



Bangalore Chamber of Industry and Commerce

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Report on Interactive Session with, Mr. S.S.N. Moorthy, IRS, Chairman, Central Board of Direct Taxes, Government of India, New Delhi – Sunday, March 7, 2010

The Bangalore chamber of Industry and Commerce organized an Interactive Session with Mr. S.S.N. Moorthy, IRS, Chairman Central Board of Direct Taxes, Government of India on 7th March, 2010. The Meeting was attended by more than 70 participants representing various sectors of Industry and Trade.

Welcoming the Chief Guest, Mr. K.R. Girish, President, BCIC profusely thanked the Chairman for having accepted the Chamber's Invitation to address the Members of the Chamber that too on a Sunday afternoon. The President then brought out the following issues to the kind attention of the Chairman:-

1. Samsung Judgment

Mr. K.R. Girish raised the issue of the circulars issued by CBDT thereby allowing the Indian tax payers to remit the amount based on certificate from Chartered Accountants. The President said that the Circular is still in vogue and CBDT has not withdrawn the said circular. Hence he sought the Chairman's clarity on the above issue so that the tax payers can make their remittances accordingly.

2. ESOP Taxation

Mr. Girish mentioned that there have been so many representations that ESOP should be taxed only when the gains are realized i.e. on sale of the securities. He requested the Chairman to consider relaxing the stipulation proposed under the new Perquisite Valuation Rules.

3. Compulsory disclosure of PA No. under Section 206AA

Mr. K R Girish brought to the notice of the Chairman, CBDT that the payees are having a practical difficulty especially when they are remitting payments to non residents and especially payments which are not in the nature of income such as payment for purchase of goods, equipment, reimbursement of expenses, etc.,

Mr. Moorthy appreciated the point and asked the Chamber to send its suggestions on how this could be properly dealt with.

Mr. Girish on behalf of the Chamber, presented a copy of the Post Budget Memorandum on Direct Taxes along with a copy of the Booklet on Direct Tax Code brought out by the Chamber to the Chairman, CBDT.

Mr. K.R.Sekar, Chairman of the Direct Taxes Committee, BCIC joined the President in expressing the Chamber's gratitude to Mr. Moorthy for addressing the Members. He also brought to his attention on the following issues which are spelt out in the recent Union Budget:-

a) Direct Taxes Code

Mr.Sekar said that the Income-Tax Act is likely to be replaced by Direct Tax Code with effect from 1st April 2011. It is essential that the views of the stake-holders particularly the Industry and the common man should be considered.

He requested the Chairman, CBDT to consider various provisions outlined in the booklet and assured that the Chamber would be happy to extend all possible help and assistance in ensuring that the New Direct Tax Code gets introduced in the right form and accepted by all the tax payers. He also brought to his attention on the following issues which are spelt out in the recent Union Budget:-

b) SEZ

Mr. Sekar said that the Chamber welcomes the commitment of Union Government to continue the existing benefits to SEZ and also the proposed amendment on computation of deduction for SEZ unit with retrospective. However, he sought clarification to the effect that whether the provisions of Section 10AA (2) will not be applicable if existing units under STPI scheme/EoU scheme/EHTP scheme are converted into SEZ with the approval of SEZ Development Commissioner.

c) MAT

With regard to increasing the MAT rate from 15% to 18% by the Union Government, Mr. Sekar appealed to the Government to consider keeping the MAT rate to 15% and also suggested that the rate of tax under MAT can be levied on the reduced book-profits if the companies deploy their profits back to the growth of industry. This would help the industry to redeploy the profits and also contribute to the growth of the economy, Mr. Sekar further added.

d) Conversion of Limited Liability Partnership Firms

Mr. Sekar said that while BCIC welcomes the tax exemption on conversion of companies into LLP, he sought the Chairman, CBDT to reconsider the limit of Rs. 6 million and sought for enhancement of the limit as this benefit would be made available only for small companies. He then requested that the concept of exemption on conversion should be made applicable to all.

e) R & D Development

Mr. Sekar requested the Chairman, CBDT to consider re-introduction of exemption provision for R&D companies as approved by DSIR in line with earlier provision of section 80 IB(8).

f) Safe Harbour Provisions

He brought to the notice of the Chairman that the Transfer Pricing was amended to bring safe-harbour provision and requested the Chairman to invite BCIC to make its Presentation before the Committee on the above issue as the Chamber had already prepared a detailed report to facilitate introduction of safe-harbour regulations in the country.

g) International Financial Reporting Standards (IFRS)

The introduction of International Financial Reporting Standards (IFRS) will create a gap between the method of accounting and taxation principles. It is essential that the legislation should be brought in line with IFRS.

He urged the Chairman, CBDT to hear the views of the industry and also said that the Chamber would be happy to prepare a working draft on the impact on IFRS on tax and also convergence of IFRS into tax that would facilitate tax payers and the Board.

h) Individual tax to be linked to cost of living

Welcoming the rate of tax for individual, Mr. Sekar said that it would have been desirable that the basis of taxation of individual to be linked with the Cost of Living Index. He however suggested to increase the lower exemption limit from Rs.1.60 lakh to Rs.4.00 lakh considering the current cost of living.

i) Incentives for Manufacturing Industry

Mr. Sekar brought to the notice of the Chairman, CBDT that at present all the benefits to Manufacturing Sector is available only if the Unit is set up in North Eastern Territory and specific backward areas. However, he requested that additional incentives on investment basis or on expansion basis would certainly boost the growth of the Sector. He also appealed to the Chairman to consider reintroduction of investment allowance to all the manufacturing companies for purchase of new machinery and equipment which would stimulate more demand.

Mr. P.V. Srinivasan, Vice President- Corporate Taxation, Wipro Limited in his address gave an overview of the Union Budget proposals and welcomed some of the following proposals which included:-

- a) Rationalization of Income Tax slabs
- b) Introduction of Saral 2 Forms
- c) Enhancement of incentives for R & D institutions from 150% to 200% on in-house R & D and also from 125% to 175% on contribution to recognized scientific institutions
- d) Introduction of Investment linked Incentives for SEZs
- e) Conversion of Private Companies/Unlisted companies to LLP

Mr. S.S.N. Moorthy, Chairman, CBDT in his Keynote Address responded to the various queries put forth by the earlier speakers especially on the following issues:-

MAT

Regarding the hiking Minimum Alternate Tax (MAT) from 15 to 18%, Mr. Moorthy said that the MAT rate has to be seen in the context of the reduction in surcharge rate which has been brought down to 7.5% from 10%. This reduction had resulted in a revenue loss of Rs.5,000 crore which has been made good by the MAT rate hike and hence it is revenue neutral from the Union Government's point of view, he said.

He said the effective tax rate for Indian Corporate stood at 22% although the normal tax rate is 33%. The effective tax rate is computed after a whole host of deductions including tax credits and the like.

Introduction of LLP

On the issue of introduction of LLP, the Chairman said that this is only a beginning and this is on par with the Audit Tax Proposals and once the Direct Tax Code comes in place, this will be expanded.

Direct Tax Code

On the issue of Direct Tax Code, the Chairman said that it is a welcome document which has taken into consideration all the concerns of industry and it will drive the draconian concept of taxation. A modified document will be in the public domain and he welcomed any further suggestions/recommendations from the Industry.

Samsung Judgment

On the issue of Samsung Case, Mr. Moorthy said that the CBDT is adopting wait and watch policy and will take revenue-friendly decisions to minimize hardship in this regard.

Safe-Harbour

On Safe Harbour Rules, the Chairman said that the Government will be coming out with its Report within 3 months after taking into consideration the suggestions put forth by the Industry. However, he requested the BCIC to send its views and recommendations to the Director General of International Taxation so that it will be taken into consideration before the Report is finalized.

SEZ

On the issue of SEZ, he said that the Government was signaling its intent of encouraging more investments and was keen to channelize concessions being given to promote investment from an investment point of view instead of profit point of view. He also added that the concept of SEZ will be clearly spelt out in the proposed Direct Tax Code.

IFRS

On issue of IFRS, the Chairman said that Central Board of Direct Taxes has not yet introduced IFRS and the new Rules will be in harmonization with International norms and experiences and there has been lot of discussions on the Tax mobilization /environment on introduction of IFRS.

The Address by Mr. Moorthy was followed by Q & A session and the participants sought clarification from the Chairman on several issues which include the following:-

- a) Infrastructure of Tax officials
- b) Proposed amendment to Sec -9 with regard to utilization of services
- c) Transfer Pricing Rules – with regard adoption of Guidelines from OECD countries.
- d) Increase in the Gratuity Limit for Income Tax relief
- e) Withholding tax from the Contractors.

The Chairman responded to all the queries effectively.

The Meeting concluded with Vote of thanks by Mr. Shekar Viswanathan, Vice President, BCIC.
