Between Jayanthi Natarajan and Arun Jaitley, the government has its hands more than full

Shome has helped the government get over the Pranab retro-tax problem, but Jayanthi is clear her ministry's role is not going to be curbed in any way and Jaitley's made it clear retail-FDI could upset the pension/insurance FDI proposals

Thanks to Parathasarathi Shome, the government may just have managed to exorcise a large part of the Pranab Mukherjee overhang, at least the part about the bad taxes—the amazingly poor budget arithmetic that will continue to give his successor P Chidambaram sleepless nights, of course, is another thing. So, if all goes to plan, after the mandatory consultation phase on the draft Shome report, we'll see an end to the Vodafone persecution which got so nasty that the finance secretary was briefing journalists on how Vodafone knew about the tax liability and used this to get Hutch to sell at a lower price.

While ideally there should be no retrospective tax on anyone—Shome has said a tax on overseas sales with underlying Indian assets should be prospective—Shome has crafted his suggestions in a way that it causes least loss to the exchequer. Going by the numbers being bandied about, the finance ministry stands to lose around R35,000-40,000 crore from the suggestion since it won't be able to tax other Vodafone-type deals. Indeed, while most of these deals are in the negotiation stage, the government has already collected around R4,000 crore from Essar from its sale of its stake in Vodafone-Essar to Vodafone and another R1,000 crore or so from others like Cairn.

But, after saying such taxes should be prospective in nature, Shome has given another option. In case the government does want to do retrospective taxation, Shome has said, it must tax the seller and not the buyer—since Essar is the seller, therefore, it can still be taxed if this part of the Shome report is accepted. You could argue, and rightly, this is still sandbagging investors since the law permitted them to not pay taxes on overseas sales; but it's still a million times better than taxing the buyers and treating them, in the inelegant taxman's language, as "assessee in default under section 201 of the Act read with Section 9(1)(i) of the Act as amended by the Finance Act 2012".

If the bad blood caused by Vodafone is out of the way, the question is whether the investment environment is back to being good—S&P's latest statement on Wednesday reiterates the 1-in-3 chance of a downgrade in the next 24 months if fiscal reforms slow or India's economic growth prospects dim and it talks of measures like reducing subsidies and implementing GST as possible palliatives. If you look at India Inc's pre-Budget angst, this included projects not getting cleared on time and if you look at investors and rating agencies, their concerns were the fiscal deficit, the current account deficit and the falling saving/investment levels.

Some of these have been addressed, even if only partially, with the cap on LPG subsidies and the diesel price hike being good examples. The appreciation of the rupee reduces the pressure on oil subsidies somewhat, but this will be so only as long as investors feel the government has a credible reforms plan. Once it's clear it doesn't, the money could just as soon start leaving, and the rupee will depreciate, putting further pressure on the oil under-recoveries.

The picture on faster clearances is equally hazy. Despite very clear evidence that the government had said intra-circle roaming was allowed on 3G networks (http://goo.gl/FAFAS), the telecom ministry has issued notices asking telcos to stop inta-circle roaming. Along with Qualcomm, where the government just lopped off 18 months from its license for no good reason (http://goo.gl/vEOKK), this clearly shows the telecom ministry isn't too worried about what it's doing to the investment regime. The saving grace here, though, is that the court has put a stay on government action, asking it to staff up the TDSAT so it can take a decision on the 3G intra-circle roaming case—while the judicial member of the TDSAT ruled against the government, the former bureaucrat member ruled for the government and the third member's post remains vacant, making the 2-member split judgment a non-judgment.

The finance ministry's solution, announced after Chidambaram took charge, is to set up a National Investment Board (NIB) to provide quicker clearances (http://goo.gl /GkntT) to, if need be, get the NIB to give a clearance in case, say, the environment ministry delayed this. The NIB, however, is being fiercely resisted by environment minister Jayanthi Natarajan who dashed off an 11-point note to the PM on Tuesday talking of undue haste, the fact that the proposal is being made by the finance ministry while it was the environment ministry which is responsible to Parliament for protecting the environment (RESPONSIBILITY TO THE LEGISLATURE is how the ministry puts it), that the NIB note was only concerned about what industry felt and not how citizens felt about clearances being given which could damage the environment and, for good measure, Natarajan points out that the Supreme Court has laid down procedures for environment clearance which the environment ministry had agreed to—any deviation from this, the minister has warned, could be problematic. For the record, Natarajan has provided details of the clearances given by her ministry—210,000 MW of power plants in 5 years, clearance to divert 2.04 lakh hectares of forest land, 181 coal mines with capacity to mine 583 million tonnes per annum (in other words, coal supplies can be doubled). In other words, she's saying, the problem hasn't been created by my ministry.

Even assuming the government is able to overcome this opposition from the environment ministry, the big question is whether, if the environment ministry opposes a project—as it is likely to now that Natarajan is so angry—the NIB ministers will have the courage to give it clearance. Also, if Natarajan says there are legal and constitutional impediments, how will this be tackled?

Complicating things further is the stand taken by the BJP. While the BJP has said that it will examine the proposals to hike FDI limits in insurance and pensions to 49%, it has also said it plans to remind the government that, as finance minister, Pranab Mukherjee had assured Parliament there would be no movement on the retail FDI proposal till there was a consensus developed through consultation amongst all stakeholders. In other words, the UPA is ignoring a solemn assurance to Parliament. Seems the Pranab-effect will take some more time to wear off.