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HINDENBURG-ADANI CASE: EXPERT PANEL 'CLEARS' SEBI

Panel's findings

After two months of investigation, the committee headed by Justice (retd) A.M. Sapre finds no conclusive evidence

Minimum public shareholding: SEBI had been suspecting 13 overseas entities of having links to Adani Group promoters, but the market regulator had not been "able to make out a case". Its suspicions cannot be confirmed unless more investigation is done

Related party transactions: Hindenburg report refers to over 6,000 related party transactions. Committee says SEBI is still investigating the matter

Price manipulation: No evident pattern of manipulative contribution to price rise of shares could be attributed to any single entity or group

SEBI had drawn a blank in its probe into the ownership and 'opaque structures' of 13 overseas entities, says SC-appointed panel; regulator has sought more time to complete its investigation

KRISHNADAS RAJAGOPAL
NEW DELHI

A six-member expert committee — constituted by the Supreme Court in the Hindenburg-Adani allegations case and headed by former Supreme Court judge, Justice A.M. Sapre — said that the Securities and Exchange Board of India has "drawn a blank" and is in a "chicken-and-egg situation" in its investigation into the "ownership" of 13 overseas entities, including 12 Foreign Portfolio Investors (FPIs).

In its 178-page report, the panel said, "SEBI has found 42 contributories to the assets under management of the 13 overseas entities. Various avenues have been pursued — including ED, CBDT and various market regulators in the seven jurisdictions where the contributories are situated. SEBI has drawn a blank". The market regular has asked the court for more time to complete its investigation.

The foundation of SEBI's suspicion that led to investigations into the overseas entities' ownership is that they have "opaque structures", because the chain of ownership of the 13 entities was not clear.

The committee said that SEBI was investigating the ownership of the 13 entities since October 2020, with regard to allegations in the Hindenburg report about minimum public shareholding. "The key issue is whether as the law stands, one could draw a conclusion that the FPIs are fronts for the promoters of the Adani Group... If such an outcome in the investigation would come about, it would mean that the promoters would not be compliant with the minimum public shareholding requirement," it noted.

While it emphasised the need for a "coherent enforcement policy", the panel concluded it would not be possible to return a finding of "regulatory failure" in compliance with stipulations governing minimum public shareholding.
The Justice Sapre Committee said that the conundrum faced by the market regulator was due to a change in the legislative policy of SEBI under the FPI Regulations 2014 on the basis of a recommendation by a Working Group in 2018. As the law stands, FPIs need to only declare their "beneficial owner", and not the "last natural person above every person owning economic interest in the FPI", in conformation with the anti-money laundering law.

"In 2018, the very provision dealing with 'opaque structure' and requiring an FPI to be able to disclose every ultimate natural person at the end of the chain of every owner of economic interest in the FPI was done away with," the report observed. It said that for the SEBI to put to rest its suspicions, its investigation would require information about the "ultimate economic ownership" — and not just the "beneficial owners" — of the 13 overseas entities under its lens.

No abusive trading pattern

On the issue of price manipulations, the report said that in the case of Adani stocks, 849 alerts were generated by the trading system. These alerts were considered by the stock exchanges in four reports to SEBI. Two of these reports were well before the Hindenburg report and two were after January 24, 2023. However, no pattern of "artificial trading or wash trades" were found..
The report agreed that there was "certainly high volatility in the Adani stocks after publication of the Hindenburg report". "The market's expectations from, and confidence in the Adani Group was shaken by the allegations in the Hindenbrug report, which was inferential," the report said.

RBI TO PULL OUT ₹2,000 NOTES FROM ACTIVE CIRCULATION

LALATENDU MISHRA
MUMBAI

The Reserve Bank of India (RBI) on Friday decided to withdraw ₹2,000 denomination banknotes from circulation in pursuance of its "Clean Note Policy". However, the ₹2,000 notes will continue to be legal tender. A similar withdrawal of notes from circulation was undertaken in 2013-2014.
As in the days after demonetisation, the decision to withdraw ₹2,000 notes is also likely to strain the system besides creating anxiety and inconvenience to the public.

The central bank has advised the public to deposit ₹2,000 notes into their bank accounts and/or exchange them into banknotes of other denominations at any branch.

"Deposit into bank accounts can be made in the usual manner, that is, without restrictions and subject to extant instructions and other applicable statutory provisions," the RBI said. For operational convenience and to avoid disruption of regular activities of banks, exchange of ₹2,000 notes into banknotes of other denominations can be made up to a limit of ₹20,000 at a time at any bank, starting from May 23. To complete the exercise in a time-bound manner and provide adequate time to the members of the public, all banks have been directed to provide deposit and/or exchange facility for ₹2,000 notes till September 30.

The RBI has issued separate guidelines to the banks. The facility for exchange of ₹2,000 notes up to the limit of ₹20,000 at a time will also be available at the 19 Regional Offices of the RBI having "Issue Departments" from May 23. Banks have been asked to stop issuing ₹2,000 notes with immediate effect.

"Members of the public are encouraged to utilise the time up to September 30, 2023 to deposit and/or exchange the ₹2,000 notes," the RBI statement added. The printing of ₹2,000 notes was stopped in 2018-19.

AMONG THE ELITE

India's presidency of the G-20 gives it additional heft at the G-7 summit

As he left for Japan on Friday to attend the G-7 summit — India is a special invitee — Prime Minister Narendra Modi called India's attendance "particularly meaningful" this year. While Mr. Modi was referring specifically to India's G-20 presidency, and aligning the G-20 agenda with Japan's agenda for the G-7 summit is key, there are other reasons for India's presence to stand out at the conversations this weekend. Japan, as host, has taken a fairly tough position on Russia, with its envoy to India saying that the "message to Putin" must be that Russia will have to "pay" for its war in Ukraine. While all G-7 countries — the U.S., the U.K., Canada, France, Germany, Italy, Japan and the EU — are united in their efforts to sanction Russia further, it will be left to India, which has walked a line of fine balance thus far, to temper some of that language, particularly if joint communiques are sought with the outreach countries including South Korea, Australia, Brazil, Vietnam, Indonesia, Comoros and the Cook Islands. Neither Russia nor China, the "elephants in the room", are actually invited, and India's position will be all the more important for the "Voice of the Global South" that Mr. Modi has committed to amplify, in conversations about the impacts of sanctions imposed by the G-7 countries on the developing world, including on food, fertilizer and energy security. Ukrainian President Volodymyr Zelenskyy has decided to accept Japan's invitation to attend the G-7 summit in person, and all eyes in India will be on a possible meeting between him and Mr. Modi, which would be a first since the Ukraine war began. The G-7 countries will keenly watch whether Mr. Modi extends an invitation to Mr. Zelenskyy to address the G-20 summit in September.

Apart from the Russia-Ukraine tussle, India will be at the forefront as G-7 and G-7+ countries discuss debt sustainability and helping countries such as Sri Lanka to avoid a "debt trap". It will also be a key speaker on issues such as building supply chain reliability, spearheading alternative energy coalitions, and seeking infrastructure and development aid in the region. Finally, India's unique voice, as a nuclear power that is not a member of the Non Proliferation Treaty regime, yet has built an impeccable record in nuclear restraint, will be heard as Japan seeks to send a united message on non-proliferation from Hiroshima which was devastated by an American atomic bomb in 1945. While the heavy lifting for the G-7 summit will be done by Japan and member countries, they are still seen as a small and "elitist" grouping, and India's heft as a developing power combined with its G-20 presidency make it the significant "other" this year, that can leave its mark in making the process more inclusive.

TRACKING SDG PROGRESS THE BHOPAL WAY

K.V.S. Choudary is Municipal Commissioner, Bhopal Municipal Corporation Parul Agarwala is Country Programme Manager, UN-Habitat India Pushkal Shivam is Urban Planner, UN-Habitat India

Bhopal has become the first city in India to join the growing global movement on localisation of Sustainable Development Goals (SDGs) following the release of its Voluntary Local Review (VLR). In 2015, the 193 member-states of the United Nations adopted the 2030 Agenda for Sustainable Development, which consists of 17 Sustainable Development Goals and 169 targets as a plan of action for 'people', 'the planet', and 'prosperity'.

The resolution specifies mechanisms for the monitoring, review, and reporting of progress as a measure of accountability towards the people. To this end, member-states submit a Voluntary National Review (VNR) to the UN's High Level Political Forum (HLPF), and, more recently, VLRs as a means for driving and reporting local implementation of SDGs at the sub-national and city levels.

India's progress

India has made commendable efforts towards the adoption, localisation, and achievement of the SDGs. NITI Aayog presented India's second VNR at the HLPF convened in 2020. India's Ministry of Statistics and Program Implementation (MoSPI) has published a National Indicator Framework (NIF) for the review and monitoring of the SDGs, which contextualises the UN's Global Indicator Framework to represent India's unique development journey. As noted in a NITI Aayog report, at least 23 States and Union Territories have prepared a vision document based on SDGs. Almost all of them have initiated steps to localise the SDGs. However, it has taken a while to get to India's first Voluntary Local Review at the city level since the efforts to localise the SDGs began.

Cities are the most important stakeholders in Agenda 2030 as at least 65% of the 169 targets could not possibly be achieved without the engagement of local urban stakeholders. A VLR is a tool to demonstrate how local actions are leading the way in equitable and sustainable transformations for people and building a coalition of partners towards this endeavour.

While it is desirable to align a city's VLR to the State-level action plan (where available) and the country's VNR, the process allows a great deal of flexibility to the cities to tell their story within a framework of their choice. The cities could choose their priority for the VLR process, articulating it either in terms of a quantitative assessment using various city level indicators relevant to the SDG targets or a narrative that describes the efforts and vision of the city. It may seem like a daunting task for Indian cities, particularly the non-metro urban local bodies, with limited capacity, resources, and disaggregated data to do a comprehensive VLR covering all SDGs. Therefore, a VLR does not have to be exhaustive in quantifying each of the 286 indicators under India's NIF, which translate the global targets under the 17 SDGs into local indicators at the national level. Cities may choose specific SDGs for a detailed review as per their priority and logistical comfort. While doing so, they may adapt and further localise the national indicators under the relevant SDGs to reflect the city level realities. Globally, many cities choose to align their review with the SDGs that are taken up for detailed review by the HLPF in its ongoing cycle.

The Bhopal plan

Bhopal's VLR is the result of a collaboration between the Bhopal Municipal Corporation, UN-Habitat, and a collective of over 23 local stakeholders. It has mapped 56 developmental projects to the SDGs across the three pillars, of 'people' (SDGs 1,3,4,5), 'planet' (SDGs 6,13,15) and 'prosperity' (SDGs 7,8,11). The objectives of building basic infrastructure and resilience emerge as a priority for the city from the number of projects mapped to the SDGs.

The in-depth quantitative assessment of city-level indicators under SDG 11 (Sustainable cities and communities) records Bhopal's stellar performance in solid waste management practices, public transportation, and open spaces per capita. However, the analysis also points to areas where the city needs to work much harder in the coming years to close the distance from the goals: provisioning of adequate shelter, high levels of air pollution, city planning capacity, and even distribution and accessibility of open spaces.

The Mayor, Malti Rai, recognised the significance of a VLR for the city and led the efforts to engage people as part of the process.

Other examples

Does a VLR necessarily have to be the prerogative of a local government? Not quite. It represents people's process, and any city-level stakeholder may take the initiative as long as the VLR is done within the overarching framework of Agenda 2030. A case in point is the city of Canterbury in the United Kingdom where some residents and local groups came together to form a "spontaneous coalition" that did the VLR. This coalition petitioned the local governments to work with city-level groups to advance the SDGs, and the latter merely served as an interlocutor in the VLR process. Closer home, in the global South, we have the examples of local governments in Dhulikhel (Nepal), Singra (Bangladesh), and Amman (Jordan) that worked in a similar context as that of Indian cities to publish their VLRs in 2022.

It is a remarkable opportunity for Indian cities to tell their stories in their own vocabulary, using a framework of their choice to forefront their work at a global platform. We hope more Indian cities will follow Bhopal's lead, to showcase urban innovations and collaborations emerging from India on the global map.

CHANGE FOR THE BETTER

The shifting of Rijiju from Law Ministry should end conflict with the judiciary

It is difficult not to see the removal of Union Minister Kiren Rijiju from the Law and Justice Ministry as a move by Prime Minister Narendra Modi to avoid any escalation in his regime's confrontations with the judiciary in the one year left in his current tenure. Other considerations may have been at work in the shifting of Mr. Rijiju to the Ministry of Earth Sciences and the appointment of Arjun Ram Meghwal as Minister of State, with independent charge, in the Law Ministry, but the marked decline in Mr. Rijiju's frequent fulminations against the Supreme Court collegium do indicate a desire to tone down his penchant for confrontation. While there is inaction or delay on the part of the government on some recommendations, quite a few appointments, including in the Supreme Court, have been made since February, indicating a thaw in the frosty relations between the executive and the judiciary. Apart from his vocal criticism of the collegium system of appointments, which many others indeed see as flawed and in need of reform, Mr. Rijiju had tended to voice unusually trenchant opinions not befitting one holding a portfolio that involves dealing with members of the superior judiciary. He once accused a few retired judges of being "an anti-India gang" who were trying to make the judiciary play the role of an opposition party. On another instance, he voiced concern over the collegium making public some intelligence inputs on the basis of which candidates recommended for appointment were deemed unsuitable by the government.

In choosing Mr. Meghwal, who represents the reserved constituency of Bikaner in Rajasthan, Mr. Modi may have also been looking for a suitable opportunity to accommodate a Minister from Rajasthan in a portfolio with a higher profile. The Rajasthan Assembly elections are due around the end of the year. Mr. Meghwal has begun his stint with an observation that there is no confrontation with the judiciary and that his priority would be to ensure speedy justice for all. One issue that requires resolution is the finalisation of a fresh Memorandum of Procedure for judicial appointments. Mr. Rijiju had said earlier this year that the government had emphasised to the Supreme Court the need for finalising the procedure soon. He had also mooted the idea of a 'search-cum-evaluation committee', with a government representative on it, for the appointment of Supreme Court judges and Chief Justices. It is expected that the government will continue to accord great importance to these two issues. While pursuing such initiatives, the government should avoid giving the impression that it wants to gain absolute control over the appointment of judges.

SC DEFERS SCIENTIFIC SURVEY ON 'SHIVLING' AT GYANVAPI MOSQUE

THE HINDU BUREA
NEW DELHI

The Supreme Court on Friday deferred the implementation of a direction given by the Allahabad High Court on May 12 to conduct carbon dating and scientific survey of the 'Shivling' allegedly found on the Gyanvapi mosque premises in Varanasi.

A three-judge Bench headed by Chief Justice of India D.Y. Chandrachud said the "implications of the May 12 order would require closer scrutiny". The carbon dating and scientific survey of the disputed structure was supposed to be held on May 22. The apex court ordered the exercise to be put on hold till the next date of hearing before it.

The Bench passed the order on a petition filed by the Anjuman Intazamia Masjid Varanasi, the mosque's caretakers, represented by senior advocate Huzefa Ahmadi, against the High Court order.

Court's suggestion

"Solicitor-General, would you like to take instructions on this… let us examine it a little carefully," Chief Justice Chandrachud addressed Mr. Tushar Mehta, who was appearing for both the Centre and the State of Uttar Pradesh. The law officer agreed with the court's suggestion, highlighting the implications that may follow if the carbon dating and scientific survey happened to inadvertently "damage" the structure in question.

"My concern as an officer of the court is if by doing the exercise, there is some damage caused to the structure, which one side says is a 'Shivling' and the other side says is a fountain, whatever it may be… we will have to see how it can be done. Your Lordships, we will await your adjudication on this issue," Mr. Mehta said.

Advocate Vishnu Shankar Jain, appearing for the Hindu women who were the plaintiffs in the suit claiming right to worship the 'Shivling', said the High Court's order was based on a 52-page report filed by the Archaeological Survey of India (ASI). He said the report had categorically stated that no damage would be caused to the 'Shivling' during the scientific survey. "That the structure will not be damaged has already been taken into consideration," he submitted.

Site of contention: The mosque's caretakers had appealed against the High Court order. File photo

The Centre and the U.P. govt. agree to the plea for adjourning the survey of the disputed structure; Solicitor-General Tushar Mehta raises concern that the exercise may cause some damage to it

However, the Chief Justice told Mr. Jain, "Let the government consider the situation. They will obviously consult the ASI. Let the government also consider other options and the issues involved… These are matters the government has to tread a little carefully about."

RBI TRIPLES DIVIDEND, TO PAY ₹87,416 CR. AS SURPLUS TO GOVERNMENT

THE HINDU BUREAU
MUMBAI

The Central Board of Directors of the Reserve Bank of India (RBI) on Friday approved the transfer of ₹87,416 crore as surplus to the Union government for the accounting year 2022-23, or almost thrice the ₹30,307 crore transferred for the previous fiscal year.

The board also decided to raise the Contingency Risk Buffer to 6%, from 5.5% in the preceding year.

The RBI's board, which met in Mumbai under the Chairmanship of Governor Shaktikanta Das, approved the transfer after discussing the working of the central bank during the year April 2022 – March 2023.\

"The Board in its meeting reviewed the global and domestic economic situation and associated challenges including the impact of current global geopolitical developments," the RBI said in a statement.

It also approved the Annual Report and accounts of the Reserve Bank for the accounting year 2022-23.

Deputy Governors Mahesh Kumar Jain, Michael Debabrata Patra, M. Rajeshwar Rao, T. Rabi Sankar and other directors including Satish K. Marathe, Revathy Iyer, Sachin Chaturvedi, Anand Mahindra, Pankaj Ramanbhai Patel and Ravindra H. Dholakia attended the meeting.

Ajay Seth, Secretary, Department of Economic Affairs also attended.

GOVT. PLAYS ANGEL OVER TAX ON START-UP FUNDING

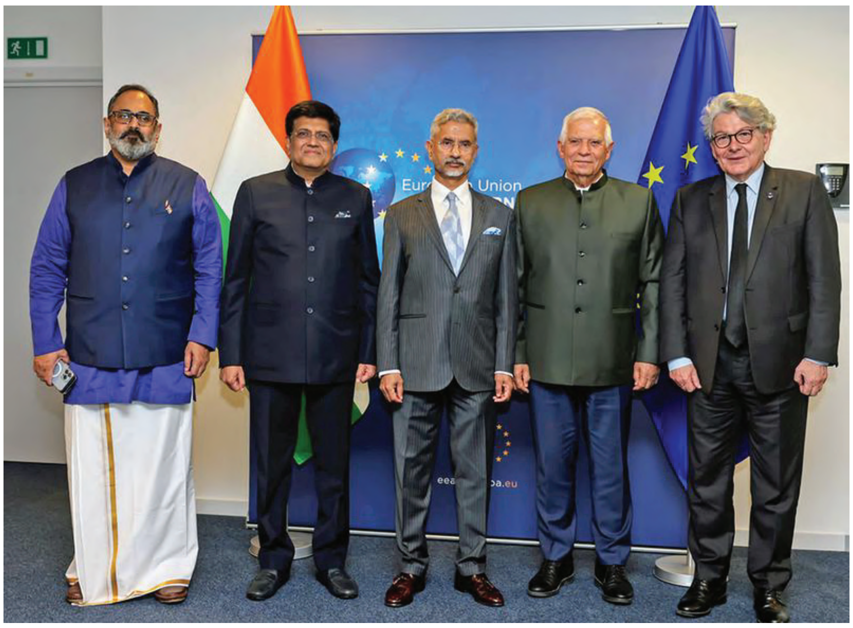
THE HINDU BUREAU
NEW DELHI

The government on Friday proposed changes to the angel tax introduced in the Budget on start-up investments from non-resident investors at a premium over their fair market value (FMV), and said investors like banks, insurers, sovereign wealth funds and SEBI-registered FPIs may be exempt from the tax.

In a bid to assuage industry concerns, the Central Board of Direct Taxes (CBDT) also said that Rule 11UA under the Income Tax Act, that currently prescribes only two valuation methods for valuing shares for resident investors, would be amended to include five more valuation methods for non-resident investors.

Any valuation report from merchant bankers submitted not over 90 days prior to the investments in question would be accepted by the revenue department, with a 10% "safe harbour" variation permissible "on account of forex fluctuations, bidding processes and variations in other economic indicators", the CBDT said. Price matching for resident and non-resident investors would be available for investments by Venture Capital Funds, it added.

EU's TOP OFFICIAL WANTS MORE SCRUTINY ON INDIAN PRODUCTS DERIVED FROM RUSSIAN OIL



Dissimilar notes: (from left) Union Ministers Rajeev Chandrashekhar, Piyush Goyal and External Affairs Minister S. Jaishankar, meet with Josep Borrell in Brussels on Tuesday.ANI

While saying EU rules cannot be forced on other nations, Josep Borrell said that ahead of Ukraine invasion, the share of Russian oil in India's oil import stood at 0.2%; but last month, it rose to 36.4%

SRIRAM LAKSHMAN
LONDON

Days after saying the European Union (EU) had to curb the import of refined petroleum products from India, the EU's top foreign affairs and security official, Josep Borrell, suggested that EU entities buying refined products from India were primarily accountable for the leakage of Russian oil-based products into the EU.

Mr. Borrell's comments were published in his blog on Friday afternoon, titled, 'Some Clarifications on the Circumvention of EU Sanctions Against Russia'. The diplomat, however, said there was a "remarkable increase" in the amount of oil India was buying from Russia since before Russia's invasion of Ukraine.

'Rules apply only to EU'

"As EU, we don't want to buy Russia energy exports, because we don't want to finance its war against Ukraine. We also don't want to sell technological products and components that Russia needs for its war machine," Mr. Borrell wrote.

He made clear, however, that the EU's rules on trade with Russia were for EU entities but that other nations cannot be "forced" to comply with them as the sanctions were not extraterritorial.

"This week we also had a discussion on the specific issue of India's growing oil purchases from Russia and the growing exports to the EU of refined products that are most likely based on cheap Russian oil," Mr. Borrell said, describing the issue as a dilemma.

"...before Russia's invasion of Ukraine, the share of Russian oil in India's overall oil import stood at 0.2%. Last month, that share had risen to 36.4%," Mr. Borrell wrote, calling the increase "remarkable" but saying one cannot "blame nor question" India for this, as New Delhi is not subject to European laws.

The diplomat said that China was importing even higher volumes of Russian oil since a December 2023 oil price cap of $60 per barrel rolled out by the Group of Seven (G-7) advanced economies came into effect.

'Normal' reaction

Mr. Borrell emphasised a point he made earlier this week in a Financial Times interview, saying it is "normal" for India to make use of the opportunity to buy cheaper oil below the price cap.

However, he identified another issue: Indian refined petroleum products, made from Russian oil, entering the European market.

"Here again the facts are clear: the export of refined products like jet fuel or diesel from India to the EU has risen from 1.1 million barrels in January 2022 to 7.4 million barrels in April 2023," he wrote.

External Affairs Minister S. Jaishankar and Mr. Borrell had held bilateral talks in Brussels on Tuesday.

TAX WAIVED ON ANNUAL FOREX SPENDS UP TO ₹7 LAKH: FINMIN

THE HINDU BUREAU
NEW DELHI

The government on Friday walked back its plan to levy a 20% tax on overseas credit card spending from July 1, in the face of a furore among taxpayers and businesses, and decided to exempt any payments by an individual using their international debit or credit cards up to ₹7 lakh per financial year from the levy.

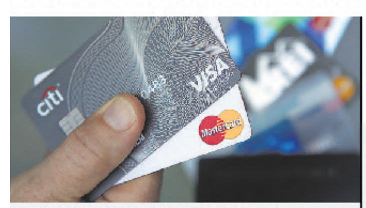
This was being done to remove "any procedural ambiguity" as "concerns have been raised about the applicability of Tax Collection at Source (TCS) to small transactions under the Liberalised Remittance Scheme (LRS) from July 1," the Finance Ministry said in a statement.

Earlier, the RBI introduced a provision to bring overseas credit card spends under the LRS, which permits forex remittances of up to $2.5 lakh a year. The government had separately notified that such overseas spending would attract a 20% TCS, with a provision to adjust such levies against advance tax payments or seek a refund at the time of filing annual tax returns.

"Existing beneficial TCS treatment for education and health... will also continue," the ministry said.

Rollback mode

The Finance Ministry said tax collection at source will not apply to 'small transactions' under Liberalised Remittance Scheme



- Ministry says rollback being done to remove 'any procedural ambiguity'
- Existing beneficial TCS treatment for education and health to also continue
- Overseas payments up to ₹7 lakh a year for education, health are permitted with a TCS rate of 5%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