



**CFO Perspectives**

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# CFO Speaks



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## **1. What is your view on the various programs Government has launched to revive the economy like Make in India, Digital India, Demonetization, change in tax regime, GST etc.?**

Government has taken lot of corrective actions to improve the infrastructure which would help the economy in the coming years. All the programs like Make in India, Digital India are great programs and should help in employment generation, labour development, increased investments, and digitization in various sectors which would eventually help growth and development in the economy. In my view, the programmes and initiatives of any government are evaluated by their impact on the economy and its people. In recent years, if we were to measure the various government-led initiatives, purely on the basis of the lives they touch across the spectrum of skills, knowledge and growth, India has done well. But an integrated approach

on these programs will be the key along with the quality of execution and implementation. A strategic framework needs to be in place with a clear roadmap across levels. The progress of each of these programs should be monitored closely and more infrastructure needs to be created in the form of ports, surface transport for these programs to succeed.

## **2. Shipping industry is known to be cyclical and there has been slowdown in the industry for a while. What is your outlook for the next 3-5 years?**

The global Shipping industry has seen an elongated slowdown in the last decade. Although sporadic signs of recovery have been seen from time to time, it needs to be seen whether this would continue on a sustainable basis. The scene in respect of Indian shipping is more optimistic as the government intends to double port capacity by 2025 and is pitching

to attract investment worth Rs1 lakh crore in the port sector alone and increase port capacity from 1,400 million tonnes to 3,000 million tonnes by 2025. With all the investments planned and various initiatives government has taken like “Sagarmala”, for modernization and development of ports, there is a positive outlook for the industry. As the policies and processes become more stable and transparent, there would be ease in getting fresh investments as well. Although, Global industry might still take time to recover but initiatives like “Make in India” are considered to be supportive of accelerating growth in the Indian port industry and consequently are likely to lead to an upsurge in the shipping scenario in India.

### **3. What are the key innovative operating models which would have evolved during the current tough times to maintain profit or cut losses in the shipping industry?**

In my view, every organization has to constantly evolve its operations and processes to maintain or improve the profitability and stay ahead of the changing environment and variables. At SCIL, we have worked on 3 key aspects to make sure we are ahead of the changes:

- Restructuring of finance for our vessels. We constantly evolve our financing contracts and link them to the useful life of our assets.
- We have taken multiple measures to control our costs on repairs, dry docking and the procurement of spares.
- Another important aspect that we have worked on are expanding into second hand vessels which would provide us immediate revenues with much lower costs of acquisition.

### **4. What are the challenges you face as a Finance head in relation to cross-border compliances. Further, how do you tackle these challenges in the global and dynamic scenario?**

For our cross border transactions, we are cautious of the laws of the land and we work with the local agencies and Banks who are well glued to the local requirements. We have a defined process for working with the agents through extensive contracts and thus make sure our liabilities are minimized. As a finance head, I need to make sure that we are well aware of all contractual obligations and the risk attached is a calculated risk. We work closely with the third party agents to monitor all our transactions and have our control mechanism in place to verify the transactions. At SCI, we believe that close integration of functions like operations and legal help finance have a broader view and take control of the transactions financially and minimize our risk.

### **5. What are your key learnings as a Director finance of a complex public sector organization such as SCIL?**

In my view, there is no difference in the role of a CFO/ Director Finance in public or a private entity. The role of a CFO is constantly evolving from an accountant to be a business partner and more so for listed companies. There is an extensive list of compliances for a listed company as per the SEBI guidelines and it is important for a CFO to make sure that all compliance requirements are met timely. Public companies have processes to be followed at each level which also help make everyone more accountable. The key to being competitive is to be efficient at all levels in the organization in the processes we follow

and minimize our response time for decision making.

In my view, there are 2 key learnings I have had from my experience:

- **Business partnering:** One should not isolate Finance and Operations because every action and operation has a financial implication. It is important for finance function to understand the business complexities and simultaneously help operations and other teams to understand the financial implications for a robust business decision. It is also equally important for the operation's to accept the involvement of finance in the operating issues in the overall interest of the organization.
- **Mentoring:** It is not important for only the CFO understanding the business nuances but equally important for the entire finance to gel with the operations in the organization. It is the role of a Finance head to align the finance organization to the overall organisation's objectives and mentor them to work closely with operations and other teams so that there are no surprises. We have taken specific measures to mentor our professionals in various roles and bring in a cultural change so that they get the holistic view of the organization. This helps them in understanding each transaction more intensely and actively contributing towards the financial analysis having business implications.



# Expert Views

## General Anti-Avoidance Rule (GAAR)



Internationally, tax avoidance has been recognized as an area of concern and several countries have expressed apprehension over tax evasion and avoidance. This is also evident from the fact that nations are either legislating the doctrine of General Anti-Avoidance Regulations in their tax code or strengthening their existing code. India has also sought to address the issues relating to tax avoidance and evasion by bringing in General Anti-Avoidance Rule (GAAR) in addition to various transaction-specific Special Anti-Avoidance provisions.

GAAR was introduced in India for the first time in the then proposed

Direct Taxes Code Bill (DTC), 2009. Subsequently, the Finance Bill, 2012 proposed to introduce the GAAR provisions in the Income-tax Act, 1961 with effect from 1 April 2012. However, concerns were raised by various stake holders. Further, it was felt that the guidelines formed by the Committee constituted by the Central Board of Direct Taxes ('CBDT') did not provide the required clarity. An Expert Committee under the chairmanship of Dr. Parthasarathi Shome was, therefore, constituted to undertake stakeholder consultations and to finalise the guidelines for GAAR after widespread consultations so that there is a greater clarity.



There have been various safeguards and modifications proposed in GAAR provisions since its first introduction. Some of the recommendations of the Shome committee have also been incorporated in the GAAR provisions by the Finance Act, 2013. GAAR implementation has also been deferred from time to time, the last being the deferral made by the Finance Act, 2015 deferring GAAR implementation to 1 April 2017.

Separately, in September 2013, the CBDT notified rules for application of GAAR.

### Indian regime:

#### **What is the trigger event for GAAR?**

As per the GAAR provisions, an arrangement entered into by a taxpayer may be declared to be an impermissible avoidance arrangement and the consequence in relation to tax arising therefrom may be determined as per the said provisions. It has been clarified that the GAAR provisions may be applied to any step in, or a part of, the arrangement as they are applicable to the arrangement.

#### **What is an impermissible avoidance arrangement?**

An impermissible avoidance arrangement is defined to mean an arrangement, the main purpose of which is to obtain a tax benefit, and which also satisfies one of the other four conditions including misuse or abuse of provisions of the Income tax Act and lack of commercial substance.

Given the above, GAAR may not apply where the arrangement has

a commercial rationale, despite an incidental tax benefit being derived therefrom.

#### **Consequences of impermissible avoidance arrangement**

If an arrangement is declared to be an impermissible avoidance arrangement, the tax authorities have wide powers to determine the consequences in relation to the arrangement, including denial of treaty benefit, reallocation of any receipt or expenditure amongst the parties, disregarding any corporate structure etc.

#### **In which cases will GAAR not apply?**

The GAAR provisions do not apply where the aggregate tax benefit arising to all the parties in a tax year does not exceed INR 30 million. Foreign Institutional Investors ('FIIs') investing in securities with prior permission obtained under the relevant provisions and not claiming treaty benefits are also spared from application of GAAR. The benefit also applies to non-resident investors investing in FIIs.

Further, investments made before 1 April 2017 have been grandfathered as regards any income which may arise from their transfer.

#### **Procedure for applying GAAR**

In order to ensure that GAAR is invoked only in deserving cases, a two-step approval process has been prescribed before GAAR provisions can be invoked. The said process involves, at the second stage, an approval from an independent Approving Panel headed by a High Court Judge.

## Whether an Advance Ruling can be obtained?

Any resident or non-resident taxpayer can approach the Authority for Advance Ruling to obtain a ruling on whether an arrangement, which is proposed to be undertaken by him, is an impermissible avoidance arrangement as referred to in the GAAR provisions.

## Clarifications issued by CBDT

Considering the subjectivity around GAAR and according to the representations made by stakeholders and industry associations, the CBDT has issued clarifications on implementation of GAAR.

## Way forward

GAAR is finally effective in India from 1 April 2017, almost eight years after it was first introduced in the then proposed DTC, 2009. The approach of the government in the entire process of introduction of GAAR has been consultative which is quite appreciable.

Amendments have been made in the GAAR provisions to address the concerns of the stakeholders. Safeguards have been incorporated to ensure that GAAR provisions are not misused. The requirement that GAAR will be invoked only after obtaining permission from the Approving Panel is commendable and shows the intention of the Government to ensure judicious implementation. Monetary threshold has also been provided to target only high value arrangements.

For taxpayers, it will be imperative to examine their existing arrangements to evaluate if they may fall within the boundary of being considered as impermissible avoidance arrangements and thereby hit by the consequences provided in the GAAR provisions which can be quite onerous. This exercise may also help them take corrective actions to mitigate the said exposure.

For more information and to download the complete report, [click here](#)





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