

1. Background

- 1.1 The rapid outbreak of the novel coronavirus has posed huge challenges for public health, environment and economic security of millions of people worldwide. In India too, the spread of coronavirus has been on the rise and is posing severe health and economic adversities for community at large. In view of this, the Prime Minister himself has been reaching out to all stakeholders to fight against the menace on a war-footing basis. Responding to the need of the hour, all stakeholders and large businesses in particular, have come forward to contribute in terms of man, money and material to mitigate the risks to life and livelihood. The situation is evolving by the day and given the magnitude and seriousness of the crisis, collaborative efforts of the government and the private players are imperative to deal with it.
- 1.2 The taxpayers deeply appreciate the swift relief measures announced by the government for the vulnerable and impacted sectors, as also to defer the statutory and regulatory compliances where applicable. It also commends the setting up of a dedicated national fund [‘Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund’ (PM CARES Fund)] with the primary objective of dealing with any kind of emergency or distress situation, like posed by the COVID19 pandemic. Several people have pledged to make donations to PM CARES Fund.
- 1.3 Considering the need to build capacities for essential goods and services and additional infrastructure required for quick and emergency response to the COVID19 outbreak, many taxpayers have come forward and joined hands with the Government for a collective action to fight the COVID19 crisis. For instance, businesses are complementing government endeavours in fighting the pandemic, by providing essential and life survival equipment such as ventilators, Personal Protective Equipment (PPE) N 95 masks, hand sanitisers, various hygienic items, setting up facilities to combat COVID 19 in the hospitals, arranging food to the doctors and the teams dealing with the pandemic and so on, to ensure that timely support reaches the needy.
- 1.4 Many taxpayers are extending commitment for contributing *inter-alia* the following:

Direct measures

- Equipment such as ventilators, respiratory systems for treating infected patients and personal protective equipment for medical personnel
- Testing kits and masks for patients and health workers
- Modular treatment facilities set up for infected patients
- Awareness programmes about the symptoms and preventive measures of COVID 19 amongst general public and training of health workers
- Free supplies of hygiene products like soaps, sanitizers, cleaners, etc
- Manufacturing of Hygienic materials viz sanitisers and various hygienic products.
- Packaging and Printing materials, who are directly providing packaging and logistic support to above products and equipments.

Indirect measures

- Specific contributions to charitable organisations working towards providing any of relief measures mentioned above
- 1.5 The above measures by taxpayers, by leveraging on their expertise and infrastructure, actively supplement the government efforts in reaching out to the needy on time, thus contributing to provide relief to the people of the nation in times of complete disruption.
- 1.6 However, it must be recognised that these companies too are withstanding immense financial pressures in the current scenario. Despite current business challenges and downturn in the economy due to nation-wide lockdown, the taxpayers have still come forward to support India's war against COVID 19. Therefore, it is imperative that the Government should provide all-out support to the efforts being undertaken by the private sector towards this cause.
- 1.7 Government's support by introducing incentives/ measures for taxpayers under the Income tax Act, 1961 (the Act) and allowing all procurements aimed at providing relief from COVID situation to be free from all indirect taxes / duties would result in a fuller commitment by taxpayers towards combat the COVID 19.
- 1.8 With the changed business scenarios and disruption in business across all industries due to COVID -19, there is need to step up the Research and development activities. The present situation shows the importance of R&D to come out with new or cheaper versions of medicines for Indian and export markets. The present tax benefit by way of weighted deduction @ 150% for DSIR approved inhouse R&D centres has expired on 31 March 2020. There is a need to extend the benefit to provide fiscal stimulus to innovation in industry.

Even as a short term measure, there is a need to extend the benefit to R&D expenditure incurred from April to June 2020 in line with time lines extended for claiming payment based Chapter VI-A deductions or capital gains roll over reliefs through the recently promulgated The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance 2020. The Government has the power under s.3(1)(c)(i)(II) of the Ordinance to notify extension of timelines under other provisions. This power can be exercised to extend short term relief for weighted R&D benefit u/s. 35(2AB)

1.9 Currently, s.80D allows deduction for Medclaim premium for self and family members upto Rs. 25,000 (additional Rs. 25,000 for covering parents) with internal cap of Rs. 5000 for preventive health check. Currently, there is confusion whether Medclaim insurance covers Covid 19 treatment. Many insurance companies are denying to cover it under existing policies. This will necessitate taking of new policies or paying higher premium to cover Covid 19 cover. Further, the testing charges for Covid 19 at private labs is Rs. 4500 per person. There will be further expenses if individual is required to isolate/quarantine himself. Further, once an individual is suspected to be infected with Covid 19, the testing extends to the entire family. This increases the cost of testing and treatment significantly. It is necessary to provide relief to individuals in respect of such additional expenditure incurred by individuals (which are not reimbursed by insurance companies or Government).

1.10 It may be recollected that during Gujarat Earthquake in 2001, the Central Government had, as one tax measure, extended benefit of 100% deduction (without being subject to cap of 10% of Gross Total Income) for donations made to approved charities during the period 26 January 2001 to 30 September 2001 subject to such charities maintaining separate accounts for such donations, applying it exclusively for Gujarat Earthquake relief work by 31 March 2004 and transferring any unspent amounts to PM National Relief Fund by 31 March 2004. This amendment was inserted in s.80G through Taxation Laws (Amendment) Act 2001 with retrospective effect from 3 February 2001. Similar measure can be replicated to address short term and medium term distress to lower strata of society due to Covid-19 disruption.

1.11 All the Corporates, specifically MSME's will start facing a serious cash flow crisis due to slow down in economy, slow recovery of debtors, increased operational cost etc due to Covid 19 impact. The service sector faces liquidity issues due to high TDS upto 10% on their revenues which get stuck up as refunds due by the Income Tax Department. Similar challenges arise in GST where refunds on account of input credits accumulate. Expedient release of

such refunds by both Departments will ease the cash flow problems for the industry and facilitate them to pay salaries & wages to their employees/workers on time and avoid financial distress for both industry and employees/workers. To ease the liquidity pressure on the industry, the Government may also consider extending the due dates for payment of TDS/TDS and GST for the months of March to June 2020 and/or grant full waiver of interest. The recently promulgated Ordinance has merely reduced the interest to 9% p.a and waived penalty and prosecution for delay, if the dues are paid upto 30 June 2020.

2. Our suggestions

We suggest that government should provide tax relief for any expenditure incurred by taxpayers as measures for fighting COVID 19. In particular, we request the following:

Income tax Act, 1961: Allow deduction under the Act for expenditure incurred towards combating COVID 19 in India

2.2 The Government's move to provide 100% deduction for contributions to the '*Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund)*' is a welcome step. We truly commend the speed with which the government has responded to the taxpayers' ask and provided clarity on the subject.

2.3 **To further incentivise the taxpayers willing to contribute to protecting the nation amidst economic slowdown, the government should allow full deduction for any direct expenditure incurred towards combating COVID 19 crisis, while computing taxable income for the year in which such expenditure is incurred.**

To enable the above, Sections 37/ Section 57 of the Act may be amended or notifications may be issued allowing full deduction for all expenditure incurred for COVID19. The deduction may be allowed towards the following while computing taxable income for FY 2019-20 and 2020–21:

- Testing kits and masks for patients and health workers;
- Equipment such as ventilators, respiratory system, personal protective gear etc.;
- Setting up temporary treatment facilities for infected patients;
- Training and educating general public and health workers;
- Providing food, temporary accommodation and healthcare facilities to inter-state migrants/homeless people;

- Free supplies of hygiene products like soaps, sanitizers, cleaners, etc
 - Manufacturing of Hygienic materials viz sanitisers and various hygienic products.
 - Packaging and Printing materials, who are directly providing packaging and logistic support to above products and equipments; and
 - Any other items / support as may be notified by the Government from time to time.
- 2.4 To provide incentive for local manufacture of critical items like ventilators, PPE, masks, etc, 100% depreciation may be granted for machinery used to manufacture such items or any equipment used for combating Covid 19.
- 2.5 Furthermore, an incentive by way of weighted deduction of 200% may be given to taxpayers who have actually paid salaries during the months of March, April, May and June 2020 to their employees by honouring the Government's advisories of not laying off the employees and treating absence from work due to lock down as paid leave during Covid 19 disruption period.
- 2.6 The weighted deduction u/s. 35(2AB) @ 150% which expired on 31 March 2020 may be appropriately extended. In any case, as a short term relief comparable to benefits extended to Chapter VI-A deductions and capital gains roll over relief, the time limit for incurring R&D expenditure for weighted deduction benefit @ 150% u/s. 35(2AB) for F.Y. 2019-20 may be extended till 30 June 2020.
- 2.7 An extra deduction u/s. 80D may be granted for expenditure incurred towards testing for Covid-19 infection and/or medical treatment and/or self-quarantine or home isolation. This should be over and above the current limits u/s. 80D and allowed even if the individual has opted for concessional tax rates u/s. 115BAC and allowed to be set off against any head of income to provide more meaningful and effective relief to individuals.
- 2.8 Following the precedent of amendments made to s.80-G for Gujarat Earthquake relief in 2001, similar amendment may be made to extend benefit of 100% deduction (without being subject to cap of 10% of Gross Total Income) for donations made to approved charities during the period from 1 April 2020 to 30 September 2020 subject to such charities maintaining separate accounts for such donations, applying it exclusively for Covid-19 relief work by 31 March 2022 and transferring any unspent amounts to PM CARES Fund by 31 March 2022. This deduction may be granted to corporates and non-corporates even if

they have availed lower tax regime u/s. 115BAA or 115BAB or 115BAC or 115BAD.

2.9 In addition to the above, section 11 of the Act may be amended or notification may be issued to provide that the spend towards COVID 19 shall be considered as application of income for computing exemption under Section 11 of the Act. Notwithstanding anything contained in any law for the time being in force, or in its charter/ Deed/ Constitution/ Memorandum/Articles, such spend by the charitable institutions should be regarded as in compliance with the law, its Deed and Objects. This will encourage charitable institutions to spend their funds towards combating COVID19 crisis.

Indirect taxes

2.10 It is requested that complete waiver be granted on import / supply of goods or services or both for contributions made towards COVID19. In this context, appropriate notifications / amendments, as summarised here-in-after, may kindly be considered for issuance:

For goods imported in India by companies for contribution towards COVID19

2.11 Issue notification in exercise of the powers conferred by Sub-section (1) or Sub-section (2) of Section 25 of the Customs Act, 1962 granting:

- Exemption from the whole of the duty of customs leviable thereon under the First Schedule to the said Customs Tariff Act;
- Exemption from Integrated Goods and Services Tax 2017 leviable under sub-section 7 of Section 3 of the said Customs Tariff Act;
- Exemption from all duties of Customs including but not limited to Health Cess, leviable under sub-section (1) of Section 141 of the Finance Act, 2020 read with Fourth Schedule of the said Act,

to all goods when imported into India intended for use in or in relation to the treatment including diagnosis as also testing of COVID19 virus or any ailments related to the said pandemic.

It may be clarified that the said exemption would be granted to any importer who is importing the goods on his own behalf for the purposes of donation or under directions of another person / agency who intends to donate or use the said equipment for aforesaid purposes.



Further, waiver may also be granted on cess or royalty payable to Government for any licence fees paid for any software/hardware that are imported for enabling the employees to work from home during Covid 19 disruption period.

For supply of goods or services or both by any person/ associate or group concerns of a corporate to the said corporate for contribution towards COVID19

- **'Zero rated supply'**: Amend Section 16(1) of the IGST Act to incorporate / declare all supply of goods or services or both as contribution towards COVID19 as 'Zero Rated Supply'
- **Refund**: Issue Notification in exercise of the powers conferred by Section 55 of the CGST Act 2017 / SGST Act 2017 granting refund of taxes paid on goods or services or both, intended for contribution towards COVID19.

It is important to note that we do not recommend an exemption from GST as it would result in local suppliers being subjected or suffering input tax credit reversals, thereby increasing the cost of domestic supplies. Both the above alternatives, i.e., zero rated supply and refunds, are being proposed so as to ensure that the supplies for the purposes of combating COVID19 are either not subjected to tax, or, where such supplies are subjected to tax – the notification issued under Section 55 of the CGST (and the relevant SGST Act as applicable to IGST Act) ensures that refunds of such taxes so charged are granted. It is humbly requested that mechanisms should be provided to allow prompt refunds to both suppliers as also to agencies donating or using the equipment material etc. to keep costs low so as to ensure efficient use of funds towards combating COVID19 crisis.

Expeditious release of refunds under income tax and GST

To ease the liquidity problems for the industry, especially for MSME sector, it is requested that undisputed amounts of income tax and GST refunds may be released expeditiously to facilitate the industry to pay the salaries and wages of the employees during the current environment of liquidity stress. Further, the Government may also consider extending the due dates for payment of TDS/TDS and GST for the months of March to June 2020 and/or grant full waiver of interest

Industry would deeply appreciate if its suggestions are favourably considered by the government. The incentives mentioned above would encourage the taxpayers in supplementing government's efforts more fully, to provide timely relief to the needy as also enable them to play a more effective role towards nation building in times of serious crisis as today.