

Reason to cheer for IT

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The Budget is a mixed bag for the information technology (IT) sector. First, the bag of goodies. The sunset for the tax holiday under Section 10A/B has been extended by one year and the IT sector can now breathe easy up to March 2011.

While industry bodies were expecting a 3-5-year extension, the relief nevertheless still provides some respite to the IT/ITES exporting companies, which have been facing the brunt of the global recession.

The flip side

On the flip side, the Finance Minister has also increased the tax on book profits by 5 per cent. Considering that MAT is payable on the tax holiday profits too, this significantly affects the tax bill of most companies in the IT space, although the period during which credit can be claimed has been extended from seven to 10 years. Many believe that it is another case of giving an incentive on the one hand, and collecting taxes from the other.

The anomaly in the computation mechanism for tax holiday for SEZ units has also been rectified. A company having SEZ and non-SEZ income would now be entitled to 100 per cent exemption on the export profits of the SEZ unit. Strangely, this anomaly has been set right only from the current financial year. This leaves many companies unsure of their positions in the past years, and many fear that the prospective amendment will only embolden the Revenue to deny the benefit for the past.

FBT burden off

IT companies will be one of the biggest beneficiaries of the withdrawal of fringe benefit tax, with a direct impact on their cost structure, specifically with high expenses on travel and ESOPs. Transfer pricing has become the single largest source of litigation for IT companies, particularly the captive ones of global corporations. Having reached massive proportions of litigation, the Finance Minister has finally brought in enabling provisions for safe harbour rules which would identify circumstances in which the income-tax authorities would accept the transfer price declared by the taxpayer.

A parallel system of Dispute Resolution Panel (DRP) has also been introduced, as per which companies would be given an option of referring their objections to any adverse transfer pricing-related assessments to a DRP. Similarly, foreign companies could also refer their objections to the DRPs, which would issue appropriate directions/guidelines to the assessing officers. These orders would then be appealable directly to the Tribunal.

Only time will tell if these amendments would be implemented in the right spirit to reduce litigation, or whether it would only add an additional layer. On the whole, it appears to be a good Budget for the IT sector, with a reason to cheer for a couple of more years.