01 February 2017

DRBM Bulletin

Union Budget 2017 – Major Highlights [Direct Tax Provisions]

Under the able leadership of NDA Government, Hon. Finance Minister Mr Arun Jaitley has presented his consecutive 4th Union Budget before the house. For the first time in the history, Budget has been presented on 1st February which will allow make necessary changes through the Finance Bill and ultimately will lead to effective implementation from 01 April i.e. the beginning of the new financial year. Further, breaking the traditional practice of distribution of funds amongst Planned and Unplanned, Hon. Finance Minister has framed this budget by allocating funds to Revenue and Capital Expenditures.

Hon. Finance Minister has focussed on benefits to the Agriculture Field and Development of Rural Infrastructure. Equal Importance has also been given to Health Sector and Uplifting of Backward Classes and Minority. Major Tax Reforms with respect to Presumptive Taxation, Capital Gains Tax, Corporate Tax and Individuals will eventually lead to recovery of the negative effects post demonetisation. Further, benefits advanced to Affordable Housing Projects will lead to overall infrastructural development.

Most of the Investment Banks and Capital Advisory Firms[1] applauded the Budget.

- ✓ Way2Wealth upheld this Annual Budget quoting that the Finance Minister has met expectations of Indian Economy to create a strong foundation for the nations sustainable growth through job creation, empowering the weaker sections of society, encouraging a healthy investment climate and providing necessary framework to enable foreign invest, ease of business and tax compliance.

- ✓ LKP Research mentioned that Union Budget presented on 01 February 2017 may not have pleased many but in their view it was strong on fiscal prudence, rural development, affordable housing thereby providing the much needed impetus for capital expenditure.

- ✓ ICICI Direct gave it a 'thumbs up' by quoting that Union Budget 2017-18 is realistic, high on substance and has positively surprised the markets by defying expectations of populism amid demonetisation and impending state elections.

- ✓ Aditya Birla Money welcomed the budget by saying that Budget took a small pause on fiscal consolidation by targeting fiscal deficit @ 3.2% for FY18, 20bps higher than planned in the government's medium term fiscal consolidation program. The lower reduction in fiscal deficit is to stimulate demand in a weak economic environment post demonetisation a step in right direction.

By way of this write-up, we are trying to cover some important Direct Tax related highlights of Union Budget 2017. These provisions have been taken from the Memorandum (Finance Bill)[2] incorporating amendments / new provisions into the Act[3]. Some of the major provisions are as under:

[1] http://www.moneycontrol.com
[2] Finance Bill, 2017
[3] Income-tax Act, 1961

Taxation of Individuals

- ✓ Except reduction in tax rate from 10% to 5% for Income Slab of INR 2.5 Lakhs to 5 Lakhs, there were no significant changes favouring individual tax payers.

- ✓ Rebate u/s 87 has been reduced from INR 5,000 to INR 2,500 for income up to INR 3.5 Lakhs. Further, for high taxpayers, surcharge @ 10% has been proposed on income between INR 50 Lakhs to INR 1 Crore.

- ✓ More on negative side, Loss from House Property resulting due to payment of Interest on Housing Loans has been restricted to INR 2 Lakhs only. Balance Loss has been allowed to be carried forward. This will discourage additional investments in Real Estates.

Capital Gains

- ✓ The biggest change in Capital Gains Taxation is shifting of Base Year from 1981 to 2001. Assets acquired prior to 01 April 1981 were valued as on 01 April 1981 and assessee had an option to consider either such value or actual purchase value for calculation of Capital Gains. This base year has now been shifted to 2001 to remove difficulties due to this 3 decades old provision.

- ✓ Further, a Capital Asset held for a period of more than 3 years has been treated as Long Term Capital Asset. This period of 3 years has been reduced to 2 years for Immovable Properties like Land & Building.

- ✓ Speaking about shares and securities, Capital gain on shares will be exempt only if STT was paid while purchasing the shares. Also, deemed sale value for sale of unquoted shares has been introduced. Such transactions would be taxed at fair value under section 50CA.

- ✓ In the case of Joint Development Agreement, Capital Gain in the hands of Individual / HUF is supposed to be levied in the year in which Building Completion Certificate is obtained. This will avoid hardship to the genuine taxpayers.

- ✓ Provisions of section 54EC have also been extended to cover further Long Term Bonds which will be notified by the Central Government.

SME Friendly Amendments

- ✓ Section 44AD of the Act provides for Presumptive Taxation of specified businesses having turnover up to INR 2 Crores. The limit of Taxable Business Income of 8% of Total Turnover has been reduced to 6% in order to facilitate tax compliances by SMEs.

- ✓ A new provision has been inserted reducing Corporate Tax Rate for SME Companies having turnover up to INR 50 Crores from 30% to 25%. This will ensure better profitability and ultimately lead to better investments and job creations.

- ✓ Further, for specified professions, rate of TDS under section 194J has been reduced from 10% to 2%. This will benefit the professionals with lower profitability.

- ✓ Small professionals have also been covered under Presumptive Taxation Provisions. Further, Relaxation has been granted to such small practitioners for payment of Advance Tax in one instalment only. Necessary changes have been proposed to section 234C.

Promoting Digital Economy

- ✓ Donation in Cash under section 80G has been restricted to INR 2,000. Currently, the limit of Cash Donation is INR 10,000.

- ✓ Section 43 of the Act is proposed to be amended. Any Cash Payment in excess of INR 10,000 for acquisition of Capital Asset shall be ignored for calculation of Actual Cost of such Asset. Accordingly, Depreciation under section 32 will be reduced such an extent. Similar provision has been inserted in section 35AD of the Act which states that no deduction shall be allowed in respect of any payment in excess of INR 10,000 other than by Account Payee Cheque / Bank Draft or any other Bank Mode.

- ✓ Dis-allowance Limit for Expenses / Payments other than by Account Payee Cheques / Bank Drafts / Bank Modes under section 40A(3) of the Act has been reduced to INR 10,000 per person per day. This will discourage Cash Transactions.

- ✓ A new section 269ST has been proposed to dis-allow loan and advances in cash. It specified that no person shall receive loan / advance from any person in aggregate, in respect of single transaction, in respect of transaction relating to one person or one event an amount equal to or more than INR 3 Lakhs. Further, a new section 271DA has been proposed to penalise any such transactions.

Ease of Doing Business

- ✓ Ease of Doing Business has been one of the prime mottos of the Government. Clarification of Indirect Transfer Provisions, Modification in Special Taxation for Offshore funds u/s 9A and enabling 15G / 15H for commission payments under section 194D have been major announcements.

- ✓ Section 44AA is proposed to be amended to grant relaxations to Individuals and HUFs for maintenance of books of accounts if they meet the Sales Turnover / Gross Receipts criteria.

- ✓ Provisions of section 92BA with respect to Specified Domestic Transactions and Domestic Transfer Pricing are supposed to be amended to avoid hardship to the genuine taxpayers.

- ✓ Further, sections 47, 49 and 2(42A) are proposed to be amended to treat conversion of Preference Shares to Equity as Tax Free Transfers.

- ✓ It has also been proposed to include section 115BBG to tax income on transfer of Carbon Credits at a preferential rate of 10% instead of 30%. This will help encouraging environment friendly businesses.

Some Draconian Provisions

- ✓ In case of transfer of equity shares of unlisted companies, Fair Market Value determined in accordance with the provisions of the Act will be held to be the full value of consideration if the actual consideration falls below such Fair Market Value. Accordingly, section 50CA has been proposed to be inserted. Such provisions will certainly bring clarity to the transactions involving unquoted equity shares; however, it will be burdensome for small private companies to comply with such provisions.

- ✓ Currently TDS provisions are applicable only to income reported under the heading 'Profits & Gains of Business or Profession'. It is proposed to amend section 40(a)(ia) to include TDS provisions for expenses claimed under 'Income from Other Sources'.

- ✓ For delay in filing Income Tax Returns under section 139(1), penal provisions for additional fees under section 234F is now introduced. A fee of INR 5,000 shall be levied if return is filed after the due date but on or before 31st December of the Assessment Year. In other cases, fees of INR 10,000 will be levied.

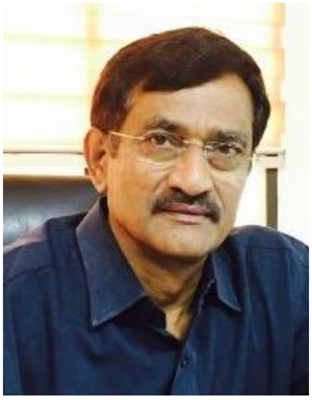
- ✓ Chartered Accountants, Merchant Bankers and Registered Valuers are proposed to be penalised under section 271J if these professionals furnish incorrect information in their certifications.

- ✓ Provisions with respect to MAT vis-a-vis ICDS and Ind-AS have been complicated to a great extent. Clarification is required in this regard.

Closing Remarks

The above are only highlights of the Direct Tax related provisions of the Budget. In a nutshell it was a descent budget. Though not many benefits were granted to individual taxpayers, small and businessmen are definitely having a good time. The focus of the Government was more on widening of tax base and making tax compliances easier.

DRBM's Opinion of Union Budget 2017



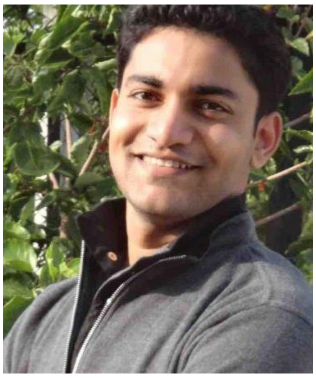
CA. Vithal Deshmukh
CMD | DRBM Consulting

In view of Demonetisation, common people were expecting significant changes in tax reforms. However, except change in tax rate for individual tax payers in the income bracket of INR 2.5 Lakhs to 5 Lakhs, no other significant amendments were proposed. To facilitate tax compliances, different measures have been introduced like extension of income limits for maintenance of books of accounts, incorporation of single page for Income Tax Returns etc.

Government's focus was on promoting MSME Businesses. Tax provisions like allowance of MAT Credit for 15 years, Presumptive Tax @ 6% u/s 44AD and Corporate Tax Rate of 25% for small companies having turnover below 50 Crores will ensure promotion of small businesses.

Speaking about Capital Gains Tax, relaxations were given in terms of reduction of holding period for an asset to be defined as Long Term Capital Asset. Base year for indexation was shifted from 1981 to 2001. Also, specific provisions were introduced for Capital Gains on Joint Development Agreement. This will lead to easier capital gains calculations and will reduce litigations.

In a nutshell, it was a Good Budget. I would give it 7 marks out of 10.



CA. Aalhad Deshmukh
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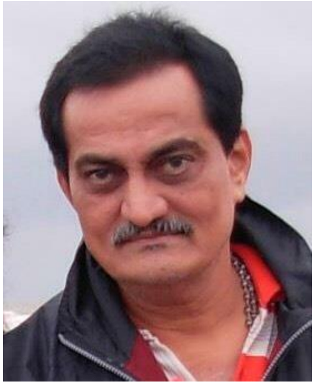
The Union Budget 2017 was much hyped. Hon. Finance Minister clearly mentioned that the Direct Tax Collection has experienced 17% growth in the consecutive second year and the Government intends to maintain this growth rate. Speaking about Banking Industry, Banks are supposed to reduce the lending rates. For Agricultural Credits, additional funds have been apportioned. To Control rising Non Performing Assets, amendments have been proposed in the Securitisation Act and DRT Laws. Further, Asset Reconstruction Companies have now been allowed to list their securities issued to Banks for acquisition of bad loans on Recognised Stock Exchanges. This will help banks and financial institutions clean up their balance sheets easily.

Government seems to be positive on the front of bringing Foreign Direct Investments. Foreign Investment in India has been on a rising trend. Almost 90% FDI are now allowed through Automatic Route. Further, online processing on the portal of Foreign Investments Promotion Board has been facilitated.

In view of Digitisation, equal importance should be given to cyber security. Government has intended to start Computer Emergency Response Team. Also, payment regulator has been proposed under RBI. Exemptions for Investment in Cyber Security Startups and promotion of BHIM apps will be an added benefit to the economy at a large.

Overall, it was a Good Budget!



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The major challenge before Hon. Finance Minister was to present such a budget which would help reduce the hardship post demonetisation. At the same time, state elections were to be targeted. However, to avoid any disputes with EC, populist announcements were strictly avoided by the Government.

Most of the people were expecting GST Rollout and related announcements. However, there was no mention of the same in the budget speech. GST implementation date should be spelt out which will enable the MSMEs to plan to suit the new legal framework. A clear road map showcasing stage-by-stage implementation needs to be declared.

Allocation to Agriculture, Defence and Other Important Sectors has been increased to a significant extent. This shows that the Government is focissed on evolution into a modern era. SME related provisions, SAKAR provisions and Skill Development related provisions will lead to better job creation.

In my opinion, there is a minute scope for criticising the budget. It was an all-rounder budget covering almost all the sectors; also taking care of latest developments in Digital Economy and Clean India movements.

I would give it ‘Thumbs Up’!

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