Retrospective taxation on India Inc’s mind as it meets Jaitley

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In a pre-Budget meeting with finance minister Arun Jaitley on Friday, corporate India identified the 2012 retrospective changes in tax laws that had validated hefty tax bills on a host of large foreign investors in India as a key irritant to investors and almost in one voice pitched for their immediate abolition.

The captains of Indian industry conveyed to the minister the actions believed needed to salvage the economy given that private consumption spending grew at the slowest rate in a decade in FY14, but primarily stressed resolution of tax issues.

Arguing for early adoption of the goods and services tax (GST) in an undiluted form, industry leaders under the banner of apex chambers gave a thumbs down to the Direct Taxes Code (DTC) in its present form — both CII and Ficci virtually suggested the code be dumped.

CII said the GAAR provisions, which are due to take effect from April 2016, could be deferred further given that “there are a number of grey areas which needed to be removed” and that “our economy continues to be in the midst of a slowdown and green shoots of recovery are yet to become apparent”.

GAAR, globally compatible rules to check tax evasion through shell companies, was proposed by the UPA-II government when Pranab Mukherjee was finance minister but was later diluted by his successor P Chidambaram, who also deferred its implementation from the originally proposed 2013-14.

Friday’s meeting was attended by Sunil Mittal, Venugopal Dhoot, Tulsi Tanti, Kiran Mazumdar-Shaw, Ficci president Sidharth Birla, CII president Ajay Shriram and Assocham president Rana Kapoor, among others.

With the government's revenue productivity being undermined due to the economic slowdown (GDP grew 6.7% in FY12, 4.5% in FY13 and 4.7% in FY14), it has been aggressive in boosting revenue collections by raising tax demands on MNC arms in India. With these and the aggressive transfer pricing adjustments sought by the revenue department over the last few years, a sum of Rs 4.8 lakh crore is said to be locked in tax disputes.

Emerging from the meeting, Jaitley called it a constructive one. “The economic situation at present is quite challenging but there is enthusiasm among the industry to turn it to its advantage. There is need to give directional thrust to translate the same into better results,” a statement from the finance ministry later said, quoting Jaitley. The meeting was attended by ministers of state Nirmala Sitharaman and Ratan P Watal and officials.

Mittal said: “We are all very hopeful that the demands or needs of the industry will be taken care of. Industry pitched for reviving the investment sentiment, making the tax regime much more simple to understand by removal of ambiguities.” On the telecom sector, he advocated auctioning of more spectrum.

CII suggested that every non-tax revenue option could be explored for augmenting revenue while rationalising non-productive expenditure to contain the fiscal deficit.

In fact, industry's list for tax relief is quite long. To promote investment in manufacturing sector (which contracted 0.7% in FY14), the chambers said, the threshold limit of investment allowance should be reduced to Rs 50 crore so that mid-sized companies also get the benefit. All chambers reiterated their long-pending demand for removal of minimum alternate tax (MAT) on SEZ developers and units.

Stating that there was “too much pressure on tax officers to maximise revenue collections leading to arbitrary adjustments/additions, denial/delay in refunds/drawbacks and pointless litigation”, Ficci said that “revenue cannot be enhanced by prescribing artificially high targets”. Note that tax revenue growth in the last two years have been way below the targets set.

CII pressed for an amendment of the Income Tax Act for reversal of retrospective amendment to tax laws and make all taxation prospective. Its president Shriram stated that “at a time when the Indian economy is struggling to regain its growth momentum and investment sentiment is weak, frequent and retrospective changes in tax laws, which are ambiguous and open to wide interpretation, should be avoided to restore investor confidence”. The industry body also stressed the importance of reviving consumption and investment demand to infuse vibrancy in the economy, for which fast-tracking project clearance, it said, assumed priority. It sought reducing the threshold limit of Cabinet Committee on Investment clearance from the current Rs 1,000 crore to Rs 500 crore.

Assocham proposed interest rate subsidy for infrastructure projects akin to the one available to the textile industry and grant of infrastructure status for housing sector.

Earlier in the day, Jaitley had met major trade unions and promised that steps would be taken for skill development in order that more trained workers will contribute to and benefit from the economy.

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