Budget Analysis on the Finance Bill, 2018

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HIGHLIGHTS OF THE BUDGET

- The budget to focus on strengthening agriculture and rural economy, provision of good health care to economically less privileged, taking care of senior citizens and infrastructure creation.
- Government to keep minimum support price for all crops at least at 1.5 times of their production cost.
- An Agri-market infrastructure fund with a corpus of ` 2000 crores will be setup for developing and upgrading agricultural marketing infrastructure in the 22000 gramin agricultural markets and 585 APMCs.
- "Operation Greens" to be launched to connect farmers and consumers with regard to seasonal produce like tomato, onion and potato.

HIGHLIGHTS OF THE BUDGET

- Target of providing free LPG connections to poor women to be increased from 5 crore to 8 crore.
- Under Swachh Bharat Mission government to construct around 2 crore toilets.
- During 2018-19 more than 1 crore houses will be constructed in rural areas.
- World's largest government funded health care initiative-National Health Care Protection Scheme (Ayushman Bharat)to provide a cover upto ` 5 lakh per family for secondary and tertiary care hospitalization and to cover over 10 crore poor vulnerable families (apporx. 50 crore beneficiaries)

HIGHLIGHTS OF THE BUDGET

- To provide nutritional support to all TB patients at the rate of ` 500 per month for the duration of their treatment, an additional allocation of ` 600 crores in the budget.
- Atleast one medical college for every three parliamentary constituencies and atleast one government medical college in each state by upgrading existing district hospitals in the country.
- To incentivise employment of more women the women employees contribution to PF to be reduced to 8% for first three years of their employment with no change in employer's contribution.
- Limit of ` 7.5 lakhs per senior for investing in interest bearing scheme of LIC increased to ` 15 lakhs.

HIGHLIGHTS OF THE BUDGET

- Maintenance of railway track infrastructure to be given special attention along with re-development of 600 major railway stations.
- Airport capacity to be expanded more than 5 times.
- 5 lakhs wifi hot-spot to setup for providing broadband access to 5 crore rural citizens.
- Revised fiscal deficit estimates for 2017-18 at 3.5% of GDP and for 2018-19 projected at 3.3% of GDP.
- Though the primary object of amendment in the custom tariff is to protect the domestic industry, some of the products like imported cars & mobiles and the domestic cars & mobiles using imported parts to get more expensive .

Important Amendments in Direct Taxes

- Provisions Affecting Tax Liability
- Provisions Affecting Tax Calculation
- Amendments pertaining to TDS
- Amendments in Presumptive Taxation
- Amendments benefiting Senior citizens
- Tax Incentives For Industries
- Rationalization of Assessment Procedures
- Other Important Amendments

Provisions Affecting Tax Liability

- No change in the basic exemption limit or basic tax rate for any class of assessee except MSME corporate sector. However small increase in the tax liability due to increase in cess from 3% to 4%.
- Domestic companies having total turnover or gross receipts not exceeding ` 250 crores in F.Y 2016-17 shall be liable to pay tax @ 25% as against present limit of ` 50 crores in F.Y 2015-16.
- Education cess and H.S education cess discontinued. However new cess by the name of Health and Education cess levied @ 4% of Income Tax including surcharge.
- W.e.f A.Y 2019-20 LTCG Tax @ 10% levied on long term capital gain from transfer of equity shares or a unit of equity oriented fund or a unit of a business trust exceeding ` 1 lakh without indexation as per new provisions of section 112A.
  - The cost of acquisition of such long term capital asset acquired before 1.4.2018 shall be deemed to be the higher of- i) the actual cost of acquisition and ii) the lower of fair market value and the full value of consideration received on transfer.

Provisions Affecting Tax Liability

- The benefit of deduction under Chapter VI-A shall not be allowed against such capital gain.
- The rebate u/s 87A shall be allowed on the total income as reduced by the tax payable on such capital gains.
- Where the total income is below the maximum amount not chargeable to tax then such LTCG shall be reduced by the amount by which the total income excluding LTCG falls short of the maximum amount not chargeable to tax.
- Other conditions for LTCG exemption u/s 10(38) shall be there incase of section 112A also except the condition of STT in case of a transaction undertaken on a recognized stock exchange located in any international financial services center and the consideration is received in foreign currency.

- Consequent to proposal for withdrawal of exemption u/s 10 (38), FIIs will also be liable to tax @ 10% on such LTCG exceeding ` 1 lakh--Section 115AD.

Provisions Affecting Tax Liability

- Compensation received or receivable whether revenue or capital in connection with the termination or modification of the terms of any contract relating to its business shall be taxable as a business income--Section 28.
- Compensation received or receivable whether revenue or capital in connection with the termination or modification of the terms of any contract relating to its employment shall be taxable u/s 56.
- Standard deduction up to ` 40,000 or the amount of salary received whichever is less shall be allowed as deduction under the head salaries in place of present exemption in respect of transport allowance and reimbursement of medical expenses. The decision to allow standard deduction shall significantly benefit the pensioners also who normally do not enjoy any allowance on account of transport and medical expenses.

Provisions Affecting Tax Liability

- Any transfer of a capital asset being bond or global depository receipt or rupee denominated bond of Indian company or derivative, made by a non-resident on a recognized stock exchange located in any International Financial Service Centre and where consideration is paid or payable in foreign currency shall not be regarded as transfer.--Section 47
- In case of a unit by a person other than a company, located in an International Financial Service Center, the AMT u/s 115JC shall be @ 9% instead of 18.5%.

Provisions Affecting Tax Calculation

- Section 115BA was introduced from A.Y 2017-18 providing for option to certain newly set up domestic companies registered after 1-3-2016 to be taxed at a flat rate of 25%. The budget proposes to amend the said section retrospectively from A.Y 2017-18 so as to tax other incomes at a scheduler rate instead of 25%.
- The companies who have exercised option u/s 115BA shall be at loss since the concessional is now applicable to all MSME companies and these companies may not get the benefits like certain deductions, depreciation, carry forward of loss, etc. and the option once exercised can't be withdrawn.
- Provisions of Section 43CA, 50C & 56(2)(x) being amended to allow a variation of 5% of sale consideration vis-à-vis stamp duty value.

Provisions Affecting Tax Calculation

- Profits or Gains arising from conversion of inventory into capital asset shall be now charged to tax as business income in the year of conversion considering fair market value on the date of conversion and the same shall also be treated as cost of acquisition of capital asset when the same is subsequently sold.
- In case of single premium health insurance policies having cover of more than 1 year, the deduction shall be allowed u/s 80D on proportionate basis for the no. of years for which health insurance cover is provided.
- Section 80TTA to be amended to exclude senior citizens from claiming deduction up to ` 10,000 of interest from saving bank account.

Amendments Pertaining to TDS

- In case of long term capital gain referred to in sub-section 112A TDS shall now be deducted at the rate of 10% in case of non-residents.
- In case of persons non residents of India, including non-domestic company, the H.E.C @ 4% shall be levied on TDS.
- No TDS on payment of royalty and fees for technical services by National Technical Research Organization to a non-resident.

Amendment in Presumptive Taxation

- It is proposed to amend Section 44AE of the act to provide that in the case of heavy goods vehicle (more than 12 MT gross vehicle weight), the income would deemed to be an amount equal to ` 1000 per ton of gross vehicle weight or unladen weight as the case, per month or part of a month for each goods vehicle or amount claimed to be actually earned by the assessee whichever is higher. The vehicles other than heavy goods vehicles will continue to be taxed at existing rates.

Amendments Benefiting Senior Citizens

- Section 80D to provide for a deduction of ` 50,000 in aggregate to senior citizens in respect of medical insurance or preventive health check-up or medical expenditure.
- 80DDB to provide for increase in the existing limit of ` 60,000/ ` 80,000 to ` 100,000 with regard to the amount paid for medical treatment of specified diseases for senior citizens.
- New Section 80TTB to allow a deduction up to ` 50,000 in respect of interest on deposits with a banking company, a co-operative bank or a post office, held by a senior citizen. No deduction u/s 80TTA in that case.
- No TDS on interest income by banks up to ` 50,000 instead of ` 10,000 u/s 194A in case of a senior citizen.

Tax Incentives For Industries

- Section 80P is proposed to be amended to provide for 100% deduction of the profits and gains attributable to such business for 5 years to Farm Producer Companies (Section 581A of Companies Act,1956) having a total turnover up to ` 100 crores whose gross total income includes any income from:
  - Marketing of agricultural produce grown by its members; or
  - The purchase of agricultural implements, seeds, live stock or other articles intended for agriculture for the purpose of supplying them to its members; or
  - The processing of the agricultural produce of its members.

Tax Incentives For Industries

- The benefit of deduction u/s 80-IAC to eligible startup for 3 consecutive years out of 7 years is made available to the startups incorporated upto 31-03-2021 and the definition of eligible business has been expanded to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or process or services or a scalable business model with a high potential of employment generation or wealth creation.
- The benefit of deduction of 30% of emoluments paid to eligible new employees is allowable u/s 80JJA, in addition to normal deduction of 100% allowable to an assessee to whom section 44AB applies. In case of apparel industry the minimum period of employment of 240 days is relaxed to 150 days. It is proposed to extend this relaxation to footwear and leather industry also. Further in case, the new employee is

Tax Incentives For Industries

employed for less than the minimum period during the first year but continues to remain employed for the subsequent year the benefit of 80JJA shall be allowed in the succeeding year.

- In case of a company against whom an application for corporate insolvency resolution process has been admitted under Insolvency and Bankruptcy Code,2016 the **aggregate** amount of unabsorbed depreciation and loss brought forward instead of unabsorbed depreciation or loss brought forward **whichever is less** as per books of accounts shall be allowed to be reduced from the book profit for the purpose of calculation of MAT.

Tax Incentives For Industries

- Section 79 is proposed to be amended to provide that where the change in the shareholding takes place pursuant to approved resolution plan under the Insolvency and Bankruptcy Code,2016 after affording a reasonable opportunity of being heard to the principal commissioner or commissioner, the company shall be allowed to carry forward the loss even though the shares of the company carrying not less than 51% of the voting power are not beneficially held on the last day of the previous year by the persons who beneficially held shares on the last day of the year or years, in which the loss was incurred.

Rationalization of Assessment Procedures

- No adjustment to the returned income in respect of addition of income appearing in Form 26AS or Form 16A or Form 16 shall be made u/s 143(1)(vi) on or after 01.04.2018.
- New scheme for making assessments proposed by inserting sub section 3A, 3B and 3C in section 143 enabling the central government to prescribe the new scheme of scrutiny assessments by way of notification in the official gazette up to 31.03.2020, after laying the same before each house of parliament so as to impart greater transparency and accountability by eliminating the interface between the A.O and the assessee, optimal utilization of the resources and introduction of team based assessment.
- W.e.f .A.Y 2018-19 benefit of deductions under heading C-Deductions in respect of certain incomes (80HH to 80TT) shall not allowed unless the return of income is filed by the due date.

Other Important Amendments

- Section 139A relating to PAN is proposed to be amended to provide that every person not being an individual which enters into a financial transaction of an amount aggregating to ` 250,000 or more in a financial year shall apply to the assessing officer for allotment of PAN. Further to link the financial transactions with the natural persons it is also proposed that the Managing Director, Director, Partner, Trustee, Author, Founder, Karta, CEO, Principal officer or any person competent to act on behalf of such entities shall also apply for allotment for PAN w.e.f. 01.04.2018.
- Clause-2(22) provides for the definition of term Dividend and also clarifies the term accumulated profits. Companies with large accumulated profits adopt the amalgamation route to reduce capital and

Other Important Amendments

circumvent the provisions of section 2(22). With a view to prevent such abuse explanation 2A is proposed so as to provide that in the case of an amalgamated company, accumulated profits, whether capitalized or not, or losses as the case may be shall be increased by the accumulated profits of the amalgamating company, whether capitalized or not on the date of amalgamation.

- Deemed dividend u/s 2(22)(e) is made subject to dividend distribution tax @ 30% (without grossing up) w.e.f. 01.04.2018.
- W.e.f 01.04.2018 any income distributed by an equity oriented mutual fund shall be liable for additional income tax @ 10% of income so distributed by mutual fund--Section 115R.

Other Important Amendments

- At present there are no restriction on payment made in cash by charitable or religious trust or institutions. It is proposed to provide that payment of expenditure in a day otherwise than by a/c payee cheque or draft in excess of ` 10,000 shall not be allowed i.e. provisions of sub-section 3 and 3A of section 40A shall mutatis-mutandis apply to these payments.
- There are no checks whether the trust or the institutions follow the TDS provisions or not. As such the provision of sub-clause (ia) of clause (a) of section 40 disallowing 30% of the sum paid without deducting TDS, shall be also apply to a trust or institution in computing the income chargeable to tax.
- As per existing provisions of section 9 if any person acting on behalf of non-resident is habitually authorized to conclude contracts for the non-resident then such agent would constitute a P.E. in the source country.

Other Important Amendments

- It is proposed to amend the provisions of section 9 so as to align them with the provisions in DTAA as modified by multi-lateral instrument so as to make the provisions in the treaty effective. Accordingly it is proposed to provide that business connection shall also include any business activity through a person who acting on behalf of the non-resident, **habitually concludes** contracts or habitually **plays the principal role** leading to conclusion of contracts by the non-resident.
- It is also proposed to amend section 9 to provide that significant economic presence in India shall also constitute business connection. Significance economic presence for this purpose shall mean–
  - Any transaction in respect of any goods, services or property carried out by a non-resident in India including provision of

Other Important Amendments

download of data or software in India if the aggregate of payments arising from such transaction or transactions during the previous year exceeds the amount as may be prescribed; or

- Systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.

It is further proposed to provide that only so much of income as is attributable to such transactions or activities shall be deemed to accrue or arise in India.

- Since no CTT is payable on transaction in respect of trading in agriculture commodity derivatives, such transactions are held to be speculative transactions. To encourage participation in trading of agricultural commodity derivatives it is proposed to amend section 43(5) to provide that a transaction in respect of agriculture commodity derivatives, which is not chargeable to CTT, in a registered stock exchange or registered association, will be treated as non-speculative transaction.

Other Important Amendments

- Section 10(48B) is proposed to be amended to provide that benefit of tax exemption to a foreign company in respect of income from left over stock of crude will be available even if the agreement or the arrangement is terminated in accordance with the terms mentioned there in.
- New clause (6D) in section 10 is proposed to provide that income arising to non-resident, not being a company or a foreign company, by way of royalty from NTRO or fees for technical services rendered in or outside India to the National Technical Research Organization will be exempt from tax.
- To improve the effectiveness and reduce the compliance burden of reporting in the form of country by country report in respect of international group, certain amendments are proposed based on model legislation of action plan of BEPS.--Section 286 (w.e.f. A.Y 2017-18)

Other Important Amendments

- The benefit of exemption of 40% of the amount withdrawn on closure of the account or opting out of the NPS, which is available to an employee subscriber, has been extended to the non-employee subscriber also--Section 10(12A).
- Section 54EC of the act is proposed to be amended so as to provide that only capital gain arising from transfer of long term capital asset being land or building or both invested in long term specified asset shall be exempt now and further the said bonds shall be redeemable after 5 years period on or after 01.04.2018.
- Recent judicial pronouncements have raised doubts on the legitimacy of the notified ICDS. Various amendments in the provisions of Income Tax Act w.e.f. A.Y 2017-18 are made in order to bring certainty of applicability in the wake of recent judicial pronouncements on the issue of applicability of ICDS. Further new section 43CB is proposed to be inserted to provide that the profit and gains of a construction contract or for providing services, shall be determined on the basis of

Other Important Amendments

percentage of completion method in accordance with ICDS notified. It is further proposed to provide that in case of a contract for providing services with duration of less than 90 days, the profit and gains shall be determined on the basis of project completion method and in case of a contract for provision of services involving indeterminate number of acts over a specific period of time the profits shall be determined on the basis of straight line method. For this purpose, the contract revenue shall include retention money and the contract costs shall not be reduced by the incidental income.

- Penalty u/s 271FA for failure to furnish within the prescribed time the statement of financial transaction or reportable account under section 285BA(1) has been increased from ` 100 per day to ` 500 per day and failure to furnish the same within the period specified in the notice issued u/s 285BA(5) has been increased from ` 500 to `1000 for each day of continuing default.

Other Important Amendments

- Section 253(a) of the Act is proposed to be amended so as to make a penalty order passed by a Commissioner(appeals) u/s 271J (for incorrect report or certificate by an accountant, registered valuer or a merchant banker) appealable before the Appellate Tribunal.
- Provisions of Section 56(2) would not be applicable to transfer of assets between holding company & its wholly owned Indian subsidiary company & between subsidiary company and its Indian holding company since the same will be tax neutral.
- Proviso to Section 276CC provides immunity from prosecution for failure to furnish prescribed returns for any year commencing from 01.04.1975 if the tax payable by the assessee, as reduced by advance tax does not exceed ` 3,000. In order to prevent abuse of the said proviso by shell companies it is proposed to amend said sub-clause so as to provide that it shall not apply in case of companies.

Thank You