

Hypersonic 2021 elbows Omicron into 2022! Bad news for 'Walrus Moustache' of 'Uncles Sam'!

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SO, the 'elephant' is back in the room! All the efforts of mankind to put it into spittoon have come a mucker! It has brazenly taken the wind out of our bucket of preventive sails! No time to dig up safety trenches! With the new variant of Omicron, the COVID-19 has roared back - "I am back home with vampiric temper!" And no country is immune to the blunt end of the new wave! In fact, the richest and the most powerful country has been transformed into a poster child of ruthless wrath of the new variant! Nope! Not conquerable at all! It simply 'erases' the walrus moustache of the combatants! It has triggered cancellation of over 12000 commercial flights since Christmas! It has blisteringly tailspun into ***kuddelmuddel***

, particularly the country which has lonesomely been following the Zero-COVID Policy! Oof! Humanity is in for yet another round of cranial trauma! Having gone through, since 2020, an ocean of woes, humanity has very limited choice - either to combat it bravely and with discipline, or to be carolled into a homely 'barn'!

Since experiencing fear has become an addiction for all of us, let's weaponise it to battle out the invisible enemy! It is also time now to follow what Benjamin Disraeli had said - "***Courage is fire, and bullying is smoke.***

" Let's believe that the intermittent bullying by the COVID-19 is mere 'smoke' and we do have enough fire in our belly! With such moxie under our belt, let's together roll over to 2022 which may have shape-shifting dumpster fire in store! It may even prove to be the year for a ***modus vivendi*** to co-exist with the virus!

As we wade into an uncharted time zone, it is equally important to look back at 2021 which was hypersonic in many ways! Albeit painfully eventful year, I have filtered out 12 mega events which may linger on in our memories for years to come! Let's have a fleeting glimpse of the contents in the baggage:

1) To deal with the COVID-19 Grinch, India, albeit a bit late, rolled out its vaccination drive on January 16, 2021. It was indeed a strong beacon of hope for us as a Nation. What gave us, in addition to the vaccine dose, an extra dose of pride was the home-grown flavour of the vaccines. It began on a febrile pitch and has surpassed 144 Crore mark before the year folds up. A highly praiseworthy effort if we decide to overlook many ifs and buts! And what is that iffy? If you feel gooey about the Booster dose, you are right! Given the six months' shelf-life for all the vaccines developed thus far, the doubly-jabbed population is as exposed to the teeth-baring Omicron as the unvaccinated ones! Buffaloeing! It would certainly cost the Exchequer but there is also something called 'shadow costs' which needs to be taken into reckoning by the Indian 'Uncle Sam'!

2) All powerful nations put together failed to trace the origin of the despicable virus! Patient Zero would remain a head-scratching puzzle for the puzzlers from the community of virologists! More than the scientific goals, the issue turned into a geopolitical blue! The WHO which initially bungled, later demonstrated spine to separate gold from the pyrite but all its bids to assay evidence were breezily neutered with gapped-toothed smile from the Chinese authorities. Claims of lab-leakage made by the US agencies were reduced to cinders! The American scientists were called sleazeballs and liars! And, now the global scientific community which has sired us about the next pandemic knocking at our door, will have to wrestle with many unknowns before they succeed in developing a reliable Pandemic Warning System!

3) I had urged the Union Finance Minister prior to the Budget 2021 to bankroll special projects in the [semiconductor sector](#) which has become a vital tissue for the spinal cord of a modern economy. Though it was not unspooled in the Budget Speech but the Union Cabinet has recently approved a Rs 76000 Crore package under the PLI Scheme. Though it may not look gigantic but it is certainly a decent flag-off to cushion the future growth of the economy and shield India from crippling dependence on third parties for critical chips - an all-round input for the tech-driven economy!

4) In her Budget speech, though the Union Finance Minister did not elaborate on the 'syrupy' roadmap but did shift from the principle of EEE to EET as advocated by the DTC Task Force. The FM proposed to tax contribution above Rs 2.5 lakh annually to the PF and ULIP Schemes operated by some insurance service providers. It was indeed a harbinger of many similar changes which I do expect in the Budget 2022! It was a water-testing amendment which the Minister successfully rammed home, avoiding protests and a kick in her teeth from the members

of her ilk in the House! with no stone in her shoes, she would not mind shoehorning many such provisions in the forthcoming finance bill!

5) On the GST front, having gone through the bouts of stinging failures to match inward and outward invoices and the toxic trend of punching fake invoices into the GSTN server to relish the lollipops of ITC with impunity, the GST Council decided to grow 'ten-feet-tall' to deal with the problem - 'five-feet-four-inch-tall' with 'elevator shoes'

! And the provisions were simply 'botoxed' to make GSTR-1 filing mandatory for availing ITC. It has certainly triggered a spasm of horizontal vertigo and the number of ITC frauds has become less cindery. The GSTN has prominently proved its mettle in implementing it with no loopholes!

6) Although retro amendment of any provision is not more than a toy-for-a-child but it was bewilderingly not resorted to in the Canon India case (2021-TIOL-123-SC-CUS-LB)

) decided by the Apex Court. The decision, going by the doctrine of precedents, warranted racy amendment in the law as the Union Finance Minister had enough time to club it with other amendments in the Finance Bill 2021 but was puzzlingly not done? The Supreme Court of India ruled that the DRI is not 'the proper officer' under the Customs Act! Though a review petition has been filed but why was no amendment moved is still a 'black hole' for me? Cases in hundreds and worth crores are going down the drain but the Govt is strangely waiting for a sympathetic hearing from the court! Anyway, this is perhaps one of the most earth-shaking events of 2021 which has frozen one of India's most ferocious intelligence agencies in icy slabs of time!

7) Oof! Unforgettable months! Here comes a period when the poor were massacred by the second wave of the pandemic. India ran out of oxygen for its sons and daughters! Hospitals relied on **jugad**

technology to make do with their faulty ventilators to save lives! Even medical stores were hollowed out - acute dearth of essential drugs to treat COVID-19 patients! Dead bodies were seen piling up outside hospital premises. Crematoriums ran out of firewood! Graveyards fell short of **doo guj zamin**

! On top of such a mayhem, our policy makers played Brutus and levied IGST on import of even gifted oxygen concentrators. The battle was finally settled against the acolytes of revenue who literally proved the maxim that the death and taxes are the only two certain realities on this planet and other social and human values are ephemeral and also perhaps ethereal!

8) The foundational stone of the GST Council i.e. cooperative federalism, showed tale-tell signs of cracks and crumbling when several State Finance Ministers cried hoarse over GIC, tellingly encroaching on the powers of the Council and taking decisions without any mandate! Notably, the Punjab and West Bengal Finance Ministers dispatched pain-oozing missives to the Council's Chairperson about how the GIC has gone beyond its **raison d'Être**

and demonstrated daredevilry in gobbling up the powers of the Council members. They demanded a careful examination of all such decisions which warranted stamping by the Council. However, political skulduggery prevailed and the issue remains overlooked and unresolved with wrenching heartaches for the States! A case of silent acquiescence or a sleepy volcano? Only time can answer it!

9) Undoing of a retro amendment in a tax statute is a rare event for any sovereign. It is rather **lese-majesty**

to call for such a decision! However, it was commendably done in the case of Section 9 of the Income Tax Act which had severely impacted India's ability to woo foreign investors. Though such an amendment was done during the UPA-II regime but the Modi Government also preferred to play possum over it till the time one of the affected parties went for arbitration and filed petitions to attach assets of Government of India's undertakings in France and the US. Embarrassed in the eyes of foreign investors, the Union Cabinet took a decision to erase the amendment and also refund the deposits made. The UK-based investor Cairn Plc finally recently withdrew its case from courts and settled it by collecting a cheque of whooping over Rs 6000 Crore deposited with the I-T Department!

10) A cindery bone of contention between the USA and the rest of the world was the issue of taxing profits of tech companies. It all started with GAFA evading paying taxes in market economies by headquartering in tax havens -

paying taxes neither in the country of residence nor in the country of source of income

- the market jurisdictions! Many countries vindictively imposed digital service tax on them. India joined the bandwagon by levying Equalisation Levy. This had put the US at loggerheads with its allies and others. Secondly, growing incidence of tax avoidance had assumed monstrous proportions. Both the issues were finally taken up by the G-7 which mandated OECD to broker a deal with the rich as well as the poor economies. And it was finally done in October where 15% minimum global tax was fixed for the MNCs with certain threshold coupled with a top-up clause and a formula was worked out to permit market jurisdictions to collect digital tax. This agreement is scheduled to kick in from 2023. Of course, it would raise myriad issues once implemented!

11) Taxation of ENA has been a *cause célèbre*

between the Centre and the States ever since the GST was introduced. States have zealously been levying VAT on it even after the GST Council gathered legal opinion from the Attorney General in favour of the levy of GST. The AG's view was finally upheld and elaborated lucidly by the Allahabad High Court in M/s Jain Distillery Pvt Ltd case ([2021-TIOL-2022-HC-ALL-GST](#))

). A moment of mild concussion for the States! Though the State of UP may prefer *cri de cœur*

before the Apex Court but going by the doctrine of pith and essence vis-a-vis the HC order, the 101st Constitutional Amendment provides no leeway for the States to commit fiscal blue

by playing with the 'alcoholic' commodity and get 'intoxicated' at the cost of the Centre's Revenue. A commodity to watch in 2022, indeed!

12) Last but not the least is the decision which achingly came as a bolt from the blue for many stereotyped stakeholders! Yes, I am referring to the Faceless Scheme. Many initially viewed it as a toxic fantasy! Aha! A bitter pill to swallow! Some critics even remarked that the Government was playing *Quidditch* (flying broomsticks) *a la* Harry Potter!

I also overheard a comment that it would be a total rabbit with the taxpayers! Even the taxmen took it with a fistful of salt! But it was rammed down the throat of the taxmen! And the scheme did dodder initially and may even now be viewed as tottery but it was indeed a bold experiment in the domains of assessment and appeal. Even though some bumps may continue to quiz the AOs for some more time but it has largely been hailed by the industry and professionals. A detailed Faceless Scheme for Appeal was notified only two days back. Unless a new idea is rolled out, one would not know the humps which may be steamrolled as mid-course correction!

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