

**PRESS RELEASE**

Text of the letter addressed to **Dr. Manmohan Singh**, Hon'ble Prime Minister of India by **Selvi J Jayalithaa**, Hon'ble Chief Minister of Tamil Nadu on 18.8.2011 is reproduced below:-

"As you are aware, the Constitution (115<sup>th</sup> Amendment) Bill, 2011 has been introduced in the Lok Sabha in the Budget Session. The Bill has been referred to the Parliamentary Standing Committee on Finance, whose Chairman has addressed the States for their views in this regard. While the views of the Government of Tamil Nadu are being communicated separately to the Parliamentary Standing Committee, I wish to convey, through this letter, the strong reservations of my Government with regard to the manner in which the Government of India is endeavouring to bulldoze through this piece of Legislation which encroaches upon the powers vested with the States by the Constitution of India.

It is universal knowledge that the State Governments, being closer to the people, have greater responsibilities in terms of providing basic services and implementing developmental schemes. In our constitutional scheme, the States' resources are limited. Sales Tax is the only major buoyant source of revenue on which the States depend. Therefore, any tax reform measure driven by the Government of India should neither reduce the revenue flow from this source nor should it adversely affect the fiscal autonomy of the States. Even if some losses are compensated by the Centre for some time, the reforms must not make a permanent dent in our resources.

Our main concern with the GST is that, in the name of harmonization, the State's already limited authority to levy taxes should not be snatched away. Further, constitutional mechanisms like the GST Council and the GST Dispute Settlement Authority impinge on the legislative sovereignty of both the Parliament and the State Legislatures. We also strongly believe that harmonization will not be achieved merely by adopting a common rate for all the commodities across the country when the States are having diverse resource bases and requirements. Therefore, the implementation of GST with two rates initially and converging into a single rate later is not workable. In States like Tamil Nadu, where the tax neutral rate is as high as 17%, this will lead to a huge loss i.e., more than Rs.5000 crores loss per annum. Any proposal of GST structure will have to address these concerns.

A broad consensus on the framework of GST tax structure, procedure, etc. should first be arrived at through a proper consultative process. At this juncture, the States are not clear about very critical issues including the tax structure, methodology of Integrated Goods & Services Tax, powers of the State in altering tax rates, in levying cess, giving exemptions to certain commodities of local importance, and the compensation mechanism. When there is no clarity on such critical matters, pressing for the enactment of the Bill will not yield any results, and is bound to be counter productive. Approval of this Amendment Bill by any of the States will amount to entering into an unknown territory fraught with risk and uncertainty. Therefore, I am of the opinion that before the Government of India pushes through this Bill in the Parliament, it is necessary that the consultative process among all States and the Centre is taken forward to come to a broad understanding on the framework of the GST. As Shri Sushil Kumar Modi has taken over as the Chairman of the Empowered Committee of State Finance Ministers now, we should pursue this matter further in the Empowered Committee and reach an understanding on key issues.

A'propos the contents of the Constitution (One Hundred and Fifteenth Amendment) Bill, 2011, we have some concerns on the way the GST Council and the GST Dispute Settlement Authority are being contemplated. Though the proposed Article 279-A contemplates setting up of the GST Council as an advisory authority which will take decisions through consensus, the GST Dispute Settlement Authority proposed under Article 279-B will have an overriding authority on the States, as its decisions are binding on the States. This means the States virtually lose their authority to fix tax rates, which is unconstitutional and not acceptable in a federal set up. The Council and the Authority also impinge on the Parliament's authority.

The Bill suggests that the Entertainment Tax collected by local bodies alone will be excluded from GST. But in some States, including Tamil Nadu, for administrative reasons, Entertainment Tax (the proceeds of which are meant primarily for local bodies) is collected by the State Government. In the Amendment Bill, it is proposed to subsume Entertainment Tax not directly collected by the local bodies.

The Bill proposes to keep Tobacco and Tobacco products as a specific entry '84' in List I of the Seventh Schedule enabling the Union Government to levy Excise duty over and above GST, while the States have not been vested with this power.

Other issues like a time frame for convergence of the tax rates for essential goods and luxury goods, adoption of a uniform threshold for levying of SGST and CGST, usage of the State tax machinery for collection of CGST up to a threshold level, formation of an autonomous body for computation and disbursement of compensation, guarantee for abiding by a pre-agreed compensation framework, evolution of a workable IGST model, institutional and infrastructural preparedness across the States, etc. are not covered by the Amendment Bill. However, there is no point in proceeding with the enactment of the Amendment without addressing them completely and taking the States into confidence.

Any tax reforms should have an objective of improving economic efficiency, encouraging economic activity and benefiting the common man and should be put in place giving due regard to the constitutional scheme of distribution of powers and fiscal autonomy of the States. In a federal set up, implementation of a comprehensive tax reform like GST hinges on constructive collaboration and co-operation between the Union and the State Governments and needs to be based on a spirit of mutual confidence and respect. The manner in which the Government of India is undertaking the implementation of GST amounts to interfering with the fiscal autonomy of the States thereby having the potential to jeopardise the federal framework of distribution of fiscal powers between the States and the Union.

I therefore, request your personal intervention in this regard to take the States on board by continuing the consultative process to arrive at a broad consensus on the key issues with regard to GST and only thereafter consider the Amendment Bill.”

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Issued by: Commissioner, Information-Public Relations, Chennai – 9

Dated: 22.8.2011