BOMBAY CHAMBER

30 May 2020

1. Background

1.1 The Chamber deeply appreciates the direct tax measures announced and implemented by the Government intended to generate liquidity for the businesses and defer compliance deadlines amidst the difficulties caused by Covid-19.

1.2 The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance 2020 promulgated on 31 March 2020 relaxed the compliances becoming due during 20 March 2020 to 29 June 2020. While the due date for payment of taxes was not deferred, the Ordinance reduced the interest rate for delayed payments for taxes becoming due during the said period and paid by 30 June 2020 to 9% per annum instead of 12%/18% and also waived fees, penalties and prosecution for such delayed payments. The Ordinance gives powers to the Central Government to extend the Covid-19 impact period beyond 29 June 2020 and the last date for belated compliance beyond 30 June 2020.

1.3 The Chamber had made representations on 7 April 2020 on certain direct tax and indirect tax measures related to Covid-19 for consideration of Government.

1.4 As part of first tranche of economic stimulus package, on 13 May 2020, the Hon'ble Finance Minister announced reduction in TDS rates on payments to residents (barring certain exceptions like salaries, statutory PF withdrawals, lottery winnings) by 25% for F.Y. 2020-21. This is intended to generate liquidity of Rs. 50,000 Cr for businesses. Further, announcements for extension of due dates for other matters like tax audit reports, return filing, completion of assessments and direct tax dispute resolution under Vivaad Se Vishwas Scheme were also made.

1.5 However, the Covid-19 lockdown got extended four times till 31 May 2020. Considering ever increasing number of Covid-19 positive cases day by day, it is expected that while there may be greater relaxations beyond 31 May 2020 to start the economic activities in the country, yet there are likely to be several constraints which will prevent businesses from operating at their full potential until a vaccine or cure is found for Covid-19. Such adverse conditions will prevail due to combination of economic factors like reduced demand in the economy, non-availability of labour due to large scale migration to rural areas and public health safety measures like social distancing, reduced public transport, mandatory closure of office/factory if a single Covid 19 positive case is detected, etc.

1.6 The industry appreciates the theme of 'Aatmanirbhar Bharat Abhiyan' to make India self-reliant and is fully committed to achieve this object. The industry also appreciates that Covid-19 has severely impacted Government's revenues and hence there is limited fiscal space available to further forego tax revenues through exemptions or deductions. But the industry requires support in the form of increased liquidity in the short term period at least till 31 March 2021 in order to survive the unprecedented human and economic crises due to Covid-19.

1.7 In this background, the Chamber would like to put forth certain representations on direct tax measures for consideration of the Government

2. Our suggestions

<u>Reduce TDS rates for payments to residents by another 25% to 50% of normal rates</u>

2.2 The reduction in TDS rates by 25% on most payments to residents is inadequate. Most industries have been adversely impacted due to loss of revenue for two months. The economic activity is expected to increase only gradually during the balance part of the year. Some sectors like hospitality, aviation and travel are severely impacted and unlikely to make profits in the current year. They deserve full exemption from TDS to avoid blockage of working capital.

2.3 However, administratively it may be difficult to provide sector wise relief from TDS. Also, expecting each business entity to make application for lower/NIL TDS under section 197 will increase compliance burden for industry as also administrative burden for the Tax Department. Hence, it is suggested that TDS rates on payment to residents may be reduced by further 25% to 50% of normal rates till 31 March 2021. This may provide further liquidity of Rs. 50,000 Cr for the industry as per Government’s estimates.

<u>Waive advance tax instalment falling due on 15 June 2020</u>

2.4 The first quarter has been a total wash out for most industries due to countrywide lockdown. The industry is finding it difficult to make reliable advance tax estimates for the current financial year due to high degree of uncertainty on how Covid 19 pandemic will pan out during rest of the year. Making projections of expected profits is extremely difficult for the current financial year. Further, most industries are facing severe liquidity constraints.

2.5 Under the circumstances, making advance tax estimate for payment of 15% of advance tax instalment due on 15 June 2020 is a huge challenge for the industry. The Ordinance has merely reduced the interest to 9% p.a instead of 12% if the payment is made by 30 June 2020.

2.6 It is true that if the business entity ultimately makes loss for the full financial year, there will be no interest liability u/s. 234C. However, in an optimistic scenario, if business sentiment dramatically improves during the later part of the year and it makes profits, the business entity will be saddled with interest u/s. 234C for failure to deposit first instalment of advance tax of 15% on 15 June 2020.

2.7 The current circumstance being unprecedented and extraordinary which is not comparable to normal scenario of shortfall of advance tax due to better than expected performance, it is recommended that the Government may waive the first advance tax instalment falling due on 15 June 2020. Further, considering that economic recovery, if at all, will be gradual, the balance advance tax instalments falling due on 15 September 2020 (45%), 15 December 2020 (75%) and 15 March 2021 (100%) may also be recalibrated to 20% on 15 September 2020, 50% on 15 December 2020 and 100% on 15 March 2021.

Reduce interest rate for delayed payments to 6% p.a and extend period for delayed payments with reduced interest rate

2.8 The Ordinance has reduced the interest on delayed payments for taxes falling due between 20 March 2020 and 29 June 2020 to 9% p.a. instead of regular rate of 12%/18% p.a if such tax is paid by 30 June 2020. The Central Government has power under the Ordinance to extend the period of tax falling due as also last date for payment at lower interest rate.

2.9 The interest rate for delayed GST payments has been reduced to 6% p.a.

2.10 The RBI has also reduced the repo and reverse repo rates to 4% and 3.35% respectively on 22 May 2020.

2.11 Considering the overall reduction of interest rates, it is represented that the interest rate for delayed payments of income tax should also be reduced to 6% p.a. Further, considering the extended period of lockdown and longer period expected to be taken for restoration of normalcy, the period of tax falling due should also be extended till 31 March 2021 with last date of payment at lower interest rate till 30 April 2021.

Liquidity support for salaried class with total income upto Rs. 15 lakhs

2.12 The salaried class has not been provided any relief from salary TDS under section 192 which the Revenue Secretary clarified during Press Conference on 14 May 2020 that it is intended to avoid any compliance burden of advance/self assessment tax and corresponding interest obligation.

2.13 However, it is submitted that the need of the hour is provide more liquidity in the hands of the middle class salaried people to boost demand side of the economy. As part of economic stimulus package and fiscal policy measures, the Government and RBI has eased the liquidity support to industry through bank credit. This meets the supply side of the economy. However, the Government also needs to take measures to boost economic consumption to create more demand in the economy to make 'Aatmanirbhar Bharat Abhiyaan' a success.

2.14 The Finance Act 2020 has introduced an optional concessional tax regime under section 115BAC for middle class salaried and non-salaried individuals earning taxable income upto Rs. 15 lakhs. Vide Circular No. C1 of 2020 dated 13 April 2020, the CBDT has permitted employees to intimate their option to employers for salary TDS as per concessional tax regime.

2.15 To improve liquidity in the hands of middle class people, the Government has also taken a number of measures related to Provident fund like full payment of employer's and employees contributions by Government for small employers, permitting non-refundable Covid-19 advance upto 75% of PF balance, reducing employer's and employee's contributions from 12% to 10% for three months, etc

2.16 Reduction of salary TDS by at least 50% will further enhance liquidity in their hands in the short term and boost demand in the economy. The shortfall in TDS can be met through different alternative options like (a) requiring employers to deduct higher TDS in first 3 months of next F.Y. 2021-22 or (b) giving option to employees to pay advance/self-assessment tax or (c) imposing higher interest if not paid by due date of filing return by 31 July 2021. Further, to reduce the revenue impact for Government and encourage more employees to move to lower tax regime without exemptions/deductions, this facility may be permitted only for those employees who have intimated option to their employees in terms of Circular No. C1 of 2020 dated 13 April 2020 to avail concessional tax regime under section 115BAC.

2.17 Hence, it is represented that salary TDS be reduced to 50% of normal tax liability for resident employees earning taxable salary income upto Rs. 15 lakhs.

<u>Liberalise Rule 30(3) by expanding scope coverage and laying down transparent guidelines prescribing circumstances in which such facility can be availed</u>

2.18 Rule 30(3) permits TDS AO to permit quarterly payment of TDS instead of monthly payments. But this rule has several attached conditions as follows :-

- The facility is permitted only in 'special cases' but there is no definition or guidance on what such 'special cases' could be
- The facility is permitted only for four types of TDS on payments viz. (a) salary TDS u/s. 192 (b) payment of interest other than interest on securities to residents u/s. 194A (c) payment of insurance commission to residents u/s. 194D and (d) payment of commission/brokerage to residents u/s. 194H
- The TDS AO is required to obtain prior approval of JCIT before granting such facility

2.19 Further, the process for obtaining approval under Rule 30(3) is a manual process unlike the process for obtaining lower/NIL TDS certificates u/s. 197.

2.20 Due to highly discretionary nature of the facility under Rule 30(3), it is seldom being used by the industry which makes the facility a dead letter in the Rules.

2.21 To streamline the process and enable more taxpayers to avail the facility of quarterly TDS payments – especially during Covid-19 pandemic impacted period, the following suggestions may be considered :-

- The facility may be made more broad based and extended to all TDS provisions

- The nature of 'special cases' may be defined either through Rules or CBDT guidelines to provide more transparency and guidance to both taxpayers and Tax Authorities

- Timebound online procedure for making and disposing applications under Rule 30(3) may be introduced.

<u>Enable furnishing of quarterly TDS/TCS returns and download of TDS/TCS certificates through OTP enablement as alternative to Digital Signatures.</u>

2.22 Many business entities are facing practical challenges in furnishing of quarterly TDS/TCS returns and download of TDS/TCS certificates from TRACES portal due to digital signature requirement. The authorised persons are working from home whereas their digital signatures are lying in officewhich they are unable to access due to lockdown.

2.23 This practical challenge has been addressed in GST compliance by permitting the authorised persons to validate the returns by Aadhar/mobile OTP process.

2.24 It is represented that similar facility may be introduced in income tax for furnishing of quarterly TDS/TCS returns and download of TDS/TCS certificates from TRACES portal

<u>Expeditiously release refunds due to corporates</u>

2.25 On 8 April 2020, the CBDT issued a Press Release stating that it has been decided to issue all pending income-tax refunds up to Rs. 5 lakh immediately.

2.26 On 13 May 2020, as part of first tranche of economic stimulus package, the Hon'ble FM announced that all pending refunds to charitable trusts and non-corporate businesses/professions including proprietorship, partnership, Limited Liability Partnerships and co-operatives societies shall be issued immediately.

2.27 On 22 May 2020, the CBDT issued a Press Release informing that CBDT has issued tax refunds worth Rs. 26,242 Cr since 1 April 2020 to 21 May 2020 of which Rs. 14,632 Cr have been issued to 15,81,906 non-corporate taxpayers and Rs. 11,610 Cr have been issued to 1,02,392 to corporate taxpayers respectively.

2.28 It is submitted that since income tax refunds represent monies due to the taxpayers, there should be no discrimination between non-corporate and corporate taxpayers in the matter of expeditious release of such refunds. The release of refunds helps the corporate taxpayers to meet urgent working capital needs of the companies in this critical period of survival.Moreover, all refunds which are due should be forthwith issued without any discrimination of the quantum of refund, being restricted to Rs 5 lakhs only. Refunds due and determined arising from disposal of Appeals last year have not been released to Corporates, which are reeling under liquidity crisis.

Extension of WFH in relation to SEZ Units :

2.29 To address the Covid19 Pandemic related hardships for the IT/ITeS industry having units in SEZs, the Department of Commerce/Department of Telecommunication has provided a relaxation by allowing them to WFH till 31st July, 2020. SEZs units have also been permitted to take desktops/laptops outside the SEZs to enable them to work from home.

2.30 Considering that the pandemic is expected to continue till such time as a cure is found, the current situation is expected to take time to improve, compelling the industry to consider WFH as the new ‘normal’ for doing business. Considering these circumstances, it is imperative that, on the condition that all export obligations. commitments made from these SEZ’s are fulfilled, all relaxations granted under the various regulations for enabling WFH should be extended atleast till the end of this financial year i.e. till 31st March 2021.

2.31 The extension will allow the industry to continue with the SEZ facilities and fulfil the export commitments, ensuring the vital inflow of foreign exchange for the nation. The employees WFH should be considered as an extension of the SEZ facilities as they would be connecting to servers through encrypted and secured networks while providing the required services to customers.

Industry would deeply appreciate if its suggestions are favourably considered by the government to ease the liquidity problems faced by the industry due to unprecedented and extraordinary circumstances created by Covid-19 pandemic.