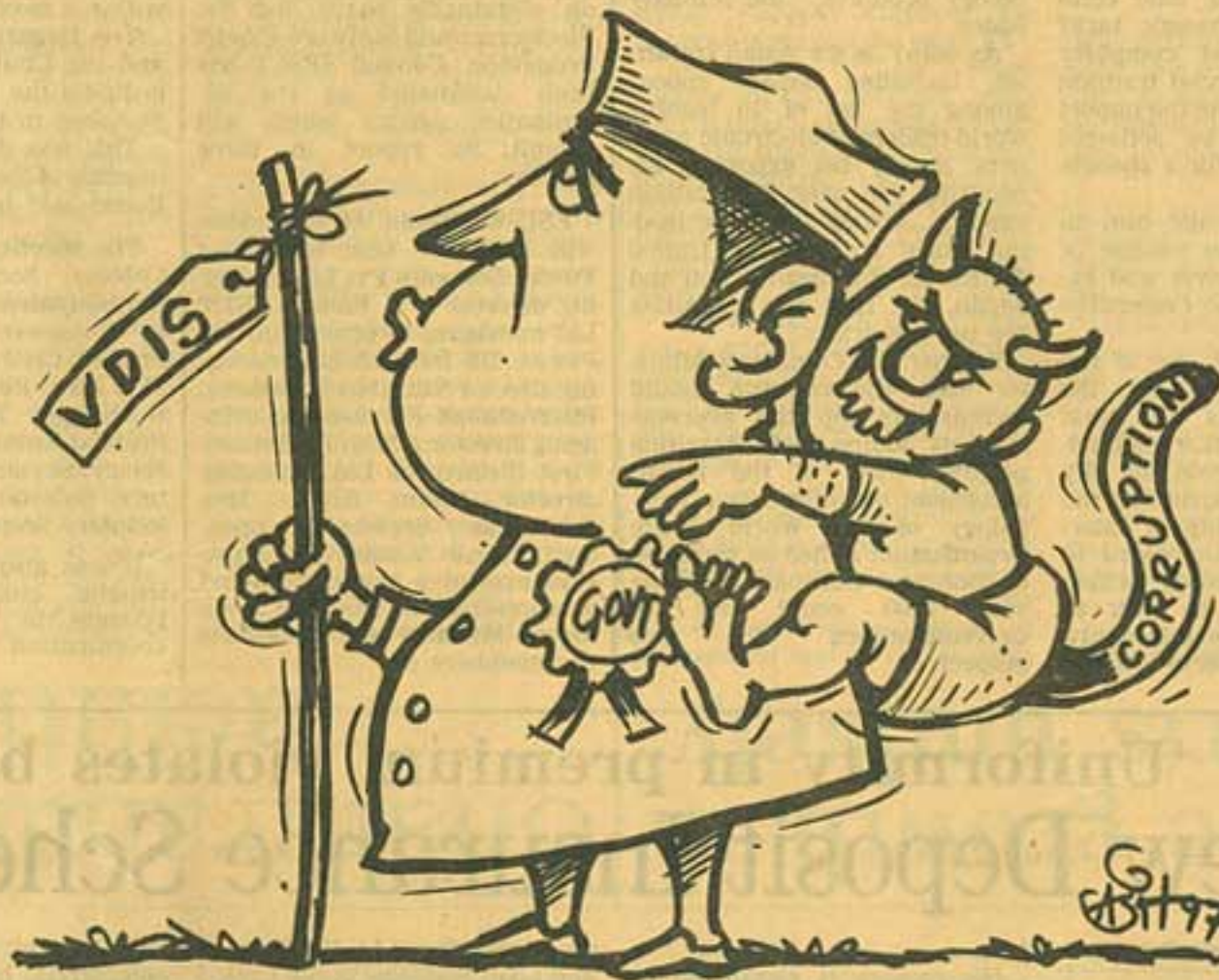


Rewarding the offender

The monster of black money is bound to turn even more devastating in the years ahead, says **Uttam Gupta**



THE Mumbai High Court may have dismissed the petition challenging the constitutional validity of the Voluntary Disclosure Income Scheme (VDIS), 1997; nevertheless, the substantive point raised in the petition i.e., the scheme denies tax-payers equality of opportunity before the law, has not been addressed. The issue is, therefore, bound to come up before the Supreme Court.

Under VDIS, an evader can disclose his concealed income and pay tax on this at the current rate i.e., 35 per cent for corporate assessee and 30 per cent in individual category. He will not be required to reveal the source of income and manner of generation, or answer any queries on transaction leading to it.

The declarer will be free from all penalties, including penal interest and prosecution. Nor will such disclosure be used as evidence against the assessee in any court. In short, the evaders have been offered an opportunity to convert black money into white for a song.

No punishment for evading payment of taxes is bad. What makes things worse is that evaders have been treated much more favourably than persons who have been regularly and honestly paying taxes at prevailing rates in the past. Whereas latter paid taxes at substantially higher rates, the former are being lured into paying tax on undisclosed income at the lowest rate ever.

The tax-evaders' gain is many times more than revealed simply by the differential in tax rate. This is in view of substantial savings by way of interest alone, and opportunities availed by him for converting these into huge wealth. In sharp contrast, the honest tax-payer has foregone all this simply because he abided by the law of the land and parted with a portion of his income as tax for use by the exchequer in social welfare, infrastructure and promoting overall development of the nation.

Since under VDIS, no question will be asked on the source of income, possibility of money/wealth acquired in an unlawful manner also passing muster is not ruled out. Consider for instance, a government official siphoning off a portion of earmarked funds for spending under a development/welfare scheme or taking bribe for doing favour to someone, and in the process, causing loss to the exchequer. If he discloses the embezzled money/bribe as income under the scheme and his claim is accepted, this will tantamount to legitimisation of such unlawful acts.

The government has said that it will utilise revenue collected under VDIS for the benefit of the common man by funding

basic minimum needs programme and development of infrastructure. However, to the extent a portion of money siphoned off from earmarked schemes comes back as tax under VDIS, it is like asking those who robbed the exchequer to surrender only a slice of the loot into letting them live as honourable citizens.

Why should the government allow embezzlement/loot in the very first instance? Unfortunately, there is not even talk as to how it can be prevented, not to mention implementing a credible action plan aimed at eradicating it completely. Against this backdrop, to seek looters' support purportedly for helping the common man is not only unjust and unethical, but also, reflects on the worst form of degeneration that has set in our governance and body polity. The right course should have been to forcefully and

effectively use the law to get the loot back in full and punish the offender to prevent loot in future.

The government's finances are in dire straits. Moreover, having reduced the tax rates across the board and in view of investment and industrial activity slowing down, revenue targets are unlikely to be realised even as expenditure goes beyond control.

Against this backdrop, the government seems to be banking on VDIS to bail itself out. Hence, the desperation to somehow goad economic offenders into filling its coffers, even if it means saying goodbye to principles of equality and justice.

While deciding whether to disclose or not, the paramount consideration in the mind of the evader is how he will be placed if he does not take advantage of the scheme. In view of assessee's being used

to evasion for years and hardly any instances of punishment, they are virtually living in safe haven. So, why should anyone pay tax even at a modest rate of 30 per cent/35 per cent, when already, the entire money is de facto as good as white.

For those acquiring wealth in a more brazen manner i.e. bribe etc, there is an additional reason as to why they too are unlikely to come forward. On making disclosure under VDIS, the balance after having paid tax will have to be used for doing something productive as it would come under authorities' gaze. This is obviously not to the liking of the looters who are only prone to extravagant and unproductive use of the ill-gotten wealth.

The government has not done anything to put the fear of God, i.e. in case the evaders do not come out clean on this occasion, they could be in for serious trouble. On the contrary, by extending the scheme up to March 31 1998 — when notified, the validity of the scheme was for six months i.e., July 1, 1997 to December 31, 1997 — it has amply demonstrated its kind heart to the evaders.

There is also no basis to believe that the government would not come forward with another amnesty scheme. A senior official in the ministry of finance is reported to have said that assessee's would not get a scheme that offers tax rates lower than the present one.

This is not a deterrent. Far from that, it only means that offenders could get more chances in the future.

The menace of black money has two dimensions: (a) Stock already in the economy, and (b) generation of more of black money. The VDIS addresses neither. On the first count, all that the government is seeking to do is to appease those having black money — indeed, virtually falling at their feet — to give whatever amount they like and on their terms. Nothing would demonstrate this better than the media campaign launched, huge expenditure of Rs 35 crore on publicity and propaganda, and none other than the finance minister himself running from pillar to post to persuade the offenders to come forward and help the beleaguered government. Such an approach is bound to fail.

On the second count, through the VDIS, the government has given clear signal that it pays to rob the exchequer, accept bribe and evade tax.

Consequently, the offenders will continue with what they have been doing in the past at an accelerated pace. Not only that, even the honest/clean including those regularly paying tax, too will join their ranks. The monster of black money is, thus, bound to turn even more devastating in the years ahead.