All In National Interest

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RECENT
drive by the CBIC for cancellation of registration of the taxpayers defaulting in furnishing return is a step-in-sync with performance outcome area i.e. ***"Integrity of the Registered Taxpayer base"***
laid down in the Tax Administration Diagnostic Assessment Tool (TADAT). Integrity of registered taxpayer database is one of the most important performance outcome areas in any taxation for estimation of revenue at the macro level and it helps not only in measuring actual tax revenue against potential revenue but also helps in reducing compliance gap by way of scrutiny of returns, audit or investigation.

The inactive taxpayers are a cost to the nation inasmuch as the foundation of tax administration is built upon assessment of tax declaration. Default in return filing involves a series of actions in the form of notice to the non-filers under section 46 of the Central Goods & Services Tax **Act, 2017**
followed by the best judgement assessment under section 62 of the CGST Act, 2017. The best judgement assessment is a sort of proactive tool whereby tax liability is fastened and taxpayers are left with no other option but to furnish returns and the tax base thus remains shorn of inactive taxpayers. However, one should not lose sight of the fact at this juncture that those taxpayers who have declared NIL liability since the date of registration and now have defaulted in filing declarations even for less than six tax periods are also a cost. Maintaining the tax-base of such taxpayers by issuing a notice in the form 3A and doing best judgement assessment is a potential waste of manhours, therefore, it behoves on the part of such taxpayers to come forward in the national interest to apply for cancellation of registration by themselves so as to ensure leeway to the taxman to engage in a process of scrutiny of return of active taxpayers OR instead of process of issuance of notice in the form 3A, a process of cancellation of registration under section 29 of the CGST Act, 2017 read with rule 10A of the CGST Rules, 2017 is initiated by the proper officer in order to eliminate such inactive taxpayers after affording an opportunity of hearing.

In short, measurement of tax revenue is dependent on the registration data base that is active and shorn of inactive taxpayers. Securing due compliance begins with a process that returns are submitted by due dates and those non-compliant are removed to make registration data base active. A best judgment assessment is a sort of novel tool stipulated under section 62 of the CGST Act, 2017. Novel in the sense that post non-response to the notice under section 46 of the CGST Act, section 62 proposes to fasten tax liability through a process called best judgement assessment making taxpayers to come forward and furnish their returns, failing which assessment becomes final and the revenue gets ready for recovery. In cases where default in return submission reaches six tax periods or business ceases to operate as evident in NIL filers (No liability) in absence of ***force majeure***
, such taxpayer's data base also requires cleaning of such taxpayers by eliminating them through a process of cancellation of registration under section 29(2) of the CGST Act, 2017.

In order to see that there is compliance of law to reduce compliance gap, the GST law in the first instance, envisages cancellation of taxpayer's registration with effect from the date later of the filing date of GSTR-1/GSTR-3B or GSTR-2A reflecting details of inward supply. Upon cancellation, such inactive taxpayers are flagged and not only the recipient of supply from such taxpayers are risking ITC for the reason that such taxpayers whose registration have been cancelled are subject to assessment under section 63 and it will be with reference to demand of tax not paid or wrongly availed ITC under section 74 of the CGST Act, 2017. Thus, it is a sort of double jeopardy in that the recipient is not eligible for ITC even after the taxpayer whose registration is cancelled comes forward and makes payment of tax upon assessment.

Recent amendments in the CGST **Rules, 2017** by way of notification No. **94/2020-CT** dated 22nd December, 2020 especially in rule 21 and 21A ultimately aim to ensure that the taxpayers are discharging their statutory obligation in furnishing returns by due dates and they exercise due care while furnishing returns. The rule 36(4) of the CGST Rules, 2017 is also oriented towards the same direction and it should not be seen as deterrent but a step towards building INDIA and only by mechanism such as rule 36(4), the menace of fake invoices can be curbed. Should it, therefore, not be in the national interest that such elements causing damages to the entire chain of business and causing loss to the economy, are identified? Instead of taxpayers invoking question of vires before the courts, should they not voice their unanimity in having an instrument like that of rule 36(4) to obviate fake invoices considering that taxpayers are in position to sense integrity of their suppliers?

The digitalization of the GST platform, Data analytics, Artificial intelligence and IT sub-system provide a robust surveillance and thus it is attempted to create awareness amongst the taxpayers to understand their obligation in the national interest and accord due diligence to compliance by furnishing returns by due dates in the light of quote of Benjamin Franklin, one of the Founding Fathers of the United States, that ***"In this world nothing can be said to be certain, except death and taxes".***

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