

GST Council's 45th Meeting - A quiversful of stinging arrows await Union of India!

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By Shailendra Kumar, Founder Editor

COVID or NOT, the Goods & Services Tax (GST) is a real scorcher! Nothing can dim its potential to dictate the fingers of media persons on their keyboards! Even before the GST Council could hold its 45th meeting on September 17 at Lucknow and commandeer the headlines, the Apex Court's observation on the monumental delay in constitution of the GST Appellate Tribunal has been lapped up by the media and the taxpayers alike across India as a heart-soothing rebuke to the Government. The Chief Justice of India orally told the Solicitor General that **"there is no question of filing counter - you have to constitute the Tribunal, that's all!"**

Even after four years, the GST Tribunal appears to be parked in extended limbo, uncared and diabolically ignored! Several High Courts have given directions but only to be cursorily read and coolly put on the back burner - strange! Not even a sliver of repent or compliance! The Apex Court is now going to hear it again on coming Monday and, going by the mood of the Bench, no charm offensive is likely to placate the Bench! A time-bound direction is likely to be mandated!

For the Centre which has undone several Apex Court orders on the Tribunal reform issue, what is holding it back from notifying the GST Tribunal is an impenetrable enigma! I guess, it is certainly not Madras HC order? Strange, though the Modi Government is known for its fetishism against avoidable litigation and has taken several laudable measures to peel off litigation and reduce pendency of cases in courts but on the issue of setting up either the GST Tribunal or a Dispute Resolution Forum by the GST Council for disputes between the Centre and the States or among the States themselves, it has been presenting itself in a kaleidoscopic cavalcade of funny scenarios! But why? Even crystal ball may suffer utter cloudiness to answer this question! It is a curveball thrown at all legal brains, perhaps!

Let me now quickly move from the judiciary to the Executive and the possible to-do list for the next GST Council meeting. It appears that the Centre is destined for more arrow attacks - this time, from State Finance Ministers! A quiversful of stinging arrows, perhaps, await this meeting! Netizens may recall that several State Finance Ministers such as West Bengal and Punjab had ratcheted up the rancorous issue of GST Implementation Committee (GIC) illegally stealing the heft of the GST Council by amending several Rules without its consent! Dr Amit Mitra, in his missive to the Chairperson dated 23rd June 2021, underlined that **"... when the GIC was meant only for procedural issues, it has amended Rule 8 and 9 on Registration, Rule 21 and Rule 21A, Rule 59, Rule 86B and Rules 138 & 138A on the vital issue of e-Way Bills. You will agree that such amendments and their implementation by GIC are undermining the powers of the GST Council."**

A similar sentiment in flavour and hue was expressed, without mincing words, by the Punjab Finance Minister in his letter, dated 24th May, to the Chairperson. How did the Centre grapple with such serious charges? It is learnt that it was referred to the crystal gazers of the Law Committee to pinpoint the exact Rules which have been violated by the GIC! Nothing could be more apocalyptic! How can the Council refer the issue to a forum which is subordinate to the GIC? Secondly, Rules need to first exist on paper before one can examine any charge of defiling them!

I am not aware of such rules being ever framed? If framed, why are they not in public domain? Was there a political mandate to create a body clothed in 'fabrics' of obscurity and non-transparency? Going by the letters of the State Finance Ministers, it comes out clear that the GIC was set up only to deal with a gaggle of procedural issues to remove difficulties confronted by the taxpayers during the initial phase of GST implementation (See **Cob(Web)-768 - Whither GST Council! Muting mic & GIC crossing Rubicon fray tempers of State FM's!**).

Then, how did the GIC begin nibbling into the powers of the Council? Why didn't the GST Council Secretariat bring it to the notice of the Council? Not so quizzical answer is that the Council made a fatal error of making the Secretariat subordinate to the office of the Revenue Secretary who, at best, cannot be more accountable to the Council than his own original employer - that is the Union of India!

Ideally, the Secretariat should be an independent body to play a bipartisan role and assist both the Centre as well as the States rather than playing in the hands of one dominant stakeholder! Such mortal follies need to be set right if the Council Members are keen to rely on an additional pair of eyeballs to keep them abreast about fiscal poltroonery! I am sure that the GIC issue is going to be a searing point of debate

at the next Council meeting and it is not going to be a slam dunk race for the Union of India! However, I am also quite sanguine about an amicable solution - it is very much a peelable problem provided nettles are not touched lightly, but grasped firmly!

Apart from these issues, the Council may like to review its decisions taken in relation to COVID-related items. The fact that one more tide of COVID-19 is projected to be 'closer home', India needs to gird for a long haul with all-round preparations. Lower tariff would help hospitals, citizens and state governments in keeping warehouses of medicines and equipment in a healthy state to battle out the lurking doom and successfully eff it off! Yet another brawl-prone issue which may alter the constituents of the air in the meeting room is that of extension of Compensation Cess.

A deep canyon exists between the perceptions of the Centre and the States on this issue. However, a ropeway can be engineered to solve this 'fiscal cliff' provided fiscal 'guerrillas' are kept under check and both the stake-holders keep partisan politics at arm's length!

However, what surprises me and the same may trigger tides of palpitation for a few, is - Why Lucknow? After long gaps the Council is going for a physical meeting and Lucknow appears to be out of plumb as a venue unless there are other unseen layers of its 'fiscal seductiveness'! Till the time these 'layers' are known, an eerie calm pregnant with many political overtones may prevail! Given that Uttar Pradesh would be going to polls early next year, non-BJP State Finance Ministers may see 'political neurons' in venue selection and may desert all scruples to openly attack the Centre on this issue!

Secondly, merely holding the meeting at Lucknow may not really generate any G-force on the needles of political prospects for the ruling party! Ideally, venue selection for the Council, a forum born out of cooperative federalism, should not provide fuel to polemicists, frequently seen on idiot-box political debates! Being the pivotal engine for creating a positive eco-system surrounding the GST, the Union of India should nudge away such ideas which may not even promise any 'political crumbs' leave aside the question of a crispy topping, Crumbs!

I sincerely hope that the venue selection does not become an infernal nuisance to the real issues awaiting decisions. And it is no exaggeration that it may trigger more fissures in the rapidly fraying relations between the Union of India and the States. And it is not a speculative 'Nebular Hypothesis'! It may prove to be a turn-off issue and a rundown for the long-term interest of the GST as an 'efficaciously-tamed' tax system! Incidentally, might makes right all actions! Envidable, indeed!