

Preface

The Finance Minister has presented a Budget with a long term objective of 'development' in mind. If one looks at only from the taxation point of view it may not be a good budget. However, he may achieve the desired result of turning the economy before the end of this five year period. He has also brought in measures to curb black money transactions and implement systems for better governance.

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BUDGET HIGHLIGHTS – 2015

DIRECT TAXES:

- No change in tax rates for personal income tax slabs for the financial year 2015-'16.
- However, surcharge increased from 10% to 12% for taxable income in excess of Rs.1 crore for individuals, HUFs, AOPs, BOIs, artificial juridical persons, firms, cooperative societies and local authorities
- Education Cess of 2% and HSC of 1% to continue to apply on total income and surcharge.
- No change in tax rate for domestic company. However, Surcharge is increased to 7% from 5% in the case of domestic companies having income exceeding Rs.1 crore and upto Rs.10 crore, and surcharge @ 12% instead of 10% on incomes exceeding Rs. 10 crore.
- No change in basic tax rate or surcharge for a foreign company.
- Similarly, surcharge @12% as against current rate of 10% on additional income-tax payable by companies on distribution of dividends and buyback of shares, or by mutual funds and securitisation trusts on distribution of income would apply.
- Transport Allowance exemption to salaried employees increased from Rs.800/- pm to Rs.1,600/- pm.
- "Yoga" has been added as a charitable purpose. Business activity now allowed to an extent not exceeding 20% of the total receipts. Mandatory declaration/statement to be filed by organisations claiming section 12AA benefits on usage of funds. Funds earmarked/ set aside to be used within 5 years.
- Business Trust namely, 'Infrastructure Investment Trust' & 'Real Estate Investment Trust' defined and tax proposals on the same effective from 1st April 2016. REIT will be a pass through entity with the taxation of income being made in the hands of the unit holders. The rental income arising from real estate assets directly held by the REIT is proposed to be allowed to pass through and to be taxed in the hands of the unit holders of the REIT. Section 10(23FCA) read with proviso to section 194I.
- Residential status of a company (section 6) and Income deemed to accrue or arise in India (section 9) amended to provide for conditions under which income arising outside India taxable in India. Place of Effective Management (POEM) to determine the residential status of a company instead of control and management. "*Place of effective management*" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.' This amendment could have far serious effects.
- The share or interest in a company or an entity shall be deemed to derive its value substantially from the assets located in India,

if on the specified date, the value of such assets represents at least fifty per cent of the fair market value of all the assets owned by the company or entity and the value of such assets exceeds Rs.10 crore.

- The indirect transfer provisions shall not apply in a case where the transferor of share or interest in a foreign entity, along with his associated enterprises, neither holds the right of control or management nor holds voting power or share capital or interest exceeding five percent. of the total voting power or total share capital or total interest in the foreign company or entity, directly or indirectly, holding the Indian assets.
- The Indian entity shall be obligated to furnish information relating to the offshore transactions having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity.(New section 285A inserted)
- Penalty for non-furnishing of information is as below: (new Section 271GA)
 - (i) a sum equal to two per cent. of the value of the transaction if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;
 - (ii) a sum of five hundred thousand rupees in any other case.”.
- Insertion of new Section 9A providing for certain activities not to constitute business connection in India- Fund Managers in India co-ordinating for Investment Fund registered outside India, subject to prescribed conditions. Penalty for failure to furnish information as required is Rs.5 lakhs.(Section 271FAB)

Exempt incomes-Section 10

- Income from Sukanya Samriddhi Yojna (SSY) exempt under section 10.
- Swachh Bharat Kosh & Clean Ganga Fund notified under sec 10(23) for income tax exemption.

Investment in notified areas

- Proposal to provide an additional investment allowance (@15%) and additional depreciation (@15%) to new manufacturing units set-up during the period 01.04.2015 to 31.03.2020 in notified areas of Andhra Pradesh and Telangana. (Sec 32 amended & Insertion of new section 32AD)

Additional depreciation - clarified

- Additional depreciation @ 20% is allowed on new plant and machinery installed by a manufacturing unit or a unit engaged in generation and distribution of power. However, if the asset is installed after 30th September of the previous year only 10% of the additional depreciation is allowed. It is proposed to allow the remaining 10% of the additional depreciation in the subsequent previous year. Earlier there was a doubt on this carry over provision, which now stands clarified.

Capital gains-Amalgamation/Demerger

- The capital gains shall be exempt in respect of transfer of share of a foreign company deriving its value, directly or indirectly, substantially from the shares of an Indian company, under a scheme of amalgamation or demerger subject to prescribed conditions.(Sec 47 amended)

Section 80 deductions

- Sukanya Samriddhi Yojna SSY eligible for deduction under section 80C
- Donations (other than the CSR contributions made in accordance with section 135 of the Companies Act, 2013) made to Swachh Bharat Kosh (both resident and non-resident) and Clean Ganga Fund (by resident) shall be eligible for 100% deduction under section 80G of the Income-tax Act.
- Donation made to National Fund for Control of Drug Abuse (NFCDA) shall be eligible for 100% deduction under section 80G of the Income-tax Act.
- The limit under section 80CCC on account of contribution to Pension Fund of LIC or IRDA approved insurer increased to Rs.1.50 lakh from the present Rs.1 lakh.
- Additional deduction of Rs.50,000/- allowed over and above the limit of Rs.1.50 lakh under section 80CCD on account of Contribution to National Pension Scheme.
- Deduction u/s 80D of the Income-tax Act increased from Rs.15,000 to Rs.25,000 on health insurance premium (in case of senior citizen from Rs.20,000 to Rs.30,000. Also, deduction of expenditure of similar amount Rs.30000/- is allowed in the case of a very senior citizen not eligible to take health insurance.
- The limit of deduction in case of very senior citizens u/s 80DDB of the Income-tax Act on expenditure on account of specified diseases increased from Rs. 60,000 to Rs.80,000.
- The limit of deduction u/s 80DD of the Income-tax Act in respect of maintenance, including medical treatment of a dependant who is a person with disability, increased from Rs.50,000 to Rs.75,000. The limit of deduction increased from Rs.1 lakh to Rs.1.25 lakh in case of severe disability.
- The limit of deduction u/s 80U of the Income-tax Act in case of a person with disability, from Rs. 50,000 to Rs. 75,000. It is

also proposed to increase the limit of deduction from Rs.1 lakh to Rs.1.25 lakh in case of severe disability.

Summary of tax deductions proposed:

- Deduction u/s 80C Rs.1,50,000
 - Deduction u/s 80CCD Rs. 50,000
 - Deduction on account of interest on house property loan (Self occupied property) Rs.2,00,000
 - Deduction u/s 80D on health insurance premium Rs.25,000
 - Exemption of transport allowance Rs.19,200 (Rs.1600/- per month)
- | | |
|--------------|--------------------|
| Total | Rs.4,44,200 |
|--------------|--------------------|

- The provisions of section 80JJA of the Income-tax Act amended so as to provide that tax benefit under the said section shall be available to a 'person' deriving profits from manufacture of goods in a factory and paying wages to new regular workmen. The eligibility threshold of minimum 100 workmen is proposed is to be reduced to fifty.

Transfer Pricing-Threshold Limit increased

- The provisions of section 92BA of the Income-tax Act amended so as to increase the threshold limit for applicability of transfer pricing regulations to specified domestic transactions from Rs.5 crore to Rs.20 crore.

GAAR - deferred by 2 years

- Applicability of General Anti Avoidance Rule (GAAR) deferred by 2 years. Accordingly, it is proposed to be applicable for income of the financial year 2017-18 (A.Y. 2018-19) and subsequent years. It is also proposed that the investments made upto 31.03.2017 shall not be subjected to GAAR.(Section 95)

Tax on Royalty/Fee for Tech Services

- The provisions of section 115A of the Income-tax Act amended so as to reduce the rate of tax on royalty and fees for technical services from 25% to 10%.

TDS on PF proceeds pre-mature withdrawal

- New TDS section 192A inserted to provide where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable (pre-mature withdrawal), at the time of payment of the accumulated balance due to the employee, deduct income-tax thereon at the rate of ten per cent, except where the payment is less than Rs.30,000/. Employee to furnish PAN mandatory, otherwise TDS at maximum marginal rate shall apply.

Salary deductions - Claims of employee to be supported by proof

- Employer responsible for collecting proof of claims including set off of loss, if any, claimed by the employee from his salary, for the purpose of computing TDS. Section 192 amended.

Reduced rate of tax - time limit extended

- The provisions of section 194LD of the Income-tax Act amended so as to extend the period of applicability of reduced rate of tax at 5% in respect of income of foreign investors (FIIs and QFIs) from corporate bonds and government securities, from 31.5.2015 to 30.06.2017.

Non-deduction of TDS on contract carriages restricted

- Presently, no deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to

the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such sum.

- Amendment made to provide non-deduction only in cases "*where such contractor owns ten or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with his PAN*".

Furnishing details of all payments to NR

- The person responsible for paying to a non-resident, (not being a company), or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed." (amendment to section 195).

Non-requirement of TAN extended to purchase from a Non-resident seller

- Under the existing provisions of the Income-tax Act, an individual buying an immovable property from a resident is required to deduct tax but is not required to obtain TAN for depositing the tax so deducted. With a view to extend the same facility to an individual or HUF purchasing an immovable property from a non-resident, it is proposed to relax the requirement of obtaining TAN by the individual or HUF who is required to deduct tax on acquisition of immovable property from a non-resident.

Self declaration for no TDS on maturity proceeds from LIC

- The provisions of section 197A of the Income-tax Act amended so as to provide the facility of filing self-declaration of non-deduction of tax by the recipients of taxable maturity proceeds of life insurance policy.

Cash-curb on any kind of payment

- The provisions of section 269SS and 269T of the Income-tax Act amended so as to prohibit acceptance or re-payment of advance in cash of Rs. 20,000 or more for any transaction in addition to loan/deposits hitherto provided subject to certain exceptions. It is also proposed to provide a penalty of an equal amount in case of contravention of such provisions.

Interest under Section 234B

- Where an application for settlement of the case is filed and income disclosed by assessee is accepted by the Sett., Com., the assessee would be liable to pay simple interest at 1% for every month or part of a month for the period from the first day of April of the assessment year and ending with the date of making such application. The interest would be levied on the additional amount of income tax payable as per the settlement application.

Order of AO - can be held erroneous in the following circumstances- Section 263

- (a) the order is passed without making inquiries or verification which should have been made;
- (b) the order is passed allowing any relief without inquiring into the claim;
- (c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or
- (d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.”.

Information of cross border payments

- The person responsible for making cross border payment is required to furnish information as envisaged in Form 15CA and 15CB while making such payments.
- In order to ensure correct tax compliance, new section 271-I is proposed to be inserted whereby a penalty of INR 1,00,000 will be levied in the event of failure to furnish information or furnishing of inaccurate information by the person responsible for making the payment to a non-resident.

Increase in income threshold for cases that may be decided by Single Member Bench of ITAT

- It is proposed to amend sub-section (3) of section 255 of the Act so as to provide that a bench constituted of a single member may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifteen lakh rupees (increased from the existing Rs.5 lakhs) effective from 1.6.2015.

Filing of appeal by revenue to be deferred if identical question of law is pending before Court - New sec 158AA proposed

Reduced penalties proposed

- Both under the Service tax provisions, and customs provisions, the penalty has been reduced to 10% where the tax along with interest is paid within 30 days from the date of issue of notice not involving fraud, collusion etc. Even if fraud, collusion is present penalty of 15% proposed instead of the present 25%.

Foreign Tax Credit

- The Income-tax Act does not provide the manner for granting credit of taxes paid in any country outside India.
- Accordingly, it is proposed to amend Section 295(2) of the Act so as to provide that CDBT

may make rules to provide the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country.

WEALTH TAX

- The wealth tax levy is proposed to be abolished wef April 1, 2016. The abolishment is, however, to be compensated from enhanced surcharge on the high net worth persons wherein total income is in excess of Rs.1 crore.

FEMA

- A new section 37A is proposed to be inserted in FEMA. It provides that if any person holds any foreign exchange, foreign security or any immovable property outside India in contravention of section 4 of FEMA, the equivalent value of property in India can be seized. This power of seizure under FEMA is in addition to the penal action under Income-tax Act and penal action under FEMA.

Amendments to Prevention of Money Laundering Act, 2002

- Any property taken or held outside country which is derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence. Further, the limit of Scheduled offence specified under Part B of the Schedule has been increased from Rs. 30 Lakhs to Rs. 1 Crore.
- Amendments to Act provide for seizure of equivalent value of property within India wherein circumstances the alleged property is taken or held outside the country.
- False declaration and submitting false documents under sec 132 of the Customs Act, 1962 inserted as a scheduled offence under Part B of Money Laundering Act.

Public Debt Management Agency

- Finance Minister proposes to establish a public debt management agency (in lieu of Government Securities Act, 2006 which stands repealed henceforth) with a view to bring both India's external borrowings and domestic debt under one roof.
- The objective of agency is to minimize the cost of raising and servicing public debt over the long term within an acceptable risk at all times.
- The agency's function includes collection and publishing information about public debt, including borrowing by the Central Government, purchasing, re-issuing and trading in Government securities.

SEBI

- Forward market commission, commodities market regulator to be merged with SEBI

INDIRECT TAXES

EXCISE DUTY

- The advalorem duty rate increased to 12.5% which subsumes the cesses within it.
- For different tariffs, refer Schedule.

SERVICE TAX

- Service Tax rate proposed to be increased from 12% to 14%. Proposed rate of 14% subsumes the 2% education cess and HSC 1% in it.
- Swachh Bharat Cess @ 2% new levy introduced. To apply on the value of all taxable services over and above the proposed new service tax rate of 14%.
- The above new levy of cess and revised rate to apply from a date to be notified.

Amendments to Negative List- (Items proposed to be taxed)

- Service tax to be levied on the service provided by way of access to amusement facility such as rides, bowling alleys, amusement arcades, water parks, theme parks, etc.
- Service tax to be levied on service by way of carrying out any processes as job work for production or manufacture of alcoholic liquor for human consumption.
- Any service provided by Government to business entities. (The term “support service” hitherto substituted by ‘any service’)
- Service tax to be levied on service by way of admission to entertainment event or concerts, non-recognized sporting events, pageants, music concerts and award functions, if the amount charged for admission is more than Rs 500.

Exemptions

- Exemption presently available on specified services of construction, repair of civil structures, etc. when provided to Government restricted to specific works noted.
- Service by way of admission to exhibition of the cinematographic film, circus, dance, or theatrical performances including drama, ballets or recognized sporting events shall continue to be exempt.
- Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is upto Rs 1,00,000 per performance (except brand ambassador)
- Exemption to transportation of ‘food stuff’ by rail, or vessels or road restricted to transportation of food grains including rice and pulses, flours, milk and salt only. Transportation of agricultural produce is separately exempt which would continue.

The following exemptions stand withdrawn:

- construction, erection, commissioning or installation of original works pertaining to an airport or port.
- services provided by a mutual fund agent to a mutual fund or assets management company;
- distributor to a mutual fund or AMC; and
- selling or marketing agent of lottery ticket to a distributor of lottery
- Departmentally run public telephone
- Guaranteed public telephone operating only local calls
- Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

Outside Tax net:

- Service provided by a commission agent located outside India to an exporter located in India outside the tax net.

The following exemptions introduced:

- Transport of goods for export by road from the factory to a land customs station (LCS).
- All ambulance services provided to patients are being exempted
- Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve.
- Life insurance service provided by way of Varishtha Pension Bima Yojna
- Service provided by way of exhibition of movie by the exhibitor/theatre owner to the distributor or association of persons consisting of exhibitor as one of its member.
- Definition of ‘Service’ amended to include;
 - a. chit fund foremen by way of conducting a chit; and
 - b. distributor or selling agent of lottery, as appointed or authorized by the organizing state for promoting, marketing, distributing, selling, or

assisting the state in any other way for organizing and conducting a lottery.

ABATEMENTS:

UNIFORM ABATEMENT ON ALL MODES OF TRANSPORT PROPOSED:

- A uniform abatement of 70% is proposed to be applied on transport by road, rail or vessel. Hence, service tax is liable to be paid on 30% value, subject to the condition that no cenvat credit is availed.
- The abatement for executive (business/first class) air travel, wherein the service element is higher, is being reduced from 60% to 40%. Consequently, service tax would be payable on 60% of the value of fare for business class.
- Abatement withdrawn on chit fund service.

Reverse charge mechanism

- Full reverse charge 100% to apply on Manpower supply and security services when provided by individual, HUF, partnership firm to a body corporate. Presently, these are taxed under partial reverse charge mechanism.
- Services provided by mutual fund agents, mutual fund distributors and lottery agents are being brought to under reverse charge consequent to withdrawal of exemption on such services.

Cenvat Credit Rules, 2004

- Cenvat Credit Rules are being amended to allow credit of service tax paid under partial reverse charge by the service receiver without linking it to the payments of value of service to service provider as a trade facilitation measure.

*“That service is the noblest which is rendered for its own sake”
- Mahatma Gandhi*

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