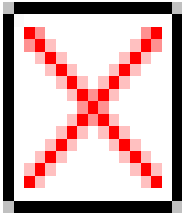


Digital GST - Measures to contain fraud

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present day society is moving towards a barrier-free cyber community, wherein majority of the functions of daily life are being carried out using digital gadgets, which originates primarily from information communication technology. Starting from the general social communication, day to day purchases and sales, entertainment, office work, services by the government and the legal compliances by the citizen are digitally driven, where the use of the technology has become the most essential and inevitable part of such functions / administrations. Especially for levy and collection of taxes, the use of digital technology has come as a boon, as it opened up a hassle-free approach in the administration and management of tax system of the country. But in the ongoing digitally driven GST tax system, financial frauds of huge proportion are taking place without much hindrance. In this writing, the administrative steps that should be taken up on priority to contain the frauds are being pondered.

Before considering the ways and means to contain the tax shams, it is wise to take a glance through the history of tax administration, with a view to understand, realize and learn from the successes, lapses and the pitfalls, so that one can continue the best practices, and at the same time, avoid the possible shortcomings. We need to tread the path cautiously so as to reach the goal of reaching the simple and good GST in an appropriate manner. Doing so will not only help the honest registered taxpayers, the tax bearers and the administrations, but also adds to the overall development of the economy of the Nation.

Let us start the deliberations by closely recollecting the various stages in the development of indirect tax system in India, since last five decades. The British legacy driven license system (Licence Raj) with periodical renewal inbuilt on payment of a mandatory fee, for the identification of taxable persons has been evolved onto becoming an online voluntary registration system, with no need for renewal or payment of fee. The clearances of goods to be accompanied with the gate passes being issued by the authorities for each consignment have been replaced by e-invoices. The physical control and supervision of the taxpaying entities by the administrators (Inspector Raj) have been taken over by the 'trust based voluntary compliance' mechanism, with little scope for day to day interference of the activities of the registered taxable persons by the administrations. Here the administration in a hurry to provide for ease of registration to the taxable person, allowed the system to be exploited by the fraudsters, which resulted in allowing the creation of shell companies as there was no authentication / verification mandated in respect of newly formed establishments/ entities.

As far as procedures, documentations, accounting and compliance mechanism are concerned, the entire business environment has moved from the paper-pen mode to the virtual mode. The 'assessment by the officer' has been replaced with 'self assessment and voluntary payment of tax' by the registered person. All the frontend activities like Registration, filing of periodical returns, Payment of taxes, and various functions relating to demand, refund and adjudication have been moved on to the digital platform, with least intrusions in day to day businesses of the entities concerned. The onus to assess and pay taxes, being the universally preferred paradigm of tax legislation, is placed on the taxpayers. In this situation, the responsibility of the administering Government has to be focused towards providing certainty and transparency in tax laws, reduce ambiguity so as to boost the taxpayers' confidence in the system. The GST Council has made tremendous efforts in reforming the law and procedures to a larger extent, but the back-end system used by the administrations has not responded in equal measure. There is no efficient back-end system developed and in place for timely verification of the data, even after completion of four years since the start of GST. The manpower also has not been fully geared up with the skills to meet the challenges of the GST digital reforms.

In instances of any error in assessment, payment and similar front end complying activities, the taxpayers are required to pay interest and penalty as mandated. Even allowing of the credit of taxes paid on inward activities and purchases, which started from the Pro-forma credit,

Modvat credit, Cenvat credit and states' Vat credit regimes have been expanded and formed into a seamless Input Tax credit system, avoiding cascading effect on most of the transactions. The multitude tax rates have been simplified as one product or service with one uniform rate for supplies all over India. The procedures for compliance in the Domestic Tariff Area have been harmonized to large extent. As far as payments of taxes are concerned, the upfront personal ledger account (PLA) deposit and debit system has evolved into deferred dates for payment of Indirect taxes. The penal provisions have also progressed to form Self-penalising scheme. To say in one word, there is increased trust based facilitation, with full emphasis on voluntary compliance in the present GST regime. This has resulted in higher tax collection to the public exchequer in an economic manner and also volumetric expansion of tax base. Even in instances of litigations, the personal hearings are held through the video conferencing. But, in this new digital environment, the officers are yet to be fully equipped to perform their assignments in an effective manner. Further, the traditional finger print forensic investigations have to be modified and strengthened with the modern cyber forensic investigation methods as the transactions in the present time are all in digital format. The data also gets encrypted and /or password protected for security reasons, which makes the investigation more challenging. The equipment as well as the manpower are needed to be put in order to meet the above challenges of new digital realm.

The digital tax administration has created new settings to all the stakeholders, - including the taxpayers, the administrators, the tax practitioners and the tax bearing citizen, to join hands of the Government in effective tax collection. For this new era of self-assessment, the taxpayers have to be well prepared, with necessary knowledge in law, procedures and compliance by use of digital technology, as any lapse on their part attracts penal measures that may be expanded upto the stage of prosecution, in instances of huge evasion of taxes involving mala fide intentions. The tax-practitioners also are to be fully equipped with the latest changes in law and technology so as to guide the registered person in legal and legitimate compliance of the tax laws within the prescribed time frame. The administration at the backend also have to have the manpower and hardware duly upgraded to acquire the skills to analyse and understand the data collected so as to conduct administrative functions such as scrutiny, audit and enforcement, in an effective way. Unless the huge aggregated data are converted into useful information and followed up by timely and immediate remedial action, no meaningful purpose could be achieved in curbing the evasion of taxes that are taking place.

Now in this progressive situation, we are also a mute witness to the abuse of the system by the fraudsters who are exploiting the liberal measures in place to commit financial frauds and crimes of massive proportion with little effort. In GST era, it is reported, that there is increase in Tax frauds as the digital system has opened up novel modus operandi to defraud the public exchequer. In this democratic set up, what is the way out to keep away the fraudsters abusing the system? We need to explore the ways and means to curb this unhealthy development, which is spreading like wildfire. We need to overhaul the legal framework and use technological advancement to contain the onslaught of fraudsters on the taxation system

The GST council and the team under its direction have initiated a number of measures in the last four years, which needs to be accelerated. The Aadhaar based authentication for new applicants have been made mandatory and this to some extent eliminates the creation of shell companies. Some of the listed measures to further strengthen the system are as follows:

- The Directorate General of Analytics & Risk Management [DGARM], using advance analytics and innovative technology for data mining and analysis on data sources are generating outputs for focused and targeted action by field formations and investigation wings of CBIC. Similar activities are also carried out by certain state administrations. But this has not been properly executed on time. As per the recent reports published, evasion by use of fake invoices and creation of dummy entities are on the increase. The various legal and technological measures undertaken are not able to contain the situation as the manpower and backend systems are yet to be fully geared up for managing the timely enforcement. This needs to be attended to on top priority.
- The Integration of the Fastag with E-way bill has helped the administration in tracking the fraudulent supplies. As of now, the administration is initiating action belatedly, at a later date, as a sort of post-mortem. This encourages the fraudsters to commit crime and escape the clutches of the law. There is a need of having converged rapid action on real time basis by all administrations. For this purpose, flying squads with appropriate technical assistance needs to be formed.
- The mechanism of E invoice should be made compulsory to all transactions, including B2C supplies in respect of registered persons with aggregate turnover of 50 crores. This should be later expanded to cover registered persons with 5 crores and above.
- The preparation and generation of e-way bill, before effecting supply has resulted in driving in certain transparency into the system. As on date, for generation of e-way bill in respect of inter-state movement, the value of the supply is fixed at Rs. 50,000/- and above, whereas in respect of intra-state supply, it is left to the states to fix such value limits. This should be avoided as it could be misused by manipulations. Keeping uniform criteria for generation of e-way bill, both inter-state and intra-state movements are essential in the uniform GST realm. As the e-invoice provides necessary base and eases the generation

of e-way bill, there is need of stricter enforcement in this matter.

- In respect of persons who generate e-invoices, the draft monthly returns should be generated and communicated to the registered person by the administration /GSTN, enabling the timely and truthful reporting with ease possible.

- The scrutiny and audit are important functions in the digital GST era, which is yet to pick up the required skills and technology. The traditional auditing methodology is wholly unsuitable for the digital regime, but officers are continuing to use this mode only. Unfortunately there is no proper backend system in place for the auditors to conduct effective audit by applying the Computer Aided Audit Programme (CAAP) methodology. The delay in development of such backend facility has allowed the continued exploitation of the system by the fraudsters.

- The GST policies should be more focused on gaining the confidence of the tax bearing citizens. The Council should take on board the citizens' aspirations for fixing of rates on goods and services. The Citizens must be in position to find out that the money paid by them has reached the coffers of the Nation. The citizen must be facilitated to check the genuineness of the invoice issued by the supplier. Such a system is the need of the hour to establish the confidence of the citizen in the digital GST regime.

In view of the digital GST regime, development of appropriate digital tools at the backend for scrutiny, audit and enforcement and similar functions, as well as honing the skills of the officers and setting out the standard operating procedures for compliance verification and certification are essential for effective working. Until such improvement takes place in administrations, the GST system remains a happy hunting ground for the imposters. Immediate measures need to be taken up by all states and central administrations so that the tax collected from the citizen will reach the treasury without any leakage.

[The views expressed are strictly personal.]

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