

Weeding out profiteers

The authorities are taking action to penalise traders who are raising prices indiscriminately under the guise of the GST

THREE months after the implementation of the goods and services tax (GST), the real issues are beginning to emerge.

Paper work is lacking and companies are feverishly gathering their documents to prove stocks and invoicing when asked by the authorities.

The lack of documentation is a clear indicator in the number of companies that are largely unprepared for surprise audits by the Customs and the Domestic Trade, Co-operatives and Consumerism Ministry.

The Customs expected 70,000 companies to register for the special refund scheme, a claim on the sales tax paid on stocks purchased before the implementation of the GST. However, only 300 companies have filed for it.

It offers some explanation as to why prices have gone up and hence, the needful policing of prices by the authorities.

When petrol prices started coming down since August last year, consumers were expecting prices of goods to come down, but it did not happen.

The GST was supposed to bring down prices, but that, too, did not materialise because businesses knew that to claim meant they needed to do proper documentations.

The authorities have been coming down hard on businesses that have raised the prices of their goods in the 18 months surrounding the implementation of the GST.

These businesses may have to pay hundreds of thousands in fines.

The period of policing began from Jan 1, 2015, three months before the GST started and will continue until June 30, 2016.

Since May, the Customs received over 200 complaints from consumers over the hike in goods prices.

"These issues have been reported to the ministry," Customs deputy director-general Datuk Subromaniam Tholasy tells *StarBizWeek*.

"Prices that are raised between Dec 31, 2014 and March 31, 2016, will be seen as profiteering. The ministry will go after them and unless the companies are able to justify the increase in the pricing of their goods in that period, they will be fined," he said.

Companies such as Trendcell Sdn Bhd, which owns the Jaya Grocer supermarket chain, EconSave and Aeon Co (M) Bhd had been taken to court under the Price Control and Anti-Profiteering Act 2011.

Jaya Grocer was alleged to have increased the price of lady's fingers from RM12.50 to RM18.50; EconSave, apparently, increased the price of santan from RM3.50 to RM4.90, while the latter increased the prices of four breads from its bakery, from RM1.20 to RM1.50, all of which beefed up the companies' net profit margin.

A company can be fined up to a maximum of RM500,000, to RM1mil for the second offence. The fine for an individual would be RM100,000.

Factors to consider

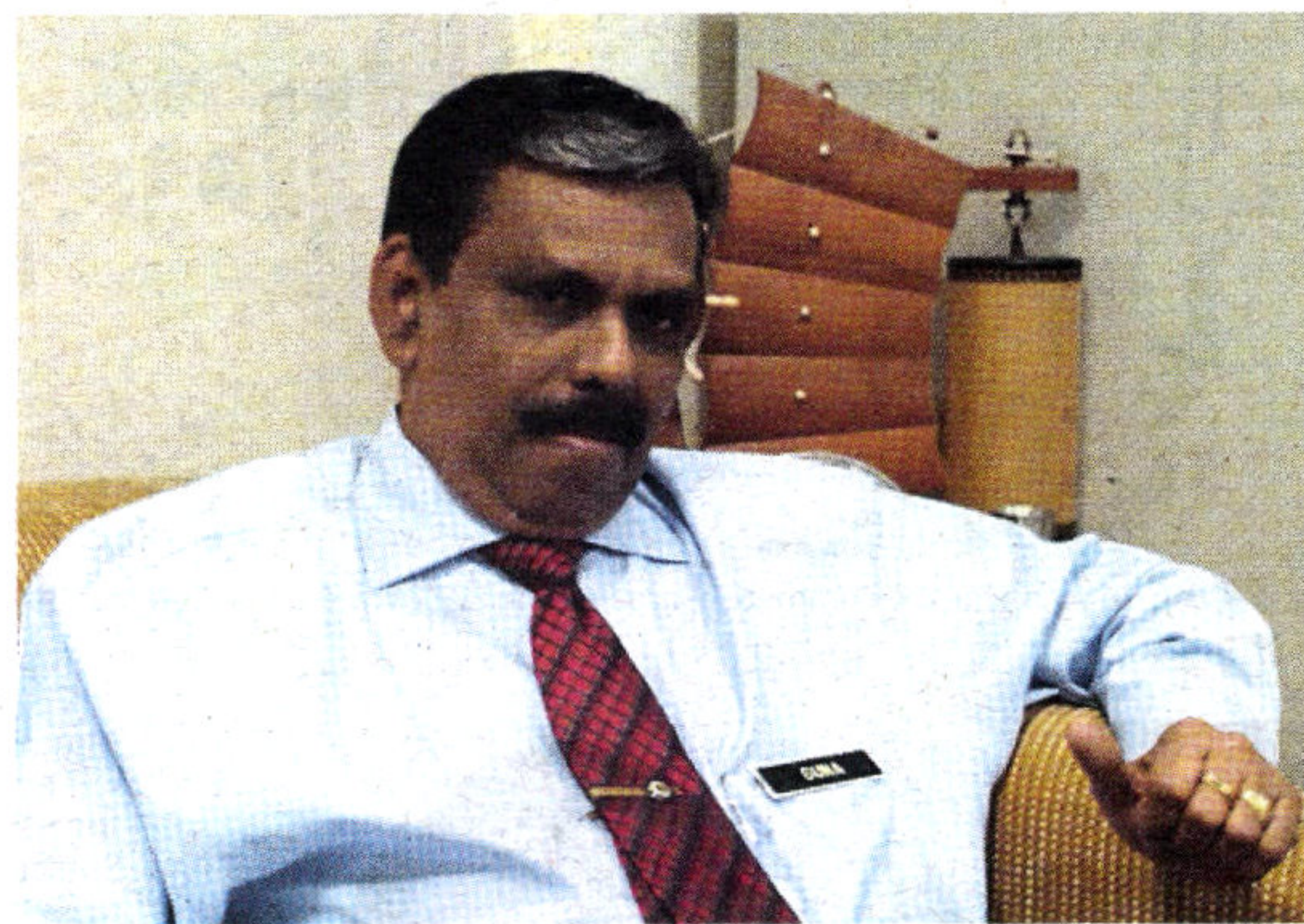
To be fair to businesses in general, there are other factors for the increase in goods prices, Tholasy says.

For instance, the depreciation of the ringgit had caused businesses to push up prices, as have increases in raw materials and other operating costs.

In such instances, businesses



Swift action: Prices that are raised between Dec 31, 2014 and March 31, 2016, will be seen as profiteering by the authorities. The period of policing began from Jan 1, three months before the GST started and will continue until June 30, 2016.



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have been genuine in pushing up goods prices a little to break even as these measures were not meant to amount to any changes in the net profit margins.

But just because these changes are happening between Jan 1, 2015 and June 30, 2016, they tend to raise suspicion," ACCCIM national council Koong Lin Loong says.

"The Government is doing right by protecting the consumers, however, the timing of the change in goods prices has been a sensitive issue," says Koong.

He explains that businesses needed to adjust their prices from time to time as costs went up, but the 18-month policing period for anti-profiteering made it difficult for genuine businessmen.

When *StarBizWeek* raised this point with the ministry, its anti-profiteering unit head Guna Selan Marian said that compliant businesses need not worry about being fined so long as there wasn't an increase in the net profit margin of the products.

"Business can increase prices if they encounter a higher cost of production. But the key point is the net margin must not increase," he stressed.

To date, the ministry had issued more than 1,800 notices to businesses to justify prices, and many of these cases have been taken to the court to determine the basis of the price hikes.

He says that the problem with

most of the small and medium enterprises (SMEs) was they did not maintain proper records.

"Most SME in Malaysia do not maintain financial statements for each product that they carry. So when the ministry carries out a random spot check and requests for the records within three working days, they can't comply," Koong says.

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Koong Lin Loong

The business operators said that they did not have proper paper work due to the lack of resources.

"Even if the business has the necessary paper work, they wouldn't be able to produce a full year's worth of financial documentation for each product in such a short time of three days," says a small business owner.

"A fellow businessman told me that he was not just questioned on the price of his goods recently, but thoroughly interrogated. He clearly was very upset to be treated that way."

Koong says that businessmen were already bogged down with a lot of paperwork in dealing with



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the GST. "Businesses are fighting for survival in today's economy. To now have to deal with GST paperwork has surely been a struggle."

The regulations

Guna Selan feels that there is a misunderstanding of the regulations.

"The Act says to not increase the net profit margin of the products," he emphasises.

He also says that the ministry was prepared to be lenient when it came to producing the paper work to justify the price hikes.

"If the three days that we give businesses to prove their case is not enough, they can always request for an extension with a good reason for it," he says.

What piques the enforcement agents is this – businesses that include the GST on top of the 10% sales tax on their products.

"By right, businesses should have claimed back the 10% sales tax which they paid for earlier stocks before implementing the 6% tax.

The 10% sales tax is to be claimed under the special refund scheme, which is open for filing now until Sept 30.

"Going after them is our focus for now," Guna Selan says.

"Compliance from traders has been good. So far, we have sent out notices to companies where we need further information on their accounts and only 104 notices have

not been responded to," Guna Selan says, adding that the ministry have been having discussions with the Malaysia Retailers Association (MRA).

"They don't see a problem and are supportive of what the ministry is doing," he says. "We are dealing with all businesses across the board – from manufacturers to hawkers – some understand and comply, others need more time."

The Customs is also dealing with registered businesses that do not charge the GST or issue valid tax invoices, and other errors in treatment of the GST.

"But these complaints have lessened considerably as we have been going in to address and rectify various issues with companies and associations," Subromaniam says. "These are teething problems that are absolutely normal and most of the enquiries are dealt with immediately," Subromaniam says.

Sometimes, the more complex issues have to be resolved in the technical meetings with the Monitoring Committee, Steering Committee or the Jawatankuasa Pelaksanaan GST.

"Complex transactions involving arrangements are usually decided by advanced ruling as it may take some time to understand the nature of these transactions. The department will also continue to meet businesses and traders to address and resolve issues they face," Subromaniam says.

