

CONSTITUTION AMENDMENT BILL ON GST ROLL OUT LIKELY TO BE TABLED IN NEXT BUDGET SESSION: REVENUE SECRETARY

NEW DELHI, October 29, 2010. The Union Finance Ministry will receive today the comments of the Empowered Committee of State Finance Ministers which is meeting in Goa on the revised draft of the Constitution Amendment Bill on the introduction of the Good and Services Tax (GST) from April 1, 2011. The revised draft of the Bill, that ensures fiscal autonomy to the States by making the decisions of the proposed GST Council recommendatory and not binding on them, is expected to be tabled in the budget session of Parliament beginning February 2011, **Mr. Sunil Mitra, Union Revenue Secretary told members of the International Chamber of Commerce (ICC) Commission on Taxation.**

Addressing a *ICC India-FICCI roundtable on 'Indian Tax Policy and Administration'*, Mr. Mitra said that the proposed GST Council would take a view on the threshold of GST, the rates of tax and the exemptions to be provided for. These would then be tabled in the legislatures of the States for approval.

Under the GST framework, taxes would be levied by the States and the Union Government on manufacture and sale of good and provision of services. This requires an amendment to the Constitution to allow the Union Government to tax goods and sale of goods and the States to tax services.

Mr. Mitra said the draft Direct Tax Code (DTC) Bill was being vetted by the Parliamentary Standing Committee on Finance. "We hope to get the Standing Committee's comments by February or March 2011 and expect to get Parliamentary approval in the monsoon session. Thereafter the subordinate legislations relating to DTC would be framed and put in the public domain for comments from all the stakeholders, he said.

Mr. Theo Keijzer, Chairman, ICC Commission on Taxation, underlined the need to remove the apprehensions of the international business regarding the "uncertainty and instability" of the Indian tax system, the mark ups and the retroactivity in the tax system by which laws or court decisions affect already existing rights, obligations and duties, or attach new conditions in respect to transactions or events already past.

Ms. Anita Kapur, Director General of Income Tax (Administration), in her presentation on 'Challenges for Indian Tax Policy with India's changing economic profile in the World economy and the current financial and economic crisis', stated that India's tax policy was driven by the need to provide a simple tax system with minimum exemptions and low rates designed to promote voluntary compliance. Such a system has to be transparent, fair and effective; improve tax revenues to meet developmental needs and make the growth more inclusive and exemptions should address market inefficiencies or generate positive externalities.

She said that there were converging priorities between India and other world economies to create robust investment environment including a supportive tax regime; reduce compliance burden and administrative burden, enforce tax compliance -on shore and off shore- and strengthen exchange of information network; cooperate across borders and be part of global effort to counter tax evasion;

recognise that tax evasion is linked to other harmful activities such as terrorism, drug trafficking, and corruption and counter treaty abuse.

Mr. Sushil Jiwarajka, President, ICC India & Chairman, FICCI Western Regional Council, ICC, noted that in order to sustain the growth process, India will need more investments and high technology from different sources. This would need facilitating policies for investors. “We need to put in place open and transparent tax regime for foreigners doing business in India and Indians doing business abroad”, he pointed out.

He said that to induce subsidiaries of Indian companies overseas to remit their dividends into India, it would be desirable for the Indian government to consider providing tax exemption/concessional tax treatment for such dividends or government may introduce the concept of the “underlying tax credit”, on the pattern adopted in other countries including Netherlands, Denmark, Belgium, Spain, Switzerland, Luxembourg etc.

Mr. Jiwarajka said the Dividend Distribution Tax (DDT) is often a sunk cost for a foreign shareholder, because DDT paid by the Indian company is not available as credit against the tax to be paid on such dividends in his home country. “We have to enable the foreign shareholder to be eligible for such credit. In this connection, my suggestion to the government is to have a “split” kind of system, i.e. DDT for domestic shareholders and withholding tax (equivalent to DDT) for foreign shareholder, who would then be able to claim credit for the withholding tax paid by him in India. The suggestion would even be tax neutral from India’s perspective”.

He also underlined the need for a mechanism of obtaining an advance ruling or the ‘clearance certificate’ for the taxpayer (similar to the present Authority for Advance Rulings - AAR mechanism) to determine specifically whether the Controlled Foreign Corporation (CFC) regime applies to a particular fact pattern. This should also help achieving the requisite certainty and boosting taxpayers’ confidence in the Indian tax system.

India’s taxing statute should also specifically exclude non-residents who do not have in India a place of business from complying with our withholding tax obligation. Currently, a non-resident is required to withhold tax irrespective of his having a business presence in India. This creates avoidable hardships to NRs who are not liable to be assessed in India, as they are only availing services from Indian residents. Such compliance cost in procuring services from India result in enhanced cost of Indian products and services, making these uncompetitive which ought to be avoided, he added.

The opening session of the day-long roundtable was also addressed **by Mr. Mukesh Butani, Vice-Chairman, ICC Commission on Taxation and Mr. O P Vaish, Member, ICC Commission on Taxation & Member, FICCI Executive Committee.** The meeting deliberated on issues such as International Tax, Tax Treaties and India’s Standpoint; Tax Administration in India and How Competitive is the Indian Tax System; Direct Tax Code; and GST on Cross Border Trade.

MEDIA DIVISION