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India's Growth Story: Towards USD 5 Trillion Economy and Achieving Sustainable Development Goals



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The Government's all out continuous efforts to check on morality in business are though laudable but at the same time the ever evolving regulations and policies of government are putting the legitimate businesses on their toes as they are not able to keep pace with the same. To take grip on the reforms, the government is continuously trying to improvise on its policies but in the event some of the policies are so harsh that over a period of time the businessmen think of reconsidering their decision to remain in business. Notwithstanding these efforts and results there are certain pain areas that are not well addressed and unless attended to immediately they would disturb our economy a little more. For instance transforming business and businessmen to GST panorama is not an easy thing. That meant them to change their business practices. In Smt. Asha Gandhi vs. ITO ([2019\] 75 ITR \(Trib\) 36](#)) the Member left the following worth noting antidote while stating that no business is too small (Page 41-42): "...However, such an act would leave those impediments unaddressed which appear to pose serious obstacles and hindrance to the nation's goal to becoming a few trillion dollar economy...". There should be complete autonomy to all kinds of businesses as also do away with regulations and procedures that are adversely affecting business. It is very important that the corporate India partners with the government to be able to instrument new progressive reforms.

Business autonomy at crossroads

The frightening headlines

At a time when growth is slowing, productivity gains are fading and digital pressures are on the rise, the banking sector should urgently consider radical measures to strengthen profitability and boost returns, says the McKinsey's Global Banking Annual Review report. On India, the report said revenue growth within India's banking sector has dropped from 22% (2002-07) to 10.3% (2010-18).

-Financial Express

The 2019 Nobel Prize winner for economics Abhijit Banerjee today said the current crisis in the Indian banking sector is frightening and the public sector banking system in the country is paralysed because of fear of investigation. He said the government should be seriously thinking about reducing its equity share in PSBs below 50% so that the Central Vigilance Commission (CVC) does not regulate them.

-Business Line

The Perception

Recently I also had a reading of an order by a single member bench of Chandigarh Tribunal dealing with a case of a lady entrepreneur who in her small boutique business run from home contracted few tailors with whom she shared the revenues in 35:65 ratio. Consequently she declared her 35% share of cash receipt in her return. The case against her is of alleged discrepancies between the books and vouchers to which the explanations of the assessee were not believed. Thus harsh sections 68 and 115BE of the Income tax Act, 1961 invoked in this case.

From the reading of the order I got a flavour that the lady assessee wound up her operations in succeeding assessment year perhaps out of fears of compliance related responsibilities. Whereas the Authorized Representative (AR) of the assessee produced cash memos for test check the Department Representative (DR) insisted complete checking.

Reluctantly though, upon agreement between the two parties of either side the Honourable member went on to make a remand to ascertain whether on facts the cashbook reflected 35% of the amounts reflected in the vouchers on a particular day and further to that the honourable Member in *Smt. Asha Gandhi v. ITO [2019] 109 taxmann.com 153 (Chd. - Trib.)* left the following worth noting antidote while stating that no business is too small (Page 41-42):

"As Noted, the learned authorized representative has offered to demonstrate the assessee's claim on a test check basis. The said offer has been declined by the learned senior Departmental representative at this stage and the parties have agreed that the issue may be remanded back for carrying out the said exercise. Accordingly, considering this factual background ,I am of the view that a remand is necessitated.

The issue thus could well be concluded by making an appropriate direction to the said effect as it would adequately address the issue in terms of the pronouncement made at the time of hearing. However, such an act would leave those impediments unaddressed which appear to pose serious obstacles and hindrance to the nation's goal to becoming a five trillion dollar economy.

Accordingly, encouraged and inspired by the laudable aim and conscious of the nature the jurisdiction which predicates that the Tribunal shall approach and decide every case in a judicial spirit with irrefutable reasoning and to "pass such order as thinks fit". In view thereof, I deem it necessary, drawing on my experience as a dispenser of justice to offer certain constructive suggestions consistent with the rendering of justice on the facts of the case which trigger the imperative need for making the following suggestions which I believe shall inject impetus and stimulate growth in the economy by providing a boost to the nation's enterprise and provide a significant momentum pushing the sluggish economy towards achieving the goal of augmenting the nation's wealth.

With the said aim, I propose that;

Firstly a tax advisory cell be constituted consisting of public spirited officers of the Revenue with strong ethics , full awareness of tax laws and people skills;

Secondly identify the new successful businesses, however small as the agents of economic change .The mechanism and systems is already in place, it should put to use as the deposit in idle/new/unused accounts are routinely red flagged.

Thirdly a tax compliance scheme specially created for the benefits of these new ventures so as to address their past lack of compliances, etc."

Today in actual sense a large number of businessmen are sitting in the jail or are in waiting or being tried for one economic offence or the other. The businessmen who are outside the jail I am sure must also be frightened. Interestingly those who return from jail may be less frightened now with little or no desire to re-establish.

There is enough indication therefore that things have not been good in all those past years with all kinds of bad practices. Thankfully we have a Government in present that has shown courage to remove the maze over the unethical business practices and certain management's.

Quite naturally therefore the Current Government at the centre and States both have had to deal with many problems to block such bad practices and therefore had to frame new Acts, Rules and Regulations to curb them in the upfront. Yet again the efforts of the Government are much to be lauded.

Notwithstanding these efforts and results there are certain pain areas that are not well addressed and unless attended to immediately they would disturb our economy a little more.

More and Frequent and tighter regulations are crippling businesses and businessmen

In framing new set of tighter regulations and laws nobody did measure what impact this would bring upon a business and businessmen. For instance transforming business and businessmen to GST panorama is not an easy thing. That meant them to change their business practices.

For instance section 31 of the Central Goods and Service Act, 2017 defines as many as 7 sub-sections and 14 sub-clauses that deal with when and how the 'invoice' shall be issued in various situations such as Invoice in case of continuous supply of goods, Invoice in case of continuous supply of services, Issue of invoice in case where supply of service ceases under a contract before completion of supply, Sale on approval basis, Tax Invoice in special cases, Transportation of goods without an invoice , revised invoice etc. Also it states when not to issue an invoice. And above all it has one proviso stating that the Government, on the recommendation of the Council, by notification, may specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed. Now the Government proposes to introduce 'E-invoicing' or 'electronic invoicing' for reporting of business to business (B2B) invoices to GST System, starting from 1st January 2020. Rule 36 of the Central Goods and Services Tax Rules, 2017 relating to Documentary Requirements and Conditions for claiming Input Tax Credit in the latest vide new sub rule 36(4) now provide for 10% cap on ITC not shown in GSTR 2A. No ordinary businessman can accept this kind of capping. Reverse charging provisions u/s 9(3) and 9 (4) are yet another pain areas.

Such types of provisions are frustrating for any business. Both the buyer as well as seller must accept to this change. Suppose one declines the business ends. Business practices are like habits and bad habits take time to go and some bad practices seldom go. In terms of business the Government must be keen to know the profits in the business and whether correct taxes are paid to the Government or not. Chartered Accountants here have a definite role to draw the financial statements that highlight correct profits and losses.

Thus the Government is right when it attacks the bad business practices by bringing in GST legislation, Demonetization and Digital payments like reforms but the businesses are not able to catch up with the speed at which these reforms are evolving. Primarily these and any such reforms should not hurt any business to an extent that it frustrates management or businessmen or it closes down.

Today the ever evolving laws and policies sometime redirect how business is to be run and even what business is to be run. For instance the Government announcement that India will go 100% EV by 2030. That may not be in the overall interest of business especially to one who may have made/committed significant investments a day before such announcement come.

Antidotes

1. Provide autonomy to all kinds of business.
2. Do away with all regulations and procedures that are adversely affecting business in consultation with them/CII, FICCI, PHD.
3. Enhance level of interaction between the Government and Commerce bodies to proactively deal

with any impediments in business.

4. Remove regulations capping ITC not shown in GSTR 2A.
5. Value the businessmen and business a little more not only because they pay taxes to the Government but also for other factors such as hiring people, achievement of higher production levels, increase in capacity and investment of plant and machinery besides recognition for corporate initiatives in the area of CSR.

The following words from the author of judgment in *Smt. Asha Gandhi (supra)* (Page 43 Line 7 from Top) is self speaking:

"The enterprising should be rewarded. The successful ventures when started should not be allowed to fail at the altar of compliances as failures of such ventures though at a personal level is only an individual loss but these small drops of failures trickling results in a deluge of national failure having huge detrimental consequences for the nation."

6. Allow business to claim deduction for CSR expenditure as every money spent on CSR is earned by someone on which he pay taxes to the Government inevitably.
7. Above all feel the pain of everyone who is associated with a business in whatever little manner.

Chartered Accountants play a catalyst and vital role for business and the Government. They too are affected directly or indirectly by frequent changes and more regulations and compliances. It is very important that not only is the ease of doing business but also important is ease of persons carrying business and profession for the overall health of the economy and its people. In nutshell there must be autonomy on how to conduct a business and what to produce. Any policy of the Government that does not draw parallel with the Business must be drawn after due and advanced consultations with a business and commerce bodies. As one would appreciate you cannot dismantle a plant assembly overnight or sell away stocks. Business plan and investment are made after a long drawn strategy and wide consultations. It is not right to bring any disturbance to them all of sudden. The recent auto sector reforms for diesel and petrol car manufacturers are good off hand example. It is very important that the corporate India partners with the government to be able to instrument new progressive reforms to achieve USD 5 Trillion Economy goal without compromising the pillars for inclusive growth.

Mahatma Gandhi in his wisdom integrated the pillars of inclusive growth and wrote following words that are unchallengeable even today:

"The things that will destroy us are: politics without principle; pleasure without conscience; wealth without work; knowledge without character; business without morality; science without humanity; and worship without sacrifice." – Mahatma Gandhi

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