Suggestions for Union Budget 2022-23

Key Pillars for our Suggestions

A. Promoting Manufacturing, Innovation and Infrastructure eco-system for AtmaNirbhar Bharat

B. Promoting Investments by aiding dispute resolution and reducing litigation

C. Rationalisation of provisions and enhancing 'Ease of Doing Business'

D. Facilitating Business Reorganisations

E. Unshackle entrepreneurship and Promote Green Technologies

Promoting Manufacturing, Innovation & Infrastructure eco-system for AtmaNirbhar Bharat

- **Extend cut off date for commencing manufacturing to March 31, 2025** for availing concessional tax regime under section 115BAB - Delay in setting up of manufacturing facilities due to COVID-19

- **Incentivize expenditure on Research and Development** to encourage innovation of new products, services and technologies
  - Several countries offer R&D incentives despite having competitive tax structure
    - Singapore (Tax rate 17 percent; 100 to 150 percent of R&D expenditure)
    - China (Tax rate 25 percent; 150 percent of R&D expenditure)
    - UK (Tax Rate 19 percent)
    - Rationalise provisions of Patent box regime to encourage R&D
  - Dire need to incentivise innovation in healthcare, education, Infrastructure and Green technology.
  - Infrastructure development critical to accelerate economic growth
- . Reintroduce **Tax-Free Infrastructure Bonds** – reinstate exemption under section 10(15)/(23G) for domestic retail investors.

Promoting Investments by aiding dispute resolution and reducing litigation

- Operationalize and Expand **Scope of Dispute Resolution Committee**
  - Constitute DRC at the earliest with competent personnel. Monitor performance in terms of time-bound resolution of cases
  - Expand scope to mid-sized and large sized taxpayers by removing the caps of returned income and disputed addition of Rs. 50 lakhs and Rs. 10 lakhs respectively
  - Clarify that DRC can settle pending litigation cases.
  - Allow specific issues to be resolved instead of entire appeal

- In light of the substantial litigation related to faceless assessment, Government should allow it to mature and consider deferment of the proposal of Faceless Scheme for conducting ITAT proceedings.

- Provide **clarifications with respect to Equalisation Levy**
  - Sale of goods or services facilitated through emails or non-public ERP platforms should not be subject to EL
  - Exclude payment gateways (covered under RBI Guidelines)
  - Primary responsibility to discharge EL to be on the e-commerce operator (not being the payment gateway) who actually collects payment
  - Introduce a time bound appeal mechanism to resolve disputes

Rationalisation of provisions and enhancing ‘Ease of Doing Business’

- Simplify **<u>TDS/ TCS compliance on purchase and sale of goods</u>** – Section 194Q and Section 206C(1H)
  - Provisions be made applicable only to payees or payers who are not registered with GST;
  - ‘Goods’ may be defined with exclusion for items like shares, securities, foreign currency and actionable claims

- Allow deduction for Covid 19 related CSR expenses - considering the extraordinary and unprecedented COVID 19 circumstances

- Allow entire expenditure incurred to earn dividend income - Entire dividend income is taxable in the hands of shareholder

- Reduce holding period for REIT/Invit units to one year to turn long term

Facilitating Business Reorganisations

- Provide **protection from notional taxation** under section 56(2)(x) and section 50CA for bonafide transactions
  - Exclude several bonafide share transactions in case of listed and unlisted companies in situations like rise in value of shares between date of agreement and consummation of transaction, fresh allotment of shares under different modes like preferential allotment, follow on public offer (FPO), rights issue without change in control, bonus issue, etc.
- Allow **depreciation of goodwill** in respect of purchased goodwill in non-tax neutral transactions
  - Such amount represents commercial consideration, and the seller is liable to pay capital gains on such transaction
- To boost the Indian Start-up, clarify that **taxation of deferred consideration under capital gains** will arise only in the year in which contingent consideration becomes due as per terms of agreement
- Provide benefits under section 72A to service sector
- Provide tax neutrality for **listing of unlisted subsidiary** (say > 75%) of **a listed parent through capital reduction** involving distribution of unlisted subsidiary's shares to shareholders of listed parent.
  - Exemption required for listed parent and its shareholders (from both dividend and capital gains) with corresponding cost substitution and holding period inclusion

Facilitating Business Reorganisations

- Clarify that definition of **<u>‘undertaking’ in s. 2(19AA)</u>** covers hive off of business through divestment of **<u>shares of operating subsidiary</u>**
- Provide relief from unintended **<u>adverse retrospective impact of Rule 11UAE</u>** of the Income-tax Rules, 1962 (notified on 24 May 2021) for slump sale transactions
  - Clarify that it will not apply to slump sales consummated during F.Y. 2020-21 and/or publicly announced on or before 24 May 2021 and/or was pending for regulatory approval as on that date. Alternatively, option may be provided to such taxpayers to get covered by Rule 11UAE or be governed by old law
  - **<u>Provide opportunity to taxpayer to rebut normative FMV as per Rule 11UAE</u>**
    - Taxpayers may be permitted to dispute the stamp duty value of immovable property as per mechanism provided in s.50C(2) where AO has to refer the valuation to DVO
    - Taxpayers may be permitted to furnish valuation report by an independent valuer in support of FMV being lower than Rule 11UAE value
    - Akin to s.79(2)(c), transactions between Indian listed companies and/or transactions which are approved by NCLT after affording a reasonable opportunity of being heard to the Income Tax Department may be exempted from higher valuation under Rule 11UAE

Unshackle entrepreneurship and Promote Green Technologies

- Promote green economy adoption through tax incentives -
  - Extend **Concessional tax rate of 15%** to companies which invest in Green technologies on or after a specified date
  - Allow **full deduction towards investment/purchase of green technology assets**. This will encourage replacement of obsolete technology with green technology.

Promoting Green Technology critical to India’s Commitment towards Net Zero Emissions Target

Thank you