

NEWS FLASH**Key announcements by the Finance Minister at the Press Conference**

23 August 2019

The Indian Finance Minister ('FM'), in a Press Conference today, announced a string of measures intended to boost the economy. We summarise below the key announcements relating to tax, corporate law and regulations.

➤ Removal of enhanced surcharge

- i. The Finance (No. 2) Act, 2019 had levied an enhanced surcharge at the rate of 25% in the case of individuals, Hindu Undivided Families ('HUFs'), Association of Persons ('AOPs'), Body of Individuals ('BOIs') and other artificial juridical persons having aggregate income in the range of INR 20 million (~USD 0.3 million) and INR 50 million (~USD 0.7 million) and at the rate of 37% for those having aggregate income exceeding INR 50 million.
- ii. The said enhanced surcharge of 25%/37% is proposed to be withdrawn from 1 April 2019 for the abovementioned domestic and foreign investors [including certain Foreign Portfolio Investors ('FPIs') which are categorised as AOPs], in respect of income earned by way of long term and short term capital gains arising on listed equity shares, units of equity oriented mutual funds and units of business trusts taxable under sections 111A and 112A of the Income-tax Act, 1961 ('the Act').
- iii. Subsequently, the Central Board of Direct Taxes ('CBDT') has issued a Press Release dated 24 August 2019 confirming the withdrawal of enhanced surcharge on the abovementioned capital gains. Additionally, the said Press Release states that since derivatives are treated as capital assets in the case of FPIs, capital gains on derivatives which are taxable under section 115AD of the Act in case of FPIs shall also not be subject to the enhanced surcharge. In view of the said Press Release, capital gains arising to FPIs on the transfer of debt securities, unlisted securities and income from other sources such as interest shall continue to be subject to the enhanced surcharge as introduced vide Finance Act (No.2), 2019.
- iv. For all other domestic and foreign investors, the increased surcharge levied by the Finance (No. 2) Act, 2019 would continue to apply to capital gains arising on debt instruments and all other incomes.
- v. This is a welcome announcement which will bring in the much awaited relief for FPIs, and in turn, provide a boost to the capital markets. Specific details on the income slabs and manner of calculation of total tax including surcharge shall be notified separately by the Finance Ministry.

➤ Withdrawal of Angel Tax for Start-ups

- i. Section 56(2)(viib) of the Income-tax Act, 1961 seeks to tax an amount received by unlisted companies in excess of the Fair Market Value of the shares (popularly known as 'Angel tax').
- ii. To mitigate genuine difficulties, Start-ups which are registered with Department for Promotion of Industry and Internal Trade will be exempt from the applicability of Angel tax.
- iii. The above measure is intended to reduce the tax burden of genuine Start-ups. Start-ups having a turnover of upto INR 100 crore will benefit from the above announcement.
- iv. It is further announced that a dedicated cell led by a Member of Central Board of Direct Taxes will be set up for addressing the problems of start-ups. Start-ups having income tax issues can approach the cell to seek a resolution of their problems.

➤ Faceless Assessments

- i. All notices, summons, orders, etc., issued on or after 1 October 2019, shall be issued through a centralized computer system which will bear a computer generated unique Document Identification Number ('DIN').

- ii. Any communication issued without a DIN on or after 1 October 2019 shall be void in law and the taxpayer is not bound to respond to such a notice.
- iii. An existing notice already issued is required to be decided by 1 October 2019 and if not, it is to be uploaded through the system by 1 October 2019 .
- iv. All notices submitted by taxpayers from 1 October 2019 onwards will need to be disposed off within 3 months from the date of such reply.

➤ **Increased depreciation on vehicles**

- i. Depreciation at the rate of 30% shall be computed on all vehicles purchased during the period 23 August 2019 to 31 March 2020. This is an increase of 100% on the existing rate of depreciation for such vehicles.

➤ **GST refunds**

- i. All GST refunds which are pending till date and which are due to Micro, Small and Medium Enterprises ('MSMEs') shall be paid within 30 days.
- ii. The FM recommended that in future all GST refunds due to MSMEs shall be paid within 60 days from the date of application for refund.

➤ **Easing of concerns relating to Corporate Social Responsibility ('CSR') Obligations**

- i. Under the Companies (Amendment) Act, 2019, penal and prosecution provisions were introduced for violation of CSR obligations. It has now been announced that the violation of CSR obligations would not be treated as a criminal offence and would instead be a civil liability.
- ii. Further, in order to fulfill the CSR obligations, companies have been granted time to complete their ongoing CSR projects.

➤ **Introduction of Offshore Rupee Market in domestic stock exchanges**

- i. The Ministry of Finance will shortly announce measures to introduce the offshore rupee market to domestic stock exchanges and further permit trading of USD-INR derivatives in Gujarat International Finance Tec-City, International Financial Services Centre.

Specific notifications will be issued in connection with the above announcements.

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