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D.O. No. SECY/FM/2021/335,

**FINANCE, PLANNING & PROGRAMME
IMPLEMENTATION MINISTER, PUNJAB**

Dated: 04-05-2021

Subject: GST: Need for A Serious Midterm Correction.

Dear Nirmala Sitharaman Jee

"JAI HIND"

I write this letter on the subject of GST when our country is in middle of battling with the new wave of Covid which is more devastating in many ways than the one before.

I have been particularly persuaded to write this letter because there has been no meeting of the GST Council for the last six months even though Council's own Rules drafted in terms of Article 279A of the Constitution provide for holding at least one meeting every quarter.

GST revenues constitute nearly 50% of the tax revenues of the States while this percentage for Centre is nearly half of that. States have a voting share of 75% in the GST Council. However failure to hold any constructive consultation with States for so long in such critical times makes me wonder whether Centre has usurped all the power of States putting the spirit of cooperative federalism- that formed the very foundation of achieving consensus on the epic reform - on the back burner.

This may be further seen in the context of the reluctance of the Central Government to activate provisions relating to the appointment of a vice-chair from amongst the States under Art 279A (3) and Dispute Settlement Mechanism under Art 279A (11) of the Constitution even after 5 years of the constitutional amendment after repeated suggestions from States to operationalize these at the earliest.

A number of provisions have been enacted in recent times through the route of subordinate legislation (Rules) bypassing both the GST Council as well as the legislatures. It is the basic principle of justice system that substantive rights of a person cannot be taken away except by a due process of law. The recent amendments in GST Rules (like restricting tax credits) have far reaching implications and were made without even of an iota of discussion in the Council. The delegation of authority provided to a Committee of Officers (GST Implementation Committee) was meant for mundane matters while the same is being misused to carry out substantive changes.

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With oversight given a go-by, the harassment of tax-payers has taken an entirely new dimension with officers resorting to threats of arrest, provisional attachment of productive assets and freezing of bank accounts without any established norms.

These provisions, that were enacted primarily for fly-by-night operators, are increasingly being misused against law-abiding businessmen with demonstrable capabilities built over decades and in situations where they may have indulged in no misdemeanor whatsoever at their end.

For example I fail to see any reason to demand GST from a recipient in a long supply-chain for a possible sin committed by someone with no connection whatsoever with the recipient. For example if A has received a supply from B who has in turn received from C and likewise from D, there is no reason to demand GST from A if D has made any non-compliance in the payment of GST as long as the affairs of A are spotlessly clean. This is what the law provides. However the high-handed conduct of the officers, possibly under pressure to meet unrealistic targets, has put the self-policing nature of the tax into complete tatters.

GST data provides perhaps the best glimpse of the state of the economy. While the revenue collections for the last few months have shown some uptick there is little information as to whether the revenues during a month relate substantially to the supplies of the immediately preceding month or are arrears accumulated over a long period of time due to the economic crunch faced by the business. Thus more than releasing figures of GST paid during a month we need to know GST revenue for the month based on tax returns filed. This will help in understanding the true revenue trends and the state of the economy for suitable corrective action.

While there is scope for some debate on the extent, no one will deny that Covid has indeed impacted the economy significantly. Some sectors have been impacted far more than others even while a few may have even prospered due to the very nature of their business. Some issues that require urgent discussion in the context of Covid are as follows:

- a) Should we exempt GST on hand sanitizers, face masks, gloves, PPE Kits, temperature check equipment, oximeters, ventilators and the like?
- b) With interest rates down by close to 200 basis points, shouldn't we cut down interest rate under GST law (as also under other tax laws)?

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- c) With tax-payers' offices shut and staff working from home, how should the information needs of the department authorities during enquiries be met without physical contact?
- d) How do we provide relief to sectors most impacted by Covid e.g. MSMEs, aviation, hotels, restaurants, entertainment, commercial reality, retail?
- e) Do we need to make amendment in law to allow donations of goods for Covid without denying tax credits on inputs used in their manufacture or purchase?
- f) Whether an amnesty scheme is needed to condone delays in payment of taxes during Covid period?

Moreover in the context of what has been stated earlier, I feel that it will be worthwhile to hold a comprehensive discussion on the following issues:

- a) Review rules of GSTC meetings: voting even at meetings conducted through video conferencing, rules of procedure for placing issues raised by States on the agenda of GSTC meetings, adequate time for circulation of agenda, mandate and limits on the powers of the Officers' Committees;
- b) How do we create an environment of terror-free GST compliance clearly separating the established business from fly-by-night operators;
- c) Mechanism for transparent sharing of GST revenues and other statistics in a meaningful manner both with States and our citizens;
- g) With a great reset in offering in global supply chains, how do we encourage investment in India by removing GST irritants on sectors likely to attract large investments?
- h) Measures needed to overcome obstacles in mergers, demergers and acquisitions of new businesses and FDI.
- i) Whether we need to bring ATF and Natural Gas in GST taking note of their impact in critical sectors like aviation, power and manufacture of fertilizers?

- j) Whether any rate adjustment are advisable both on grounds of simplification as well as to boost revenue collections that have been far from satisfactory and are likely to leave a huge gap that will remain unfilled by the time period of assured compensation is over next year?

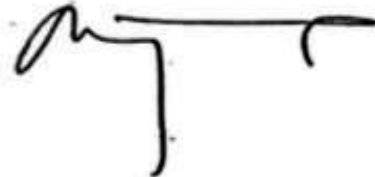
How do we reduce litigation in our Courts challenging the vires of the statutory provisions of GST laws?

I'm informed it is difficult to repair a bad tax system if not done in the formative years. The promise of assured compensation does provide a ready catalyst for such a mid- course correction for some more time.

The clock is sure ticking. India eagerly awaits the GST we all dreamt.

Warm regards,

Yours sincerely,



(Manpreet Singh Badal)

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