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A questionable idea

GST's anti-profiteering clause should be reviewed

India's transition to a new indirect tax regime from July 1 is not expected to be easy, even though it must be acknowledged that the roll-out of the goods and services tax, or GST, will yield many positive benefits for the economy. But companies will have to undertake numerous major changes to their processes. Compliance costs will hopefully fall at some stage, but the flawed final design of the GST has complicated the entire exercise. Nor does the supportive infrastructure for the GST seem so robust that the private sector can feel comfortable about the transition. As the chairman of the GST Network, Navin Kumar, told this newspaper, he "would have loved to have a couple of months more before the roll-out". The coding is not completely done as yet and will have to be exposed to high-volume usage almost immediately. Mr Kumar has frankly admitted that "there is no time now" for testing after the code writing freezes.

Thus, companies preparing to manage the transition to the GST have a lot to worry about. But perhaps the greatest concern is one that has been quite unnecessarily inflicted by the government. One aspect of the new GST will hang over companies' heads like the sword of Damocles: The so-called "anti-profiteering clause". This will give the government the power to force companies to pass the benefits of any cost savings under the new system to their customers. Last week, the GST Council outlined how the anti-profiteering system would work in practice. An authority would be constituted, headed by a secretary-level officer who will have the power to force a reduction in prices or order companies to return money to their customers. It would also be able to impose a penalty and even to order a company to be de-registered. These powers are prone to misuse.

The government has introduced the anti-profiteering clause in a bid to check prices that may rise in the wake of the GST roll-out. Its concern over prices is legitimate and the desire to rein in inflation is understandable. But it is also true that the anti-profiteering authority is a bad idea in principle and will likely be a problem in practice. In principle, the government should not be interfering in the market to this degree; if a company feels it can raise prices, then — unless it runs afoul of the competition law — it should be allowed to do so. In practice, while the government has recognised that concerns over the anti-profiteering clause exist and has thus announced that the authority is being set up for only two years, there is still far too much discretion being provided. Given the authority's composition, it appears that the new outfit may not be fully equipped to prove "profiteering". It, therefore, is likely to make unreasonable demands on industry. This is not, naturally, good news for companies. A rethink on how the authority should function is necessary.