Dear FM, it's time to merge CBDT & CBEC, and create a Council for Revenue Management as policy catalyst!

TIOL - COB(WEB) - 152
SEPTEMBER 10, 2009

PART IV

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WHILE
'keying' this concluding piece on the simmering issue of a new statutory status for the Central Board of Direct Taxes (CBDT) as proposed by the Direct Taxes Code (DTC) Bill, 2009, and the possibility of a similar fate awaiting the CBEC while it is restructured for the eventual administration of the proposed GST, TIOL Editorial wishes to place on record its appreciation for the enthusiastic and constructive feedback received from its well-informed Netizens. There is no denying the fact that our efforts have not gone waste if the CBDT's initiative to set up a **Feedback Committee on the DTC** is any indication to go by. Income Tax field formations have been holding hectic parleys over Chapter X of the Code, and the Board is likely to receive voluminous inputs on this issue today - the deadline set by the Board. And, it is indeed a healthy sign of a democratic institution.

There is no denying that somewhere down the line, our Revenue Board system which gave inspiring service to the Nation for many decades since 1924, has also withered. There could be many reasons - some perhaps beyond the control of the Boards. Critics may also blame it on the subjugation-seeking regimes sponsored by representatives of the all powerful Civil Service in India. But the IRS officers manning the Boards cannot escape their share of blame. Even the best of the lot from both the Revenue Services, once they reach the Boards, often fail to deliver. Something does go wrong with their commitment and attitude. It is very rare to find a new Board Member or a Chairman, overtly working against the perpetuation of the systemic ills triggered by certain devilish forces within the power calculus. Right from the day one after joining the Boards, many of the senior IRS officers tend to become completely oblivious of their duties to fellow officers working in the field formations. They also become
excessively Group A-centric as largely perceived, ignoring the needs of their subordinate services.
The aspiration for promotion and better service conditions for Group B, C & D personnel has always been given a raw treatment by both the Boards. And that is how the entire fraternity of revenue services stands divided and pulverised. Unity of purpose and even a common dream do not unite them today. In a nutshell, all the services in both the Revenue Boards appear to be working at cross-purposes. In such a situation, inevitably, the exchequer becomes the prominent victim.

Over the past decade or so, another major obsession of the Revenue Boards has been the serious 'business of transfer'! With a few honourable exceptions, no matter what charge one may be holding, transfer remains an obsession for all the Members. After the advent of the ill thought out 'New Transfer Policy', this regular exercise of transfer has further moved up the scale of addiction and has become an 'intaxication'! Obtaining favourable posting for officers, owing allegiance to them, has become hedonistic pleasure for both the Boards. Then, playing game within the 'game' is another exhilarating pastime. One example of this game is that the Member (P) first gets FM's approval for All India Transfer and gives specific posting in one Order, and then issues another local rotation order where even those officers whose postings against specific slots were approved by the F.M are shifted out. This happened in a big way in the CBDT recently! The New Transfer Order has indeed emerged as one of the prominent reasons for
widespread demoralisation of revenue officers in both the Boards. Worse, the number of transfer orders may average one in a day but there is no staff for the Directorate of Business Process Re-engineering and the Directorate of Human Resource Development!

In this background, what is essentially called for is a completely new, novel and futuristic tax administration structure which could sustain the revenue-need of the modern economy. To begin with, India should go for the **MERGER of both the Revenue Boards.**
Why? What is the rationale? Should India blindly follow the global trend? NO. Here is a simple calculus of the rationale. Like every country, India also has multiple taxes which are levied by different tiers of the Government. However, the transaction - the tax base - remains common to all. To understand it better, let's take the example of a piece of land on which a multistoried building is constructed with six flats. Let's presume that these flats represent six different types of taxes. Now, since the base (the Plot) is common to all, the best form of management will be to have a common security, a common Lift, a common gardener, a common water pump and, overall, a common management,
not only to achieve the cost efficiency but also optimal satisfaction to flat-dwellers.

Similarly, when the tax base (a transaction) is common for all types of taxes, at least the Central taxes can be better managed by a common body. In other words, if goods are manufactured by a factory, the Central Excise duty is levied on removal of goods. Once the goods are sold by the manufacturers either directly or through dealers, States levy sales tax on the same. If some services are utilised in the process of sales, service tax is levied on them. And finally, when the profit is generated out of such sales of manufactured goods, corporate tax / income tax is levied on various income earners. In a nutshell, the basic transaction-base remains one but the taxes which are levied at various stages of the transaction are multiple.

Such a dynamics of the transaction clearly lends legitimacy to the **'Merger Theory'** which has become the need of the hour. The wheel of history has indeed revolved full circle today since 1964 when a Common Board was split up into two. With rapid computerisation of the tax administration, there is no justification for segmented approach towards taxing the same tax base!. The virtue of a unified approach to collect and manage central taxes cannot be overemphasised.

And this virtue has finally been recognised by all developed countries where the process of tax collection has been fully computerised, and it has become convenient to manage the chain of credit. Not less than two dozen economies have gone for merger of their tax bodies in the past five years. Let's take the example of HM Revenue & Customs (HMRC) of the UK. Britain opted for the merger in 2005. The Inland Revenue and the HM Customs and Excise Departments were merged. In fact, the UK has gone many steps further by making it **a non-ministerial department**. In other words, having recognised the virtue of autonomy, to obviate chances of any political interference, the UK has granted the Revenue a status **which stands out** and is different from other Govt Departments. What may provide a peep into the elevated status of Revenue in the UK is the practice that it is the Queen who directly appoints the Commissioners of HMRC. Interestingly, a presentation about the HMRC working was recently given to the Finance Minister by HMRC's one of the Advisors. And the FM had apparently appreciated it profusely.

Similarly, South Africa has a tax system where the Commissioner is appointed by the President for a period of **FIVE years**. The Revenue Board manned by the South African Revenue Service has complete autonomy to run the tax administration without any political interference. One measure of Revenue's importance in the overall spectrum of political governance can be measured from that fact that its last Commissioner who was also the head of the OECD Forum on Tax Administration, Mr Pravin Gordhan, has risen to the status of the new Finance Minister of South Africa.

Since India has inherited its tax administration system from the UK, and has always mirrored many of their procedures and structure even after the Independence, there is no harm in following them again if it suits the future direction of the Indian economy. True, our polity which has a long history of constant political interference in individual taxpayers' cases, **cannot afford to make it a non-ministerial department**. But, this does not mean that our polity lacks in courage to grant some credible shades of 'political freedom' to the Exchequer.

A beginning can be made by first, merging both the Revenue Boards (**LTUs are a live example to such a goal**). A unified administrative command system needs to be created for managing all the Central Taxes, and the same system can be followed by the States once they switch over to the GST system. A group of specialised Divisions / Directorates can be created for large taxpayers, Revenue Legislation, corporate services, Revenue Solicitor's Office, Investigation and many more. This unified body should be given complete autonomy to run its own administration without any interference from the top. The Government may stipulate certain growth rates for it to achieve. An MOU may be signed between the Government and the Board. Such a system exists in many countries, and the **Union Cabinet had once approved it at the time of CBDT's restructuring in 2001. However, some other forces scuttled it as the interest of the positive political forces rapidly petered out.**

Along with the unified administrative command, coupled with complete autonomy, including the financial one, what also needs to be done is **to dismantle the Revenue Headquarters,** and put a new system of **Council for Revenue Management** in place. The primary role of this Council will be to make policy recommendations to the Finance Minister who may decide the final contours of policies, keeping in mind the balance of political conveniences. In other words, this Council would be entitled to receive constant policy inputs from the Unified Revenue Board. And to cull, collate, chisel and polish the policy inputs for the Board will be the **'Legislation Division' (that can be created by merging the TRU and the TPL)**. It is important that the TRU and the TPL remain within the fold of the Board so that they continue to foster the thread of communication with the revenue field formations for live inputs relating to legal infirmities in government policies.

This Council, headed by a Non-Executive Chairman or a Secretary, can meet once in a month, deliberate on suggestions coming from not only the unified Board but also other institutions and chambers of business in the economy, and finally send its recommendation to the Minister for effective decision-making. And if the Finance Minister decides to reject the recommendations of the Council, it should be based on merits. What is equally important is that such merits should be open to public scrutiny if the spirit of democracy and the RTI Act is to be honoured. True, **the public scrutiny of the Minister's decisions may curtail his discretions, but this is the minimum price the Finance Minister will have to pay for infusing objectivity in the top-level decision-making.**

The Council for Revenue Management can be assisted by a Secretariat which can receive representations from business chambers, institutions or individuals. The Board(including the proposed legislative division) should be barred from interacting with lobbyists from the industry and trade - such interaction often leads to deleterious effect on its objective working!. The sole work of the Board would be to collect revenue, enforce tax laws and act as a trusted facilitator of taxpayers' services. Under no circumstances, the Board should be reporting to the Council. The only nexus between the Board and the Council should be for sourcing policy inputs. **The Council will have no say in transfer and posting of officers nor in individual assessee's case.**

What should be the structure of the Council?

Who all should be its Members? The Council should be a Permanent Body like our Rajya Sabha but one-third of its Members should be rotated every two years. In other words, there can be some ex-officio Members, some Members nominated by the Govt, and a few perhaps drawn from various walks of life. The total number of Members can be anywhere between 12 to 16. Some of the Members can also be from the IAS and the IRS, including the retired ones, but the idea is to have a lateral entry system for other Members of known professional integrity and competence. Others can be economists, representatives from business and industry, an Advocate, a CA or a Company Secretary, a mediaperson of repute, and also a representative from the judiciary. As in the case of Members of Parliament, some honorarium and other allowances should be given to the Members making lateral entry. The permanent Members from regular civil services would in any case continue to draw their salary.

But how to select the Members?,

It is important to involve the Leader of Opposition and the institution of CVC along with the Finance Minister, to choose the Members for this Council. If it happens in reality, this body of collective wisdom and sagacity, representing the entire economy, would certainly be the most effective and desirable structure for tax administration reforms in India. This would also draw a line between the administrative and policy functions. The unified Board can have undiluted and unshared administrative power to run the administration, and the Council can focus exclusively on the policy-making.

Before concluding this series, triggered by the half baked reforms proposed for the CBDT in the DTC, TIOL hopes that our political masters would certainly demonstrate a healthy vision for a long-term tax administration structure, best suited to the socio-economic and political environ of the country. Let's hope India adopts a new structure of tax administration which suits not only the new DTC but also the proposed GST and lasts for at least another 50 years, and serves the Nation with unmatched efficiency!

Also see:

PART - I: New Direct Taxes Code: Is CBDT going to be a low-profile Agency outside Central Govt? Is IRS going to be cut down to size?

PART - II: New Direct Taxes Code: A blatant attempt to prop up moth-eaten institution of Revenue Secretary at cost of Revenue Boards!

PART - III: New contours of modern Indian economy: Has Revenue Secretary's post indeed become redundant?

(Four-Part Series is concluded)