

Why Budget will fail to usher in 'non-adversarial' tax administration : 15-07-2014



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ONE of the major concerns the Industry is facing now relates to the manner in which adjudication and appellate proceedings up to the level of the Appellate Commissioners are being handled by the Department, in respect tax matters. Many of us, writing in TIOL, have expressed our concerns over how mindless and arbitrary orders are being issued by the Departmental authorities, with the only objective of garnering revenue for the Government. This has been one of the hallmarks of the indirect tax administration under the UPA Rule.

One expected this completely adversarial tax administration, which is working to the detriment of the Industry to undergo some changes under the new Government. But, it seems that the new Government, instead of taking remedial steps, has actually ended up worsening the situation, vis-à-vis the Budgetary proposals.

Consider these...

With a time limit of 6 months from the date of invoices, being proposed for availment of cenvat credit, Industry and assesseees are now faced with a challenge. Now, it would seem that, despite being a substantive benefit, assesseees would still be denied cenvat credit, if the time frame is not met. Considering the fact that, it takes years for adjudication proceedings to get concluded, assesseees would be left with the unenviable situation of being asked to pay service tax for the past periods and still being denied the opportunity of utilizing cenvat credit for the past periods, given the new 6 month time frame for availment of credit. In effect, the decision of the Hon'ble Supreme Court in the Formica case might no longer be relevant.

The interest rates have now gone through the roof. Assesseees who go on appeals would now need to understand that the interest liability, under the proposed higher rates, in itself, could well kill their companies. The huge interest rates would need to be kept in mind, when assesseees go on appeals. But, the unfortunate situation of the Department passing unreasonable and arbitrary orders would continue to stare at them, as well, leaving assesseees with little option but to fight these orders at the appellate forums.

The proposal to introduce the mandatory pre-deposit is another dampener. Though an overall cap of Rs 10 crores has been proposed, assesseees who wish to go on appeals would now need

to cough up the pre-deposits before filing appeals. This development is bound to affect the smaller and mid-sized assesseees, from the cash flow point of view.

Many of us had expected changes in the cenvat credit rules, etc. aimed at helping the seamless flow of credit to Industry. None of this has happened. On the other hand, the Government has proposed to go in for changes even for Large Tax Payer Units, wherein, the duty free benefit for Inter Unit Transfers (IUTs) is proposed to be removed. This, in itself, would be a big dampener for the large companies, who were trapped into the LTU scheme, on the promise that, all of their issues would be handled under a single agency.

The proposals involving compulsory pre-deposit and the steep increase in the interest rates, among themselves, would result in the worsening of the current adjudication system, to say the least. These proposals would result in a large number of arbitrary orders being passed in the interests of revenue generation. Industry would need to cope with the effects arising out of these draconian changes.

Like many of my colleagues, I was hoping that the new Government would usher in proposals to meet their pre-election promise of a 'non-adversarial' tax administration. I am sorry to state that the Industry would need to confront with a much more adversarial tax administration, post this Budget.

There is a saying that the devil is in the details. This is indeed the feeling that one gets, after going through the fine print.