changes, there were some teething problems in the implementation of GST but these were driven by shortcomings related to the information technology platform. Apart from this, the lackadaisical attitude of States regarding cracking down on tax evasion was coming from the fact that GST compensation was guaranteed by the Centre but the Coronavirus crisis changed the situation drastically. However, GST collection is increasing now after State Governments began taking action to check the revenue loss arising out of fake input tax credits.

Similarly, the Insolvency and Bankruptcy Code (IBC) was a major shift in policy towards dealing with the bad loan crisis plaguing the country. Various cases have been successfully resolved under the IBC framework but this will be put to a tougher test now because various entities are facing financial stress due to the ongoing pandemic.

However, the Government's

track record in dealing with litigation is not impressive. The NDA Government unveiled the Transparent Taxation Rights Charter for Taxpayers in its second term which shows good intent on its part. Prior to this, Finance Minister Arun Jaitley had proposed a Dispute Resolution Scheme (DRS) in 2016 to reduce tax litigation.

Though the infamous Vodafone retrospective tax amendment ghost which continues to haunt the Centre is a legacy issue, the Government's own record doesn't align with the promises made to taxpayers. Budgetary data show that direct tax collection has increased at a Compound Annual Growth Rate (CAGR) of 10 per cent, while the amount under dispute has increased at a CAGR of 15 per cent.

The disputed amount has increased from ₹3,40,985 crore in 2014 to ₹8,02,621 crore in 2020 while direct tax collection has increased from ₹7,35,271 crore in 2014 to ₹13,19,000 crore in 2020. Since 2020 was an exceptional year due to the outbreak, tax collections are likely to be significantly less than the budgeted numbers. Therefore, tax collection CAGR will go down

even further. The real estate sector is one of the largest employment-generating ones in the country and new arrangements keep evolving in it. The Joint Development Agreement (JDA) is one such arrangement in which a landowner enters into an agreement with the developer and the owner of the plot gets his share in the constructed property after completion. There are many cases where an agreement was made but the building is yet to be constructed due to reasons ranging from delay in getting necessary approvals to lack of funds and so on.

In a nutshell, the landowner gets nothing except for an agreement on a piece of paper till the time the building is completed. However, the tax department has raised demand, interest and levied penalty on such transactions. Thankfully, the Government bought an amendment in 2017 to ensure that the taxman could tax such transactions only after the completion certificate was received. This was the right decision. But if taxmen have raised demands on the JDA where the building is not yet completed then isn't it unjustified?

The Government's role is not

just limited to bringing about changes in laws. It must ensure that these changes are implemented correctly on the ground. It is right to chase and penalise tax evaders but, if raising tax demands on transactions which are not yet crystalised is not "tax terrorism" then perhaps Government officials should redefine this term as per their convenience.

The Government launched the ambitious 'Vivad se Vishwas' (VSV) scheme in the last Budget with the intent to unclog the judiciary and realise the money locked in litigation. The Central Board of Direct Taxes (CBDT) issued circulars for implementation of the scheme and the intent was to settle the disputes. But if field officers are not complying with the legislative intent to a large extent and many issues are not getting resolved, the Government is to be blamed squarely for this. Because it is not the bureaucracy who has to seek the mandate of the people every five years. And people see the faces of their elected representatives, not bureaucrats.

The VSV scheme had specified January 31, 2020, as the cut-off date for settlement of disputes. Successive

clarifications issued by the CBDT entitle a taxpayer to avail the scheme if the appeal period had not expired on January 31.

This means that the time to raise the dispute is still available in cases like tax orders not being served on the assessee or even if a delayed appeal is filed which is admitted by the tax department. However, many assesseees are allegedly awaiting communication from the department on the status of admission of their appeals. This is again a case of poor implementation of the well-intended scheme of faceless assessment/appeal.

A similar initiative called 'Sabka Vishwas' was launched in the previous year to settle indirect tax cases which received a lukewarm response. Though the Centre claimed that it had realised ₹39,000 crore from it, the Government received only around ₹15,000 crore because the rest of the amount was already pre-deposited by assesses. In a nutshell, this scheme was not a success despite desperate calls made by the Government to people to avail it. VSV is a good scheme but the Government had to reach out to Public Sector Undertakings (PSUs)

to file declarations under this scheme to avoid an embarrassing situation. If the mandarins sitting in the North Block didn't learn from the failure of Sabka Vishwas and now VSV, too, is going in the same direction, then the babus must be criticised for their myopic vision. There is no mechanism to take stock of how taxpayers' grievances are dealt with. If genuine issues are not resolved then people will approach courts with writ petitions. This will defeat the very purpose of such schemes.

Socio-political issues like farmers' agitation require use of political capital but resolving tax litigation and charting a clear path requires a vision and honest implementation on the ground. The road to a \$5 trillion-economy requires more than a noble intent and wishful thinking. The Government should regularly do a status check of the implementation status of schemes and laws and taxmen should be accommodative in their approach while implementing settlement schemes.

*(The writer is a Chartered Accountant and a public policy analyst. The views expressed are personal.)*