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Issue 7: Optimization of Cost

Concerns of Industry

The disruption caused by the COVID-19 pandemic & continued lockdown has had an adverse impact on the bottom line of the business across segments. Business are forced to rationalize costs to stay afloat. The devil, as they say, lies in the details. Businesses now need to delve deep into sourcing & supply patterns to oblivate any possible tax inefficiencies in the system.

ELP's Insights

- Ordinarily, tax inefficiencies are due to non-creditable taxes such as BCD, GST on exempt supply and/or indirect levies such as duty on fuel, power, municipal levies, etc. These unprecedented times now require a thorough analysis of the above to achieve cost optimization.
- *Ad valorem* import duties often see dual taxation. Instances are galore where the charge for services already subject to GST included again in the value of goods requiring payment of BCD. Contract for drawings & designs, technology, transportation need immediate review for saving of the BCD & consequent respite on GST credit accumulation.
- Exploring importation under concessional schemes under FTAs/PTAs and/or under various incentive schemes (including project import) under the FTP.
- *Qua* services, one may look at vivisectioning them into two or more elements. This is possible in construction/EPC contracts involving non-creditable GST. Vivisection may provide rate arbitrage for goods & services involved in such contracts. Supply of free material needs careful segregation duly supported by appropriate contractual clauses to mitigate disputes, if any.
- Business segments without ITC, procurement of services from suppliers registered under composition scheme at 6% GST would significantly reduce tax outflow. Option of restructuring supply pattern for coverage into job work may be examined. This will eliminate inbuilt GST cost owing to intermediate, exempt or non-GST supply. Incidentally, GST rate for specified job work services stands reduced from 18% to 12%.
- At times, promotional/combo packs run the risk of being treated as mixed supply & a higher GST. Membership schemes, discount vouchers, redeemable points, aimed at incentivizing consumers may have GST leakage. Re-

strategizing such promotional schemes is paramount to lowering the GST burden.

- Business dealing in taxable & exempt supply require mandatory reversal of ITC. Scrutiny of procurements *vis-à-vis* taxable & exempt supply may provide avenues to reduce the impact of reversal. Evaluation of separate registration for distinct lines of business may provide some respite for ITC loss. It may also aid in effective ITC utilization.
- Introduction of GST, in 2017, has largely addressed issues of multiplicity & cascading effect of taxes resulting in smooth flow of credits. Yet, in few cases, transactions such as warranty supplies, AMC contracts, transactions liable to RCM, etc., continue to haunt business leading to GST leakage. Restructuring of such transactions may provide an avenue for optimization.
- Employee transactions involve tax cost with multiple interpretational challenges. Providing free/concessional facility (like travel, food, residence, insurance, etc.) & other supplies meant for personal consumption are thorny issues & require restructuring.

Practical Pointers for Industry

- Comprehensive examination of transactions to identify tax inefficiencies.
- *Ad idem* of commercial objective with tax optimization.
- Identify possible avenues for re-structuring.
- Formulate sourcing strategies to avail all possible concessions under FTP/Customs/GST.
- Review all transactions with related parties including employees.

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