Tenet Tax & Legal
Private Limited

Budget 2016-2017

Highlights – Direct and Indirect Taxes

CORPORATE TAX

- Corporate tax rate for domestic company reduced from 30% to 29% where gross receipt/turnover in FY 2014-15 does not exceed Rs.5 Crore.
- No change in surcharge rate.

CORPORATE TAX

- **Tax Holiday for newly setup domestic companies - insertion of new section 115BA**

- To provide the benefit to newly setup domestic companies engaged solely in the business of manufacture or production of article or thing.
- Total income of a domestic company shall be taxed @ 25% instead of 30% at the option of the company if following conditions has been satisfied:
  - the company is setup and registered on or after 1st day of March, 2016;
  - the company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;
  - the company has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; and
  - this option is furnished in prescribed manner prior to due date of furnishing of income.

CORPORATE TAX

- **Profit linked Deductions/Weighted Deduction - Phased out**
  - No deduction allowed under section 10AA shall be available to units commencing manufacture or providing services on or after 1st day April, 2020. (from previous year 2020-21 onwards).
  - Deduction under section 35AC shall not be available with effect from 1.4.2017 (i.e from previous year 2017-18 and subsequent years).
  - Deduction under section 35CCD shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21onwards).
  - No deduction under section 80IA, 80IAB and 80IB shall be available if the specified activity commences on or after 1st day April, 2017. (i.e from previous year 2017-18 and subsequent years).

CORPORATE TAX

- **Profit linked Deductions/Weighted Deduction - Phased out**

  - Weighted deduction under section 35(1)(ii) restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20) and 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
  - Deduction under section 35(1)(iia) restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
  - Weighted deduction under section 35 (2AA) & section 35(2AB) restricted to 150 per cent with effect from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
  - Highest rate of depreciation under the Income-tax Act shall be restricted to 40% w.e.f 01.4.2017. (i.e from previous year 2017-18 and subsequent years).

CORPORATE TAX

- **Equalisation Levy**
  - New Chapter inserted in the Finance Bill, to provide for an Equalisation levy of 6 % of the amount of consideration for (a) specified services received or receivable by a non-resident not having permanent establishment ('PE') in India from a resident in India who carries out business or profession, or (b) from a non-resident having permanent establishment in India.
  - Levy shall be applicable only if the aggregate amount of consideration exceeds one lakh rupees in any previous year

CORPORATE TAX

- **Deduction for employment of new workmen Section 80JJAA - effective from 1st April, 2017**
  - Deduction under this section to cover all sectors.
  - Deduction shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to twenty five thousand rupees per month.
  - No deduction allowed in respect of employees for whom contribution under Employees Pension Scheme is paid by the Government.
  - Norms for minimum number of days of employment in a financial year changed from 300 days to 240 days.
  - Condition relating to ten per cent increase in number of employees every year done away.
  - In the first year of a new business, thirty percent of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction.

CORPORATE TAX

- **Taxation of income by way of dividend**
  - In case of an assessee, being an individual, Hindu undivided family or a firm, resident in India any income by way of dividend during the year exceeding Rs. 10 lakhs will be chargeable to tax @ 10% on gross dividend income.
  - Amendment made effective from the 1st day of April, 2017 (will apply to assessment year 2017-18 and subsequent years).

CORPORATE TAX

- **Taxation of Income from 'Patents‘ - new section 115BBF**
  - Where the total income of the eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, such royalty shall be taxable at the rate of 10 per cent (plus applicable surcharge and cess) on the gross amount of royalty.
  - No expenditure or allowance in respect of such royalty income shall be allowed.

CORPORATE TAX

- **Minimum Alternate Tax (MAT) on foreign companies for period prior to 01.04.2015**

  - With effect from 01.04.2001, the provisions of section 115JB shall not be applicable to a foreign company if –

    - the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such Agreement; or
    - the assessee is a resident of a country with which India does not have an agreement of the nature as referred above and the assessee is not required to seek registration under any law for the time being in force relating to companies.

  - Amendment is effective retrospectively from the 1st day of April, 2001.

CORPORATE TAX

- **Tax Incentives to International Financial Services Centre**
  - Proposed to amend section 10 so as to provide for exemption from tax on capital gains to the income arising from transaction undertaken in foreign currency on a recognised stock exchange located in an International Financial Services Centre even when securities transaction tax is not paid in respect of such transactions
  - Proposed to amend section 115JB and levy Minimum Alternate Tax at the rate of nine per cent only in case of a company, being a unit located in International Financial Services Centre.

CORPORATE TAX

- **Tax incentives for start-ups**
  - Proposed to provide a deduction of one hundred percent of the profits and gains derived by an eligible start-up from a business involving innovation development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.
  - The benefit of hundred percent deductions of the profits derived from such business shall be available to an eligible start-up which is setup before 01.04.2019 (Section 80-IAC).
  - Section 54EE to provide exemption from capital gains tax if the long term capital gains proceeds are invested by an assessee in units of such specified fund, as may be notified by the Central Government in this behalf, subject to prescribed conditions
  - Section 54GB to be amended to provide that long term capital gains arising on account of transfer of a residential property (sold to setup a start-up company) shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to be an eligible start-up subject to conditions.
  - These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.

CORPORATE TAX

- **Filing of return of Income**
  - Time limit for filing belated return restricted to the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
  - Belated return can be revised at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
  - A return not to be treated as defective merely because self-assessment tax and interest payable under section 140A has not been paid on or before the date of furnishing of the return.

CORPORATE TAX

- **Processing under section 143(1) be mandated before assessment**
  - Procession of return under section 143(1) made necessary prior to making an assessment under sub-section (3) of section 143.
- **Expanding the scope of electronic processing of information**
  - Section 143(1) to be amended in order to expeditiously remove the mismatch between the return and the information available with the Department. Scope of adjustments at the time of processing of returns under sub-section (1) of section 143 expanded . Adjustments can be made based on the data available with the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A.
  - An intimation shall be given to the assessee to respond to such adjustments.
  - These amendments will take effect from the 1st day of June, 2016.

CORPORATE TAX

- **Rationalisation of time limit for assessment, reassessment and re-computation**
  - Period for completion of assessment under section 143 or section 144 changed from existing two years to twenty-one months from the end of the assessment year in which the income was first assessable;
  - Period for completion of assessment under section 147 changed from existing one year to nine months from the end of the financial year in which the notice under section 148 was served;
  - Period for completion of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment changed from existing one year to nine months from the end of the financial year.
  - Period for giving effect to an order, under sections 250 or 254 or 260 or 262 or 263 or 264 or an order of the Settlement Commission under sub-section (4) of section 245D, shall be three months from the end of the month in which order is received or passed.
  - Proposed that where the assessment, reassessment or re-computation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, 254, 260, 262, 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under the Income-tax Act, then such assessment, reassessment or re-computation shall be made on or before the expiry of twelve months from the end of the month in which such order is received .
  - Where an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, such assessment be made on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed.
  - The amendment will take effect from 1st day of June, 2016.

CORPORATE TAX

- **Rationalization of tax deduction at Source (TDS) provisions**
- Existing threshold limit for deduction of tax at source and the rates of deduction of tax at source are proposed to be revised from 01st June 2016:-
  - The threshold limit has been raised to Rs. 50,000/- from the existing limit of Rs. 30,000/- on pre-mature withdrawal from EPFS;
  - Threshold limit for winning from horse race has been raised from Rs. 5,000/- to Rs. 10,000/-;
  - Aggregate annual limit of threshold limit for payment to contractors has been raised to Rs. 1,00,000/- from the existing limit of Rs. 75,000/-;
  - The Threshold limit for commission or brokerage been raised to Rs. 15,000/-
- Recipients of payments referred to in section 194-I also eligible for filing self-declaration in Form no 15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

CORPORATE TAX

- **Widening of Tax Collection at Source (TCS) on sale of vehicles, goods or services**

    - It is proposed to amend that the seller shall collect the tax at the rate of one per cent from the purchaser on sale of motor vehicle of the value exceeding ten lakh rupees and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees.

    - This amendment will take effect from 1^{st} June, 2016.

CORPORATE TAX

- **Rationalisation of the provisions relating to Appellate Tribunal**

  - Assessing Officer not to file appeals against the order of the DRP.
  - Time limit for Appellate Tribunal to rectify any mistake apparent from record in its order reduced to six months from the end of the month in which the order was passed from the existing time period of four years.
  - Limit for disposal of cases by single member bench to cover assessees whose total income as computed by the Assessing Officer does not exceed fifty lakh rupees (increased from fifteen lakh).
  - This aforesaid amendment will take effect from 1st June, 2016.

CORPORATE TAX

- **Rationalisation of penalty provisions**

  - Penalty provision u/s 271 shall not apply to and in relation to any assessment for the assessment year commencing on or after the 1st day of April, 2017 and subsequent assessment years and penalty be levied under the newly inserted section 270A with effect from 1st April, 2017.

  - The new section 270A provides for levy of penalty in cases of under reporting and misreporting of income. It is provide that the Assessing Officer, Commissioner (Appeals) or the Principal Commissioner or Commissioner may levy penalty who has under-reported his income shall be liable to pay a penalty of sum equal to fifty per cent of the amount of tax payable on under-reported income in addition to tax.

  - Further, where under-reported income is in consequence of any misreporting by any person, the penalty shall be equal to two hundred per cent of the amount of tax payable on under-reported income.

  - Penalty on undisclosed income shall be levied at flat rate of 60% instead of minimum of 30% to maximum of 90% in case where search has been initiated of such income.

  - Levy of penalty of Rs. 10,000/- has been extended to non-compliance of notice issued under section 142(1), 143(2) or direction as per 142(2A) for each default.

PERSONAL TAX

- **Threshold limit of exemption of Income Tax**
  - No change in limit of exemption.
- **Change of rate on surcharge in case of Individuals**
  - Change in rate of surcharge from 12% to 15% in case of a non-resident person, resident person, Hindu undivided family, association of person, body of individual or artificial juridical person having income exceeding one Crore rupees.

PERSONAL TAX

- **Amendment in section 24**
  - For availing the deduction in case of self occupied house property acquired or constructed with capital borrowed , the time limit for such acquisition or construction has been increased from three years from the end of the financial year in which capital was borrowed to five years from the end of the financial year in which capital was borrowed.
  - This amendment will take effect from 1st day of April, 2017 and will, accordingly apply in relation to assessment year 2017-2018 and subsequent years.

PERSONAL TAX

- **Amendment in Section 44AB - Increase in threshold limit for audit for persons having income from profession**

  - It is proposed to increase the threshold limit of total gross receipts, specified under section 44AB for getting accounts audited, from twenty five lakh rupees to fifty lakh rupees in the case of persons carrying on profession.

  - These amendments will take effect from 1st April, 2017 and will, accordingly, apply to the assessment year 2017-18 and subsequent assessment years.

- **Amendment in Section 44AD - Increase in threshold limit for presumptive taxation scheme for persons having income from business.**

  - It is proposed to increase the threshold limit of one crore rupees specified in the definition of "eligible business" u/s 44AD to two crore rupees.

  - Expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per clause (b) of section 40 shall not be deductible while computing the income under section 44AD.

  - These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year2017-18 and subsequent years.

PERSONAL TAX

- **Introduction of Presumptive taxation scheme for persons having income from profession**

  - New section 44ADA to be inserted in the Act to provide for estimating the income of an assessee who is engaged in any specified profession as per sub-section (1) of section 44AA and whose total gross receipts does not exceed fifty lakh rupees in a previous year, at a sum equal to fifty per cent of the total gross receipts, or a sum higher than the aforesaid sum earned by the assessee.

  - The scheme will apply to such resident assessee who is an individual, Hindu undivided family or partnership firm but not Limited Liability partnership.

  - Assessee will not be required to maintain books of account under sub-section (1) of section 44AA and get the accounts audited under section 44AB in respect of such income unless the assessee claims that the profits and gains from the aforesaid profession are lower than the profits and gains deemed to be his income under sub-section (1) of section 44ADA and his income exceeds the maximum amount which is not chargeable to income-tax.

  - These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

PERSONAL TAX

- **Rationalization of tax treatment of Recognized Provident Fund, Pension Fund and National Pension Scheme**
  - Exemption limit to be increased from Rs. 1 lakh to Rs. 1.5 lakh for annual contribution by an employer to a superannuation fund.
  - A monetary limit of Rs.1.5 lakh to be provided for annual contribution by an employer to a recognized provident fund.
  - Any amount received by the nominee, on the death of the employee at the time of closure of account under National Pension System to be exempt.
  - Exemption to be provided for one-time portability from a recognised provident fund or superannuation fund to National Pension System.
  - 40% of the pension wealth received by an employee from the National Pension System Trust shall be exempt.
  - Exemption under the recognized provident fund and superannuation fund will be limited to 40% of the accumulated amount arising out of contributions made in such funds on or after 01.04.2016. This restriction not to apply to an employee participating in a recognized provident fund and whose monthly salary does not exceed Rs.15,000.

PERSONAL TAX

- **Substitution of section 80EE**
  - Additional deduction in respect of interest on loan taken for residential house property from any financial institution up to Rs. 50,000 subject to the following conditions:
    - Value of house property should not exceed rupees fifty lakhs.
    - Amount of loan sanctioned for acquisition of the house property should not exceed rupees thirty five lakh.
    - The amount of loan should be sanctioned during the FY 2016-17.
  - Benefit of deduction to be given till the repayment of loan continues.
  - The deduction under the proposed section is over and above the limit of Rs 2,00,000 provided for a self-occupied property under section 24 of the Act.
  - These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.

PERSONAL TAX

- **Amendment in section 80GG**
  - Maximum limit of deduction in respect of payment of rent under section 80GG to increase from existing Rs. 2000 per month to Rs. 5000 per month.
- **Raising the limit of rebate under section 87A**
  - Section 87A to be amended to increase the maximum amount of rebate available under this provision from existing Rs.2,000 to Rs.5,000 for assesses having total income upto Rs.5 Lac.
- The above amendments will take effect from 1st April, 2017 and will accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

SERVICE TAX

- ***A. Exemptions Withdrawn***

  Services provided by (i) a senior advocate to an advocate or partnership firm of advocates providing legal service; and (ii) a person represented on an arbitral tribunal to an arbitral tribunal. Service tax in the above instances would be levied under forward charge.

  Effective date - 01/04/2016

  Construction, erection, commissioning or installation of original works pertaining to monorail or metro, in respect of contracts entered into on or after 1st March 2016

  Effective date - 01/03/2016

  Services of transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway.

  Effective date - 01/04/2016

SERVICE TAX

- ***B. Exemptions Provided***
  - Construction Services in respect of housing projects under Housing For All (HFA)/Pradhan Mantri Awas Yojana (PMAY);
  - Low cost houses up to carpet area of 60 sq. mtr. in "Affordable housing in Partnership" component of PMAY/ housing scheme of the State Government

Effective date – 01/03/2016

  - Services provided by EPFO to employees
  - Services provided by IRDA
  - Services provided by SEBI
  - Services provided by way of annuity under National Pension Scheme by PFRDA (Pension Fund Regulatory and Development Authority)
  - Threshold exemption to performing artist in folk or classical art forms of music, dance or theatre is being enhanced to Rs 1.5 lakh from Rs 1 lakh.
  - Services of skill/vocational training by training partners under Deen Dayal Upadhyay Grameen Kaushalya Yojana
  - Rate of Service Tax on single premium annuity (insurance) policies is being reduced from 3.5% to 1.4% of the premium

Effective date – 01/04/2016

Service Tax

- ***C. Exemptions restored***

  Services of

  - a) construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals etc.
  - b) construction of ports, airports,

  in respect of services provided under contracts which had been entered into prior to 01.03.2015 and on which payment of applicable stamp duty has been made prior to that date.

Retrospective effect 01/04/2015

SERVICE TAX

Relief/ Rationalization Measures

To align Indian **Shipping Lines** with foreign shipping lines, it is being proposed to:

- a) zero rate the services provided by Indian Shipping lines by way of transportation of goods by a vessel to outside India with effect from *1st March, 2016.*

- b) impose Service Tax on transportation of goods by a vessel from outside India up to the customs station in India with effect from *1st June, 2016.*

SERVICE TAX

Interest Rate *(Applicable from the date Bill receives President's Assent)*

Interest rate on delayed payment of Service Tax has been reduced to 15%. However, in case of Service Tax collected but not deposited the rate of interest will be 24% from the date on which the Service Tax payment became due.

SERVICE TAX

Rationalization of Abatements *(Effective from April 1, 2016)*

- Credit of input services allowed on transport of Goods/ Passengers by rail at the existing abated value.
- Credit of input services is being allowed on transport of goods by vessel at the existing abated value.
- The abatement rate in respect of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70% by merging the two existing rates.
- The abatement rate in respect of tour operator in relation to packaged tour (defined where tour operator provides to the service recipient transportation, accommodation, food etc) and other than packaged tour is being rationalized at 70%.
- The abatement on shifting of used household goods by GTA is being rationalized at the rate of 60%, without CENVAT credit on inputs, input services and capital goods.
- It is being made clear by way of inserting an explanation that cost of fuel should be included in the consideration charged for providing renting of motorcab services for availing the abatement

Service Tax

CENVAT Credit Rules (Effective from April 1, 2016 except 1)

- It has been clarified that the time limit for filing application for refund of CENVAT Credit under Rule 5 of the CENVAT Credit Rules, 2004, in case of export of services is 1 year from the date of:
  - receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or
  - issue of invoice, where payment, for the service has been received in advance prior to the date of issue of the invoice. *(effective from 01.03.2016)*
- All capital goods having value up to Rs. 10,000 per piece are being included in the definition of inputs. This would allow an assessee to take whole credit on such capital goods in the same year in which they are received.
- Rule 6, which provides for reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, is being redrafted with the objective of simplifying and rationalizing the same without altering the established principles of reversal of such credit.
- Rule 7, dealing with distribution of credit on input services by an Input Service Distributor, is being completely rewritten to allow distribution to outsourced manufacturers, also in addition to its own manufacturing units.

SERVICE TAX

Indirect tax Dispute Resolution Scheme, 2016

- The Scheme has been introduced wherein respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of penalty imposed in impugned order, can file a declaration. In such cases the proceedings against the assessee will be closed and shall be conclusive and he will also get immunity from prosecution.

- The Scheme shall come into force w.e.f. 01/06/2016 and declarations made upto 31/12/2016

- However, this scheme will not apply in cases:

  - a) where prosecution has already been launched
  - b) involving narcotics & psychotropic substances
  - c) involving detention under COFEPOSA.

Service Tax

Other Changes

- Section 73 - Period for issuing demand notices is increased by one year, that is, from 18 months to 30 months for short levy/non levy/short payment/non-payment/erroneous refund of Service Tax.

- The monetary limit for launching prosecution is being increased from Rs. 1 crore to Rs. 2 crore of Service Tax Evasion, to situations where the tax payer has collected the tax but not deposited it to the exchequer

- Explanation 2 of section 65B (44) is being amended so as to clarify that any activity carried out by a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner, is leviable to Service Tax.

- Assignment of right to use the spectrum and its transfers has been deducted as a service leviable to service tax and not sale of intangible goods. (Declared Service)

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