

Is Time Ripe to Extend an Olive Branch?

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Gunjan Prabhakaran

Partner & Leader, Indirect Tax, BDO India LLP



Deepthi Alexander

Director, Indirect Tax, BDO India LLP

July 2022 marked 5 years of implementation of GST in India, which was lauded by many as one of the biggest tax reforms of free India. The GST law in India which was pitched as an 'One Nation, One Tax', has come a long way from the multitudinous teething issues faced by the taxpayers at large, while transitioning from the legacy indirect tax laws. The first two years were rather difficult for taxpayers considering the complexity in reporting data in the GST return and the various issues faced from a technology and awareness front. While taxpayers grappled to understand the new indirect tax regime, the Government sensed the pulse of the industry and granted sufficient time for taxpayers to comply and adhere to the many changes that the new law brought about. This was evident in the multiple extensions granted on return filing due dates, including transitional credit, delayed implementation of e-way bill, allowance of provisional credit until October'2019 and so on.

While all these were much needed and welcome, taxpayers still had to grapple with challenges in interpreting the GST law and understand what reporting was necessary and to decipher the events that would fall under the ambit of 'supply' that would be subject to GST. This difficulty was further intensified due to the requirement to digitize and automate processes which resulted in technological overhauls that triggered substantial revamp of business processes. The first two years were proliferated with numerous notifications, circulars and AAR rulings which were overwhelming and the stakeholders in the ecosystem - taxpayers, GST authorities and advisors had to learn and evolve, while striving to be compliant.

Given the above, it is only natural that genuine mistakes and errors crept in the reporting resulting in minor defaults or delayed payment of taxes. The Covid-19 pandemic added to this stress, given the fact that many businesses suffered unprecedented losses owing to which tax payments were delayed in order to manage cash crunch and employee pay-outs. It would not be wrong to state that the last few years have been a challenge to the industry at large and has inevitably resulted new tax demands for the past two years. Taxpayers have been receiving multiple assessment and audit notices pertaining to the previous years, resulting in an all-time high number of litigations under the GST regime thus far. Acknowledging it, the Government has brought about minor relaxations by reducing/waiving late fees for delayed returns, extension of timelines, etc. However, this needs to be followed-up with other policy initiatives to ease the burden of taxpayers, by introducing a broader relief measure which will beneficially impact taxpayers at large and reduce the burden of the tax administration from unproductive litigations.

The need of the hour would be to introduce an amnesty scheme to settle the disputes that have arisen

since the inception of GST in July 2017 – this would be a welcome step in the right direction. A one-time amnesty scheme will provide relief to taxpayers who may have committed minor errors or misreporting or non-reporting while filing their returns. The Wanchoo Committee^[11] while analysing amnesty schemes had rightly observed that if amnesty schemes are given too frequently, it ‘would only shake the confidence of the honest taxpayers in the capacity of the Government to deal with the law breakers and would invite contempt for its enforcement machinery’.

Given the same, and to not deter the compliant and honest taxpayers and damage compliance levels, the amnesty scheme could be introduced as a one-time opportunity to make good the bona fide mistakes and irregularities that were made during the nascent stage of the GST law. This will also bring down existing litigations and give the industry an opportunity to begin with a clean slate. The introduction of circular no:183/16/2022 dated 27 December 2022 (incorrect disclosures, such as, B2B supplies reported as B2C, wrong GSTIN nos. resulting in mismatch in GSTR1, GSTR 3B and GSTR 2A) bears testimony that Government is keen on helping taxpayers in resolving genuine mistakes. Therefore, instead of piecemeal relaxation, one time support in the form of an amnesty or waiver of interest and penalty for initial years will be a huge relief for the industry at large.

Taxpayers would view the amnesty scheme to an extension of an olive branch that they would seize, and the 5th year anniversary of GST would be memorable one for taxpayers who had to bear the brunt of the early hiccups and pandemic induced challenges.

^[11] The Direct Tax Enquiry Committee set up by the Government of India in 1970 wherein the final Report submitted in December 1971