Experts react to Budget 2023-24 proposals !

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Overall, the Indian Union Budget 2023 (**"Union Budget"**) presented a multi-dimensional assessment for the Indian economy. In addition to announcing rebate(s) in the tax regime, the two key announcements in the Union Budget which will have a significant impetus are:

A. Phase-III e-Courts Project:

Central Government's commitment of INR 7,000 Crore being a welcome move to ensure better accessibility to judicial infrastructure. This move envisages an infrastructure for the judicial system that is inherently digital. It does not merely digitize paper-based processes but also transforms processes for a digital environment.

This commitment of INR 7,000 Crore will attain the objective for Phase III which were proposed in the draft of the Digital Courts Vision & Roadmap: Phase III of the e-Courts Project namely:

i. Installation of relevant hardware;
ii. Creation of digital infrastructure; and
iii. Enabling access to critical services.

B. Green Energy:

Green Credit Programme proposed to be notified under the Environment (Protection) Act will incentivize and mobilize additional resources for environmentally sustainable and responsive actions.

Bindiya Raichura

Partner, Juris Corp

A. Start-Ups:

Realising that entrepreneurship is important for the county's economic development, the Budget 2023 continued efforts to encourage start-up revolution in India. The Budget 2023 has proposed to extend the date of incorporation for income tax benefits to start-ups from 31st March 2023 to 31st March 2024 and to provide the benefit of carry forward and setting-off losses on change of shareholding of start-ups from 7 years of incorporation to 10 years. The condition of continuity of at least 51% shareholding for setting-off carried forward losses is relaxed for an eligible start-up if all the shareholders of the company continue to hold those shares. Providing income tax incentives to start-ups for another year will encourage them to focus on other key aspects of business. Every penny saved goes towards achieving milestones in start-ups, so it would be a good breather.

Though the expectation was to further increase the corpus of the Start-up India Seed Fund Scheme, which was allocated INR 283.5 crore last year looking at the bleak investment scenario, the Budget 2023 focusses on setting-up an Agriculture Accelerator Fund to encourage agri-startups in rural areas and with the aim at bringing innovation and affordable solutions for challenges faced by farmers. Finally, to unleash innovation and research by start-ups and academia, a National Data Governance Policy will be brought out. This will enable access to anonymized data. India is now the third largest ecosystem for start-ups globally, and it now ranks second in innovation quality among middle-income countries.

B. EV Sector:

In a significant step to avoid cascading of taxes on blended compressed natural gas, the Budget 2023 has proposed to exempt excise duty on GST-paid compressed biogas contained in it, which can reduce the overall cost of CNG. To further provide impetus to green mobility, customs duty exemption has been extended to import of capital goods and machinery required for manufacture of lithium-ion cells for batteries used in electric vehicles ('EV"). This will have far reaching impact on the EV sector. The customs duty EVs in semi-knocked down state has been revised to boost domestic manufacturing. These changes are being introduced to encourage the use of more environmentally friendly energy sources.

India is moving forward firmly for the*'panchamrit'* and net-zero carbon emission by 2070 to usher in green industrial and economic transition. To this effect, National Green Hydrogen Mission was launched a few days back, which will facilitate transition of the economy to low carbon intensity, reduce dependence on fossil fuel imports, and make the country assume technology and market leadership in this sunrise sector.

Neeraj Dubey

Partner, Juris Corp

A. Green Growth:

In recent times, SEBI, RBI and the government of India have been proactive in the field of sustainable and green development. Vide the Budget 2023-24, the government has further made their agenda clear with respect to green growth and the various schemes and investments in relation to this development. The government has also set a target of net-zero carbon emission by 2070.

The spurt in importance to sustainable development globally has left a mark on India too as the Indian economy ushers in green industrial and economic transition.

B. Scheme for taxation of Market-Linked Debentures ("MLDs"):

In order to regulate income generated from this category of debentures, the Budget 2023-24 proposed to amend the tax regime in this regard. Accordingly, it is proposed that any income from MLDs is to be taxed as short-term capital gains at the current applicable rates.

C. Withdrawal of TDS exemption

Deduction of tax at source ("**TDS**") exemption offered on income earned from interest payable on listed debentures under the Income Tax Act, 1961, has been proposed to be withdrawn. The proposed rate of TDS to be applicable on income earned from interest payment of listed debentures is 10%.

Apurva Kanvinde

Partner, Juris Corp

With global economic uncertainty, India remains well positioned to leverage of the many economic opportunities that the coming years have to offer. The Union Budget 2023 has focussed on continuity and stability on many fronts.

A. Infrastructure Financing

Increase in capital investment outlay by 33% will pave way for increase in private investment. This will also help increase job opportunities and augment productivity. The extension of 50-year interest-free loans to state governments by another year will further increase capital expenditure in the infrastructure space.

B. Financial Inclusion

Increase in capital for MSMEs by enhancing the corpus of credit guarantee scheme will encourage the banking sector to increase flow of credit to MSMEs. Further, concession by way of reduction of the cost of credit by approximately 1% will play a pivotal role in ensuring more credit flow to MSMEs.

Financial inclusion supported by national financial information registry will ensure efficient flow of credit, promote financial inclusion, and foster financial stability. This will also negate duplication regarding registering the same information under different statues with multiple authorities.

C. GIFT City

Measures pertaining to delegation of powers under The Special Economic Zones Act, 2005 (as amended) will result in speedier redressal of regulatory issues relating to IFSC. The move to permit GIFT City branches of foreign banks to fund for the purpose of acquisition-financing will result in corporates having access to funding at competitive interest-rates. This may also act as a catalyst to encourage more foreign banks from opening branches in GIFT City, especially since there is no clarity on whether the same benefit will be extended to GIFT branches of Indian banks.

Establishment of a subsidiary of EXIM Bank for trade re-financing in GIFT City is also a welcome move.

D. ESG

Other than self-reliance through the hydrogen mission and energy transition fund allocation, credit programme and other regulatory changes envisaged will enable international interaction with the increasing global shift towards green markets and financial products. It will further India's commitment towards climate change and net-zero goals.

Ankit Sinha

Partner, Juris Corp

The Hon'ble Finance Minister has embarked upon this year's budget exercise with clinical precision and vision. There is significant focus and allocation for infrastructure and the momentum has been maintained. The 'Seven Saptarishis' which she referred to are well though off and the budget transverses between agriculture, education, airports, ease of doing business, unified filing process, contract dispute settlement, green focused, tourism and financial sectors.

What is disappointing is the absence of any customs dispute settlement scheme or a GST late fee / interest waiver scheme which is very much needed at this point of time. The amendments to the CGST Act in expanding the scope of Section 17(5) is unwarranted since on one hand the law expects the corporate sector to step in and mandatorily spend on CSR and on the other hand, denial of ITC on such activities would only increase the cost.

On the Customs front, the changes are in line with the past policies and the emphasis is on 'atmanirbhar bharat'.

On the income tax front, it is unfortunate that the Government has chosen to amend Section 10(10D) of the Income Tax Act and impose tax on the amounts received under an insurance policy subject to certain limits. This will have a huge impact on the insurance sector and on public at large.

K. Vaitheeswaran

Advocate

BUDGET 2023: A BONANZA FOR ALL

The Budget 2023 is certainly a growth-oriented Budget and one that has something for everyone. The Government's vision for India is very clear through this Budget and has been highlighted through the 7 interlinked focus areas.

The Budget touched upon critical areas such as i) encouraging public earnings, savings as well as spending, ii) development of the agriculture sector to boost farmer incomes, iii) encouraging manufacturing thereby addressing employment-related challenges, iv) adoption of green energy to meet environmental and sustainability goals v) adoption of technology to harness skill and capacity development, vi) continued impetus on digital financial infrastructure, vii) bolstering manufacturing by equipping allied businesses, viii) support businesses by easing compliance, governance, and regulatory procedures.

Below are some key observations made:

1. Taxation: The Budget touched the right sentiments of the citizens by introducing a slew of reforms with regard to taxes. The announcements introduced suggest that the maximum relief and benefits will be to the middle class and lower taxpayers. A positive impact will be felt by impact salaried and self-employed citizens, senior citizens, and pensioners. For the higher tax bracket payer, the super surcharge that has been reduced to 35% will be a welcome move. While certain businesses and individuals may still consider following the older tax regime, with the various measures introduced, we can expect the new tax regime to be adopted as the default tax regime. The savings that are encouraged will also increase spending which in turn will propel growth thus being a win-win situation for all.

2. Agriculture: Agriculture held the pulse of this year's Budget. With the agriculture credit target of ₹20 lakh crore, and focus on areas such as animal husbandry, horticulture, dairy, fisheries, crop planning, and storage - we can expect to see a lot of development within these micro sectors. It is important to highlight the need for convergence of technology and farming here. With the Agricultural Accelerator Fund (AAF) being set up, businesses and innovations that support farming and agriculture will certainly see not only a lot of growth but also considerable Government support towards skill development, credit, funds, and market access.

3. Green Energy: Budget 2023 may accelerate India's decarbonization journey. With the outlay of 35,000 crores, along with additional investments towards the Green Hydrogen Mission, it is clear that the Government aims to make India energy-independent. With a focus on energy focus, green energy, and carbon credit, the sector offers excellent growth opportunities to businesses, start-ups, researchers, and investors to boost the domestic manufacturing of green and sustainable solutions.

4. Infrastructure: The hike in capital expenditure by 33% for infrastructure development is a positive step toward infrastructure development. With the aim of developing railways, roads, urban infrastructure, and power, the sector will invite participation from domestic as well as global investors. Further, we can expect development in transport infrastructure projects for connectivity for ports, coal, and steel and thus we can see a flurry of activities within the sector and also allied businesses. The development of fifty additional airports, heliports, and advanced landing will also help bridge connectivity gaps which will help unit remote locations of the country. Lastly, with the setting up of the Urban Infrastructure Development Fund (UIDF), we can expect faster development of megacities and Tier 2 and Tier 3 cities in the future thus opening up business possibilities for infrastructure companies.

5. Fintech and digital transformation: The Government touched upon the power of fintech and digital currencies, as ways to alter the banking and financial sector with a specific focus on financial lending. Fintech when combined with emerging tech solutions such as AI, robotics, etc. can bring about a plethora of opportunities. However, much clarity is needed on data security, protection, and privacy-related aspects. Additionally, apart from an understanding of regulations, governance, and compliance, significant capital and skill investments are also necessary. The Government acknowledges this and has made efforts to address the challenges by setting up educational institutions, announcing Centers of Excellence for Artificial Intelligence, and nurturing R&D. We can expect more innovative businesses and start-ups mushrooming over the years that leverage technology to address the larger developmental goals of the country. However, clarity of laws and regulations would help the further deployment of fintech solutions and digital transformation development.

6. Skill Development: The Government once again has reemphasized the importance of skill development and capacity building. With a focus on training in areas such as coding, artificial intelligence, robotics, 3D printing, and drones, the Government emphasizes the importance of new-age technology as a key proponent of growth and development. With the 30 Skill India International Centers that will be set up across the country, training the youth to harness these skills will not only help in job creation but also holds the potential to build India as a global skill hub.

7. Start-ups/Entrepreneurship/MSMEs: The Budget 2023 focused on encouraging rural entrepreneurship, women-led businesses, and capacity building of rural businesses in areas such as design, branding, and marketing. Identifying MSMEs as growth engines of the Indian economy, the Government has solidified its support to small and medium businesses by extending the tax holiday scheme for startups till March 31, 2024, which means that startups incorporated till the latest date next year can avail of tax benefits. Further, with changes in the presumptive taxation, the threshold increased to 75 lakhs, SMEs and MSMEs will find relief in not needing to maintain detailed books of accounts.

8. Banking and Finance: The Budget reemphasized the Government's commitment to deploying technology to augment the financial sector. The focus on the deployment of DigiLocker and the development of a National Financial Information Registry will not serve as the central repository of financial and ancillary information to promote financial inclusion but also considerably promote the ease of doing business. Further, to reduce the cost of compliance, financial sector regulators will carry out a comprehensive review of existing regulations and consider suggestions from public and regulated entities. It will be interesting to see the amendments that will be made in the Banking Regulation Act, the Banking Companies Act, and the Reserve Bank of India Act to improve banking regulations.

9. Corporates: The Budget 2023 suggests several direct as well as indirect changes for corporates. The ease of doing business will significantly improve as Permanent Account Number (PAN) will be used as the common identifier for all digital systems of government agencies. The secure online storing and sharing of documents in one place is a good move to reduce the turnaround time of procedures. Additionally, for ease of doing business at GIFT City, a single IT system will be developed for registrations and approvals and offshore derivative instruments will be accepted as valid contracts. A Central Processing Centre that will be set up for the centralized handling of various forms under the Companies Act will certainly help businesses at large. However, from changes in business procedures, and revised tax structures to information sharing, businesses will need to carefully asses their modes of operations.

10. Real Estate: The Indian Real Estate Sector despite many obstacles continues to show promise of strong performance. The Budget of 2023 allocated Rs. 79,000 crores for the Pradhan Mantri Awas Yojana (PMAY) which aims at providing housing to the urban poor. This may lead to more affordable housing projects, especially in tier II and III cities thus bridging the gaps in urban-rural living.

11. Legal and arbitration: The Government's aim to ease the Indian courts of pending legal matters is clear. The introduction to bring in another dispute resolution scheme under Vivad Se Vishwas-2 to settle commercial disputes will certainly help reduce the ongoing legal disputes. Another welcome move is phase three of the eCourts Project with an outlay of Rs 7,000 crore that will be launched for the efficient administration of justice. With more eCourts, there will be significant expectations towards a more accessible, efficient, and speedy justice and redressal mechanism.

Conclusion
To summarize the Budget, we can expect certain products such as parts of mobile phones, lithium batteries, and certain electronic items to become cheaper from the next financial year while international travel, consuming cigarettes, buying imitation jewelry, kitchen chimneys, and purchasing silver, may become costlier. Perhaps it would not be wrong to say that while the Budget benefits the middle class, it holds little for HNIs.

With the elections scheduled in the coming year, the Budget 2023 can be considered as an election Budget with the aim to gather public confidence. This, along with the 2023 G20 Summit in the backdrop and the world looking carefully at India, the Budget of 2023 echoes the Government's commitment towards sustainability. From a business perspective, with the capex boost to make India an investment destination', one can expect an increase in interest in foreign capital and domestic capital investment. The Budget aims to reassure citizens, businesses, and investors and highlight the growth and development opportunities that the country continues to offer. However, it would be prudent to read the fine print for further understanding and implications.

Prem Rajani

Managing Partner, Rajani Associates

• Continued emphasis on Make in India by reducing customs duties on raw materials and increasing on the finished products thereby promoting localization

• Condition of 'minimal human intervention' removed from the OIDAR services category. This could bring the courses provided by the foreign universities which were largely automated / conducted through online medium but also involving a bit of human intervention within the purview of GST

Niraj Bagri

Partner, Dhruva Advisors

The Union budget for financial year 2023-24, the last full fiscal plan before the forthcoming general elections in 2024 was expected to be populist. However, the Finance Minister seems to have resisted the temptation and instead opted for fiscal prudence and futuristic mindset.

The budget seeks to benefit different segments, with the government manifesting Women Empowerment, Tourism, Youth Power and Green Growth among its top priorities. The support system for credit facilities for the agricultural sector should see uptick. A mammoth increase in the Capital Outlay at both the Central and State levels is welcome for likely boost in infrastructure development and job creation, among others – we should see focus shifting to Infrastructure development in Tier 2 / 3 cities. Highest ever capital outlay for Railways (Rs. 2.4 crores) is also commendable.

In addition, the government has allocated substantial funds for health and education sectors, including the establishment of nursing colleges and libraries across the country.

To further self-reliance theme under the "Make in India" program, the government has reduced customs duty on components and machinery for manufacture, while increasing duties on some final consumer products. This move should provide much-needed impetus to stimulate the Indian manufacturing sector and reduce costs in the long run.

The significance and potential of startup ecosystem have been recognised a bit, resulting in extension of the incorporation date for startups from March 31st, 2023 to March 31st, 2024. The carry forward of losses for startups in the event of a change in shareholding has also been extended from seven years of incorporation to ten years.

There is something to cheer about for ever-expecting salaried and middle-class as well. The Finance Minister proposed the New Tax Regime as the default system, with no tax applicable for income up to Rs. 7 lakhs. The basic tax slabs have been revised, providing some relief to taxpayers, and the highest surcharge rate has been reduced to 25% from 37%, offering substantial relief to ultra HNIs. However, the highest tax rate remains unchanged at 30% for income above Rs. 15 lakhs, resulting in negligible benefits for those with income between Rs. 15 lakhs and Rs. 2 crores.

The scheme for presumptive taxation has been expanded to include businesses with a turnover up to Rs. 3 crores (previously Rs. 2 crores), and for professionals with a turnover up to Rs. 75 lakhs (previously Rs. 50 lakhs), provided that the receipts in cash are less than 5% of total receipts. This should, ideally enhance compliance.

All in all, it is a forward-looking, growth-centric budget minus the populism that has become order of the day in election year budgets. A welcome change!

Bhumesh Verma

Managing Partner, Corp Comm Legal

The Union Budget reflects some very interesting steps that the Government intends to implement during this financial year.

The move to reduce more than 39,000 compliances should facilitate the ease of doing business in this country further and is a welcome move. Decriminalisation of more than 3,400 legal provisions is also welcome although one needs to see the fine print to assess which provisions and laws are impacted.

The allocation of Rs 7,000 crore for the launch of the third phase of the e- courts project is significant and once implemented should ensure better access to judicial infrastructure.

Setting up of a National Data Governance Policy is a good step and should help start-ups and MSME’s.

Apurv Sardeshmukh

Partner, Legasis Partners

The budget announcements seem to capture the current digital needs of information age. Based upon the tech driven and knowledge based groundwork, the budget aims to foster multiple digital, research & innovation initiatives such as effective implementation of National Data Governance Policy, enhancement of scope of fintech services through expansion of Digilocker to name a few. From compliance perspective, the budget has outlined diverse ease of doing business initiatives like Simplification of KYC process adopting a ‘risk-based’ approach, PAN to be used as Common Business Identifier to be facilitated through a legal mandate and Unified Filing Process. These will simplify the compliances but the implementation has to be secured through protected digital infrastructure. The passage of Jan Vishwas Bill, 2022 in the coming days will also pave a new way for statutory compliances.

Aiming the transition to sustainable green economy, the budget goals to give major push to green growth in positive direction through diverse green approaches. The approaches require the corporates to brace their systems for making their working green economy friendly. Apart from this growth focussed targets, the budget lays out a plan to simplify the dispute settlement mechanism and provides incentivisation to e courts to streamline digital delivery of justice to common man. The current outlay of 7000 cr. to e courts is more as compared to first two phases of e courts developments and it outlines an inclusive, agile, open, and user-centric vision. However, it must be noted that it is utterly insufficient to cater the needs of digitalization of justice delivery mechanism. The fine print in future will reveal the implementation aspect in coming days. The caveats are laid down. We need to see how far the government goes in strengthening the digital infrastructure to fill in the digital divide and to make the digital promises realities of the time.

- Legasis Pvt. Ltd.

The Union Budget was presented in the parliament today in which the government has made various plans which would help in improving the nation's economy. The fiscal deficit was targeted lower for the year 2023-24 at 5.9% with an aim to reach below 4.5% by 2025-26. It was announced that the government will raise the capital expenditure by 33% to 10 lakh crore rupees in the next fiscal year and also allocated a capital outlay of 2.4 lakh crore rupees for railways.

It has been the stated policy of the Government to decriminalise minor offences as a step towards improving ease of business. More than 39000 compliances have been reduced and more than 3400 legal provisions have been decriminalized. It is *inter alia* proposed that no fresh prosecution shall be launched on or after 1st April, 2023 under Section 276A of the Income Tax Act against a liquidator who fails to comply with the provisions of section 178.

It was announced that in order to make the process of reclaiming unclaimed shares and unpaid dividends easier, an Investor Education and Protection Fund authority (IEPF) will be set up and an integrated IT portal will be established which will fall under the control of Ministry of Corporate Affairs. A centralized processing centre was also announced to be set up to ensure faster response to the companies by way of centralized handling of various forms with field offices under the Companies Act.

The FM also announced phase III of e-Courts projects with an outlay of 7,000cr in order to make the judicial system more accessible, efficient and equitable for every individual who seeks justice, or is part of the delivery of justice.

In order to ease burden of the MSME sector arising from adverse Covid impact, where MSMEs fail to execute a contract, 95% of performance security will be returned to the business as a part of "Vivad se Vishwas Scheme". Further, tax deductions to a taxpayer for MSME payments shall be made on cash basis and not on accrual basis to help the functioning of cash starved MSME sector.

Overall, the budget is balanced, inclusive, progressive with clear emphasis on infrastructure development and ease of doing business in India.

Kuldeep Sharma

(Ex-IRS, ADIT, FTI, Insolvency Professional)

"Giving further boost to the regulatory changes made last year tcto definition of securities by including Electronic Gold Receipts and subsequent setting of electronic gold receipt (EGR) by Bombay Stock Exchange and National Stock Exchange, Hon'ble FM today proposed much needed amendment to taxability of EGR. It has been proposed that conversion of gold into EGR or vice versa will not be treated as a taxable event. Further for determining whether the EGR will be treated as short term or long term asset, it is proposed that the period for which the gold was held prior to its conversion into EGR will be counted and similarly the duration for which EGR has been held prior to its disposal will be counted. This are welcome changes and will provide the thrust to bringing the idle gold into mainstream. It is estimated that India has annual demand 0f over 800 to 900 tonnes. Also with risk management practices put in place by SEBI, EGR is on its way to become a preferred instrument by investors. EGR not only infuses transparency in gold spot transactions but also eliminates market inefficiencies and to top it up, give India a position to command the price setting in International markets."

Sandeep Shah

Managing Partner, N.A. Shah Associates

"In 2019 it was clarified that Third-country exports, High seas sales and supply of Bonded-warehouse goods will not be treated as supply and hence there will be no GST. The said amendment was considered a prospective amendment. Authorities demanded GST on said transactions made prior to January 2019. However, it is now clarified to have a retrospective amendment. The same is with a condition that no refund will be granted if GST has already been paid. Further clarification is required that a refund will be granted; if the said GST is paid by the assessee without collecting the same from the customer in the course of audits. Investigations etc."

Parag Mehta

Partner, N.A. Shah Associates LLP

A setback to non-residents – 56(2)(viib) tax exemption is now withdrawn and will be at par with domestic investors. Consideration received in excess of fair value on the issue of shares by companies to non-residents will be taxable. Now, this can have far-reaching implications as non-residents are also subject to FEMA regulations which mandate the opposite i.e. consideration needs to be higher than fair value. Also, the valuation methodology in both regulations differs with Income Tax restricting to only either book value or Discounted Cash Flow.

Diana Mathias

Partner, N.A. Shah Advisory Services

"Currently there is no maximum threshold limit on the claim of deduction under section 54 or 54F to save tax on long-term capital gain by investing capital gain or net sale consideration as the case may be in acquiring or constructing new residential house property. In order to prevent High Net Worth taxpayers from claiming the benefit of section 54 or 54F by purchasing very expensive residential houses, the government has proposed to impose a limit on the maximum deduction of INR 10 crore that can be claimed by the assessee under section 54 and 54F. The introduction of maximum threshold on the deductible amount, may some extent slow down the demand in high ticket residential properties."

Gopal Bohra

Partner, N.A. Shah Associates

"The Extension of capital gain relief due to change in shareholding in start-ups from 7 years to 10 years likely to give a boost in activities in the start-up sector."

Aastha Dhowan

Partner, N.A. Shah Associates

"The Budget has become to a large extent a non-event. The focus of the government is clear. The economic growth drivers have been given a great impetus. Infra, Agri, Manufacturing and job creating has been dealt with greater emphasis. Rationalising of personal taxes was in the offing, and the Finance Minister Nirmala Sitharaman has delivered it right. Directionally, the budget ticks all the boxes and we all hope Amrit Kaal is here to stay for long"

Vivek Sadhale

Co-Founder, LegaLogic Consulting

"While the changes to the tax benefits regime for startups are a welcome move, the objective of supporting the startup ecosystem would be better served if the eligibility norms are implemented such that a larger number of startups actually benefit. Currently, the number of startups that are able to avail of these benefits is fairly low"

"By identifying Green Growth as one of the seven priorities, the government has rightly focused on the sustainability agenda. The planned outlays in this area could also become an enabler for the development of a deeper green technologies ecosystem in India"

Jamil Khatri

CEO and Co-Founder Uniqus Consultech