

THE STILLBORN

While there are nearly 17,00,000 registered assesseees under service tax, only about 7,00,000 file returns. Many have simply stopped filing returns. We cannot go after each of them. I have to motivate them to file returns and pay the tax dues. Hence, I propose to introduce a one-time scheme called 'Voluntary Compliance Encouragement Scheme'.

- Budget Speech 2013.

"Only 18 out of 23,125 defaulters in Gujarat State has approached the tax department for VCES"

- DNA News on 16.09.2013.

When our beloved FM announced this so-called-samadhan-scheme for service tax in his budget speech, across the nation the cheers were galore. But when the scheme was rolled out in paper, the mountain got reduced only to a molehill. In this piece, I am trying to analyse the reasons for the failure of this much-hyped VCES.

To me, the multiple bar cast to this scheme under Section 106 (2) of the Finance Act 2013, is a real turn-off.

As per Section 106 (2) of the Finance Act 2013 reads as under:

" Where a declaration has been made by a person against whom,—

(a) an inquiry or investigation in respect of a service tax not levied or not paid or short-levied or short-paid has been initiated by way of—

(i) search of premises under section 82 of the Chapter; or

(ii) issuance of summons under section 14 of the Central Excise Act,1944, as made applicable to the Chapter under section 83 thereof; or

(iii) requiring production of accounts, documents or other evidence under the Chapter or the rules made thereunder; or

(b) an audit has been initiated, and such inquiry, investigation or audit is pending as on the 1st day of March, 2013, then, the designated authority shall, by an order, and for reasons to be recorded in writing, reject such declaration."

By these embargoes, lakhs of potential declarants have been kept away from this scheme, which is the prime reason for the gross failure of this VCES.

Another major intrigue to this scheme is Section 110 of the Finance Act 2013, which reads as under;

" Where the Commissioner of Central Excise has reasons to believe that the declaration made by a declarant under

this Scheme was substantially false, he may, for reasons to be recorded in writing, serve notice on the declarant in respect of such declaration requiring him to show cause why he should not pay the tax dues not paid or short-paid."

The term "substantially false", used in the above Section is not only extravagant but also extra-vagrant. This loose term is creating ripples of uncertainty in the minds of the potential filers. The FAQ issued by the department while clarifying this term, with its usual proprietary intellect, has further damaged things, by its lousy illustration. The FAQ, by its dicey clarifications on the issues relating to appeal, cenvat etc, has only made the bad to worse, by further dampening the belief of the trade about this scheme.

Further this scheme provides immunity from interest and penalty to those who had not paid the tax over 5-years nor revealed their liability. But surely it's a raw deal to the genuine. Those who had subjected themselves to the statutory provisions all these years, either by filing returns or being audited or served with a SCN or an order, are all left out of the scheme. We may console ourselves saying that, equity in alien in such schemes, but this VCES is blatantly cruel in its discrimination that even the Revenue brigade feels that this is a brutal and a ridiculous proposition. It's also a feeling of many that this scheme is not with an intention to garner revenue but with vested

interest to bail out a preferred few. Though I wish to discard this apprehension as a popular rumour, I am unable to.

Further the timing of this scheme is absolutely poor and improper. To me, right timing is a crucial factor for any endeavor. It is an indispensable factor in the determination of the success as well as failure. Be the success of Ms. Indira Gandhi in Indian Politics or the downfall of Adolf Hitler in World War II, timing had been a very crucial factor. Today, when there is an overall economic meltdown, one cannot expect a voluntary confession and that too for a 5-year liability. When the trade is reeling under utter despair, introducing any such voluntary disclosure scheme at this juncture is, if not stupid, definitely not a good idea.

Last but not the least, the reasons that our FM had chosen the last leg of the UPA-II for announcing this VCES could be many. It could have either been to wash out the dirt collected in a decade or the bait for UPA III. It could be either the hindsight of the present term or a foresight that there may not be a future term. Whatever be the reason, the ground reality is that, there are only very few takers of this lackluster VCES compared to the estimate. That too, with the deadline (31.12.2013) fast approaching, this scheme appears to be heading to be the biggest "box office bomb" for the Revenue!