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## Filibustering by Opposition may help 'refine' delayed GST System!

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### GOING

by the latest political storms enveloping the Lower House of the Parliament and impacting the functioning of the Upper House as predictable repercussions, the GST-cart has once again run into a political quagmire. Only a few days back it appeared to be on the cusp of making history with the Union Cabinet accepting the key recommendations of the **Rajya Sabha**

Select Committee Report. But, as legend has it - Politics is a vocation of extreme uncertainties, 25 Congress Party MPs were suspended from the **Lok Sabha**

for their unruly behaviour. None in the NDA Government had foreseen it but at the spurt of the moment, it happened and that seems to have sealed the fate of GST Bill at least in the current session. Thanks to unprecedentedly unpolished statecraft and insipid floor management skills, the political brawl snowballed into a mega crisis situation and that united all the smaller opposition parties. The Social Media, the cynosure of our Prime Minister, not only condemned it but also called it as the '**death of democracy**'

! Such comments may not be true but it lent spirit to the dispirited Opposition which appears to be derailing all the plans of the Government to push through critical bills.

Going by the sustained protest yesterday and the full-day adjournment of House proceedings, it appears that even if the suspension is revoked, such a decision may not succeed in diluting the filibuster of the Opposition and may delay the passage of the critical bills, including the GST Bill. The fact of the matter is that if the Govt fails to secure passage of the Bill in the current Monsoon Session, it would be equally difficult even during the Winter Session which is likely to be after the Bihar Polls. The impact of Bihar results may turn out to be adverse for the NDA Government if it fails to bag emphatic win. If we leave aside the political uncertainties, what looks certain is the eventuality of a minimum of one year delay in implementation of the GST.

Whether such a delay is going to be a **bane or a boon**

? It is too early to predict anything but the PURISTS may be happy as such a delay would provide sufficient time for the Centre to once again negotiate with the States to do away with some of the distortions which may countervail against the merits of the GST system. One such glaring distortion which has proved to be Himalayan for the Select Committee is the levy of 1% additional tax on inter-state supply of goods.

Although the credit goes to the Select Committee for securing **exclusion of stock transfer**

from the ambit of this levy but there cannot be two views on the issue that this levy itself **militates against**

the virtue of the GST system. And the biggest virtue among many other merits of this system is its ability to contain the **tax cascading**.

Let's consider one respectable way out for the Centre which is under pressure to appease rich and industrialised States by holding on to this 1% additional levy. When the Centre has accepted the States' demand for five years compensation if any loss arises due to the new system, where is the need **to create a new pool for the rich States**? Or, this 1% levy in lieu of the current CST, is going to be a **cushion for the Centre's compensatory package**

as it would mean - the X amount of compensatory package minus the collections from 1% levy! Empirically speaking, this is what it may appear so to many experts. If the Centre is keen to 'contain' the bulge of its compensatory package, it would be a better system to hike the GST rate over and above the consensus rate (the floor rate) and keep such fund in a separate pool for compensating the rich States..

Let's visit the key dissenting points highlighted in the Select Committee Report and examine their rationale. The first demand of the Congress and AIADMK MPs is that the GST Bill should **cap the GST rate at 18%**

. Although I feel tempted to welcome it (I am sure all consumers would love it) but the tax rates are generally dynamic in nature and change in response to the prevailing economic conditions in a country whereas the Constitution of a country is largely designed as a '**stubborn**' apparatus

so that it is not tampered with on flimsy grounds. Of course, every constitution is a living organism but its amendment procedure ensures that

it is not amended by a simple method. Only when there is a consensus, a political economy succeeds in making far-reaching changes. In this backdrop, the dissent note suggesting fixing of a ceiling in the Constitution is apparently **devoid of merits**. This is more so if we take the example of changing GST rates across the world. As per OECD Report, the GST rates among its member countries has gone up in the recent years.

Secondly, when some of the necessary 'pillars' required for building this new system are yet to be **'constructed'** such as the threshold limit; List of exempted items and Revenue Neutral Rate (RNR), it would be **self-defeating to cap the GST rate in the Constitution itself**. However, it would be a nice proposition if the GST Bill is amended **to cap the 'Band Rate'**. Such boundaries would not allow the history of VAT to be repeated even during the era of GST. Providing an open-ended band rate option to the States would be noxious to the GST system if one goes by how States have revelled in the freedom to play the toy called 'band rate'. In fact, even 1% additional levy may win over all opposition if it is **capped for two years** rather than leaving it open-ended for the discretion of the GST Council.

The second demand of the Congress Party with respect to depositing the compensation amount in a GST Compensation Fund does not merit consideration as once it is put in the Constitution itself, there cannot be anything **more certain and sacred** than our Constitution. Creating a separate fund may not help once it becomes **legally obligatory** for the Centre to compensate the losses of the States for five years.

Yet another demand stated in the dissent note is the inclusion of tobacco, alcohol for human consumption and electricity. I wish they could also have accommodated **real estate** in their demand which is a major source of corruption and manipulation of registered value of a property in the country. If one goes for the flawless GST, all such excluded items should be a part of the GST but right from beginning, all stake-holders have been **working for a flawed and hybrid GST** emerging out of the prevailing political reality in the country. It is commonly known that if the stamp duty is subsumed by the GST, it would achieve what even the **twin legislations of Black Money and Prohibition Acts** cannot achieve over a period of five decades. In addition, it would also largely clean the 'dirty' money used by our politicians to buy votes.

Let's now move away from the Dissent Note and discuss one of the least debated recommendations of the Select Committee which has nothing to do with the GST Bill. And it is the **GST Network**. Although it may be construed as **obiter dicta** by experts but it does raise a very vital question over the ownership structure of the Special Purpose Vehicle (SPV) created to manage the GSTN. The Committee has expressed its reservation about the majority equity being held by the **private players** rather than the Public Sector Banks. Although a taxpayer may not get directly impacted by the ownership of the SPV but the legal onus falls on the tax administration to safeguard the confidentiality of a taxpayer's data filed in the form of returns. The question is - when a taxpayer furnishes all the sensitive data in one's return, it creates a **fiduciary obligation** for the taxmen to safeguard their data. Even if it is presumed that the data will not be misused by the private equity holders in the SPV, the larger question is - why should any private capital carrier invest in a company which is set up with the **objective of no profit**! Let's hope the Centre would look into this aspect of the GSTN apart from winning over the support of all the opposition parties which are going to be a partner for this mega reform process.

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