Symposium on Union Budget Proposals for 2013-14

The Chamber organised a Symposium on ‘Union Budget Proposals for 2013-14’ on 1st March, 2013 from 3.00 p.m. at Hotel Hindusthan International, Kolkata. The Symposium was addressed by Shri Nirmal Poddar, FCA, Senior Advocate and Eminent Taxation Expert, Professor Abhirup Sarkar, Department of Economics, Indian Statistical Institute and Vice-Chairman, WBIDC, Kolkata and Shri Sidhartha Jain**,** Director, Tax & Regulatory Services, Ernst & Young Pvt. Ltd.

In course of his Welcome Address, Shri Ashok Aikat, President observed that amidst the constraints and challenges being faced by the Indian economy, the Hon’ble Finance Minister has taken a very pragmatic approach in presenting the Budget. The Budget has emphasised both on inclusive and sustainable growth, particularly for the lower strata of the population. The focus on social infrastructure development like health, education, schemes for development of women and children as well as skill development are indeed steps in the right direction, Shri Aikat felt.

The Union Budget this year, according to Shri Aikat has laid the much needed emphasis on infrastructure development and promotion of industrial investment. The programmes envisaged in this regard in terms of issue of Tax Free Bonds, mobilisation of Infrastructure Debt Funds and credit enhancement to infrastructure companies through India Infrastructure Finance Corporation Ltd. etc, are praiseworthy. These instruments, Shri Aikat stated would help in generating funds for deployment in the targeted sectors. However, Shri Aikat felt that with regard to the achievement of a targeted rate of FDI and FII a greater stress on the financial sector reforms should be laid.

Shri Aikat stated that the Government has been successful in controlling the Fiscal Deficit to 5.3 per cent for the FY 2012-13 and promised to maintain Fiscal Deficit within 4.8 per cent in FY 2013-2014. However, there has been no triggers in the Budget proposals to boost investor or consumer sentiments. In this regard, he expected the RBI to control inflation through fiscal consolidation and thereby increase money supply and lower interest rates. This would together boost consumers confidence and investors sentiment.

Investment allowance on investments in excess of Rs 100 crore and infusion of capital funds in the banking sector would no doubt boost industrial growth, Shri Aikat stated. The small sectors according to him would be further encouraged by a number of facilities that have been announced for the MSMEs. Some adjustments have been also made with regard to levy of Customs Duty and Excise Duty in a few sectors. Besides, the higher allocation to Defence is expected to help the industries that are engaged in production in this sector, Shri Aikat said.

Shri Aikat observed that over the years, GST and DTC have assumed large complexities. In this regard, the Hon'ble Finance Minister has placed his Ministry's commitment for implementation of these reforms as early as feasible. He also felt that the extension of GAAR by another two years from 01.04.2014 to 16 is a welcome measure. This will enable the assesses to arrange the affairs in accordance to the provisions of GAAR.

West Bengal has been included in respect of some of the infrastructure proposals in the Budget like the Deep Sea Port at Sagar Islands and establishment of an Inland Waterway between Haldia and Farakka for movement of bulk cargo. These Shri Aikat observed would create long term benefits for our State. The thrust on infrastructure development towards better connectivity between North-East and Myanmar to fulfill the objectives of the 'Look East Policy' would also help in boosting exports from this part of the country, Shri Aikat stated.

In his Introductory Observations on Direct Taxation, Shri S M Surana, Chairman, Taxation and Company Affairs Standing Committee, observed that the emphasis on the mandatory practice of CSR by large undertakings would benefit both the new start-ups and society as a whole. Shri Surana stated that the assurance of the Hon'ble Finance Minister to place the amended Direct Taxes Code (DTC) Bill before the end of the on-going Budget Session in the Parliament is a welcome move. In the context of Direct Taxes, Shri Surana felt that the Union Budget has not introduced major direct benefits for the public at large.

Shri Surana stated that individuals with a taxable income of more than Rs. 10 million will have to pay an additional tax or surcharge of 10 per cent. However, it is proposed that the Surcharge will be applicable only for a single financial year. This is likely to push the effective income tax rate of so called "super-rich" from 30.9 per cent to around 34 per cent. A double Surcharge at the rate of 10 per cent has been levied on super-rich - domestic corporates with taxable income of Rs. 10 crore, while foreign companies will have to pay an increased surcharge of 5 per cent instead of 2 per cent earlier.

Potential investment generation is an important aspect for the Government policies Shri Surana felt. In this regard the re-introduction of the investment allowance is an important relief which would help to attract firms wanting to invest. Besides, marginal decrease in Securities Transaction Tax (STT) on equity, mutual funds would expand the ambit of investments in the case of Provident Funds and Pension Funds. Shri Surana stated that the Rajiv Gandhi Equity Savings Scheme (RGESS) would enable first time investors to invest in mutual funds and listed shares and extended tax benefits to three successive years along with a revised limit of Rs. 12 lakhs.

Shri Surana stated that hike in the tax rate from 12.5 per cent to 25 per cent tax on all dividends distributed by (non-equity) schemes to unit holders may discourage mutual fund investors' sentiment to some extent yet it can be expected that the mutual funds sector with "nil" STT rate would attract more investments. Allowing of a Category I AIF set-up as Venture Capital Fund to pass through status under Income-Tax Act is a welcome move, Shri Surana observed.

According to Shri Surana, removal of double taxation on dividends received from overseas arms will reduce the burden on shareholders to a large extent. The clarifications on taxation rules regarding development centers and safe harbor rules are laudable since this initiative would encourage skill development in the IT and ITeS sector, with a special emphasis on Tier II and Tier III towns. The real estate sector would also be benefited as a loan of up to 2.5 million rupees to buy ones first home will recieve an additional tax deduction of Rs. 1,00,000/-.This would automatically increase the demand in the housing sector, Shri Surana stated.

In his Introductory Observations on Indirect Taxation, Shri Sandip Choraria, Chairman, Trade Reforms, Indirect Taxation & State Taxes Standing Committee, observed that the Budget has been devised to mobilise Rs. 18,000 crore in which new proposals on Indirect Taxes would generate Rs. 4,700 crore and Direct Taxes, Rs. 13,300 crore. Shri Choraria stated that although general rates of Excise, Service Tax and Customs Duty have been kept untouched, chalking of no road maps for GST has come about as a disappointment.

Customs Duty exemption for manufacture of leather goods and semi-precious stones are welcome steps according to him. The proposal of setting-up of Apparel Parks within the Scheme for Integrated Textile Parks (SITP) and the withdrawal of Excise Duty on garments would provide a boost to the textile industry. An increase in import duty of raw silk from 5 per cent to 15 per cent in absence of sound quality raw material base will however hamper exports of silk goods, Shri Choraria felt.

Speaking on industry specific proposals, Sports Utility Vehicles (SUVs) and imported luxury automobiles will be costlier by up to Rs. 15 lakhs. Excise duty on SUVs has been increased to 30 per cent from 27 per cent, while all luxury vehicles will attract 100 per cent import duty as against 75 per cent earlier. Besides, the basic customs duty on motorcycle with engine capacity of 800cc or more is being increased from 60 per cent to 75 per cent. In this regard, a sluggish growth rate of the automobile industry can be expected.

Amendment has been made in the definition of ‘Approved Vocational Education Course’ provided in Sec 65B(11) so as to include the courses in 'designated trades' offered by Industrial Training Institute or Industrial Training Center affiliated to State Council of Vocational Training. Accordingly, Shri Choraria stated that due to the cheaper courses fee more youth will be encouraged for the skill trainings. The definition of ‘process amounting to manufacture or production of goods’ provided in Section 65B(40) to include processes on which duties of excise are leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. Introduction of the ‘Amnesty Scheme’ to encourage voluntary compliance and broaden the tax base are also welcome measures, Shri Choraria stated.

Shri Nirmal Poddar, Senior Advocate and eminent Taxation Expert observed that the Direct Tax proposals in the Budget seem to be well orchestrated towards the ensuing General Elections. Addressing Direct Taxation issues of Union Budget Proposals for 2013-14, Shri Poddar stated that the Hon’ble Finance Minister, Government of India, Shri P Chidambaram presented a deeper tax net in the Union Budget 2013-14 to collect an extra Rs. 13,300 crore.

Shri Poddar observed that Section 194 – IA has been introduced to provide that every purchaser, at the time of making payment or crediting of any sum as consideration exceeding Rs. 50 lakh for transfer of immovable property (other than agricultural land) to a resident transferor shall deduct tax at 1 per cent of such sum. He emphasised that if a property is not registered with ROC, then the Clause is not applicable, however, if the property is registrable, then tax will be assessed based on valuation. Currently, Section 50C provides for deemed consideration when a capital asset being immovable property is transferred for a consideration, which is less than the value adopted, assessed or assessable for payment of Stamp Duty. Section 43CA proposed to treat consideration for transfer of immovable property treated as stock in trade at the value so adopted or assessed or assessable for the purpose of Stamp Duty value if the same is higher than the consideration for the transfer. Therefore, all the real estate transactions are now under the purview tax authority.

Highlighting the change in the definition of urban / agricultural land and capital asset, Shri Poddar stated that the distance will now be measured aerially amendments to Sections 2(1A) and 2(14). The distance and population requirements for urban / agricultural land situated in the jurisdiction of a municipality, cantonment board etc. have also been amended. He, accordingly, suggested that the Government is widening the tax base in other way.

Speaking on the revenue generation of the Government, Shri Poddar mentioned that Section 132B – the term “existing liability” would now not include advance tax liability of an assessee. The seized assets would now not be available for set off against the tax liability of the year of the search as that would be an advance tax liability, he added. If the person fails to file the Annual Information Return (AIR) after receipt of Notice u/s 285BA, then penalty at the rate of Rs. 500 per day would be levied for the period following the day on which the time specified in the notice expires. This penal Clause is highly detrimental.

In respect of income by way of royalty and fees for technical services, it is proposed to increase the rate of tax on gross basis from 10 to 25 per cent to correct the anomaly with the DTAA rates. He underlined that the rate of 25 per cent would be applicable to any income by way of royalty and fees for technical services received by a non-resident, under an agreement entered after 31.03.1976, which is taxable under section 115A. Shri Poddar also detailed the various proposals like Section 48, Section 167(C) and also provisions of Special Audit.

Speaking on the Economic Implications, Professor Abhirup Sarkar, Department of Economics, Indian Statistical Institute and Vice-Chairman, WBIDC, Kolkata observed that the Union Budget has laid emphasis on the macro-economic objective of making India into a more market oriented economy. The Budget this year has further reduced direct Government interventions in many sectors of the economy which was directly under the Government controls, Professor Sarkar felt.

He stated that such a Budget aimed at stimulating the markets through incentives rather than paying them directly to the beneficiaries. An all round growth in the different sectors of the economy requires a free play of market forces. Union Budget 2013-14 is a mere reflection of a slow shift in dependency on the market forces. Professor Sarkar observed that growth could be brought about by the Government by following a non-interventionist stance keeping tax rates constant. The Government, according to Professor Sarkar on the other hand, has tried to keep the market un-tampered by not issuing major subsidy or incentives.

The Hon’ble Finance Minister’s concern about CAD widening has made him to lay greater emphasis on the inflow of FII and FDI. On the other hand, he has tried to make the ailing economy internally strong by introducing incentives for investments in plant and machinery. The highly mis-appropriated coal sector has also been provided with the PPP model of functioning, Professor Sarkar stated. The decision of the Government to lay greater stress on developing the bond market and equity market would come as a boost to the under-developed capital market of the economy.

Professor Sarkar observed that in the earlier years the low production of food grain in the agricultural sector was one of the reasons for its rising prices. Thus he felt that a boost to the agricultural sector especially in production of food grains was lacking despite the fact that the allotments made to the social sectors were quite satisfying. The Budget proposals also lacked adequate incentives to encourage savings. He, in this regard, felt that the Indian economy being an integrated economy, a greater and balanced thrust to both internal and external economy is a necessary condition. In case growth ceases to occur deficits will keep on increasing and would be required to be financed by deficit financing.

Shri Sidhartha Jain, Director, Tax & Regulatory Services, Ernst & Young Pvt. Ltd. in his Presentation on Indirect Taxes, observed that with regard to the newly revised tax laws, stringent regulations has been placed on assessment of the tax proceeds. The assesse has been made liable to penalties on ground of misappropriation. The onus of proving his innocence has thus fallen as a burden to the assesse of indirect taxes.

The Union Budget has also introduced a new feature of advance ruling provision on the part of the public sector enterprises. Under such rulings tax exemptions would be provided on the overall production rather than the present practice of imposing taxes at the intermediate stages, Shri Jain stated.

Shri Jain stated that penalisation of non-payers of taxes have also been narrowed. Non-payment of service taxes by collectors has now been subject non-bailable imprisonment. The step has been introduced at the eve of large-scale tax evasion and money laundering scams. On the other hand, to encourage the regular payment of tax return, the Government for the first time has introduced ‘Voluntary Compliance Encouragement Scheme’. Under the Scheme, no penalty or prosecution would be carried out against a non-payer in case he owns up his fault and makes full payment of his tax returns, Shri Jain observed.

Shri Sajjan Bhajanka, Senior Vice-President of the Chamber offered a hearty Vote of Thanks to the Learned Speakers.

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