

Modi Govt. Launches Sixth Tax Amnesty despite Muted Show by Earlier Schemes

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Collection goal of Rs.9.32 turn under Vivad Se Vishwas seems a tall order, given that the most successful scheme so far has yielded just about 3% of that amount.

The Modi Government has come out with the sixth Amnesty Scheme during its five-and-a-half-year rule, as it seeks to shore up dwindling Tax revenues. The sixth scheme, the **Direct Tax Vivad Se vishwas**, is specifically aimed at Tax Disputes involving a total of Rs.9.32 trillion at various fora of appeals, including Income-Tax Commissioners (appeals), Income Tax Appellate Tribunal (ITAT), High Courts and the Supreme Court.

However, none of the scheme floated so far by the Modi Government has yielded Rs.Nine trillion to the coffers. The maximum fetched was by the Income Declaration Scheme brought prior to demonetization, but whose payment process more or less coincided with the banning of high value rupee notes of Rs.500 and Rs.1,000. Even then, Tax collected was Rs.29, 362 crore or not even 30% per cent of Rs.One Trillion, let alone Rs.9.32 Trillion.

In fact, the Government does not even need Rs.9.32 Trillion either in the current financial year or the next financial year. But it needs substantial Tax revenues at least during January-March of the current financial year. The revenue to the Centre (net of state devolution) has been pegged at Rs.15.04 trillion under the revised estimates for the current financial year. The collection stood at Rs.9.05 trillion till December. This means the Government has to collect about Rs.Six Trillion in the next three months. Moreover, 42% per cent of whatever it collects, except Cess and surcharges, goes to the states, so the Government has to collect that much more.

There is no doubt that a substantial portion of Income Tax comes by way of advance Taxes to be paid by March 15 and the rush to pay Taxes in the last month. Even then, mopping up Rs. Six Trillion seems herculean. The Government had collected Rs.3.81 trillion in the last three months of FY19. This means it has to mop up about 57% per cent more in the January-March period 2019-20 than what was collected in the year-ago period.

Net Tax revenue to the Centre is pegged at Rs.16.36 Trillion for the next financial year, lower than Rs.16.49 Trillion projected under BE of 2019-20. However, Tax receipts for 2020-21 were projected to grow 8.7% per cent over Rs.15.04 Trillion under RE of the current financial year. This is substantially lower at 14.19 per cent projected to grow this year under RE compared to Rs.13.17 Trillion in 2018-19.

Let us examine the various amnesty schemes brought out by the Modi Government since it came to power in May, 2014.

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Black Money Act of 2015 :

One of the key promises of the BJP was to bring back black money stashed abroad by Indians. Besides various other measures like setting up of the Special Investigative Team (SIT) on all kinds of black money, the Government enacted the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, or in short, the Black Money Act, 2015 to bring back money kept overseas.

The Act, introduced in May of 2015, allowed Indians to declare overseas assets acquired from previously undisclosed Taxable income or gains and receive protection from prosecution.

Disclosures made under the Act needed to be made by September 30, 2015 and the associated Taxes and penalties had to be paid by December 31 that year.

Taxpayers making declarations under the scheme had to pay Tax at 30 per cent of the Fair Market Value (FMV) of the undisclosed foreign assets. In addition, they Taxpayers were liable to pay an amount equal to the Tax as penalty. Total Taxes and penalties would therefore amount to 60% per cent of the FMV of the assets.

The Government refused to call it Amnesty scheme since a penalty was imposed on the declarants.

In the compliance window for the scheme, the Government received disclosures worth Rs. 4,147 crore and the 60% per cent Tax translated to Rs.2,428 Crore in Revenue. This constituted just 0.17% per cent of total Tax receipts mopped up that year at Rs.14.56 trillion.

If only direct Tax collections of Rs.7.41 trillion in 2015-16 are taken into Account, the Taxes paid under the scheme amounted to 0.33% per cent.

Income Declaration Scheme, 2016:

This was announced in the Budget for 2016-17 by then Late Finance Minister Arun Jaitley. Under the scheme, those who have not declared their Income or Assets in the past years could do so now, but by paying 30 % per cent Income Tax, 25% per cent of Tax as krishi kalyan Cess and 25% per cent as penalty thereon. This makes a total Tax liability of 45%per cent, with 25% per cent of 30% per cent Tax amounting to 7.5% per cent each. However, the Taxes could be paid in three instalments.

The scheme that opened on June 1, 2016 and closed in September that year, allowed declarants to submit 25%per cent of the Tax liability by November, a similar amount by March 2017 and 50% per cent by September 2017.

The income declared under the scheme was Rs.65, 250 crore and Taxes paid were Rs.29, 362 crore, which remained the highest amount of Taxes paid under any amnesty scheme till then.

Since the payment process falls under two financial years, one has to break up the payment to gauge its contribution. As much as 50% per cent of the Taxes were to be paid in 2016-17 and the same amount in 2017-18. It means Rs.14, 681 crore was paid in 2016-17 and the equal amount in 2017-18.

Now, Rs .14,681 constituted 0.85 %per cent of total Tax collections and 1.73% per cent of direct Tax mop up in 2016-17. So far as 2017-18 is concerned, the Tax collected under the scheme that year accounted for 0.76 %per cent of total Tax collections and 1.46 % per cent of direct Tax collections.

Direct Tax Dispute Resolution Scheme, 2016:

Jaitley announced this scheme in the Budget for 2016-17 to settle cases pending with the first Appellate Authority, Commissioner of Income Tax (Appeals) as on February 29, 2016. The scheme, open from June 1, 2016 to December 31 that year (later extended till January 15, 2017), was also applicable to cases pending litigation due to retrospective amendments at various levels.

The scheme offered complete waiver of penalty and did away with prosecution if the amount of disputed Tax was Rs.10 lakh or less, and if the Tax liability was paid along with interest. If the disputed amount was over Rs.10 lakh, the declarant was required to pay 25% per cent of the minimum penalty leviable, along with the due Tax and interest.

It was expected that both Vodafone and Cairn would apply for the scheme. However, neither did.

Otherwise also, the scheme evoked poor response with the Government receiving close to Rs.250 crore from Rs.4, 100 cases. This constituted just 0.01 % per cent of total Tax collections and 0.03 % per cent of direct Tax mop up in 2016-17. None of the big Tax disputes availed of the scheme.

PM Garib Kalyan Yojana, 2017:

The scheme, launched after demonetization of high-value currency in November, 2016, gave a chance to those holding black money in the form of banned Rs.500 and Rs.1, 000 notes to come clean by paying a total Tax of 50 % per cent. Besides, 25% per cent of the money was to be invested in the **PM Garib Kalyan Yojana** which would be locked in there for four years. However, no interest would accrue when the money was refunded after four years.

Essentially, the Yojana, which was valid from December 16, 2016 to March 31, 2016, meant that declarants had to part with 75%per cent of the money declared. This must have discouraged the black money holders, as is evident from the numbers. Only Rs.4, 900 crore

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of black money was declared, which was less than 10 % per cent of what was declared under IDS. The Tax paid amounted to Rs.2, 451 crore.

The Taxes collected under the scheme accounted for 0.14% per cent of total Tax receipts and 0.29 % per cent of direct Tax collected in 2016-17.

Sabka Vishwas Scheme:

The Legacy Dispute Resolution Scheme, 2019 sought to resolve pre-GST service and excise duty litigations involving Rs.3.75 trillion.

The scheme was on for four months, from September 1, 2019 to December 31, 2019, but was later extended till January 15, 2020.

Under the scheme, 70% per cent of the Tax dues under Rs.50 lakh would be waived. But if the amount was over Rs.50 lakh then the waiver was 50% per cent. Dues recoverable as arrears (on matters that have attained finality), 60% per cent dues would be waived if the Tax involved was up to Rs.50 lakh and 40% per cent if the amount involved was more than Rs.50 lakh.

Final official data on the scheme isn't out yet. But sources said almost 190,000 assesses came forward to settle pre-GST disputes with the Government. Their Tax liability would be Rs. 39,000 crore, but Rs.5, 000 crore has already deposited by the applicants prior to the scheme.

This would leave only Rs.14, 000 crore for the kitty. Total declarations under the scheme worth Rs.46, 00 crore are less than 10%per cent of disclosures under IDS 1.

The Tax amount of Rs.14, 000 crore under the scheme constituted 0.65% per cent of collections pegged under RE, at Rs.2.16 trillion for 2019-20.

Vivad se Vishwas:

The Direct Tax Vivad se Vishwas Bill, 2020, offers waiver of interest, penalty and prosecution for settlement of these disputes pending before various fora.

While a complete waiver of interest and penalty will be given if payment is made by March 31, an additional ten per cent of the disputed amount will be payable after that.

In case of Tax arrears pertaining to only disputed interest or penalty, 25% per cent of disputed penalty or interest will need to be paid while settling appeals up to March 31, 2020 and 30 per cent if payment is made after that.

When stakeholders assert that the amount of Tax is too high and should be lowered as in the case of the pre-GST settlement scheme, the Cabinet amended the Bill, lowering the payment of Tax to half the disputed amount in cases where assesses have won the case but the income Tax department filed appeal against it at a higher forum.

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The Cabinet also expanded its scope to cover litigation pending in arbitration forums and debt recovery tribunals (DRTs). The scheme will also include cases related to small-value search disputes.

This means that high-profile cases like Vodafone and Cairn Plc, which are pending in arbitration, are eligible for the scheme. But, the two companies had not come forward to settle their disputes under the earlier scheme of 2016 cited above.

Queries sent to Vodafone did not elicit any response. However, Cairn Plc. said it is waiting for arbitration order which would come out in "summers".

The amended Bill is yet to be tabled in Parliament. This would be done when the Budget session resumes in March after the recess.

Meanwhile, the finance ministry is fine-tuning rules to make the scheme accommodative for those declaring money involved in disputes and paying Tax on them over just a fortnight in March.

Besides instructing officers with the job of clearing applications online within a day once the Bill is enacted in March, the Tax department will allow assesses to join the scheme without waiting for the withdrawal of cases from various judicial bodies. Declarants will just need to attach the application on withdrawing cases from the commissioner (appeals), the Income Tax Appellate Tribunal, High court, or Supreme Court, along with the Vivad se Vishwas form.

However, the time is short and arranging for funds after the Bill was enacted may be challenging for companies as they will need board approval for the same.

Rajat Mohan, partner, AMRG & Associates, said: "Arranging for funds on short notice would prove to be a challenge for Taxpayers, especially when the economy is going through the worst slowdown in modern history and the central bank has still not improved liquidity."

Neeru Ahuja, partner, Deloitte India, too said the time window was short.