Pre Budget Views

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1. **Need to increase the no of tax payers and participation in PAN and filling of income tax return**

   Reduce the tax to 50% of existing. Increase the no of participation. Encourage people to participate. May be each district magistrate and local political people will ensure that everybody will fill the return. Online education has already started or initiated. Let people fill the return. This can be done through a special drive by govt. only to increase the filling of return by all in a district.

   About 2% people are paying direct tax. At least we should have a plan to double it in coming two years. The way bank account opened for all within 1 year, income tax return form can be filled by all by taking help of teachers and student in a district. Once the people will fill the return, they will fill the duty to nation. Each student from class 9 onwards educate their parents that income tax is for the nation growth. Reduce the fear of income tax department.

2. **Carry forward of Losses:**

   In the initial years of operations, start-ups generally test their business viability. There is tendency to offer deep discount to generate revenues. Start-ups start generating revenues but not profits, due to which, they end up mounting huge losses.

   At present, business loss can be carried forward for 8 Assessment Years immediately following the year for which the loss was first computed. It is not possible to define an average time to make start-up profitable because different start-ups will measure profitability in different ways.

   The issue with current policy is that most start-ups have front loaded expenses and will not have profits to offset against it for several years. Hence, this limit of 8 years should be done away with in case of start-ups. Eligible start-ups should be allowed to carry forward such losses indefinitely or such period should be extended based on period of gestation in the particular industry to ensure that operating losses can be set off in full against future profits.

3. **Liberalise approach in extending benefit of Section 80-IAC:**

   Section 80-IAC of the Act was introduced by Finance Act, 2016 to provide for deduction in respect of profits and gains derived by eligible start-up. Post getting clearance for Tax exemption, the Start-up can avail tax holiday for 3 consecutive financial years out of its first 7 years since incorporation under section 80-IAC.

   As per data available on start-up India portal, 27011 start-ups have been recognized by DPIIT, out of that only 247 start-ups have been granted exemption under Section 80-IAC of the Income Tax Act. Hence, benefit of Section 80-IAC extended to less than 1% of the start-ups recognised by DPIIT. There is wide difference between the number of start-ups recognised by the DPIIT and the start-ups granted exemption under section 80-IAC of the Income Tax Act.

Start-ups hope for faster policy execution at government front. Hence, the DPIIT should speed up the process and remove glitches to pass on the benefit of Income Tax Exemption on profits under Section 80-IAC of Income Tax Act.

4. Parity in the turnover limit:

The Department of Promotion of Industry and Internal Trade (DPIIT) issued Notification No. GSR 127 (E) [F.NO.5 (4)/2018-SI], dated 19-02-2019, which superseded all previous notifications issued by the DPIIT. In the said notification, the DPIIT has prescribed the conditions for a start-up to claim Section 80-IAC deduction and exemption from angel tax levied under Section 56(2)(viib). Among other conditions, one of the conditions provides that the turnover of the eligible start-up should not exceed Rs. 100 crores in any of the ten financial year since its incorporation.

It has to be noted that start-ups recognized by DPIIT which fulfil the conditions specified in the DPIIT notification did not automatically become eligible for deduction under Section 80-IAC of the Act. A start-up has to fulfill the conditions specified in Section 80-IAC for claiming this deduction. Further, a recognized start-up is required to file Form 1 along with the specified documents to the Inter-Ministerial Board of Certification.

Section 80-IAC provides that for claiming tax holiday, the turnover of eligible start-up should not exceed Rs. 25 crores in the previous year relevant to the assessment year for which deduction under this section is claimed. The provisions of section 80-IAC and notification issued by DPIIT have prescribed different threshold limits, thus, they are in conflict with each other. In case turnover of a company is Rs. 50 crores, despite the fact that it is an eligible start-up as per the DPIIT's notification, it won't be eligible to claim the deduction under Section 80-IAC. Further, CBDT issued press release dated 22-8-2019 stating that the turnover limit for small start-ups claiming deduction is to be determined by the provisions of Section 80-IAC of the Act and not from the DPIIT notification.

Finance minister should consider the fact that the early-stage start-ups focus on their top line growth for scaling up due to which they gain momentum in top line but struggle to achieve bottom line growth or profitability. Hence, the Finance Minister should increase the turnover limit for claiming section 80-IAC benefit in line with the notification issued by DPIIT.

5. Rationalise provisions of Taxation of ESOPs:

ESOPs provide employees with ownership stakes in the company via stocks. Giving ESOPs is a usual trend in start-ups where the companies give option to its employees, in lieu of high salary, to save high cash outflows, as the resources are limited in the initial phase. This helps start-ups to retain Employees even when paying lower salaries.

ESOP's are taxable at 2 stages:

4.1 Taxable as Salary:

Employees get taxed when they exercise their options and convert their ESOP to shares. When employer allots shares to an employee under ESOP scheme, free of cost or at concessional rate, it is taxable as perquisite in the hands of Employee. The value of such perquisite shall be its market value as on the specified date as reduced by the amount recovered from employee.

4.2 Taxable as Capital Gains:

When shares allotted under ESOPs are sold, the gains arising therefrom shall be taxable under the head Capital Gains. To calculate the capital gains, the market value of shares on the date of exercise of option shall be deemed to be its cost of acquisition.

In case of start-ups, ESOP should only be taxable at the time of actual sale of shares by employee. There are few arguments why this amendment should be brought in.

First issue is taxability at the time of allotment of shares causes genuine hardships since the gain arising at the time of allotment of shares is notional gain on the basis of valuation. Further, in case of start-ups, valuations change drastically over a period of time.

Second issue is that there is usually no market where shares of start-ups can be sold. Employees of start-ups get exit only when there is new investor coming in or start-up gets acquired.

Since there is no actual cash gain in the hands of employee at the time of allotment of shares, Finance minister should consider this long pending demand of Tax deferrals to the point of sale rather than the point of vesting for employees in case of ESOP's allotment by start-ups.

6. **Revamping the personal and non-corporate income tax rates**– Ever since the bonanza of corporate tax rate cut was announced, there is a clarion call from the middle class and the unorganised sector for rationalisation of tax slabs and reduction in tax rates. This would perhaps be the fastest way to put more money in the hands of individuals and MSMEs in a bid to augment private consumption.

7. **Revision in the deduction limit under section 80C**– Deduction under section 80C amounting to INR 1.5 lakhs has not kept pace with the inflation and has required reconsideration for a long time. An upward revision would certainly provide an impetus to investments and generate savings for taxpayers.

8. **Abolishing Dividend Distribution Tax (DDT)**– Abolishing DDT would lead to additional funds being available at the disposal of corporates that can be utilised for industry expansion and infrastructural development.

9. **DDT exemption for Special Purpose Vehicle (‘SPVs’) distributing dividends to Holding Company under REITs**– Currently, the distributions made by SPVs to business trusts are exempt from DDT. However, in case of a dual layer structure, DDT is applicable on distributions made by SPV to a holding company. DDT exemption for such structure would bring consistency within the **Real Estate Investment Trust (‘REIT’)** framework and improve the yields to investors.

10. **Abolition of STT**– The introduction of 10% tax on **Long term Capital gains (‘LTCG’)** on meeting a specified threshold should have been coupled with the abolition of STT since this results in the same income being subject to two taxes and discourages foreign investors from investing in India.

11. **Deductibility of CSR expenditure**– CSR expenses are currently not tax deductible. Given that these funds are channelized towards social welfare, companies should be allowed such deduction to incentivize such spends.

12. **Extending the Sunset Clause for Affordable Housing Projects**– Developers are granted tax holiday for affordable housing projects approved on or before 31 March 2020.

Conditions for such projects were modified, and new conditions were added vide Finance (No. 2) Act of 2019. Since changes were substantial, the existing time limit for obtaining approvals should be extended to provide some relief to an already pale sector.

13. **Carry Forward of Tax Losses**– With the services sector contributing more than 50% to India's GDP, it is time that the carry forward of tax losses on amalgamations be allowed for the services sector as well and limiting it to industrial undertakings.

14. **Extending tax neutrality to reorganization/ merger of Limited Liability Partnership ('LLP')** – LLP has emerged as a popular hybrid entity in India that offers the flexibility of partnership with the limited liability of a company. To further leverage its potential, it would be apt to classify reorganization/ merger of LLP as non-taxable transfer under section 47.