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View: There's no end in sight to India's tax terrorism. Just look at the data

BY ET CONTRIBUTORS | MAR 22, 2018, 08:30 AM IST

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By **T V Mohandas Pai & S Krishnan**

One of the major promises made by the **BJP** government when it came to power in 2014 was to stop tax terrorism. Finance minister **Arun Jaitley** proclaimed before the 2014 election that tax terrorism was the biggest threat to **India** and he would stop it.

The problem of tax terrorism persists in this regime as well. Tax disputes have risen massively due to high target setting by the political establishment over the years. Over the last four years, the NDA has taken many steps to reduce tax terrorism, but the on-ground impact has not been high.

Tax terrorism arises from high unrealistic target setting, leading to high-pitched assessments, and the long time taken to settle appeals. Today, both the assessment and appeal systems are broken with no hope in sight for the taxpayer who suffers immensely.

High-pitched assessments eventually result in disputes. The **corporation tax** under dispute for more than one year but less than two years increased by 44%, from Rs 1.44 lakh crore in 2014-15 to Rs 2.08 lakh crore in 2016-17. The income taxes (other than corporation tax) under dispute for more than one year but less than two years rose by 2.85 times from Rs 0.63 lakh crore in 2014-15 to Rs 1.79 lakh crore in 2016-17. The FM had promised that disputes would come down, but the facts indicate otherwise.

The rate of disposal of scrutiny assessments (at the primary level) and appeal cases (at the next level) is ludicrously low in India. The pendency rate of scrutiny assessments was 48% in 2014-15, 52% in 2015-16 and 56% in 2016-17. In the case of appeals, the situation is worse. The appeals pending with the Commissioner of Income-Tax (CIT) stood at 71.1% in 2016-17.



The large quantum of pending tax disputes show that high-pitched assessments indeed continue.

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The amount locked up with the CIT (Appeals) at the end of March 2017 more than doubled to Rs 6.11 lakh crore compared to Rs 2.87 lakh crore at the end of March 2014. The amount locked up with CIT (Appeals) is equivalent to 1.97 times of the revised **revenue deficit** of the government of India in 2016-17. The amounts locked up at the various high courts increased from Rs 0.33 lakh crore at the end of March 2014 to Rs 2.88 lakh crore at the end of March 2017, a whopping 8.73 times. At the Supreme Court, the increase is 2.5 times.

The finance minister in his **Budget 2016** speech stated, "Litigation is a scourge for a tax-friendly regime and creates an environment of distrust in addition to increasing the compliance cost of the taxpayers and administrative cost for the government."

The large quantum of pending tax disputes show that high-pitched assessments indeed continue.

In litigation at all levels, the success rate for the income-tax department (ITD) is substantially low. The success rate of appeals in favour of the taxpayers in 2015-16 was 65% at the tribunals, 79% at the high courts and 71% at the Supreme Court. This shows the poor quality of perverse assessments.

To achieve the high unrealistic targets set for them, officers (mis)use the litigation mechanism to their advantage. There is no penalty on the ITD and its officers for needlessly pursuing appeals at higher levels, regardless of the outcome.

The ITD collects the tax on a perverse assessment by force and when taxpayers protest, officers agree but confess that they have a

collection target to achieve. They instead suggest that taxpayers appeal against the assessment and obtain refunds!

The sad truth is when a demand is raised, the taxpayer's funds are locked up during the entire litigation period that takes an unusually long period to settle. Honest taxpayers are eventually harassed due to the inability of the government to expand the taxpayer base. The number of non-corporate assesseees increased from 3.98 crore in 2015-16 to 4.37 crore in 2016-17, registering a rise of 9.8%, while the number of corporate assesseees merely rose from 6.9 lakh in 2015-16 to 7.1 lakh in 2016-17, registering a rise of 2.9%.

Taxing Disputes

A perusal of all the data makes one come to the inescapable conclusion that the NDA government has not been successful in keeping its promise of ending tax terrorism.

On the ground, not much impact has been felt even though processes seem to have been improved. Tax disputes remain as high as before. When the NDA government came to power, the amount of tax disputes in March 2014 was Rs 4.10 lakh crore, which has gone up to Rs 6.10 lakh crore in March 2017, a 50% increase.

The FM also agreed that injustice was done to Vodafone but has not remedied it yet. If promises made in Parliament are not kept, the credibility and trust in government will suffer. It's time our FM kept his promise.

Pai is chairman, Aarin Capital Partners, and Krishnan is a tax consultant. Views expressed above are the authors' own.

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