

Expect structural reforms on tax administration

As the finance minister rises to present the Budget 2016, tax payers, particularly businesses, will eagerly await the announcement of reform measures to ease tax administration.

While foreign investments into India have improved recently, most investors continue to be apprehensive of realities at the ground level. Such apprehension is not without cause, recent tax disputes and a generally non-chalant approach of the tax administration leave much to be desired. The disturbing aspect is not so much the number of cases in which taxes are adjusted, but that a large portion of additions to income are considered frivolous and turned down by a higher appellate authority.

Recent actions of prosecution threats, particularly in the case of digital businesses, have alarmed investor circles. Leaving aside the merits, it is difficult to comprehend if such coercive measures are necessary when due processes of law are followed to initiate prosecution.

While judicial intervention is the only recourse, one shudders to think if rationality and reasonableness must not be expected from the tax administration.

Courts have been particularly tough in dealing with such actions of the administration.

At the policy level, the Department of Revenue has embarked upon an intensive exercise to improve tax administration, while precious little has been done to change the attitude at the field level. It merely signifies that noble policy announcements at the highest level are not getting translated at the ground level.

Two works in the recent past that deserve a mention offer valuable inputs to the FM to usher in transformational changes. The Tax Administration Reforms Commission (TARC), under Dr Parthasarathi Shome, submitted detailed works through four comprehensive reports that spanned areas such as treating taxpayers as customers, structural and governance changes to the operations of the Central Board of Direct Taxes and the Central Board of Excise and Customs, addressing internal processes and people function, dispute management, leveraging technology, capacity building and impact analysis in policy making. Further, the expert committee under former Delhi High Court judge R V Easwar to simplify the income tax law submitted its report.

The government is aware of the apprehensions of international investors on the need for tax reforms. Steps such as increase in issuance of clarificatory circulars, decision not to appeal further, increasing threshold limits for preferring appeals and issuance of refunds are steps in the right direction, but a lot more is required.

The prime need is to draw up a framework of responsibility and accountability on the part of the tax administration – collection- linked targets should be given a go- by and more rigour be brought in to make tax assessments a meaningful exercise. Reducing interaction between tax administration and taxpayer in course of an assessment is welcome and this should be supplemented by making processes online to rule out any scope for bias. Limit for thresholds of taxation to exclude small taxpayers, in monetary value, from the tax base should be raised – to

free up precious time that may be available for more productive work towards large tax payers, including to expand the tax base. On the legislative side, some key areas of expectations are as under:

Clarity on characterisation of income from sale of shares and securities;

Deferment of Income Computation and Disclosure Standards and IND- AS until a full impact assessment is made and detailed transition provisions are compiled;

Re- opening or revision of concluded assessments to be made stricter;

Stay on recovery of tax demand pre- payment principles until first appellate authority decides an appeal;

Time limit for issuance of lower withholding tax certificates;

Time limit for processing refunds due to taxpayer;

Use of tax avoidance provisions (like transfer pricing) for revenue generation;

Actions against errant officers raising frivolous demands, not following due process of law;

Stricter conditions for government filing appeals with higher forums;

Possible deferral of GAAR and POEM (place of effective management) provisions until there is an element of clarity;

Review of dividend distribution tax provisions to be possibly replaced by dividend distribution tax. The proof of the pudding is in eating, and the government must back its promises with clear action on the ground by making compliances easy and efficient. While some of these actions will take time to be effective, the budget announcements should lay a time- bound implementation plan.

With inputs from Sumeet Hemkar and Raviratan Chouhan.

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