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Union Budget 2021

Tax Alert – Consumer Products and Retail

Budget 2021- Push to ‘Consumption’ and ‘AtmaNirbhar Bharat’

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Budget 2021 has two key themes for Retail & Consumer Products Sector:

- **Increase in spend especially Capital expenditure:**

  Increased outlays on Infrastructure projects, road rail and other construction, capital expenditures, affordable housing, healthcare, etc are likely to boost rural and urban consumption due to increased purchasing power.

- **Renewed focus on Government’s flagship ‘Make in India’ programme and ‘AtmaNirbhar Bharat’ initiative:**

  Rationalization of custom duty exemptions, increase in certain duties, Textile Parks, etc, are likely to further incentivize domestic manufacturing, and new investments with increased job creation. Sourcing and supply chain aspects for retail and consumer product companies may have to be re-strategized.

Non-introduction of any COVID-19 related taxes, or any increase in income taxes has also been a pleasing surprise. However, there are some unforeseen arduous proposals around TDS on purchase of goods above certain thresholds proposed w.e.f. 1 July 2021.

Overall, though, in the COVID-19 setting, Budget 2021 proposals seem to be extremely bold and optimistic for the sector.

How does the budget impact consumer products and retail sector?

Key policy announcements

- **Likely huge push to consumption story due to increased outlay on capital expenditure, infrastructure, affordable housing, healthcare etc.**
  - Increase in capital expenditure from INR 4.12 lakh crores (FY 2020-21 BE) to INR 5.54 lakh crores (FY 2021-22 BE)
  - Increase in health outlay from INR 0.94 lakh crores (FY 2020-21 BE) to INR 2.23 lakh crores (FY 2021-22 BE)

- **Sourcing strategies - Renewed focus on 'Make in India'/ domestic manufacturing**
  - Product linked incentive ('PLI') launched to create manufacturing global champions across 13 sectors with amount committed nearly INR 1.97 lakh crore in the next 5 years starting FY 2021-22
  - Mega Investment Textiles Parks ('MITRA') Scheme to create world class infrastructure for global champions in textile sector leading to creation of 7 textile parks over 3 years.

- **Incentives proposed for 'start ups' likely to aid new entrepreneurs including in retail and e-commerce sectors**
  - Incorporation of One Person Companies (OPCs) by allowing OPCs to grow without any restrictions on paid up capital and turnover, allowing their conversion into any other type of company, allowing Non-Resident Indians (NRIs) to incorporate OPCs in India

Key tax announcements

Direct taxes

- **Equalization Levy (EL)**
  - Income-tax exemption for payments subject to EL:

    Ambiguity that existed on inter-play of EL and royalty/ fees for technical services provisions has now been clarified. Exemption from income-tax will apply from AY 2021-22 onwards, subject to the transaction not being in the nature of "royalty or fees for technical services" under the Act or tax treaty, whichever is beneficial to the tax payer
  - Clarification in the definition of 'e-commerce supply or service': The term "online sale of goods" and "online sale of services", for the purpose of e-commerce supply or service, has been clarified to include one or more of the following online activities:
    - Acceptance of offer for sale
    - Placing the purchase order
    - Acceptance of the Purchase order
    - Payment of consideration
    - Supply of goods or provision of services, partly or wholly

    The above proposal is effective from AY 2021-22

- Clarification on scope of 'consideration' subject to EL:
  Consideration from e-commerce supply or services to include:

  - Consideration for sale of goods irrespective of whether the e-commerce operator owns the goods
  - Consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator

  The above amendment is effective from AY 2021-22

- **TDS @ 0.1% on purchase of goods applicable w.e.f. July 2021:**
  - Every "buyer", on purchase of goods, shall now be liable to deduct tax at source at the rate 0.1% on payments made to resident seller, on sum exceeding INR 50 lakhs
  - "Buyer" is defined as a person whose total sales/ turnover/ gross receipts from business exceeds INR 10 crores during the financial year immediately preceding the financial year
  - TDS provisions not applicable where
    - Transaction is subject to TDS under any other provision of the Act; and
    - Transaction is subject to TCS under the provisions of the Act, other than TCS on sale of goods which was introduced from 1 Oct 2020
  - Where seller does not have PAN, tax deduction would apply at the rate of 5%

  The above amendment is effective from 1 July 2021

- **Goodwill of a business or profession shall not be considered as tax depreciable asset.** Further, for "goodwill" already added to block of assets:
  - No depreciation shall be allowed thereon from AY 2021-22 onwards and
  - Cost of acquisition for the purposes of capital gains computation on subsequent transfer of such asset shall be after deducting depreciation claimed thereon
- **Incentives for 'start ups' extended**
  - Currently, start-ups incorporated between 1 April 2016 and 31 March 2021, with turnover less than or equal to INR 100 crores, are eligible to claim 100% tax deduction in 3 consecutive years out of 10 years. Such Tax deduction is now extended for start-ups incorporated up to 31 March 2022.
  - Currently, exemption from capital gains is provided to individuals and HUFs on transfer of a long-term capital asset, being a residential property (a house or a plot of land), before 31 March 2021, where such persons utilise such consideration for subscription in the equity shares of an eligible start-up. This Tax exemption is now extended for transfer of capital assets up to 31 March 2022

Indirect taxes

- **Customs:**
  - **Agricultural Infrastructure and Development Cess (AIDC) with effect from 2 February 2021 on import of certain items**
    - For most goods effective burden remains the same

- Examples of goods covered – gold, silver, dore bars, crude palm oil, crude soya bean and sunflower oil, peas, chick peas, lentils, cotton, alcoholic beverages, fermented and non-alcoholic beverages, various types of coal, urea, ammonium nitrate

- **Trade facilitation under Customs law**

  Bill of Entry now to be presented at least one day before import. Further, amendment of Bill of Entry permitted electronically through customs automated system. Inquiry/ investigation under the Customs law leading to a show cause notice needs to be completed within 2 years (can be extended by 1 more year based on Commissioner approval).

- **Strengthening of penal provisions under Customs law**

  Export goods can be confiscated for wrongful claim of remission/ refund. Penalty up to 5 times leviable on export refunds claimed using input tax credit on invoices obtained by fraud; this will be in addition to penalties under GST provisions.

  - Certain changes in Basic Customs Duty ('BCD') to **promote value addition in electronics sector**

    With effect from 2 February 2021

    - Compressors of refrigerators / air-conditioners from 12.5% to 15%
    - Specified parts of mobile charges from nil to 10%
    - PCBA of charger or adapter increased from 10% to 15%
    - Specified insulated wires and cables from 7.5% to 10%
    - Inputs and parts of LED lights or fixtures from 5% to 10%
    - Solar invertors from 5% to 20%
    - Solar lanterns or lamps from 5% to 15%

    With effect from 1 April 2021

    - Specified parts of mobile phones (PCBA, camera modules, connectors) from nil to 2.5%
    - Inputs, parts and sub-parts for manufacture of lithium ion battery and battery packs from nil to 2.5%

- **Reduction in BCD rates in raw materials and inputs used by domestic manufacturers**
  - Naphtha from 4% to 2.5%
  - Specified textile products like nylon chips, nylon fibre, yarn from 7.5% to 5%
  - Specified raw materials for iron and steel sector such as semis, flat, long products of non-alloy, alloy and stainless steel reduced to 7.5% and copper scrap reduced to 2.5%
  - Specified components or parts for manufacture of aircrafts by PSUs of Ministry of Defense reduced to Nil
  - Reduction in BCD rates for previous metals – gold, silver, dore bars, platinum, metal coins and waste and scraps thereof

- **Key announcements in GST:**
  - **Input tax eligibility conditions made more stringent** - Supplier should have furnished details of invoice in outward supplies statement. Matching may now become mandatory to determine eligibility
  - **Stricter rules for GST zero rated supplies** - Zero rating of supplies to SEZ units and developers available only if used in authorized operations. Option to pay GST on exports and claim refund now restricted to specified class of person or class of goods/ services (to be notified). In case of export of goods, if amount not realized within 30 days from the FEMA time limit, refund required to be paid back with interest
  - **Procedural relaxations introduced** – GST audit certification done away with. Self-certification of annual reconciliation statement would suffice. Interest to be charged on net cash liability – current administrative arrangements made a part of law.
  - Powers of the Department for recovery of taxes and dues enhanced.

Impact analysis

Government of India's focus on healthcare, infrastructure, affordable housing etc. by way of increase in capital expenditure and health outlay is likely to give a good boost to the purchasing power of end consumers (both rural and urban). This, in turn, should further strengthen the overall demand for FMCG goods, consumer durables, etc resulting in increase in retail sales, e-commerce sales.

Given that India's textiles industry contributed around 13% of the industry production, around 12% to India's export earnings and also employed more than 45 million people in FY20, launching of schemes like PLI and MITRA would not only support the existing resources deployed in the textile sector but also boost domestic manufacturing. It will further lay down the growth path for the sector and enable investments to revive the sector which has been adversely affected by the ongoing global pandemic.

Renewed focus on 'Make in India'/'Atmanirbhar Bharat' initiative should give a good fillip to the employment situation and consumer demand. Though increased import duties may warrant many certain consumer durables, electronics and retail companies to revisit/re-evaluate their sourcing and supply chain strategies as imports may become costlier.

Further, with regards to the Equalisation Levy (EL) announcements, for certain e-commerce retailers, the impact may have to be examined, because the scope of online sale of goods and provision of services has been expanded considerably. Though the much-awaited clarifications on non-applicability of EL where transaction is taxable as Royalty/FTS and applicability of Section 10(50) exemption (w.e.f. April 2020) is a welcome move.

Provisions around introduction of TDS on sale of goods where the industry is already struggling to cope and comply with the recently introduced TCS provisions on sale of goods may further complicate the compliance requirements.

Incentives for 'start ups' is likely to aid new entrepreneurs in retail and e-commerce sectors. However, introducing provisions to deny tax depreciation on goodwill may prove to be a snag from potential structuring/ acquisition deals in the sector in certain cases.

Overall, Budget 2021 proposals are likely to be constructive for the Retail and Consumer Sector and is likely to bring cheer.

Glossary

BE – Budget Estimates

CG – Central Government

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