Merger of NAA-CCI

Why in news?

The National Anti-Profiteering Authority (NAA) under the Goods and Service Tax (GST) regime is proposed to be merged with Competition Commission of India (CCI).

What is the NAA?

- The National Anti-Profiteering Authority (NAA) was established under Section 171 of the **Central Goods and Service tax Act, 2017**.
- It was initially set up for a period of 2 years after the implementation of GST in 2017.
- It was set up to control unfair profiteering by suppliers (where they were not passing on benefits of reduction in tax rates to consumers, etc.)
- It essentially **works as a price regulator** which ensures that any undue benefit is not reaped by companies, due to changes in GST laws.
- The NAA was subsequently given two extensions.

To know more about the National Anti-Profiteering Authority, click here.

What is the problem with the NAA?

- The lack of methodology to determine the extent of profiteering by companies has also been a sore point.
- Further, NAA orders have no right to statutory appeal and, hence, a plethora of writ petitions have been filed challenging such orders before the Delhi High Court.
- So, the foundation of the NAA has been the subject of judicial scrutiny.
- The CCI, on the other hand, has been maturing in the years since its inception, with prominent orders imposing penalties on companies being regularly upheld in judicial forums.

What is CCI?

- The Competition Commission of India (CCI) is a statutory body established under the **Competition Act, 2002**.
- It was launched with the objective of preventing practices by companies which have an adverse effect on competition (like cartelisation, etc), and to ensure freedom of trade.
- The CCI is **not a price regulator** but a referee to ensure fair market practice in a competing trade environment.
- The CCI has a clear appellate mechanism with appeals at the first level to the National Company Law Appellate Tribunal, and thereafter to the Supreme Court.
- Thus, the two regulatory bodies are operationally different.

To know more about the Competition Commission of India, click here.

What is the issue with merging these two regulatory bodies?

- To bring together these two operationally different bodies, a separate wing must be set up in the CCI to handle complaints of GST profiteering.
- There is another issue with the existing practice in the NAA that is to be merged into the CCI framework.
- **Existing practice in the NAA** - In the NAA, the complaints are first screened by a State-level committee.
- Then on approval, complaints are sent to the Director-General of Anti-Profiteering for investigation and, the investigation report sent to NAA.
- So, combining this framework with the CAA's framework is riddled with foundational potholes.
- The CCI, whose focus area is much broader, simply lacks the expertise to interpret GST laws and the passage of GST benefits to the end-consumer.
- **Cases pending** - There are a multitude of cases pending before the NAA that will now fall into the plate of CCI, which would have to learn "on the job" to deal with them.
- Also, the CCI also has its own set of problems like
    - lack of regular officers,
    - lack of expertise in tax and pricing matters,
    - pendency of cases, and
    - further possibility of being overwhelmed with other new responsibilities.
- Given the DNA of the soon-to-be-adopted stepbrother from GST law, this is not going to be an easy task and has the potential of upending the maturity of the CCI gained since its inception.

What is to be done?

- On the face of the objective to reduce regulatory bodies, the CCI would possibly be the nearest parent for the adoption of the NAA.
- However, the practical challenges need to be addressed first by the GST Council and the courts.
- It may be worthwhile to consider alternative avenues in the interests of both the regulatory bodies.

Reference

1. BusinessLine | CCI adopting NAA is riddled with challenges

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