Budget 2015-2016 : 'Dream Budget'?

Published on Sat, Feb 28,2015 | 15:41, Updated at Sat, Feb 28 at 15:41Source : Moneycontrol.com

Budget 2015 has introduced several measures, inter alia, addressed towards ease of doing business, manufacturing, predictability of tax, infrastructure, poverty alleviation and financial inclusion. Is this a budget for the middle class or one for India Inc? Has the Finance Minister managed to pull off the ultimate balancing act between populism and fiscal prudence and keep all stakeholders happy? To answer all these questions and many more, The Firm gets some quick reactions and perspectives from the experts.

Nishith Desai, Founder & Managing Partner, Nishith Desai Associates

Truly, a ' Dream Budget'. Great for foreign investors from a regulatory and tax perspective. Removal of difference between FPI and FDI, tax pass through for AiF, elimination of MAT for FPIs, no existence of PE in India for foreign managers, reduction in corporate tax rate to 25%, reversal of tax on foreign tech transfer from 25% to 10%, reformation of REIT regime, deferment of GAAR, refinement of indirect transfer tax and removal of archaic Wealth Tax makes this truly a 'Dream Budget'.

Sonu Iyer, Partner & Human Capital Leader, EY

The budget presented by the FM today demonstrated a fine balance between populism and Fiscal prudence. Harsh and definitive measures to monitor black money are very welcome.

Richard Rekhy, CEO, KPMG

The Finance Minister has come out with a pragmatic Budget which is directionally focused at achieving growth and keeping the fiscal prudence in mind. The Focus is on Ease of Doing Business in India and increased infrastructure spends. Measures like New Bankruptcy legislation, startup entrepreneur's funds, GST rollout by FY 2016, deferral of GAAR will definitely support the cause of Ease of Doing Business in India.

Mr. Nihal Kothari, Executive Director, Khaitan & Co.

Finance Minister has indicated his strong commitment to introduce Goods and Service Tax by 1st April 2016 to create Indian common market and eliminate cascading effect of taxes on indigenous manufacture of goods and services. This process has been initiated by increasing the service tax rate from 12.36% to 14%, merging the Education Cess in Excise and Service Tax rates and pruning negative list of services. In the process services will become more expensive.

To promote indigenous manufacture, inverted duty structure has been corrected by reducing customs duty of 22 input items. Measures like relaxing the time limit for availing CENVAT credit from 6 months to 1 year and expediting service tax and excise registration will facilitate ease of doing business.

Samir Kanabar, Tax Partner, EY

For the Infrastructure sector, the announcements are quite pragmatic. Covering Sovereign risk, National Infrastructure Fund, Plug and Play, Corporatization of Ports, utilization of savings on oil prices for infrastructure, etc demonstrates commitment to invest by Govt and boost entrepreneurial confidence for private or foreign players to invest. It's a paradigm shift and a whole new architecture has been drawn to give a big push to infrastructure sector.

Harish HV, Partner, Grant Thornton India LLP

"The budget was broadly in line with expectations and can be termed as direction setting budget for the Indian Economy giving stability and direction to policy and tax proposals. There are a number of measures addressed towards predictability of tax, infrastructure, poverty, financial inclusion, ease of doing business & manufacturing and creating institutional frameworks which are bold and welcome.

The tax has also taken bold steps towards black money parked in overseas destinations and we hope similar measures would be taken for domestic black money which is probably a larger problem.

There are a lot of follow-up actions promised and a significant amount of fine print that seems to be there in the tax proposals which hopefully do not give major shocks.

The increase in service tax will impact all sections and would add to the burden of cost to all sections of the society."

Harishanker Subramaniam, Partner & Indirect Tax Leader, EY

Budget on expected lines from indirect tax perspective – clear affirmation of GST in April 2016, addressing inverted duty structure by reducing basic customs duty on inputs, intermediates and reduction in SAD to incentivise manufacturers. Increase in service tax rate to 14% and pruning of negative list as a precursor for GST, Cenvat credit time limit increased from 6 months to 1 year.

Girish Vanvari, National Head of Tax, KPMG

Announced in the backdrop of strong domestic macroeconomic fundamentals and soaring expectations, Budget 2015 is a fine inclusive balancing act. The Budget boldly resorts to a higher fiscal deficit of 3.9% to enable provision for increased outlays on various rural initiatives, socio economic schemes, infrastructure needs and more so enhanced allocations to states as per the fourteenth Finance commission recommendations. As far as tax proposals are concerned, the Budget lays down a clear roadmap for implementation of GST and attempts to deal with Black money in a credible manner . Deferral of GAAR by 2 years and its applicability to investments made thereafter, reduction of tax rates for royalties and technical services to 10%, non applicability of MAT to FIIs, clarity on taxation of REITs , invits and AIFs are welcome steps. A roadmap for a futuristic tax regime of lower corporate rates and phasing out of exemptions over the next four years heralds an era of a transparent tax regime of no surprises. The lack of fiscal space did not permit meeting of the popular expectations of increase in slabs and housing interest deduction for individuals or abolition or reduction of MAT for SEZs and infra companies. But all in all, a fine balancing inclusive futuristic budget.

Gokul Chaudhri, Leader, Direct Tax, BMR & Associates LLP

Finance Minister has delivered a progressive and to a large extent helpful Union Budget that has materially delivered on investor expectations on key tax aspects – firstly bringing a much needed benign trend for corporate tax to 25 percent over 4 years, reaffirmation of GST for coming financial year, and deferral of General Anti Avoidance Regulations. The fine print of the bill will be important to know if the effective tax rate stands amended this year as surcharges having been raised and the road map for exemptions and tax holidays to be eliminated needs to be studied."

“Abolition of ineffective wealth tax and final burial of the Direct Taxes Code removes needless regulations – clearly a bold message to discard the bad legacy. The accompanying promises for implementation of the recommendation of the Tax Administrative Reforms Commission, cleaning up of the rules for sensible indirect transfers regulations, lowering of the royalty tax withholding rates to competitive levels and indicative clarification on dividend distribution taxes will bring much needed clarity and certainty in the tax laws. By proactively legislating that there will be no Minimum Alternate Tax on select category of investors, amending the provisions to remove impediments for Real Estate Investment Trusts and defining rules for “no permanent establishment” on presence of fund managers, potential dispute and litigation has been avoided, and capital flows and investment has been welcomed.”

“The crack down on illegal holding of assets and income outside India, was expected, but the emphasis and aggression of the Finance Minister on this subject is clearly to address the political constituency that there will be incentives for investors and material adverse consequences for evaders. The hoped clarity on taxation of e-commerce continues to elude.

Satya Poddar, Tax Partner – Policy Advisory Group, EY

Reconfirmation of the GST implementation on April 1, 2016 is a welcome news.

The divergence of excise duty rate (12.5%) and service tax rate (14%) is going to recreate complexity associated with different tax rates and should have been avoided, especially if it is for only a short period of 1 year until the introduction of GST.

Increase in the service tax rate to 14% suggests that the GST rate would not be the one single rate of 12% recommended by the 13th Finance Commission. It could now well be in the range of 20%+, which implies substantial exemptions from the GST base.

Divergence between the corporate tax rate (25%) and the top personal tax rate (34.6%) is also an important issue. Even though the corporate tax rate is reduced, the combined effective rate, including the DDT, would now be closer to the top personal tax rate of 34.6.

Vijay Iyer, Transfer Pricing Leader, EY

From a transfer pricing perspective the increase in threshold for domestic TP compliance is a very positive move. It would help to reduce the compliance burden for taxpayers and would absolve a lot of small and medium enterprises from the pain of domestic TP compliance.

Samir Gandhi, Partner, Deloitte Haskins & Sells
While on TP , increase in threshold limit for application of domestic transfer pricing from Rs 5 Cr to 20 Cr is welcome, one would have expected some more refinements in this aspect e.g. application of domestic transfer pricing only in cases where transactions are not tax neutral – transactions between a tax holiday entity & non- tax holiday entity. In all other cases, it will not apply.

Considering that transfer pricing disputes are of significant concern and where one cannot yet say that India has reached the ‘SWEET SPOT’ – we have some distance to travel in this area.

It would have been very positive if there would have been a proposal to reduce the TP disputes by setting up a mechanism where tax payer & tax authority can agree for a WORKABLE ANSWER & not necessarily a RIGHT OR WRONG ANSWER

Transfer pricing disputes are complex & fact based and it can be best resolved via such a settlement mechanism rather than in tribunals and courts. The scheme can provide for waiver of penalty and interest and there won’t be any further appeal by either tax payer or tax authority.

July 2014 Budget well intended provisions on introduction of range, multi-year analysis and roll back for APAs could not be implemented so far as the necessary frame work and rules are yet to be notified.

Introduction of concept of range and multi-year analysis will reduce the transfer pricing disputes significantly. While retrospective in Indian tax laws is always received with negative connotations, retrospective application to the above concepts of range and multi-year analysis to pending disputes at various appellate forums can contribute to settle the disputes in a fair and reasonable manner and importantly within a short time frame.

While APA and MAP options to resolve transfer pricing disputes have worked well there is dire need to increase the staff strength at the above cells to accelerate the excellent work done so far by the revenue authorities in this area. This can again lead to prevention and resolution of TP disputes.

The government sent a very positive signal by not only accepting the Bombay High Court judgment on the matter of issue of shares but also added to the sentiment by directing the filed officers not to make similar adjustment for the current assessment years for the tax year ending on 31 March 2011. Similar guidance or directions from Board of Taxes on the issues of marketing intangibles, management charges and royalties can further boost the sentiments of the corporate sector.

There were some expectations that the government will outline India's positions on OECDs - BEPS Actions Plan. The High Power Committee set up by the Finance Minister in the Budget of 2014 needs to play a more active role by involving all stakeholders on an ongoing basis under BEPS action plan and other emerging international tax (e.g. ecommerce taxation) and transfer pricing (e.g. country by country reporting) issues so as to avoid any disputes during assessments . This can also give a sense of participation to tax payers and add to collaborative efforts by all stake holders to make the"Make in India" campaign successful.