UNION BUDGET
2009 - 2010
Under Confabulation

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Democracy is the art and science of mobilizing the entire physical, economic and spiritual resources of various sections of the people in the service of the common good of all.

Mahatma Gandhi

Synopsis

- Wealth Tax Act.
- Transfer Pricing and Safe Harbour Rules.
- Dispute Resolution Panel & Mechanism.
- Minimum Alternative Tax.
- Dividend Distribution Tax.
- Fringe Benefit Tax.
- Commodity Transaction Tax.
- Miscellaneous

Wealth Tax Act

- In case of every assessment year commencing on and from 1st day of April, 2010, the basic exemption limit is increased from Rs.15 lakhs to Rs.30 lakhs.
- Other amendment is in the explanatory note to the Section 44A, ,which powers the Central Government to enter into agreement for avoidance or relief of double taxation under the said act with any reciprocating country.

  Currently reciprocating country is explained as “ANY COUNTRY which Central Government may declare, by notification in Official Gazette”.

  But w.e.f 1st October, 2009, for the words “ANY COUNTRY”, the words “ANY COUNTRY OUTSIDE INDIA OR ANY TERRITORY OUTSIDE INDIA” shall be substituted.

Transfer Pricing & Safe Harbour Rules

- ***Section 92C : Computation of Arm's Length Price***
  w.e.f. 1st day of October, 2009, arms length price shall be taken at arithmetical mean of more than one price. If the variation between arithmetical mean and actual transaction price is less than 5% of the actual transaction price, then in that event, actual price shall be arm's length price.

- ***Safe Harbour Rules***
  Safe Harbour means circumstances in which the income tax authorities shall accept the transfer price declared by the assessee. CBDT is vested with the power to make "Safe Harbour Rules" for determining Arms Length Price.

Safe Harbour Rules - Encapsulation

- Rationale for having safe harbour provisions is "the difficulties faced by tax payers and tax administrations in applying the arm's length principle".
- The conditions for qualifying for the safe harbour with reference to transfer pricing could vary from a total relief to certain identified taxpayers from compliance with country specific transfer pricing laws and regulations or, at the least, the obligation to comply with country specific procedural rules.
- These rules require substantial involvement of the tax administration to monitor the taxpayers' adherence to the procedural rules.

Dispute Resolution Panel & Mechanism

- To facilitate expeditious resolution of disputes, a Dispute Resolution Panel comprising 3 Commissioners of Income Tax is proposed to be constituted via insertion of new section 144C.
- Assessee whose case is referred to Transfer Pricing Officer u/s 92CA can object against the drafted order of Assessing Officer to this panel.
- In cases of Foreign Companies/ Transfer Pricing Orders to be passed on or after October 1, 2009, which are prejudicial to the assessee, the Assessing Officer shall be required to forward a draft order to the assessee.

Dispute Resolution Panel & Mechanism

- Assessee can file objections against the draft order before the Dispute Resolution Panel. After considering all evidence/objections and further enquiries, the Panel to issue binding directions to the Assessing Officer within 9 months. Assessing Officer to pass an order within one month, in conformity with the directions of the Panel.
- Time limits for completion of assessment prescribed under Section 153 not to apply in such cases. Orders passed on the basis of directions of Dispute Resolution Panel to be directly appealed before the Tribunal.
- Dispute Resolution Panel has powers to confirm, reduce or enhance the adjustment; but cannot set aside any proposed variation or issue directions for further enquiry.

Dispute Resolution Panel & Mechanism

- Dispute Resolution Panel, in reference to the objections raised by assessee against the draft order of Assessing Officer, shall issue directions, for the guidance of Assessing Officer to enable him to complete the assessment.
- Dispute Resolution Panel directions shall be binding on the Assessing Officer.
- Order of the Assessing Officer consequent to the directions of Dispute Resolution Panel can be appealed only before the ITAT.

Minimum Alternative Tax

- With effect from 1st day of April, 2010, the rate of MAT has been raised by 50% i.e. rate of MAT has been amended to 15% from existing 10% (Cess and Surcharge applicable over and above mentioned rates)
- It is proposed to extend the period for carry forward and set off of MAT credit to next ten years from the existing period of seven years. This amendment is proposed to be effective from FY 2009-10.
- It is also proposed to amend the meaning of "book profits" to provide that any amount set aside as provision for diminution in the value of any asset debited to the profit and loss account, shall be added to net profit as shown in the profit and loss account for the purpose of computation of "book profits". This amendment will apply with retrospective effect from FY 1997-98.

Dividend Distribution Tax

With effect from A.Y. 2009-10 sub section 1A clause (i) of section 115O is proposed to be substituted to provide that tax levied on dividend shall be reduced by amount of dividend if any received by the domestic company during the financial year from its subsidiary, subject to condition that said subsidiary has paid tax under section 115O on such dividend and domestic company receiving dividend is not subsidiary of any other company. The same amount of dividend shall not be taken into account for reduction for more than one time.

Clause (ii) provides that tax levied on dividend shall be reduced by amount of dividend paid to any person for behalf of the New Pension Scheme Trust referred to in Section 10(44).

Fringe Benefit Tax

FBT is proposed to be abolished with effect from April 1,2009. As a consequence, the taxation of fringe benefits has been proposed to be restored as perquisites in the hands of the employees. The proposed amendments would cover the following as perquisites:

- Shares given to the employees under ESOPs
- Amount of any contribution to an approved superannuation fund by the employer in respect of the employee to the extent it exceeds INR 100,000.
- Value of any other fringe benefit or amenity as may be prescribed.

Commodity Transaction Tax

- The Commodity Transaction Tax (CTT) that was announced in the Budget last year, but was yet to be implemented, was removed by finance minister Pranab Mukherjee in is Budget – 2009.
- The CTT (Rs 17 on the transaction value of every Rs One lakh trade on commodity exchanges) was announced in the 2008-09 budget but was not notified following stiff opposition from regulators and exchanges.

Miscellaneous

- ***Advance Tax : Section 208 (w.e.f. A.Y. 2010-11)***
  It is proposed to provide that assessee shall be liable to pay advance tax during the financial year where the amount of such tax payable by the assessee during that year exceeds Rs.10000/- instead of Rs.5000/-

- ***Security Transaction Tax :***
  (Effective after the enactment of Finance(2) Bill, 2009)
  Security Transaction Tax (STT) shall not apply to taxable securities transactions entered by any person for or on behalf of the New Pension System Trust.

"Tax reform, like all reforms, is a process and not an event"

Shri. Pranab Mukherjee

Finance Minister of India

THANK YOU