

Ease of Doing Business in India - Recommendations

Arun Kumar Jagatramka
Chairman and Managing Director
Gujarat NRE Coke Ltd

FM says Indians are Tax Non-Compliant

- Are Indians non-compliant by nature or is the system non-conducive for compliance?
- Onus of motivating people to become compliant lies with the government
- Need to bring down cost of compliance
- Need to come out of the chicken and egg problem - tax base should be increased first or the tax rates lowered
- Current system has not changed things in last 70 years - need to try out something different



Making India Tax Compliant

- Reduce tax rates drastically:
 - Personal Tax
 - 5 to 10 lacs - 10% | 10 to 50 lacs - 15%
 - 50 to 100 lacs - 20% | Above 100 lacs - 25%
 - Corporate Tax - Maximum of 18%
 - No surcharge or any other hidden tax as well as no exemptions
- Lower tax would increase compliance as evasion would not be lucrative
- Other benefits associated with lower taxes like savings, consumption, demand and growth would result in higher tax collection



Discretionary powers of tax officers



- The recent budget allows reopening of old cases of over 10 years
- This would lead to higher corruption
- Stop Tax terrorism - which has risen after demonetization
- Enable a culture of honest tax paying citizens - People are not tax evaders by nature, but are afraid of the myriad tax laws and the litigations

Accountability of Tax officers

- The Finance Bill 2017 suggests an amendment in the IT Act with retrospective effect to insulate the tax officials
- Gives protection to tax officers from scrutiny
- It only increases the fear of arbitrary behaviour
- It is contrary to the governments' agenda of a tax-payer friendly administration
- Unbridled power in the hands of tax officials would only abate corruption



Need for accountability of Public Servants

- Arbitrary assessments which are struck down on appeal should be stopped
- Penalty or accountability must be on the assessing officer for arbitrary assessments which are ultimately struck down on appeal
- This would ensure that assessee is not penalized by arbitrary assessments and would refrain the officer from making it a tool of blackmail



Accountability at all levels



- Officials are questioned if they do not appeal against an unfavourable order - this needs to change as a policy through government order
- Instead, accountability should be fixed on the officials for appeals made in higher courts against unfavourable judgements
- Government officials should be protected by law and not penalised for accepting the verdict if it goes against them
- This would reduce the overload on Judiciary

Harassment of the Honest

- Demonetization has not changed the scenario
- Tax officials are today busy maintaining a diary of amount that people owe to him in new currency
- It is only a change in the color of currency for them



Suggestions : Direct Tax

- Suitable modification in provisions of the IT Act is required so that the assessing officer can not reopen a case 3 years from the end of the financial year
- Also, the assessing officer shall not reopen a case unless tangible material proof is brought to table which proves that certain income escaped assessment
- Any judgement delivered by a tribunal or a High Court in favour of an assessee can not be disregarded and the adjudicating authorities should follow the precedents of the higher authorities when facts are same

Suggestions - Concept of Materiality

- Introduction of the Concept of Materiality in our revenue collections while dealing with small amounts in dispute
- Revenue laws should allow forego of relatively small amounts (1% or less value of the transaction) in dispute
- The demand notice should be sent based on the quantum of tax already paid - someone who has paid Rs.50 crore tax, should not be harassed with a dispute of say, Rs.50 lakhs



Example of Saga of less than 1%

Case 1

- Coking coal imported = 1.23 lakh tonne
 - Customs Duty paid = Rs.4.73 crore
 - Demurrage charge = Rs.15.55 lakhs
 - Customs duty on demurrage which is under dispute = Rs. 84,000/-
 - Dispute as a % of total duty paid = 0.02%
- Cost of Harassment = Huge**

Case 2

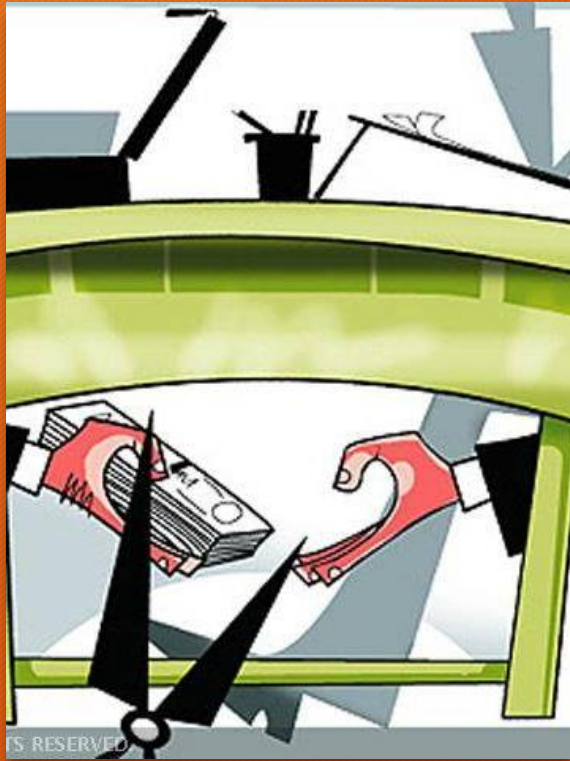
- Coking coal imported = 7.29 lakh tonne
 - Customs Duty paid = Rs.36.89 crore
 - Floating Crane Charge = Rs.6.68 crore
 - Customs duty on Floating Crane charge which is under dispute = Rs.34.74 lakhs
 - Dispute as a % of total duty paid = 0.94%
- Cost of Harassment = Huge**

Bureaucratic Corruption

- There is no end to summons, notices and surveys
- There is no end to documents called for examination in surveys
- Conclusion is not reached in any of the issues - only to be picked and harassed at will



Bureaucratic Corruption



- Harassment continues till greasing of palm
- Industries at times prefer to complete the transaction at the initial stages to avoid long drawn harassment
- There is no end to such bureaucratic interference in sight as State monitoring and meddling in individual free space as well as with individual liberty is on the rise

IS Corruption their Birth Right ?

- The tax administration process and the officials involved in tax collection are the biggest source of black money
- Tax officials feel corruption as their birth right
- You are harassed if you resist payment
- Business disruption is a collateral loss
- Complaints are often handled by their superior officers who is more corrupt and feels annoyed by your complaint



Partnering the government



- We need to turn the heat on tax officials
- Industry needs to raise a united voice against this blackmail
- We may prepare a list of top corrupt officials based on anonymous member survey and hand over to Finance Ministry for action
- It is in our benefit to partner government in the biggest cleanliness drive - It is Now or Never

The Online Myth

- Online registration was introduced to aid ease of doing business
- However, the manual interface has not been done away with
- Field verification of officials, physical document verification and visits to the approving authority's office still continues
- The final registration is an hard copy issued by the office of approving authority
- Online registration is just filling the application form online - rest all is offline