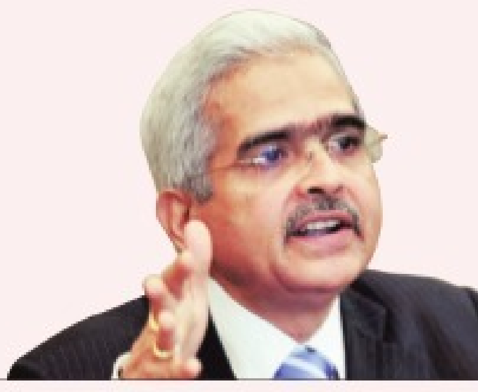
Opinion

FRIDAY, FEBRUARY 22, 2019



KICKSTARTING THE ECONOMY

Shaktikanta Das, RBI Governor

"The neutral stance will provide flexibility and room to address challenges to sustained growth of the Indian economy over the coming months, as long as the inflation outlook remains benign"

Is the taxman trying to mend its ways or what?

Taking up 'perverse' ITAT orders with the law ministry is open to abuse and care needs to be taken to prevent this

GIVEN THE DRAMATIC increase in tax arrears, and the taxman's remarkably poor record in securing court judgments in its favour—hence the term, tax terrorism—it is just as well that the Central Board of Direct Taxes (CBDT) has set up a committee of tax officials to examine various issues on litigation management that, in turn, were a recommendation of a judicial conference held last month. Right now, disputed taxes—or tax arrears—are around 1.1 times the direct tax collections; between 2012-13 and 2017-18, tax arrears rose 2.3 times, from ₹4,86,180 crore to ₹11,22,752 crore, while direct taxes rose a much slower 1.8 times. The last CAG report on tax arrears, in December 2017, looked at a sample of cases where the taxman had added ₹10,700 crore to the assessees' income and slapped tax notices on them, but only a fifth of these stood scrutiny after appeal. Indeed, as the CAG points out, the tax department itself classifies most of these arrears as "difficult to recover"—while the proportion was 95.9% in 2012-13, this went up to 98.6% in 2016-17.

What has raised concerns, however, is the wording of the terms of reference of the committee; one of these is "to examine the cases where ITAT (Income Tax Appellate Tribunal) has passed perverse or irregular orders or where the submissions of DRs (Departmental Representatives) have not been recorded by ITAT", and to then take them up with "President, ITAT/Ministry of Law". The ITAT, the second stage of appeal, is under the administrative control of the law ministry while the Commissioner Appeals, the first stage, is under the finance ministry's control. The Delhi ITAT Bar Association, not surprisingly, is worried that the committee's mandate is aimed at subverting the process of appeal since there is no reason to approach either the President of the ITAT or the law ministry if there is a logical ground for appeal; and will any order that goes against the taxman be considered perverse or irregular? Indeed, the taxman appealing an order in the high court is more fair since the concerned party can also present his/her case at that forum.

While it is important to ensure there is no attempt by the government to influence the appeals process—the Delhi ITAT has cited various court judgments on different ways to exercise an influence—it is, of course, possible that the CBDT wants to make legitimate suggestions like ensuring that government submissions are recorded by the ITAT. Care has to be taken that any correspondence with the ITAT or the law ministry does not make this an alternate mode of appeal or a way to influence the ITAT. What is worrying, in this context, is that when the last Central Action Plan (CAP) of the CBDT was drawn up, it said an additional credit of two points would be given for each 'quality' order passed by the CIT (Appeals) and 'quality' was defined as increasing the tax demand made or finding a way to strengthen the taxman's case; in other words, the CAP was giving incentives for the CIT (Appeals) to increase tax demands instead of genuinely adjudicating them. Apart from figuring out why the CBDT's track record is so poor, the committee will do better to examine all cases which have been dismissed by the courts and figure out whether this is due to the original demand being weak in the first place or whether there is a systematic flaw in the way the cases are argued.

Time to sack Governor Roy

Call for boycott of Kashmiris "compelling reason" for Roy's removal

MEGHALAYA GOVERNOR TATHAGATA Roy violated constitutional principles—and thereby diminished the constitutional office he holds—by tweeting support for the call for a total economic boycott of Kashmiris in the wake of the Pulwama attack. Roy also exposed his ignorance of the strategic importance of commerce with Kashmir and Kashmiris, in both tracking terror-financing as well as addressing Kashmiri alienation that plays into the hands of terrorists and separatists. The office of the Governor is a key one in India's federal structure, and a Governor is sworn to preserve and defend the Constitution, thereby working to uphold the integrity of the Indian Union. Roy's tweet could incite other Indians to boycott Kashmiris and Kashmir, undermining the Union's integrity. In fact, Roy's tweet goes against the very spirit of the Constitution as enshrined in the principles of "JUSTICE, social, economic and political", "EQUALITY of status and of opportunity" and "promote(-*ing*) among them all (*citizens*) FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation" contained in the Preamble.

Further alienating Kashmiris by denying them equal economic opportunity and assaulting their dignity by treating them as sub-par compared to their fellow-citizens from the other parts of the country will feed into any disaffection they may feel with the Indian State. It would be an end that the separatists' playbook seeks. Letting Roy continue as Governor erodes faith in the Constitution and its authority. A person inciting one set of Indians to act against another violates the basic tenets of the Constitution, and thus the person can't be expected to honour and uphold the Constitution even when she has sworn to do so. While the Supreme Court, in a 2010 judgment, called for "compelling reasons" to guide the removal of a Governor from her post by the president, there can be no doubt that Roy's failure to uphold Constitutional values is an anathema to the idea of a state bound to the Constitution, and thus makes for "compelling reason". Apart from this, Roy's stand is counter-productive for India's fight against terrorism. Transactions in Kashmiri shops and bank accounts in the country need to be part of the mainstream to keep an eye out for dubious flow of money, thereby letting the country's intelligence track possible terror-funding.

The Centre advises the President in gubernatorial appointments. The onus is now on the Union government to at least condemn Roy's anti-Constitutional stand, and thus pave the way for the president to act on his removal. Failure to do so will not only set the wrong precedent, it will also be seen as the Union government lacking faith in the Constitution.

DigitalDivide

Unequal access to mobile technology threatens to exacerbate the inequalities women already experience

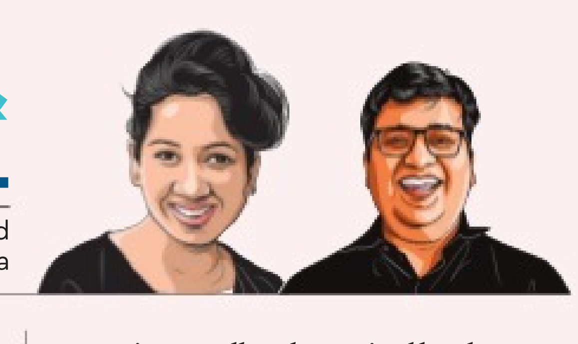
THE WORLD WIDE web is gaining popularity among women in middle- and low-income countries. According to the GSMA's 2019 *Mobile Gender Gap Report*, 80% of women in these countries are now mobile owners. Mobile is the primary means of internet access in these markets, and 48% of women in these countries use mobile to get online. However, despite the growth in connectivity, the gender gap in mobile ownership is not closing. The mobile gender gap varies by region and country but is widest in south Asia where women are 28% less likely than men to own a mobile device and 58% less likely to use the mobile internet. Omidyar Network, a Silicon Valley-based impact investment firm, in a report in 2017, also highlighted the gender disparity in mobile phone connectivity and usage. According to its India-specific data, only 44.1% of women own a mobile phone compared with 73% of men, and women comprise only 35% and 25% of mobile internet and Facebook users, respectively.

In the GSMA report, women highlighted affordability, literacy and digital skills, a perceived lack of relevance, and safety and security concerns as the top barriers needing to be addressed in order to further decrease the mobile gender gap. In India, the data, despite over 40% of Indian women being aware of mobile internet in 2019, as compared to just 19% a year ago, the gender divide is heavily pronounced for more sophisticated services such as surfing the internet (43% vs 23% for men vs women, respectively) or downloading apps (32% vs 14% for men vs women, respectively), services which are responsible for the enhanced productivity a phone delivers. So, while 83% of both women and men used a phone to make/receive calls, greater awareness and literacy-improving efforts need to be made, specifically for women, in order for India's citizens to reap the greatest rewards from increased digital inclusion.

INCOME TRANSFERS

SEVERAL GOVERNMENT DATABASES WERE COMBINED AND ALGORITHMS WERE DESIGNED TO USE THESE TO IDENTIFY BENEFICIARIES BASED ON DIFFERENT CRITERION

Odisha's KALIA took off in less than six weeks



SHWETA SAINI & ANKUR BANSAL

Saini is a senior consultant at ICRIER and Bansal is co-founder of Samagra

ON FEBRUARY 15, Odisha government, in a historic move, made an unconditional cash payment of ₹5,000 to its 3.2 lakh agricultural landless labour families. It was the first time in the recent history of the country an unconditional cash transfer was made to such numbers of the landless agri-workforce in any state. Payment was made under Odisha's Krushak Assistance for Livelihood and Income Augmentation (KALIA) scheme. This is the second installment made under KALIA. The first was made to 1.2 million small and marginal farmers (landowners) of the state who received ₹5,000 on January 25, 2019.

As per Census 2011, India has a total workforce of 482 million, out of which 263 million (about 55%) are employed in agriculture. More than half of these agri-workers, i.e., about 144 million, work as agricultural labourers, who do not own land (or own marginal pieces of land that are not enough for their sustenance) and work on someone else's land in return for wages paid in cash or kind. Just like the small and marginal farmers (SMF) of the country, this segment of the landless suffer most during any agrarian crisis. Nearly all government programmes/schemes that aim to alleviate distress in the sector, including the Central government's recently announced direct-income-transfer (DIT) scheme, PM-KISAN, targets landowners, ones with land records. Others, including sharecroppers and the landless, are left out, mostly at the mercy of inefficiently implemented schemes like MGNREGA for support.

By making an unconditional cash transfer to its landless, Odisha has opened new avenues of opportunity to support India's most vulnerable sections. Odisha's KALIA scheme has three components that would benefit about 4.5 million agricultural households of the state. This payment of ₹5,000 to its landless is viewed to provide them with livelihood support. In one year, one million such households are to each receive ₹12,500 directly into their bank accounts. Payment is to go in three installments—₹5,000 (transferred on February 15, 2019), a second installment of ₹3,000 and a final installment of ₹4,500—both of which are to be transferred within six months from now. As per KALIA guidelines, while the first installment is unconditional, the subsequent two ones are conditional.

Under the scheme, landless beneficiaries are offered several livelihood opportunities like poultry, fishery, mushroom cultivation and bee-keeping, and each beneficiary must choose the activity they wish to pursue. Based on their choices, the state government will organise trainings to hand-hold them through the activity. Beneficiaries are to use the first installment amount to create assets and the subsequent installments are conditional upon the creation of these assets. For FY19, there are three DIT schemes being rolled out in the country—Telangana's Rythu Bandhu Scheme (RBS), Odisha's KALIA and PM Modi's PM-KISAN. By making DIT independent of landholding size, targeting small and marginal landowners and landless agri-workers and by connecting the transfer to livelihood opportunities, KALIA emerges the best of the lot.

But how did a state that did not have updated records of its agri-workers identify them and transfer money to about 2 million beneficiaries? Like many states in the country, Odisha did not have a comprehensive database of citizens to identify eligible beneficiaries. However, on a mission-mode, Odisha state leadership created a unified database of eligible beneficiaries under different components of KALIA in less than six weeks. Eligible beneficiaries were identified through a strategy of systemic integration, unification and verification of databases by using various agriculture and non-agriculture departments' databases, like DBT (seed, fertiliser, etc), paddy procurement, crop insurance (PMFBY), etc., from the agriculture department and SECC, ration cards, voter IDs, etc., from other state non-agriculture databases.

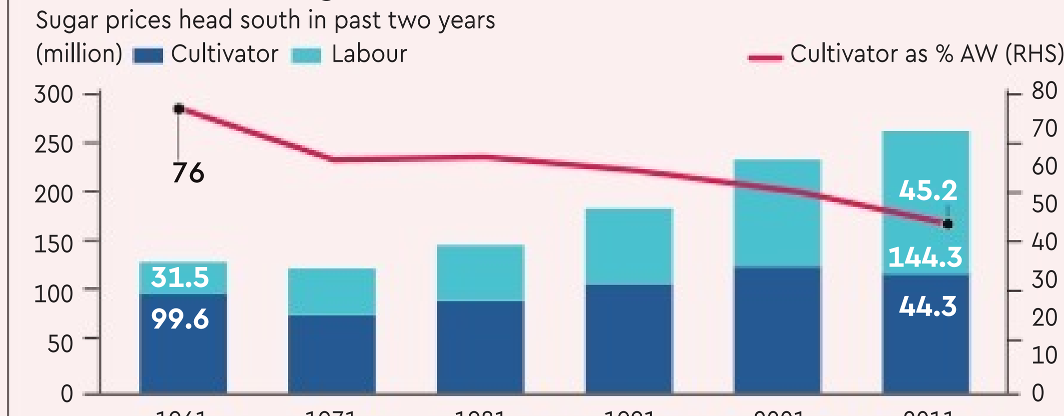
A team of governance consultants, data scientists and technocrats, along with various government officials designed algorithms to scan through millions of beneficiaries across multiple systems to identify eligible individuals. The algorithm was able to integrate, unify and verify eligible beneficiaries across databases to remove duplicity and ensure almost no false beneficiary inclusion and exclusion of true beneficiaries. An on-ground survey was undertaken in parallel to verify the list through green- and red-boxes installed at the *gram* panchayat level. Within two weeks, more than 65 lakh forms were filled, verified and digitised in a mission mode across the state. This exercise was personally monitored by the CM of Odisha and senior bureaucrats of the state.

Ineligible beneficiaries were excluded, government employees were identified using state government's HRMS, and landless households, who owned assets like refrigerators and two-wheelers, through SECC data, and large farmers through agriculture databases based on procurement and land ownership databases. This way, the Odisha government was able to identify 12,45,490 SMF and 320,000 landless agri-HHs. In the absence of a beneficiary database, a mix of strong political will and administrative endeavours in data analytics, as well as on-ground mobilisation, yielded results for the government.

On February 24, 2019, PM Modi will launch PM-KISAN scheme in Gorakhpur, Uttar Pradesh and transfer its first installment of ₹2,000 (out of the annual ₹6,000) to 1 crore SMF of the country. The target is to transfer it to 12 crore SMF in a year. Sharecroppers, tenants and the landless agri-workforce are excluded from this scheme. Can the Central government draw some learnings from Odisha? Can PM-KISAN devise a component for its landless, too? There is a clear need to include this vulnerable section under PM-KISAN but identifying beneficiaries will be an uphill task, as the database on landowners is outdated. The task is difficult but not impossible. How PM Modi acts and pays heed, only time will tell.

Trends in Indian agriculture workforce

Sugar prices head south in past two years



Understanding components of Odisha's KALIA

Component Name	Type of beneficiary	Exclusion criterion	No. of beneficiaries	Scale of Assistance
Support to landowners for cultivation	Small and marginal landowner	■ Landowners with holdings greater than 2 hectares; ■ Families with any Income tax payee ■ Families of Government/ PSU sector employee	3.02 million farmers	■ ₹5,000/farmer family in single installment. ■ Payment is unconditional to the extent that it is not connected to actual production
Support to landless agri-HHs for livelihood	Landless labourers who work on farms	■ Non-agri rural labour family ■ Families with any Income tax payee ■ Families of Government/ PSU sector employee	1 million labourers over next one year	■ ₹12,500/ household given in three-installments. ■ First installment is unconditional and subsequent ones are conditional
Support to vulnerable agri -HHs	Agri-households with incidence of crop loss/high indebtedness	■ Families with any Income tax payee ■ Families of Government/ PSU sector employee ■ Households who received benefits under above two components of KALIA	5 lakh HHs per year	■ ₹10,000/ household

Fed is as dovish as market thought

Policymakers signalled they are paying attention but keeping all their options open

BRIAN CHAPPATTA

Bloomberg

BOND TRADERS WERE spot on in pricing the Federal Reserve's dovish pivot earlier this year. Benchmark treasury yields rose just slightly after minutes of the Federal Open Market Committee's January meeting were released on Wednesday, perhaps because they had fallen a bit too far. Otherwise, just about everything in the document confirmed the drastic dovish tilt. Many officials said they were unsure about what interest rate moves might be necessary this year, supporting the idea that the Fed is at least on hold for the foreseeable future and that the next move could be a cut or an increase. What's more, almost all of them wanted to halt the central bank's balance-sheet run-off later this year. Here's a key passage:

Almost all participants thought that it would be desirable to announce before too long a plan to stop reducing the Federal Reserve's asset holdings later this year. Such an announcement would provide more certainty about the process for completing the normalisation of the size of the Federal Reserve's balance sheet. A substantial majority expected that when asset redemptions ended, the level of reserves would likely be somewhat larger than necessary for efficient and effective implementation of monetary policy; if so, many suggested that some further very gradual decline in the average level of reserves, reflecting the trend growth of other liabilities such as Federal Reserve notes in circulation, could be appropriate.

On top of that, policymakers acknowledged the financial markets and the signals that falling risk-asset prices send about the outlook. As I've said before, the market appeared to throw a tantrum over Fed Chairman Jerome Powell's remarks that the balance sheet was on "automatic pilot". Well, officials are paying attention now.

Market participants appeared to interpret FOMC communications at the time of the December meeting as not fully appreciating the tightening of financial conditions and the associated downside risks to the US economic outlook that had emerged since the fall. In addition, some market reports suggested that investors perceived the FOMC to be insufficiently flexible in its approach to adjusting the path for the federal funds rate or the process for balance sheet normalisation in light of those risks. The deterioration in risk sentiment late in December was reportedly amplified by poor liquidity and thin trading conditions around year-end.

Some traders suggested the minutes weren't as dovish as expected because Fed officials said that the labour market expanded "strongly" and that household spending growth "remained strong". Those are just facts, and it would be silly to expect central bankers to alter their view of economic data to fit their desired interest rate path. Those positives were countered by comments about moderating business investment and slowing global growth, particularly in China and Europe.

Maybe the market was expecting the Fed to declare that the current fed funds rate is the highest it will go in this tightening cycle. That seems like wishful thinking, considering that the most recent "dot plot" from December was forecasting two additional hikes in 2019. Policymakers probably can't get the market on board with boosting rates twice this year, but they could still do one. And they're surely going to preserve that option as long as they can.

Treasuries were largely priced for these minutes, and that is not particularly exciting. Indeed, the yield-curve-inversion trade didn't come roaring back—at least not yet. The two-year treasury yield is hovering right around 2.5%, the upper bound of the current fed funds rate, which makes sense given the central bank is on pause but could possibly raise its benchmark one more time. The 10-year yield is 15 bps higher at 2.65%, which is right in line with the average spread between the two maturities in 2019. The world's biggest bond market, in other words, is trend-less, range-bound and boring. That may be no fun for rates traders and strategists, but it is probably just fine with the Fed.

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LETTERS TO THE EDITOR

Taking the next step

Long-term quality investments by fintech firms can not only reduce the cost of business but also mitigate market risks. Eased regulations to encourage lending ought to be backed by a robust surveillance and risk management framework to improve the overall asset quality and generate profits. Advanced cloud-systems and improving focus on cybersecurity and net neutrality can provide a decent platform for the growth of the e-commerce business. At a time when restrictive international policies can promote domestic start-ups and limit the brain-drain, it is prudent to bridge the skill-gap in breakthrough technologies

— Girish Lalwani, Delhi

Lesson for defaulters

By holding Anil Ambani, in contempt of the court's orders and sentencing him to three months in jail if he failed to pay ₹453 crore owed to Ericsson, the Apex Court of India has done our judicial system proud. The principle that "however high you may be, the law is above you" has been upheld once more. The verdict is more significant as it holds an important lesson for corporate defaulters that they cannot escape from the clutches of law. The argument advanced by Ericsson in the case that, while Ambani had money to invest in the Rafale deal, he had defaulted when it came to paying the telecom company (Ericsson) would provide fresh ammunition to the controversy

— M Jeyaram, Madurai

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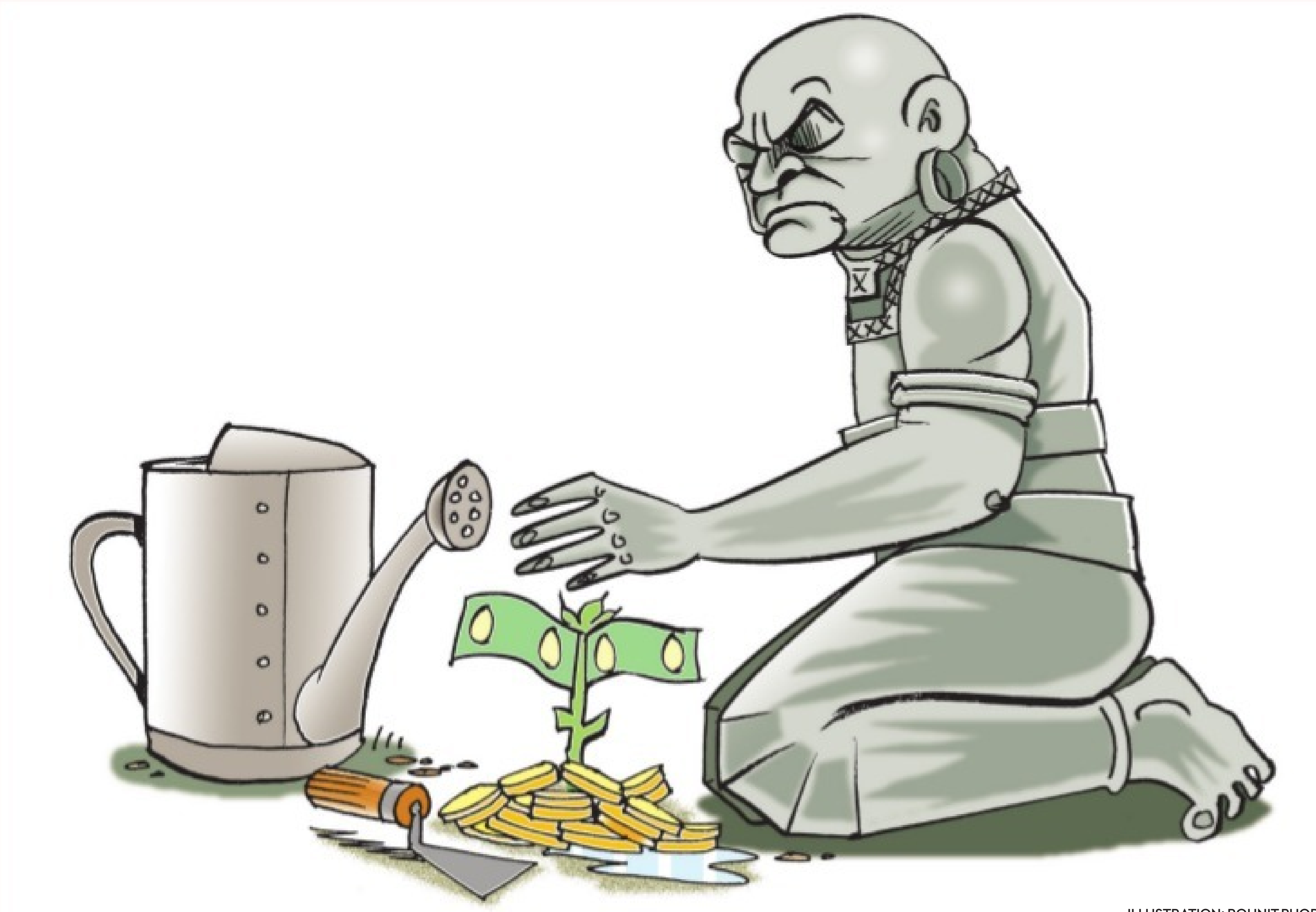


ILLUSTRATION: ROHNIT PHORE

MADAN SABNAVIS

The author is chief economist, CARE Ratings. Views are personal

RBI transfers are crucial for fiscal management

With expenditure commitments of the government increasing and the focus on welfare, revenue generation is a challenge, given the reforms being undertaken like GST or maybe even the DTC at a later date. In such a situation, transferring higher amounts of RBI surpluses is a useful way of managing the Budget

THE PAYMENT OF AN INTERIM dividend by the Reserve Bank of India (RBI) to the government is significant because it is the second time that this has been done, and that too in successive years. The surpluses of RBI have hence come to occupy a very important position in managing the Centre's fiscal balances. Interestingly, the surpluses of RBI in the past were not really considered to be important as most of the so-called profit is notional. But, today, the contribution to the exchequer is quite critical and the interim dividend manifests this phenomenon.

RBI earns money by virtue of being the custodian of forex reserves and conducting monetary policy operations. As forex reserves finally reside with the central bank, they are invested in safe avenues and earn an income. Similarly, the Government Securities (G-Sec) held by RBI that are used to draw liquidity out of the system when required for OMOs (sale) earn revenue for the central bank. Further, when RBI conducts the repo and term repo operations when liquidity conditions are tight, banks pay them interest at the repo-related rate. Hence, the central bank runs a very profitable balance sheet as the liabilities do not quite exist and can be created by a fiat. Assets earn income from banks and the government and the surplus gets transferred to the Budget as surplus. For 2017-18, the surplus transferred was ₹40,000 crore while the domestic interest earned was around ₹38,000 crore.

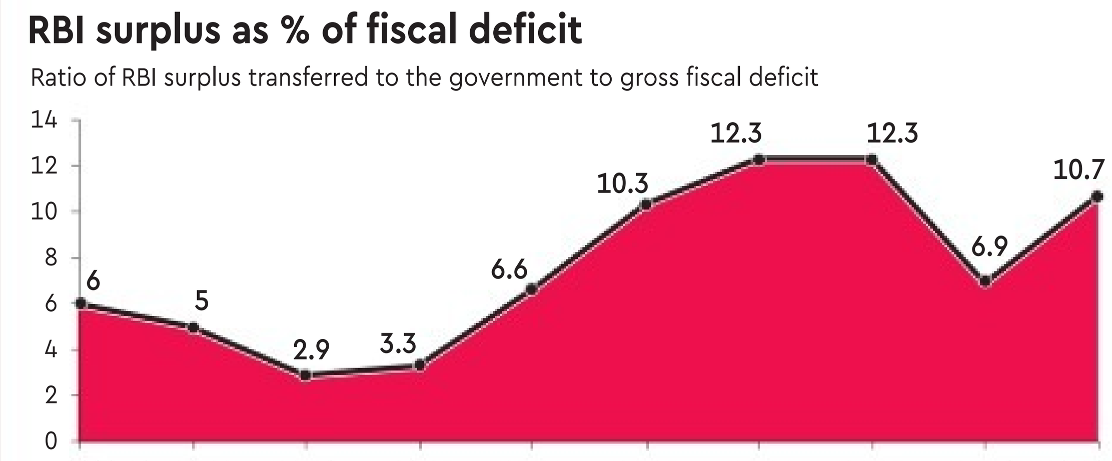
In the last five years, there has been a sea change in this quantum of transfers. The surpluses have increased manifold and hence resulted in a bounty to the government, since as per the statute the entire balance goes to the government after making statutory transfers. This has helped in fiscal management as the deficit gets reduced to a significant extent. In the five-year period 2009-10 to 2013-14, the average surplus was ₹21,560 crore, with a maximum of ₹33,010 crore in FY14. In the period 2014-15 to 2018-19, the average surplus was ₹58,622 crore, with the peak being ₹68,000 crore for FY19. In fact, in three of the last four years, the surplus was above ₹60,000 crore, with FY18 being the exception, when demonetisation came in the way as both income was lower (surpluses with banks had to be paid the reverse repo rate) and the expenses were higher. The accompanying graphic gives the ratio of RBI surplus transferred to the government to gross fiscal deficit.

> **In the last five years, there has been a sea change in the quantum of transfers. The surpluses have increased manifold and hence resulted in a bounty to the government**

In these two phases, the average ratio of RBI surplus to gross fiscal deficit has doubled from 4.8% to 10.5%, which is quite significant as the budgetary support provided has increased sharply. This has also provided elbow room to the government to run a higher fiscal deficit as there is support that comes from RBI.

RBI surplus as % of fiscal deficit

Ratio of RBI surplus transferred to the government to gross fiscal deficit



Source: RBI and Union Budget

RBI's cost of operations is more or less fixed, and the clue going ahead is to increase the income that comes from the two sources. As long as forex reserves increase, there will be an increase in income for RBI. Around ₹35,000 crore came in 2017-18 from investments of forex assets; and as interest rates increase in the West, the Fed bonds and others would provide higher revenue for RBI. The average return here is still very low at 1.09% for 2017-18, as per the RBI Annual Report, given the safe investment avenues chosen. Doubling this return would provide higher revenue, which can be further used to manage the budget deficit. A thought here is whether or not RBI should get involved in treasury operations to earn more income on deployment of forex reserves.

The other source of income is the interest on domestic securities, which was slightly higher at around ₹39,000 crore in 2017-18. Here, it will be important to note that the repo rate announced will have a bearing on the earnings as well as the liquidity situation. When the liquidity situation is tight and RBI induces progressively large amounts through the repo window on a continuous basis, income would tend to increase. In a state of lower interest rates, this revenue would also come down. The same holds for OMOs when RBI buys back bonds from banks where the effective yields also move with the repo rate movements. This would be largely exogenous over which RBI will have little control being linked with liquidity and monetary policy decisions that are driven by extraneous factors.

RBI as a source of revenue for the government is important as it could account for almost 20-25% of total non-tax revenue. In fact, at a broader level, two observations can be made. The public sector is an integral part of the budget exercise because it contributes a lot to the revenue collections. Currently, public sector banks are not making profits but otherwise have been transferring their surpluses to the government in proportion to the latter's ownership. The same holds for other PSUs in oil, power, finance, etc, which are profitable. This is one reason why full disinvestment is not a possibility as it would remove one source of revenue.

The second relates to RBI and the use of reserves. While the high-level committee will decide on the use of past reserves, intuitively it can be seen that such funds can be used to take on certain expenses of the government outside the balance sheet, like bank capitalisation. Last year, the recap bonds were used wherein bonds were issued to banks where the accounting money was used to recapitalise them by the government. The central bank reserves, too, can be used in a similar manner.

Interestingly, with the interim dividend being paid in the last two years, there is scope for having such rolling amounts here too. RBI has a financial year of July-June; the government follows the conventional April to March. The dividend is hence paid in July after the results are out and, therefore, the 2017-18 outcomes get into the Budget of 2018-19. The interim dividend paid for fiscal 2018-19 would get reflected in the 2018-19 accounts of RBI, which is for the previous year being a lagged payment. This can be a useful way of rolling in the transfers too.

With the expenditure commitments of the government increasing in recent times and with the increasing focus on welfare, revenue generation is always a challenge, given the reforms being undertaken like GST or maybe even the direct taxes code at a later date. In such a situation, transferring higher amounts of RBI surpluses becomes a useful way of managing the Budget, as it provides room within the perimeter laid down by the FRBM framework.

Transforming urban mobility

K YESHWANTH REDDY & AISHWARYA RAMAN

Reddy, a public policy expert in transportation, leads Urban Mobility Track at Ola Mobility Institute, where Raman is associate director

Urban India's mobility challenges need a solution rooted in data and evidence

INDIAN CITIES ARE engines of economic growth. But they grapple with challenges brought about by decades of unplanned growth. Mobility is a major area, given its impact on the economy. As per an IIT Madras study, the economic cost of congestion in Delhi alone is $8.9 billion per annum and could rise to $15 billion by 2030. To drive economic activity, people need to be able to easily travel within the city. As average incomes and population go up, the demand for mobility solutions is bound to explode.

Cities such as Tokyo, New York, London have well-established central business districts served by an effective public transport network; unlike their Indian counterparts. As of 2014, only seven metro cities in India had local rail services and 65 had organised bus services. Smaller cities lack extensive public transport; bigger cities struggle with affordable last-mile connectivity. These voids are filled by personal vehicles. Two-wheeler ownership rose from 8.1% of total vehicles in 1951 to 75% in 2016. Net loss faced by state transport undertakings rose from ₹4,73,710 lakh in 2010 to ₹10,51,016 lakh in 2015, despite growing ridership.

Tackling the issue of mobility requires a concerted, well-formulated effort that involves all stakeholders and is mindful of ground realities. The recent 'MOVE' event, India's first global mobility summit, was a great first step because it focused on the future of mobility. For any policy to be successful, it needs to be rooted in data and evidence. Governments are increasingly using evidence-based policymaking, including indices such as the World Bank's 'Ease of Doing Business' and the ministry of housing and urban affairs' Liveability Index. Even policies laid out in NITI Aayog's 'Strategy for New India@75' and Digital India support this.

The Ease of Moving Index (EOMI) by the Ola Mobility Institute can be an effective framework to help cities evaluate their mobility scenarios on the three pillars of people, infrastructure and sustainability, based on 50 distinct parameters. It can act as a guideline for policymakers, planners, practitioners, businesses and citizens alike. While authorities such as the urban affairs ministry have data on urban mobility indicators, these are largely supply-driven. But EOMI brings in residents' points of views in creating urban mobility indicators. Tracking how these perceptions change over time, in line with improvements in sustainable mobility, can show us how government investments benefit people.

> **People view EVs, first- and last- mile connectivity, better footpaths, cycle tracks, shared mobility and improved coverage of public transport as key measures**

EOMI 2018, based on survey of 43,000 people across 20 cities, had some interesting insights: While cities such as Chennai, Jabalpur and Pune have enacted policies and provided infrastructure to enable non-motorised mobility (walking and cycling), Kolkata and Delhi embraced shared mobility to increase access and improve utilisation of public transit. Also, over 60% people in these 20 cities use public transport. Almost 70% of public transport users rely on cabs, autos and non-motorised means to access buses, metros and other modes of public transit. Around 60% of non-users are willing to shift to public transport if coverage, first- and last-mile connectivity, frequency, and comfort improve.

Integrating intermediate public transport with other modes of public transit through offline and online multi-modal terminals and fare integration can augment public transport usage. Delhi is paving the way for this by making metro rail cards usable on buses. The growth of smartcards and app-based services has made digital currency more acceptable. On platforms, over a third of cab and autorickshaw rides are paid for using digital wallets. Kolkata has taken steps to digitise its transport sector through app-based parking, bringing use of public transport to over 70%.

Safety in public transport seems to be a top concern—10% users find public transport safe in general; 36% find it safe except at night; and 19% find it unsafe. To change this, many cities are making mobility gender-friendly. Kochi has all-women metro stations, pink taxis for women and encourages women to participate in mobility as service providers.

Citizens view electric vehicles, better first- and last- mile connectivity, better footpaths, cycle tracks, shared mobility, cashless mobility and improved coverage of public transportation as important measures. EOMI could provide the magic mantra to policymakers based on citizens' insights.

BINANI CEMENT CASE

Cementing the EXIM Bank stand

The Binani judgment, in which EXIM Bank was an unsecured financial creditor, sets a precedent in the insolvency space

DEBASISH MALLICK & PRITI THOMAS

Mallick is deputy managing director and Thomas is deputy general manager, EXIM Bank

RECENTLY, THE NCLAT had dismissed the appeal of Rajputana Properties Private Ltd, originally declared as the highest bidder (H1), in the corporate insolvency resolution process (CIRP) of Binani Cement Ltd. Rajputana had earlier challenged the Adjudicating Authority's order (being the Bench of the NCLT at Kolkata) according approval to the resolution plan of UltraTech Cement Ltd. The NCLAT judgment was upheld by the Supreme Court, in a swift hearing of the appeal. The NCLAT judgment is analytical and illuminating. It brings out the spirit of the Insolvency and Bankruptcy Code (IBC) succinctly. The legal process and arguments pursued over the last few months in this case have been keenly watched. EXIM Bank of India's stand and arguments played a unique role in the litigation surrounding the insolvency resolution process and the NCLAT judgment established the accuracy of EXIM Bank's convictions. This has prominently come to the fore in all discussions and judgments relating to the case, which have contributed to laying down a precedent in the evolving insolvency space in India.

Binani Cement was amongst the first cases referred under the IBC. Bank of Baroda, the lead creditor, had initiated the CIRP proceedings. Two prominent players—UltraTech and Rajputana (a company promoted by Dalmia Cements)—had bid for the distressed asset. The initial bidding process saw Rajputana submit a bid higher than that offered by UltraTech. In a quick decision, Rajputana was decided as H1. The decision forestalled scope for further negotiations with UltraTech, though in the interim UltraTech significantly improved its bid. More than the amount on offer, the quality of the two bids were vastly different. Rajputana's bid proposed full settlement of outstanding dues of the secured financial creditors, and a select group of unsecured financial creditors (two of the unsecured financial creditors, including EXIM Bank, were not being offered full settlement of their outstanding dues). Most operational creditors were also denied full settlement of their amount in arrears. In contrast, UltraTech offered full settlement to all. As a consequence, the UltraTech offer carried a higher price tag for the asset and it was evident that the price proposed in both the bids was significantly higher than the valuation of the asset arrived at in the conventional process.

EXIM Bank's stand

Not being the recipient of its full dues as most other unsecured creditors, EXIM Bank knew it had to defend its interest. The amount offered by Rajputana fell short of its total dues by ₹170 crore, which was 27.41% of its admitted claim of ₹620 crore. It was difficult to accept such a large haircut, particularly when other similarly-placed lenders were being offered full settlement. It was also not possible to reject the offer outright, and be a dissenting creditor, since the resolution plan entitled such dissenting creditors to a 'nil' settlement in case of resolution.

EXIM Bank had no preference between the two bidders. Both the bidders were prominent industry players with excellent track-record of operations. Both offered settlement amount(s) in excess of the valuation of the asset. Against the above backdrop, we, at EXIM Bank, were convinced that the case had some unique and compelling feature, and decided to launch for ourselves its discovery, based on our analysis and conviction. The principal points relied on and highlighted by EXIM Bank before various fora were:

■ **Seriousness of the players leading to a higher price discovery:** Both the bids were made by prominent and responsible industry players, and not by unconnected and/or inexperienced players. Both the bids were higher than the valuation for the asset. As such, both the bids were serious, genuine and acceptable. However, the offer price differential was to be viewed and treated as a process of price discovery. In the spirit of fairness, both the bids in their presented form(s) should be accepted, but with the caveat that the lower bidder should be afforded an opportunity, to match the higher offer.

■ **Differential settlement amount:** The two offers carried distinct settlement terms. One offered to repay dues in full to all financial creditors as well as operational creditors. The other offered to repay dues in full to a select group of lenders, leaving a set of financial creditors and almost the entire group of operational creditors in a lurch, as it denied full settlement of their dues. As such, the second offer failed to satisfy the canons of equity.

■ **Class of creditors and settlement:** EXIM Bank had submitted all through that as per the IBC, there were only two types of creditors—financial and operational. The IBC doesn't differentiate further amongst financial creditors. So, there should be no difference in settlement terms among financial creditors, whether secured or unsecured, in the event of a resolution. In the instant case, there was inequity created by Rajputana's proposal that offered settlement on differential terms between unsecured financial creditors also.

■ **Maximisation of value of assets:** It was evident the increased offer at stake, from UltraTech, needed consideration in view of the fact that it held out clear positive prospects for the satisfactory resolution of the debts of all the stakeholders. This thinking was aligned with the core objective of the IBC, which emphasises the need to achieve maximisation of the value of the asset and balance interests of all the stakeholders in a resolution process.

Against the above backdrop, and in light of its convictions, EXIM Bank decided to pursue the case before the Adjudicating Authority, with a prayer for equitable and fair treatment to all, while maximising the value detected as a result of price discovery, which, in turn, assured settlement of dues in full to all the stakeholders. We are happy that the judgment has agreed with the basic tenets of our stand and cemented a new perspective to the IBC.