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Rationalising Budget 2016

Introduction

- "Make In India", "Start–up India", "Stand-up India", "Infrastructure", "Krishi kalyan", "Ease of doing business", "Skill India" & "Swachh Bharat" have clearly been the drivers of the tax & fiscal policy of this Budget.

- Cars, cigarettes, branded garments, air travel, eating out, Gold Bars etc will become more expensive, while footwear, solar lamps Pension plans and routers are slated to be cheaper following a host of changes in the tax structure in the Budget for 2016-17.

- As a result of additional levy of Krishi Kalyan and infrastructure cess on all services, activities including eating out and payment of bills will also become more expensive.

- Growth of Economy accelerated to 7.6% in 2015-16.

- IMF has hailed India as a bright spot amidst a slowing global economy. Whereas the world economic forum has said that India's growth is "extraordinary high"

- Foreign Exchange reserves touched the highest ever level of about 350 billion US dollars

Foreign Regulations

Foreign Regulations

- Foreign investment will be allowed in the insurance and pension sectors in the automatic route up to 49 % subject to the guidelines in the Regulations.

- 100 % FDI in Asset Reconstruction Companies (ARCs) will be permitted through automatic route.

- Foreign Portfolio Investors (FPIs) will be allowed up to 100 % of each tranche in securities receipts issued by ARCs subject to sectorial caps.

- 100 % FDI will be allowed through FIPB route in marketing of food products produced and manufactured in India

- Investment limit for foreign entities in Indian stock exchanges will be enhanced from 5 to 15 % on par with domestic institutions. This will enhance global competitiveness of Indian stock exchanges and accelerate adoption of best-in-class technology and global market practices.

Foreign Regulations

- The existing 24 % limit for investment by FPIs in Central Public Sector Enterprises, other than Banks, listed in stock exchanges, will be increased to 49 per cent to obviate the need for prior approval of Government for increasing the FPI investment.
- FDI instruments will be expanded to include hybrid instruments subject to certain conditions.
- FDI will be allowed beyond the 18 specified NBFC activities in the automatic route in other activities which are regulated by financial sector regulators.
- With a view to promote Make in India and following the practices in advanced countries, foreign investors will be accorded Residency Status subject to certain conditions
- In order to ensure effective implementation of Bilateral Investment Treaties signed by India with other countries, it is proposed to introduce a Centre State Investment Agreement.

Direct Tax

Tax Rates

Personnel Taxation

- No change in tax rates and basic exemption limit.
- Surcharge increased from 12% to 15% for taxable income > 10 Million
- Increase in rebate upto Rs 5,000 with income < 5 lakh.
- 10% tax (plus cess and surcharge) on individual earning **gross** dividend > 1 Million (applicable also to **firms and LLP**)
- Advance Tax payment schedule – Quarterly

Still sec 14A would be applicable to the taxable dividend income

Companies Taxation

- No change in tax rate
- Rate @ 29% for companies having Turnover < 50 Million in FY 2014-15.
- Corporate Tax @ 25% for start up manufacturing companies subject to certain conditions.

Other Points

- STT increase from 0.175% to 0.5% in case of options
- Infrastructure cess @1% on small petrol, LPG, CNG cars, 2.5% on diesel cars of certain capacity and 4% on other higher engine capacity vehicles and SUVs.

Changes in TDS rates

Sec No	Section	Old Limit	New Limit
192A	Payment of accumulated balance due to employee	30,000	50,000
194BB	Winning from Horse Race	5,000	10,000
194C	Payment to Contractors (Annual Limit)	75,000	100,000
194D	Insurance Commission	20,000	15,000
194H	Commission / Brokerage	5,000	15,000

Sec No	Section	Old Rates	New Rates
194DA	Payment for Life Insurance Policy	2%	1%
194EE	Payment in respect of NSS Deposit	20%	10%
194D	Insurance Commission	10%	5%
194H	Commission or Brokerage	10%	5%

- ✓ Enabling of filing Form 15G/15H for non-deduction of tax at source for Rent Income
- ✓ TCS @ 1 % on purchase of luxury cars > INR 10 lakh, goods and services in cash > INR 2 lakh.

Curbing black money transactions

Capital Gains

- Conversion of a private limited or unlisted public company into LLP shall not be regarded as transfer subject to additional condition that, the value of the total assets in the books of accounts of the company in any 3 proceeding previous years should not exceed Rs 5 crore.

- Indexation benefits to LTCG arising on transfer of Sovereign Gold Bond to all cases of assessee.

- The capital gains arising in case of appreciation of rupee against the foreign currency in which the investment is made at the time of redemption of a rupee denominated bonds shall be exempt from tax on capital gains.

- Deemed full value of consideration u/s **50C**- Where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration. If the amount of consideration, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

Business and Profession

- **Presumptive taxable income @ 50% of gross T/o** - professionals whose gross receipts do not exceed Rs 50 lakhs.
  - Audit of book of accounts in case of professional if income earned less than the presumptive income
  - Advance tax may be paid by 15 March of the financial year.

- Increase in threshold limit of tax audit for professionals to Rs 50 lakhs.

- The threshold limit of Rs 1 crore specified in Presumptive Income is increased to Rs 2 crore.
  - Withdrawal of deduction of interest and salary paid to partner.
  - Switching from Presumptive taxation to normal computation - not be eligible to claim the benefit of section 44AD for five subsequent assessment years.
  - Advance tax may be paid by 15 March of the financial year.

Whether Tax Audit still be applicable for assesse opting Presumptive Taxation

- A company, being a unit of an International Financial Services Centre and deriving its income solely in convertible foreign exchange, the MAT shall be chargeable at the rate of 9 %.

- Additional depreciation of 20 % is allowed in respect of the cost of new plant or machinery acquired and installed by assessees engaged in business of transmission of power

Business and Profession

- Income by way of royalty in respect of a patent developed and registered in India, taxed at the rate of 10%.
  - No deduction of expenditure or allowance shall be allowed in computing such royalty income.
  - Available only to resident patentee taxpayer
  - Step taken to boost indigenous R&D and make India a global R&D and IP hub
  - Action in line with BEPS Action Plan 5
  - Exemption even from levy of MAT

- Scope of charging provision of PGBP is also extended to provide tax on non compete fee received in case of Professionals. However if the same is taxed under capital gain, then the acquisition cost shall be consid4red as NIL.

Still no capital gain on transfer of goodwill by professionals

Tax Incentive for Start-ups

- 100% deduction of the profits and gains derived from start-up business by start up entity.
  - Time Limit: Any 3 years from first five beginning previous years
  - Eligible business: business which involves innovation, development or commercialisation of new products, processes and services driven by technology or intellectual property.
  - Eligible Start up entity: Company engaged in eligible business, incorporated after 1st April 2016, having turnover of less than 25 crore and holds a certificate from Inter- Ministerial Board of Certification.

- Exemption from capital gain tax if, sales proceeds from transfer of capital asset are invested by an assessee in units of start up ecosystems as specified by CG
  - Time limit for Purchase: 6 - months from date of transfer
  - Lock in period - 3 years
  - Investment Limit – 50Lakhs

- Exemption from capital gain tax to Individual and HUF if, sales proceeds from transfer of residential property are invested in the shares of start up company.
  - Investment to be made before due date of filing return u/s 139(1)
  - Assessee should hold more than 50% shares
  - Start up company should utilize the same in purchase of new asset incl. Computer and computer software

Equalisation Levy - EL

- Taxation of non-resident taxpayers in the online advertisement business
- EL @ 6% deducted by resident or company having PE in India on consideration for online advertisement and specified services
- Applicable for business to business transactions
- Threshold Limit : consideration exceeding Rs 1 Lac.
- Non deduction of EL to result in disallowance of expense u/s 40(a)(ib)
- No Tax credit available as per the treaty

If Specified Services include FTS or Royalty, the same would lead to further litigation

- In order to avoid double taxation, it is proposed to provide exemption u/s 10(50) for any income arising from providing specified services chargeable to EL
- Action as per BEPS Action Plan 1

International taxation

- The implementation of **POEM** has been deferred for 1 year
  - Transition mechanism to be provided for foreign company not assessed to tax earlier would cover issues such as computation of income, set-off of losses, depreciation, etc.

- Activities which are confined to display of uncut and unassorted diamonds by Foreign Companies in a Special Zone shall not be considered as Business connection in India

- TDS on payments to Non residents and Foreign companies will not be deducted @ 20% on non furnishing of PAN number subject to other documents as prescribed by CG.

- Companies need to furnish group level extensive details by way of a country-by-country (CbC) report and master file, in addition to the current requirements in India.

- Any income accruing or arising to a foreign company on account of storage of crude oil in India and thereafter sale of the same would lead to taxability in India.

Promoting Affordable Housing

- Arrears of rent or unrealized rent received subsequently shall be charged to income-tax in the financial year in which such rent is received
    - Sum equal to thirty per cent of the arrears of rent or unrealized rent which is received shall be allowed as a deduction

- Time period for acquisition or completion of construction of self occupied house property for claiming deduction u/s 24(b) increased from three years to five years.

- Interest deduction u/s 80EE of Rs 50,000/- for loans sanctioned during financial year 2016-17 for an amount not exceeding Rs 35 Million/- and the value of the residential house property does not exceed Rs 5 Million.

- Deduction u/s 80GG with respect to rent paid is proposed to be increased from Rs 2000 per month to Rs 5,000 per month.

Return of Income and Assessment

- Return u/s 139 needs to be filed if the total income including LTCG u/s 10(38) exceeds maximum amount chargeable to tax
- Time period for filing belated return is reduced to end of assessment year
- Revise return can also be filed against belated returns.
- Return would not be stated as defective if the same is filed stating as self assessed tax payable
- The period for completion of Scrutiny Assessment is reduced to 21 months instead of 2 years from the end of the financial year of the notice served.
- The period for completion of Reopening Assessment is reduced to 9 months instead of 1 years from the end of the financial year of the notice served. Fresh Assessment u/s 254 or 263 or 264 should be completed with 9 months
- Time limit for completion of Search Order is reduced to 21 months.

Return of Income and Assessment

- Order giving effect by the AO of the Judicial orders needs to be passed within 3 months from the end of the month in which order is received from the judiciary.

- Section 143(1) – Summary Assessment has been extended to include:–
  - disallowance of loss claimed, if return of income for the previous year for which set off of loss is claimed is furnished beyond the due date specified under section 139(1)
  - disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return of income;
  - disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return of income is furnished beyond the due date specified under section 139(1); or
  - addition of income appearing in Form 26AS or Form 16A or Form 16 but not included in computing the total income in the return of income.

- Mandating processing of return of income under section 143(1) before making an assessment under section 143(3).

Reducing litigation

- Committed to providing a stable and predictable taxation regime and reduce black money.
- Penalty rates to be 50% of tax in case of underreporting of income and 200% of tax where there is misreporting of facts.
- Disallowance will be limited to 1% of the average monthly value of investments yielding exempt income, but not exceeding the actual expenditure claimed under rule 8D of Section14A of Income Tax Act.
- Interest at the rate of 9% p.a against normal rate of 6% p.a for delay in giving effect to Appellate order beyond ninety days.

Reducing litigation – Dispute Resolution Scheme

Tax Arrears

Appeal Pending before CIT (A)

- **Pay tax and interest upto date of assessment and 25% Penalty if disputed tax exceeds 10 Lakh**
- **25% on pending appeal against penalty order along with interest upto the date of assessment**

Specified Tax

Tax determined due to amendment made in law with retrospective effect

Pay tax arrears and interest and penalty would be waived

Income Declaration Scheme

- Continued focus on domestic black money
- Total tax of 45% (30% tax + 7.5% Krishi Kalyan Cess+ 7.5% penalty)
- If income disclosed in the form of assets, FMV as on 1st June 2016 to be considered
- All open proceedings including notices issued and certain other cases not covered
- No scrutiny / prosecution under the Income-tax Act, Wealth-tax Act
- Declarations made cannot be used as evidence under any other law
- Immunity from the Benami Transactions (Prohibition) Act,1988
- Effective from 1st June 2016, compliance window to be notified

Other Points

- In case of receipt of shares as a consequence of demerger or amalgamation of a company. in case of Individual and HUF shall not considered as income u/s 56.

- No set off of losses can be claimed against the undisclosed income u/s 68/69/ 69A / 69B / 69C / 69D brought to taxed.

- Any payment from the National pension System trust (NPS), Superannuation Fund (SF) and Recognised Provident Fund (RPF) over 40 % of the total amount payable to him at the time of closure or his opting out of the scheme, shall be chargeable to tax. – **RPF SF is now withdrawn**

- Amount received by the nominee of a in case of Pension Scheme would be not chargeable to Tax - **Withdrawn**.

- Amount contributed by Employer to Superannuation find over Rs 1,50,000 would be considered as perquisite in the hands of Employee. - **Withdrawn**

Other Points

- Exemption from DDT on distribution made by an SPV to a Business Trust
  - Dividend exempt in hands of a business trust and investor
  - Business trust to hold 100% share capital of SPV (or as per the government's requirement)
  - Exemption available only for distribution from profits after the business trust acquires shareholding in the SPV - distribution from earlier profits to be taxable
  - Effective from 1 June 2016

- Securitisation trusts to not pay distribution tax from 1 June 2016. Subsequently, to deduct tax from payments to investors
  - Residents – Individuals/HUF – 25%, Others – 30%
  - Non-residents – at rates in force

- Levy of Tax at maximum marginal rate on accreted income when the charitable institution ceases to exist or converts into non charitable institution.

- Shares received by an individual or HUF as a consequence of business re-organisation of co-operative bank shall not attract the provisions of section 56(2)(vii).

Phasing out of deductions and exemptions

Sec No	Section	Old Limit	New Limit
10AA	Newly established units in SEZ.	Profit linked deductions for units in SEZ for profit derived from export of articles or things or services	Benefit will be available to those which commence activity before 31-03-2020.
35AC	Expenditure on eligible projects or schemes.	Deduction for expenditure incurred on certain eligible project or a scheme.	No deduction shall be available from previous year 2017-18
35CCD	Expenditure on skill development project.	Weighted deduction of 150 % on any expenditure incurred	Restricted to 100 % from previous year 2020-21
80IA; 80IAB, and 80IB	a) development, operation and maintenance of an infrastructure facility (b) development of special economic zone (c) production of mineral oil and natural gas	100 per cent profit linked deductions for specified period on eligible business	No deduction shall be available if the specified activity commences on or after 1st day April, 2017. (i.e from previous year 2017-18 and subsequent years).

Phasing out of deductions and exemptions

Sec No	Section	Old Limit	New Limit
32 read with rule 5	Accelerated Depreciation.	Accelerated depreciation available up to 100% in respect of certain block of assets.	The highest rate of depreciation under the Income-tax Act shall be restricted to 40% from previous year 2017-18 and subsequent years. The new rate is applicable to all the assets (whether old or new) falling in the relevant block of assets.
35(1)(ii)	Expenditure on scientific research	Weighted deduction from the business income to the extent of 175 %.	Weighted deduction shall be restricted to 150 % from previous year 2017-18 to previous year 2019-20 and deduction shall be restricted to 100 % from previous year 2020-21 onwards.

Phasing out of deductions and exemptions

Sec No	Section	Old Limit	New Limit
35(1)(iia)	Expenditure on scientific research	Weighted deduction of 125%.	Restricted to 100 % from previous year 2017-18
35(1)(iii)	Expenditure on scientific research	Weighted deduction of 125%.	Restricted to 100% from previous year 2017-18
35(2AA)	Expenditure on scientific research	Weighted deduction of 200%.	Restricted to 150% from previous year 2017-18 to previous year 2019-20 Restricted to 100 % from previous year 2020-21 onwards
35(2AB)	Expenditure on scientific research.	Weighted deduction of 200 % of the expenditure.	Restricted to 150 % from previous year 2017-18 to previous year 2019-20 Restricted to 100% from previous year 2020-21 onwards.

Thank You

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