Acts of God and GST Compensation

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IN its recent communication to the States, the Central Government stated,

> ***"This year the Indian economy, nay the global economy, is suffering from an exogenous shock, namely the Covid-19 pandemic, whose scope and scale is unprecedented in history.***
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> ***Parliament obviously could not have contemplated a historically unprecedented situation of huge losses of revenue from the base-arising from an Act of God quite independently of GST implementation-affecting both Central and State revenues, direct and indirect."***

Yes, Covid-19 is an Act of God with a capital G, which made the Central Government regret its inability to pay the promised compensation in lieu of the proposed 14% increase in Revenue.

GST itself was an act of God, then welcomed as His rare gift showered on a blessed people. Before that, He also gave us demonetisation. But in 2020, we are saddled with the new act, which is not very pleasant.

But when God gave us GST, why did the States take it?. When the Bill was discussed in Parliament, the then Finance Minister said, ***"the States have pooled in their sovereignty to the GST Council."***
But why? The incentive was, they were assured of a 14% growth in collections and if it did not come by, they were assured of compensation. If you get a growth of 14% without doing anything, that is the best bargain possible. Now, the Central Government officers lament that:

1. 14% was agreed at gun-point; there was no choice - to save GST and God, they had to agree.
2. They believed that the compensation might not be needed to pay except to a few manufacturing States.
3. The States were not getting 14% per annum increase in their tax revenue.
4. The States are not concentrating on revenue collection as they are assured of 14% increase.
5. And what can we do, when Acts of God have made us helpless?

On 12.12.2019, Madam Finance Minister told the Rajya Sabha.

This compensation is to be financed by the means of the GST compensation cess. Now the cess collection flow as revenue receipts into the Consolidated Fund of India, and these have to be transferred then next to the Public Account of India from where the GST compensation cess fund has been created and the States have to be compensated from that revenue from the cess which is collected there and accumulated funds, if there is any. Just to give a picture, in 2017-18, Sir, the total cess collected was Rs. 62,596 crores; cess released to the States that year was Rs. 41,146 crores; cess accumulated in the Fund because, what was collected and what is given have a difference, Rs. 15,000 crores. So, Rs.15,000 crores got accumulated in the Fund. Now, go over to the next year, 2018-19. Cess collected was Rs. 95,081 crores; cess released to the States was Rs. 69,275 crores; cess accumulated in the Fund was zero. Now, I come to the current year, 2019-20. Cess collected till 31st October, 2019, this year, Rs. 55,467 crores; cess released to the States Rs. 65,250 crores. Cess collected till 31st October, 2019, Rs. 55,467 crores; cess released to the States this year, Rs. 65,250 crores. Cess released to the States in excess of the collection, therefore, is Rs.9,783 crores.

So, Sir, the point that I am trying to make is that I am placing the facts before the House and also reiterating my point that it is an article of faith, the cooperative federalism, and we shall honour the commitment made on the compensation.

All very confusing arithmetic. She told Parliament that Cess collection in 2017-18 wasÂ Rs. 62,596 crore, but the Government told the States in the recent communication that Cess Collection in 2017-18 wasÂ Rs. 62,612 crore. What is there in a few crores out of all those lakhs of crores?

Mr. Thomas Isaac, the Kerala Finance Minister says,
"When there was surplus in the cess fund, as was the case in the first two years, the surplus funds were deposited in the Consolidated Fund of India. Even the undistributed portion of IGST, which at times was over Rs 1 lakh crore was deposited in the public account of Government of India. Symmetry demands that when the cess fund is in deficit and requires temporary accommodation, the Government of India should support it.

So, what does God do now?

The Government Funds

Public Account
: All moneys other than those included in the Consolidated Fund, received by or on behalf of Government of India, are credited to the Public Account of India [Article 266 (2) of the Constitution of India]. It includes transactions relating to 'debt' other than those included in the Consolidated Fund of India. Public Account transactions are not subject to vote/appropriation by Parliament and the balances are carried forward. The Budget estimate of total Public Account Receipts for 2020-21 is Rs. 20,46,688.75 crores, while Total Public Account Disbursements is Rs. 19,87,339.49 crores.

Consolidated Fund of India (CFI): The fund constituted under Article 266 (1) of the Constitution of India into which all receipts, revenues and loans flow. All expenditure from the CFI is by Appropriation: Voted or Charged. It consists of two main divisions, namely, Revenue Account (Revenue Receipts and Revenue Expenditure) and Capital Account (Public Debt and Loans, etc.). Budget 2020 estimated a receipt of Rs. 29,40,739.08 crores into the Consolidated Fund of India, which includes 'Goods and Services Tax Compensation Cess' of Rs. 1,10,500.

Contingency Fund of India: Parliament has by law established a Contingency Fund in the nature of an imprest into which is paid from time to time such sums as may be determined by such law, and the said fund is placed at the disposal of the President to enable advances to be made by him out of it for the purpose of meeting unforeseen expenditure, pending authorisation of such expenditure by Parliament by law, under, Article 115 or Article 116 of the Constitution.

Figures don't matter this year as the Act of God has made every equation meaningless.

What to do when there is no money?

This was discussed in the 7th GST Council meeting in December 2016, wherein,

The Tamil Nadu Finance Minister suggested that
in case the proceeds of Compensation cess is insufficient to meet the compensation needs of the States, the Central Government shall transfer sufficient funds to the Compensation Fund to meet the loss of revenue of States on account of implementation of the Goods and Services Tax

. The Minister from Telangana supported these proposals. The Minister from Andhra Pradesh observed that collection of cess for giving

compensation was not correct and instead, compensation for GST should be borne by the Central Government. The Union Finance Minister and Chairman of the GST Council stated that the
demand for payment of compensation from the Consolidated Fund of India essentially meant funding compensation from Income Tax or non-tax revenues of the Central Government, which would be a challenge as the Central Government also had its own committed expenditure. He said that based on these considerations, certain principles had been agreed upon, namely that ***the compensation would be funded out of the cess mechanism, which would have a pool of revenue and if there was any shortfall in this pool, it could be supplemented by some mechanism that the Council might decide***.

Thus, it was pushed under the carpet. But the issue again came up in the next meeting in January 2017, when the Karnataka Finance Minister stated that he was very uncomfortable with the new definition of Compensation Fund under Section 2(4) which provided that if the cess amount fell short, the Council would decide as to how to raise resources. He observed that all States had come on board for GST on the understanding that their interest would be fully protected and, therefore, if there was a shortfall in cess, it must be met. He added that as it was decided that compensation would be paid on bi-monthly basis, it could not be paid in the sixth year and, therefore, payment of compensation could not be deferred beyond 5 years. He added that the understanding should be that if the amount for compensation was inadequate in the GST Compensation Fund, then cess could be collected in the sixth year or subsequent year to adjust the payment. The Chairperson assured that compensation to States shall be paid for 5 years in full within the stipulated period of 5 years and, in case the amount in the GST Compensation Fund fell short of the compensation payable in any bimonthly period, the GST Council shall decide the mode of raising additional resources including borrowing from the market which could be repaid by collection of cess in the sixth year or further subsequent years.

So, all the ***concerned*** persons were really concerned about a situation which God was likely to impose in 2020. God did; what do you do?

Borrowing seems to be the only option and if that is so, instead of 30 States going around for loans, will it not be simpler, if the Central Government borrows and repays from the Compensation Fund, when money flows into it? Anyway all the people who pay the Cess know fully well that it would continue well beyond five years - in some form. A tax imposed stays imposed.

But can the Central Government borrow to pay the States GST Compensation? Article 292 of the Constitution states, ***"Borrowing by the Government of India.- The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed."***
- whatever it means, it appears that Parliament has not so far enacted any law under this Article. So, there is a doubt, why **a** doubt â€¦

But for the people, there is only one option -
Kaar maanye Vaadhikaraste - you only have a right to respect and pay taxes - leave the rest to God and his acts.

Until next week