

# India Union Budget 2022-23

## Point of view

### Global Capability Centres



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## Key announcements for the sector

The Global Capability Center (GCC) model has been at the core of driving digitalisation and transformation for most large global organisations. The growth trajectory for the GCC space has also contributed to wider economic growth in the IT and IT enabled sector in India.

Budget 2022 has announced several measures which we believe shall impact the GCC model, continuing to fuel the investments in this space and witnessing many more capability centres, technology, engineering and research hubs getting set up in the country. Some key announcements include:

- Customs national portal for risk-based checks for SEZs and replacement of Special Economic Zones Act with a new legislation
- Accessibility to foreign universities and institutions and setting up an arbitration centre in GIFT City, also hence addressing the critical skilling agenda for the GCC opportunity
- Launching Ease of Doing Business EODB 2.0, digital Ecosystem for Skilling and Livelihood and virtual labs and skilling e-labs
- Government focus on R&D in sunrise opportunities like artificial intelligence, geospatial systems and drones.

### Direct tax proposals

- No changes in the tax rates for domestic companies
- Tax exemptions provided to non-residents in case of certain transactions with units in IFSC
- Last date of incorporation of eligible start-ups for claiming tax holiday extended by one year to 31 March 2023
- Reduction in surcharge on all kinds of long term capital gains to 15% as against the earlier highest rate of 37%.
- Reduced compliance and litigation:
  - New section proposed to give option to the taxpayers to file updated/fresh return within two years from the end of the assessment year with the following conditions:
    - *Such updated/fresh return should not result in reduction of income or increase in refund*
    - *Such updated/fresh return cannot be filed if assessment is initiated, or any proceedings are pending*
    - *Additional tax of 25% on incremental tax and interest to be paid where the updated/fresh return is filed within one year from the end of the assessment year. Additional tax of 50% in other cases.*
    - Filing of appeals before Tribunal / High Court may be deferred by the tax department on an identical issue which is pending before jurisdictional High Court or Supreme Court.

- Date for issuing directions for faceless scheme covering transfer pricing assessment, international tax, dispute resolution panel ('DRP') proceedings and tribunal appeals extended from 31 March 2022 to 31 March 2024.
- Retrospective amendment proposed from AY 2005-06 to clarify that the term "tax" includes surcharge or cess and therefore cess paid on income-tax will not be an allowable expenditure
- Revisionary powers proposed to be amended to include transfer pricing orders passed by the Transfer Pricing Officer if such orders are considered to be prejudicial to the interests of Revenue
- It is clarified that expenditure incurred for any purpose "which is an offence / prohibited by law" will not be allowed as a business expenditure
- Proposed to clarify that expenditure incurred in relation to an exempt income shall not be allowed as deduction irrespective of whether any exempt income is accrued, arisen or received during the relevant year.

#### **Indirect taxes: SEZ**

- SEZ Act to be replaced with a new legislation
- Reforms in Customs Administration of SEZs expected to be implemented by 30 September 2022:
  - To be fully IT driven and function on the Customs National Portal
  - Higher facilitation and only risk-based checks

#### **Indirect taxes: Customs**

- Customs tariff structure is being simplified
- Legislative amendments made to specify class of officers and assignment of function and jurisdiction of proper officers
- Applicability of Advance Ruling restricted to three years from the date of ruling, or till there is a change in law or facts, whichever is earlier
- Sunset date prescribed for concessional rate of customs duty on import of raw materials and parts/ capital goods used in manufacture of electronic items
- Revised Import of Goods at Concessional Rate of duty (IGCR) Rules notified to make the process digital and transparent.

#### **Indirect taxes: Goods and Services Tax**

- Revised time limit prescribed as 30 November of the following financial year or date of furnishing annual return, whichever is earlier, in respect of:
  - availment of input tax credit ('ITC')
  - issuance of credit notes
  - rectification of errors
- Additional restrictions on availability of input tax credit by means of an auto-general statement
- Two-way communication process between the supplier and recipient in return filing has been done away with
- Transfer of balance in the electronic cash ledger (of Integrated Tax and Central Tax) permitted between distinct persons
- Retrospective amendment effective from 1 July 2017 to provide for levy of interest only when ITC is both – availed and utilised (and not only availed)
- Interest on undue or excess claim of ITC / undue or excess reduction in output liability proposed to be reduced retrospectively from 1 July 2017 to 18 per cent
- Relevant date prescribed for filing refund claim in respect of supplies made to a SEZ developer or unit.

# Implications for the sector

## Positive boosters

Some of the Budget 2022 proposals should provide additional impetus to the GCCs/Hubs and encourage more MNCs to set up their operations in India.

- Focus on trust-based governance, reduction in duplicative compliance, establishing C-PACE to facilitate voluntary winding up of companies etc. as part of Ease of Doing Business 2.0 are welcome steps
- Replacement of Special Economic Zones Act with a new legislation is announced to enable the states to become partners in 'Development of Enterprise and Service Hubs'. Details are yet to be issued
- Customs national portal for risk-based checks for SEZs shall facilitate ease of doing business
- Setting up of world-class universities in GIFT City may facilitate skilled manpower in the financial services space. International arbitration centre may further strengthen the dispute resolution mechanism at GIFT IFSC and enhance ease of doing business.
- More focus on skill development through building a strong digital ecosystem. Various skilling programmes will be reoriented to promote continuous skilling avenues, sustainability, and employability. These measures shall enhance the skill accessibility for GCC sector
- Increased focus on R&D in sunrise opportunities, such as like artificial Intelligence, geospatial systems and drones, etc. shall boost GCC focus in these areas
- The proposal to introduce option to file an updated/ fresh return of income and deferral of filing of appeal by tax department where an identical question of law is pending is aimed at reducing tax litigation.

## Missed opportunities:

- The proposal to remove concessional tax rate on dividend from foreign companies will impact taxpayers with outbound investments and overseas expansion
- Contrary to expectation, no clarification has been provided on the availability of tax holiday benefits to SEZ in case where the employees work from home/outside of the SEZs.

It could be fair to deem the current budget as a progressive budget, aimed at creating virtuous investment cycle, and inter-alia laying down measure which may go long way in further improving the GCC ecosystem in the country.

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