

Indian businesses budget wishlist

Source: *The Business Times (Singapore)*
July 3, 2009

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MNCs operating there expect clarity, certainty and stability in operations.

A stable Indian government at the centre after a fairly long time has led to anticipation and hype over a pro-growth agenda in India's annual budget to be presented by the new Finance Minister, Pranab Mukherjee, in Parliament on July 6. Dr Mukherjee's statement during the United Progressive Alliance (UPA) government's interim budget in February 2009 - 'In the days of financial stress, tax rates must fall and our ability to pay taxes must rise' - still echoes in the minds of corporates and tax professionals.

With the global economic meltdown, the budget wishlist has only elongated and everyone is eagerly waiting to see whether this declaration would reflect in the final budget. The general expectations of MNCs operating in India can be summarised as 'clarity, certainty and stability in operations'.

India's impressive economic growth during the last decade, and more so during the period 2003-2008, has come largely on the back of a rising investment curve. This momentum needs to be sustained and for this, the policymakers need to identify sectors that have significant forward and backward linkages, and put in place attractive incentives to encourage partnerships/ investments. Some of the sectors that are likely to be in line for special incentives are housing, real estate, infrastructure and cars. The insurance and retail sectors also need additional attention, as they have a potential of giving an overall impetus to the economy.

Continuation of the tax holiday regime for the IT/ITES sector in India is clearly the need of the hour, especially in light of the global impact on this sector. The minister will not only do justice but will also earn accolades by extending the tax holiday by another five years. A reduction in overall tax rates both for corporates and individuals by doing away with additional cesses and surcharges are demands that have merit.

Another long-standing demand of the industry has been the abolition of the fringe benefit tax. Alternately, the plea is for a rationalisation of the fringe benefit tax regime, ensuring that at least legitimate business expenses are not caught in the tax net.

It is worthwhile to note that in a cross-border transaction scenario, it is unlikely that either the employer (the corporate entity) or the employee would be able to claim tax credits in the overseas home country for fringe benefit tax paid in India. This leads to multiple taxation of income, even in the presence of tax treaties.

International taxation is a complex subject and tax disputes are unavoidable. However, time taken in achieving finality in respect of an international tax dispute is of the essence as it may have a significant impact on trade and investment. Not only is the taxpayer affected but other similarly placed potential investors will tend to shy away from doing business with India.

Delays also tend to impact the government, specifically the tax administration, as the collection of revenues is deferred until the settlement. The resolution of tax disputes in an efficient and timely manner should therefore be a key objective of policymakers. In the same light, the main agenda of the minister should be to institute policies to minimise disputes and to have consistency and clarity in the application of direct taxes to multinational enterprises in India.

Keeping this in perspective, an area which has been most debated and publicised in the last two years - and which requires immediate attention for reforms - is the draconian 'withholding tax provisions'. Recently issued (February 2009) provisions to withhold tax acted like a nail in the coffin, which have not only made the law tedious but at the same time enhanced the cost of compliance as well as cost of doing business in India.

Simpler, clearer rules

The minister should make the rules on tax withholding simpler and clearer, including issuance of instructions to the authorities on issuing tax withholding certificates in a timely manner.

Amendments to the current four tier dispute resolution process are also a must. The fact that no mandatory timelines exist for the disposal of appeals filed by tax payers has led to the process of dispute resolution being costly and inefficient in terms of time.

There is a clear need for mandatory timelines to be introduced for the disposal of appeals, and also for the government to provide the concerned authorities with additional resources to tackle the ever burgeoning workload. An announcement and a step towards this direction would be very well received by the corporate world.

On the transfer pricing front, perhaps the most pressing demand is for introduction of an advance pricing agreement (APA) regime. Currently, a taxpayer has to wait for almost three years after the completion of any cross-border transaction with a related party for a verdict of the Indian Revenue on transfer pricing implications with respect to such transactions.

It is therefore crucial that an APA programme is introduced in India at the earliest, to provide such MNCs an increased degree of certainty and to prevent costly and time-consuming audits and litigations.

Finally, an area where the government is expected to keep its commitment is with respect to the implementation of central Goods and Services Tax (GST) from April 2010. Implementation of the GST is expected to benefit the Indian economy by about US\$16 billion or over 1.2 per cent of India's gross domestic product (GDP).

The current scheme of indirect taxes involving sales tax, value added tax and service tax is not only hampering the growth in the economy but also leads to undesirable and expensive litigation both for the companies and the government. An announcement on the timely implementation would be welcomed by the corporate world.

The list of action points for India's finance minister and the government is unending, and pleasing all stakeholders would be virtually impossible. However, 'clarity, certainty and stability' leading to enhanced trade and investment should be the priority of the new Indian government.