P.R.No: 177 **Date: 28.05.2021**

[Text of the intended remarks of Thiru Palanivel Thiaga Rajan, Minister for Finance and Human Resources Management during the 43rd Goods and Services Tax Council meeting held through video conferencing on 28.5.2021]

Respected Hon'ble Union Finance Minister and

Chairperson of the GST Council,

Hon'ble Members of the GST Council,

Other distinguished invitees.

Good morning!

Respected Madam Chairperson,

At the outset, I am privileged to represent the State of Tamil Nadu in this august Council and would like to express my gratitude to my government for having nominated me to represent our State. I look forward to contributing to deliberations in this Council, and to placing the views of the people of Tamil Nadu on various issues under consideration before this forum.

This is my maiden speech in this Council. I represent the people of Tamil Nadu as well as our great party the Dravida Munnetra Kazhagam (DMK), which received a decisive mandate from the people of our beloved State for the principles and ideals of Social Justice and Inclusive Growth that the DMK stands resolutely for. This is the maiden speech of our party's government since the formation of this Council. Therefore, I request from you and fellow members of the Council, the liberty to present our views on the present arrangement of the GST and its ramifications on State autonomy today.

To ensure that our position is not perceived as arising from narrow parochialism, I start with a global perspective. Just as no man is an island, no country exists in isolation. As one of the largest countries in the world, a member of the G20 group of countries, India is an important contributor to the Global Dialogue. More so than ever in history, the travels, efforts, and actions of our Hon'ble Prime Minister have greatly increased the world's attention on India, our Nation.

Therefore, an evaluation of our Revenue Generation and Taxation Model, as well as that of Union-State relations, of Federalism, in a comparative context rather than in isolation, yields valuable insights. We note that India lags almost all others, across the entire spectrum of countries from the resolutely Communist China to the avowedly Capitalist United

States, when it comes to the devolution of Fiscal powers and responsibilities to the States, Districts or Counties, and even Cities or Towns.

Our history led to the concentration of almost all powers of Direct Taxation with the Union Government and a split of Indirect Taxation powers between the Union and the States, in our revered Constitution. This is quite unique to India, as most other countries vest some measure of Direct Taxation, and the bulk of Indirect Taxation at States, with some devolved further to Districts and Cities. Our Constitution is an evolving document as proven by the many amendments over its life of almost 70 years. Yet, in another divergence from the global experience of increased devolution, India has gone in the opposite direction - of increasing concentration of powers with the Union Government. In fact, with the advent of GST, this has been taken to levels never envisioned in our Constitution.

The promise of GST was manifold, ranging from enhanced growth to a more harmonious national economy. But the promises remain mostly unrealized. As the Report of the 15th Finance Commission notes, the promises of gains in tax buoyancy, a boost to GDP growth rates and formalization of the economy, have all failed to materialize. If anything, the gap between large organizations and MSMEs has widened due to unequal access to technology platforms and dispute-resolution mechanisms.

On the other hand, the risks of a GST regime, the foremost of which was the loss of fiscal authority and flexibility for individual States, were clearly understood at inception. The enactment of GST, despite such grave concerns, was nothing less than an "*Act of Faith*" on the part of many States, with the primary driver of that faith being that the Hon'ble Prime Minister himself, the staunchest of States'-rights Federalists during his long tenure as Chief Minister of the State of Gujarat, would continue to remain so as Prime Minister.

The gulf between promised benefits and realization, along with the full realization of the fears of negative consequences of GST can be largely attributed to two causes, in our humble perspective: Structural Design & Execution Problems, and relationship issues between the Governments of the Union and the States.

Likely forced by the speed of implementation, the structural design of the GST system has ingrained flaws, which have been revealed and exacerbated by problems of Execution. In no order, I touch upon a few of these (non-exhaustive):

1. The ownership, location, and operational model of the GST Network needs to be re-thought and strengthened.
2. The design of the GST Network makes it harder for MSME firms to integrate fully, and resolve glitches relating to entries or input credits.
3. A fragmented monitoring/enforcement model (between Union & State Govt Inspectors & other officers) needs to be simplified & improved.
4. The strategy of compensating for systemic limitations by enacting laws with draconian enforcement actions and penalties has agitated GST payers and assessees.
5. The accrual of funds into an account under the control of the Union Government alone, with delays in the disbursal of accrued dues leads to frustration and resentment amongst the State Governments who are forced to agitate for funds accrued to them under the law.

6. The design, location, and operational model of the GST Secretariat needs to be re-thought and strengthened manifold.
7. The current process of bringing every single issue to the GST Council – a body with tens of members with varying fluency/comfort in different languages and extent of domain knowledge/context, which meets once every three months, at best – without prior discussion or attempts at consensus is profoundly debilitating. The GST system simply must have more continuous, efficient, and inclusive pathways towards the final step of "Approval by the Council". The official level committees need to meet more regularly.
8. The vesting of enormous de-facto power in bodies not directly connected with the GST Council, like the Tax Research Unit of the CBIC, as a substitute for the processes mentioned above, is fraught with questions of both Constitutional legitimacy and basic competence.

Of even greater concern than these problems is the deterioration of the "*Relationship of Trust*" between the

Governments of the Union and those of the States. This deterioration has been driven by a sizeable reduction in the States' share of Taxes levied and collected by the Union Government (from citizens & entities, every single one of whom is domiciled in a State), the perceived lack of "*Good Faith*" in the Union's approach to States' powers of taxation and revenue generation, and by the feeling of a lack of grace and compassion in the Union Government's approach to conciliation of differences between itself and the Governments of the States – especially during the course of the COVID-19 Pandemic.

1. The Union's seeming good will in raising the States' devolution from the Divisible Pool of Taxes to 42% has been largely offset by the expansion of Cesses (up 80% from 1.4 Lakh Crore INR in FY '14 to 2.55 Lakh Crore in FY '20).
2. The gradual, but eventually almost complete shift of all taxes on Petrol & Diesel from Excise to Cesses (a shift of over 50,000 Crore INR relative to FY'14 ratios of Excise & Cess, away from the Pool of Divisible Taxes, leading to a

reduction of over 20,000 Crore INR - 41% of 50,000 Crore – in States' payments as share from the divisible pool) is a glaring example.

3. Successive Finance Commissions since Independence have continuously perpetrated an injustice upon developed States by totally ignoring the proportion of "*Taxes-originated*" as a factor when recommending allocations as shares of the Pool of Divisible Taxes. In a similar vein, the "*One State, One Vote*" basis (with no consideration of either Population, or GSDP, or Proportion of National Production or Consumption) for the GST Council perpetrates an injustice on larger, well-developed States in multiple ways. There are far fairer and more just ways to allocate votes in the GST Council, with voting rights in proportion to membership in the Rajya Sabha as an immediate, more equitable, alternative.
4. Beyond principle and policy, relationship concerns have arisen out of execution failures. Multiple Audit Reports from the C&AG state the "absorption" of unused Cess funds running over a Lakh Crore of INR, including over

INR 40,000 Crore from the States' Compensation Fund prior to FY 2020 alone.

5. With such a backdrop, the reluctance of the Union to settle dues in a timely manner, and to take a less-than-compassionate position on the issue of compensation, have introduced justifiable rancor in the relationship.
6. The Union Government's arguments on reducing the "guaranteed" rates of growth to be used for compensation (from the actual 14% read in the Law) strike a discordant note when its own Annual Budget projects a 17% increase in Gross Tax Revenues to the Union Government.

Taken together, we have arrived at a constitutional and historical oddity – a GST system and Council that function with an omni-potent and all-encompassing mandate not envisioned in the Constitution of India, yet deeply limited by a structural design and technology platform that are far from adequate to the important task. What makes this oddity truly alarming is that the actual Council is becoming in some ways a mere ceremonial seal, a rubber-stamp authority, with the real power to create policy abrogated to (Constitutionally) ad-hoc agencies such as the TRU of the CBIC, a feeble GST Secretariat, and the quasi-Governmental GST Network.

We naturally question how this has happened despite the herculean efforts of so many learned people at every stage and level. I would suggest that the acute lack of adequate fora for Union-State administrative dialogue, or even State-to-State relationships (such as the erstwhile Council of States), has played a large part in this outcome. Nature abhors a vacuum, and the GST Council has undeservedly filled a vacuum that must be filled by other, better, channels of communication and bodies for the resolution of complex Union-State issues.

It is worth remembering that there is no Union without the States. As much as the Union is an Integral (in bringing together One Nation), it is also a Derivative (Citizens, Elected Representatives, and even Officers of the Government, each come from a State). There are no Union voters. Every Minister in this room, including the Hon'ble Union Finance Minister, has been elected directly or indirectly by voters WITHIN one State. There is no Union Administrative Service. Every IAS Officer in this room has come on deputation from some State. The Union cannot, and must not, function as a begrudging "Donor", an entity at a combative stance to its moorings, which are the States.

The Union does have a vital financial role to play – far more important than that of a menacing tax-collector, or the close-fisted executor of a Trust Fund. It is the natural authority to manage, directly and indirectly, the value of the sovereign currency, the money supply, the banking and financial services sector, and the credit quality (ratings from agencies) of the entire nation. It owns the right to receive dividends from the Reserve Bank of India (the INR 99,122 Crore this week stands evidence) and even to monetize the deficit as and when it sees fit. It must use these powers benevolently, to provide support, relief, and shelter for the States, especially during times of disasters or stress.

In conclusion, Madam Chairperson, I would like to state that we have arrived at a juncture when profound, root and branch reform of the notion of GST is the calling of the hour. Not undertaking such an effort now will put its very future at grave risk.

On a positive note, we are uniquely positioned for this great undertaking. For if not now, then when? Crises have always provided the impetus and the opportunity for strengthening financial systems and constructs. One recalls the Great Depression of the 1920's and 1930's which led to the notion of regulated banking and markets. For example, in the United States the creation of the Securities & Exchange Commission to regulate Financial Markets, and the passing of the Glass-Steagall Act to strengthen Banking Oversight and Regulation. Similarly, the more recent example of the Global Financial Crisis, which has led to structural improvements in the Global Oversight Model for large Financial Institutions, and clearinghouses for Derivative Transactions to reduce "too big to fail" counterparty risk, along with enhanced oversight and regulation of the Financial Health of Governments & Local Bodies, including their Pension systems.

And if not by us, then by whom? Collectively, we have the unique luxury of having experienced the pre-GST era, and the pain of the transition period. We are better informed than our successors will ever be about how we got here, what works, what does not, and which of the old ways we need to bring back. The problem with inertia is that it can crystalize even the worst, unplanned, unintended, accidental-even, norms and procedures into hard & fast “rules”. It is imperative that we arrest the current downward momentum and reflect it towards a positive trajectory.

As elected representatives, we will be remembered not for the margin of votes of our victories, but by the enhancements we bring to our constituents’ lives. As political parties, history will soon forget the extent of power we accumulated but remember the results of our term(s) in office – in economic growth, jobs, and the harmonious society that we nurtured during our tenure.

Respected Madam Chairperson,

Coming to today’s agenda we have views on some of the specific items, which I shall make part of my written submission for the record. I also seek leave to intervene when the specific subject is taken up if need be.

This year, considering the present Covid situation, we do not expect any more than a marginal growth at the best and a significant negative growth at the worst. I am sure the expectations in other states would be similar. Keeping this in mind, I call upon this Council to consider making arrangements for fully compensating the States for the gap arising in the year 2021-22 between the protected revenue and the actual expected revenue, either by means of bridge funding by the Government of India or by its open market debt arrangement. Further, considering the long-term effects of the Covid-19 pandemic, it would also be appropriate to take a decision to extend the compensation arrangement beyond 1.7.2022.

We have examined the proposals in the agenda for the today's meeting. The Government of Tamil Nadu supports the proposal for extension of key IT application development projects till 31st March,2022 on T&M basis with delegation to GSTN to reduce the manpower and measures to increase the number of Invoice registration portal (IRP) for providing e-invoice registration services to register e-invoices efficiently and promptly free of cost. We welcome the proposal to encourage the deputation of State officers to GSTN with the intention of enrolling all stakeholders in the organisation.

However, it is important that the qualifications prescribed for deputation posts at various levels should be such that senior officers in the commercial tax departments of the States qualify to be considered for appointment. I would urge the Council to deliberate on this.

We welcome the proposed reduction of maximum late fee for belated filing of returns as recommended by the Law Committee. However, considering the present pandemic situation, the period of compliance may be extended to 30th September 2021, instead of 31st August 2021. We also support the proposal to bring into force the provision relating to filing of Annual return with self-certification of reconciliation statement by taxpayers themselves instead of the requirement of auditor statement in Form GSTR-9C for the financial year 2020-21 and also support the proposed amendments in the return related provisions in the GST law.

We also extend in principle support to Quarterly Return and Quarterly Payment proposed to replace existing Quarterly Return with Monthly Payment. We will be in a position to take a final view after further details are discussed.

Respected Madam Chairperson,

Containing the Covid-19 pandemic is currently the highest priority task for both the Central Government and State Governments in India. As you are aware, there are many essential medical supplies being purchased for the battle against Covid-19 virus. The primary purchases are (i) Covid-19 vaccines by State Government and (ii) purchase of medicines including Remdesivir and Tocilizumab. In this context, I request that at least for a temporary period, zero rate of Goods and Services Tax (GST) should be levied on Covid-19 vaccines, Remdesivir and Tocilizumab by State Government and agencies. This will ensure that the cost of these essential items is reduced significantly, without the suppliers having to absorb any reversal of input tax credit. Our Chief Minister has already written to the Hon'ble Prime Minister on this issue and accordingly I request that a decision can be taken on zero rating GST on such essential items. The agenda item relating to this issue points out certain legal issues in enabling such zero rating. I am confident that these legal issues can be overcome through necessary legislation or by promulgating an ordinance once we reach a consensus.

We have examined the recommendations of the Fitment Committee. We support the recommendations on grant of exemption relating to Covid-19 like ad hoc IGST exemption for specified imported goods when donated for COVID-19 relief, exemption on import by any person, if such goods are supplied to Central or State Government or to any not-for-profit hospital/facility free of cost involved in Covid-19 management with certain conditions, reduction on rate of tax on medical grade oxygen, oxygen concentrator /generator, pulse oximeter and covid testing kits. Further, we also agree with the recommendations on reduction in rate of tax on Diethylcarbamazine tablet (DEC) supplied to WHO, India by SEZ unit and ship repairs from 18% to 5% and proposed clarification on certain goods and services including extension of benefit of exemption to Anganwadis. We agree to the recommendation on the petition seeking abolition of tax on disability aids and equipment used by persons with disability, that instead of tax policy, support through public expenditure, especially in the form of direct subsidy to the beneficiaries and disabled friendly infrastructure creation, was the most effective policy option to provide assistance and relief to the persons with disabilities. We also agree to the recommendation to continue to keep the supply of ice cream in the negative list of composition scheme.

Respected Madam Chairperson,

With regard to Fitment Committee proposal for correction of Inverted Rate Structure on textiles and footwear, we are of the view that due to prevailing pandemic situation, this issue may be deferred for the next meeting. As regards the issue of Extra Neutral Alcohol (ENA) taxability under the GST, this may also be deferred as a consensus still eludes us.

I thank you Madam, for the opportunity to record these views on behalf of the people of Tamil Nadu.

Vanakkam.

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