bHive

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@ RCEP

Why Modi pulled out of RCEP in Bangkok

STORY

Sometimes a story can teach much more than entire philosophical treatise.

People have been coming to the wise man, complaining about the same problems every time. One day he told them a joke and everyone roared in laughter.

After a couple of minutes, he told them the same joke and only a few of them smiled.

When he told the same joke for the third time no one laughed anymore.

The wise man smiled and said:

"You can't laugh at the same joke over and over.

So why are you always crying about the same problem?"

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Reasons why PM Modi pulled out of RCEP

It was meant to be the biggest free trade agreement with 40% of global commerce and 35% GDP involving 16 countries, home to 3.6 billion people or half the population of the world. Now, more than a third of that population group will not be a part of the Regional Comprehensive Economic Partnership or RCEP.

The rest 15 countries decided to move ahead. However, without India, RCEP does not look as attractive trade pact as it promised to be during negotiation stage.

Refusing to join the RCEP, PM Modi said the pact does not address satisfactorily India's outstanding issues and concerns. RCEP backers complained that India pitched in its demands at the "last minute". However, India had raised the issues during negotiation stage as industry and farmers had expressed their serious concerns over RCEP.

ECONOMIC SLOWDOWN

India's economy is passing through a difficult time. The rate of GDP growth has been slowing down for five consecutive quarters. Combined with the demonetization move and the GST rollout proved to be a double-disrupter of the economy, which is yet to fully come to terms with these two key decisions.

As the industry is reeling under pressure and the government is grappling to deal with the domestic economic situation, a massive free trade pact like RCEP would have exposed the Indian businesses and agriculture to unequal competition from countries which are lurking like giant sharks in the export arena.

TRADE DEFICIT

India, as a whole, is a 'bad' business entity. It has massive trade deficits with almost all economic powerhouses of the world. Of the 15 RCEP countries, India has serious trade deficits with at least 11. At present, India ships 20% of all its exports to the RCEP countries and receives 35% of all imports from them. China is the ringmaster of this export-import circuit. It is the largest exporter to almost all countries of the group, including India. Of India's $105 billion trade deficit with RCEP countries, China accounts for $53 billion.

INDUSTRIES AND FARMERS

RCEP was one of those pacts that was opposed by both the industry and farmers alike. Manufacturing sector in India is in crisis. The sector has seen contraction in recent months. Services sector is also not doing well, of late.

In agriculture, domestic players dealing in dairy products, spices - chiefly pepper and cardamom, rubber, and coconut would face dumping from the South Asian spice majors. Sri Lanka is already giving a tough time to Indian spice growers.

PAST EXPERIENCE

The Niti Aayog, in 2017, had published a report that pointed out that free trade agreements have not worked well for India. It analyzed multiple free trade agreements that India signed in the past decade. Among those were FTA with Sri Lanka, Malaysia, Singapore, and South Korea.

The Niti Aayog analysis showed that import from FTA countries increased while export to these destinations did not match up. Even India's export to FTA countries did not outperform its overall export growth. The Niti Aayog found that FTA utilization by India has been abysmally low between 5 and 25%.

CHINAA'S GAMEPLAN

Finally, RCEP has come up as a Chinese gameplan to save its manufacturing industries from crumbling under their own weight. Several industrial players in India red-flagged the Chinese agenda of flooding the Indian market using the

RCEP countries as a connecting network. China has already covered most markets united under RCEP umbrella. The same Niti Aayog report pointed out that China has changed the trade equation with the ASEAN countries after inking ACFTA - standing for ASEAN-China free trade agreement - in 2010.

India, with its 1.3 billion population, offers the biggest free access market to the Chinese companies that are feeling the pinch of US-China trade war with Donald Trump administration taking on the manufacturing giant in the past one-and-a-half years.

China needs greater access to Indian market to sustain its manufacturing industries. A failure to find a market will have cascading effect on Chinese economy and President Xi Jinping's global ambitions. In Bangkog, PM Modi just refused to be a willing dumping ground of China's trade imperialism.

India wanted a key clause to be included in the RCEP pact for auto-trigger mechanism as a shield against sudden and significant import surge from countries read China). The RCEP covers trade in goods and services, and also investments, economic-technical cooperation, competition and intellectual property rights.

CONCLUSION

Avoiding a free trade policy for the good is to play safe but being quite and watch the economy falling is not acceptable. Hope the economic advisors and the ministry would come up with a proper plan to overcome this economic slow down.

Applicability

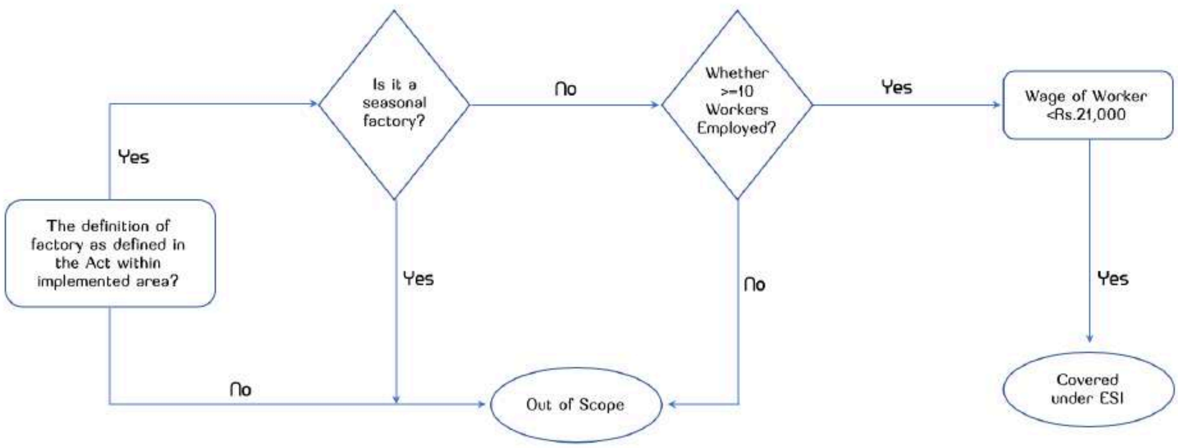
ESI Act, 1948 applies to:

Factories in Manufacturing Process

- Using Power & Employing >10 employees
- Without using Power & Employing >20 employees

Under the enabling provision State Governments have extended the provisions to

- News Paper Establishments
- Shops
- Hotels & Restaurants
- Cinemas Theaters
- Road Motor Transport Undertaking



Wage Ceiling

Employees of covered units and establishments drawing wages < **Rs.21,000** per month come under the purview of the ESI Act 1948 for social security benefits.

Contribution

ESI scheme is financed by contribution raised from employees covered under this scheme and their employers as a fixed percentage of wages. Rates of are as follows:

ESIC contribution rates (Reduced w.e.f. 01/07/2019)		
Particulars	**Current Rate**	**Reduced Rate**
Employer Share	4.75%	3.25%
Employee Share	1.75%	0.75%
Total	**6.50%**	**4.00%**

Social Security Benefits

Various benefits that the insured employees and their dependents are entitled to are as follows:

- ❖ Medical Benefits
- ❖ Sickness Benefits
- ❖ Maternity Benefits
- ❖ Disablement Benefits
- ❖ Dependent Benefits
- ❖ Other Benefits
  (like funeral expenses, vocational rehabilitations, free supply of physical aids etc.)

Safeguard for Insured Employees

- ❖ Right to receive payment of any benefit under the Act are not transferable.
- ❖ No dismiss/discharge/reduce the wages/otherwise punish a covered employee during the period of Sickness Benefit or Maternity Benefit etc.
- ❖ No employer shall directly or indirectly reduce the wages of a covered employee.
- ❖ Right to register their grievances / complaints at any level.
- ❖ Right to approach ESI Court against any action/decision of the Medical Board etc
- ❖ Cash Benefits payable under the Act are not liable to attachment or sale in execution of any decree or order of any court

Duties of Employer

- ❖ Shall make an application for registration within 15 days after the Act becomes applicable
- ❖ The employer shall submit Declaration Form in respect of all coverable employees
- ❖ The employer shall deposit both contribution at specified rates within 15 days of the following month.
- ❖ The Employer shall maintain all such records and registers as are required under the Act and produce them for verification/inspection before the authorized officers of the Corporation.
- ❖ Any change in business activity, address, ownership or the management to be intimated

ITO v. Axisline Investment Consultants (P.) Ltd [Kol Trib]

Where AO made addition to assessee's income under section 68 in respect of share application money received from various applicants, in view of fact that assessee had provided details of name, address, PAN of share applicants together with copies of their balance sheets and returns and, moreover, amount had been received by account payee cheques out of sufficient bank balances maintained by of share applicants, impugned addition deserved to be deleted

Emco Dyestuff (P.) Ltd. v. DCIT [Mum Trib]

Where assessee let out its business premises and declared rental income earned therefrom under head Income from house property, since there was no business use of those properties nor being available/ ready to be used for purposes of business of assessee, depreciation under section 32 could not be allowed merely on ground that those properties continued to form part of 'Block of Asset' as per section 2(11)

Kapil Kumar Agarwal. v. DCIT [Del Trib]

Where assessee having sold shares, entered into an agreement with a builder for purchase of new residential flat which was constructed by builder in phased manner and payment of which was linked to stage of construction, it was a case of purchase and not construction of new asset and, therefore, assessee was to be allowed deduction under section 54F

ACIT v. HAL Offshore Ltd. [Del Trib]

Assessee made payment to arbitrator without deducting TDS under section 194J. It contended that the arbitrator was appointed by the ONGCL for assessee's case. Arbitrators were not rendering any services to the assessee. The services were in the nature of court procedure for out of court settlement. The Assessing Officer rejected the assessee's explanation and disallowed the said payment under section 40(a)(ia). CIT(A) also confirmed the order of the AO.

Pankil Garg v. PCIT [Chand Trib]

Amount received by assessee-firm as gift from 'HUF', being its member, was a capital receipt not exigible to tax

CIT v. Chidambaranar Port Trust [Mad HC]

The assessee had actually made monthly pension payments to its retired employees to fulfil the statutory obligation and therefore, the same could be allowable as deduction u/ s 37(1)

PCIT v. Gujarat Narmada Valley Fertilizer And Chemicals Ltd. [Guj HC]

In terms of tripartite agreement, assessee sold its goods at discounted price to dealers who, in turn, sold those goods to final consumers, collected sale consideration from them and handed it over to assessee, since it was a transaction on principal to principal basis and, there was no service rendered by dealers to assessee, discount offered to dealers could not be regarded as commission requiring deduction of tax at source under section 194H

CIT v. ETA Travel Agency (P.) Ltd. [Mad HC]

Where assessee incurred expenses on interior decoration and office equipment of premises taken on lease which were capital in nature, same was eligible for depreciation in term of Explanation 1 to section 32, and, thus, assessee's claim for deduction of expenditure so incurred under section 37(1) was to be rejected

PCIT v. Haryana SII Development Corp. Ltd. [Pun & Har HC]

Dividend income has been exempted from taxation by Finance Act, 2003 with effect from 1-4-2004 by virtue of insertion of section 10(34) and, it makes no difference whether dividend income was in nature of business income or otherwise as same could not be subjected to tax in any case

Hirsh Bracelet India (P.) Ltd. v. ACIT [Blr Trib]

Where assessee sold an asset comprising of right in leasehold land along with a building constructed upon said leasehold land, capital gains on transfer of right in leasehold land would be computed under normal provisions under section 45 as long term capital gains and capital gains on transfer of buildings being depreciable asset would be computed under provisions of section 50 as short term capital gains

Notification

- **63/ 2019 dated 12-Sep-2019**
  The cost of inflation index (CII) has been notified by the Central Board of Direct Taxes (CBDT) every year. CII is used to compute Long term capital gains wherein the cost of acquisition/ improvement is indexed with reference to the applicable CII of the relevant year. CBDT has notified '289' as CII for the Financial Year 2019-20

MCA has extend the due date for filing of e-forms AOC-4, AOC (CFS) AOC-4 XBRL upto **30.11.2019** and e-form MGT-7 up to **31.12.2019**

GST ON SLUMP SALE

Slump Sale

A slump sale for income tax purposes would be one where an undertaking is sold without considering the individual values of the assets or liabilities contained within the undertaking. It may be important to note here that finding out individual values may be of relevance only for the purpose of determining stamp duty or any other similar taxes.

- Sale of one or more undertaking,
- No individual value should be assigned to assets and liabilities, and the same to be sold for a lump sum consideration, and
- All assets and liabilities of the undertaking must be transferred.

Income Tax Impact

The gain or loss resulting out of a slump sale shall be a Capital Gain/ Loss under the Income Tax Act based on the difference between the Full Value consideration received less the cost of acquisition/ net worth of the entity.

GST Impact

Clause 4(c) of Schedule II of CGST Act states that

where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless

- *the business is transferred as a* ***going concern*** *to another person*
- *the business is carried on by a personal representative who is deemed to be a taxable person.*

As per the provision above, Schedule II specifically excludes transfer of business assets as going concern from Supply of Goods. And thus, it becomes obvious that, the said transaction shall amount to Supply of Services.

However, the Ministry of Finance vide notification 12/2017 has specifically exempted service by way of "transfer of a going concern, as whole or an independent part thereof"

Conclusion

Slump sale is an on-going business/unit being transferred where the intent of the transferee is to run the entity. It can be said that when there is a transfer of business and not of that of assets, in order to insulate from GST, it would require evaluation whether the transfer is as a going concern or not.

- **Transfer of business assets**: Supply of goods
- **Transfer of business**: Supply of Service
- **Transfer of business as a going concern**: Supply of service and exempt via notification.

App of the Month -

Quora

Quora is a Q&A platform that empowers people to share and grow the world's knowledge. People come to Quora to ask questions about any subject, read high quality knowledge that's personalized and relevant to them, and share their own knowledge with others.

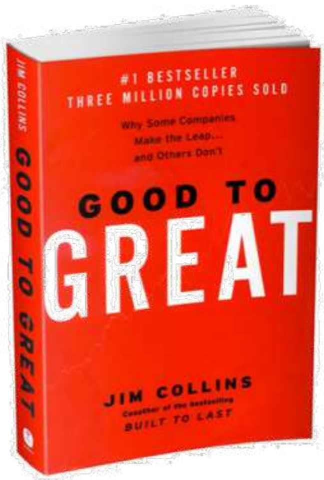
Quora is a place to share knowledge and better understand the world.

Click of the Month

The best apology is Changed Behavior.

Book of the Month -

Good To Great



- *315 pages*
- *Published in 2011*
- *Harper Business*

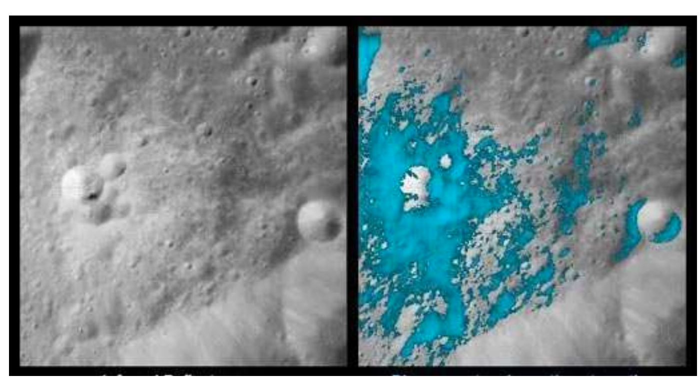
Good to Great by Jim Collins is a book that Capillary's Co-Founder & CEO, Aneesh Reddy recommends for mature startups. This management book presents examples and data from different companies, both great and not so great. It talks about the strategies important for the long run, and emphasizes that great businesses are neither built overnight nor by sheer luck. Good to Great is relevant for businesses across sectors, as well as for managers leading teams and departments within an organization.

Natural Remedies

Berries

Blueberries, strawberries and raspberries contain plant nutrients, which are powerful antioxidants. The antioxidant compound found in red wine that has assumed mythological proportions. They are believed to help protect against heart disease and cancer.

Trivia



<u>Water on the moon was discovered by India</u>

In Sep'09, India's ISRO Chandrayaan- 1 using its Moon Mineralogy Mapper detected water on the moon for the first time.