FICCI President R. V. Kanoria's presentation of FICCI's views at Pre-Budget Meeting with Pranab Mukherjee on February 3, 2012 in North Block, New Delhi

* FICCI feels that the Union Budget for 2012-13 should be framed in the backdrop of on-going economic downturn, rapidly declining industrial growth and weak investment sentiments.

* Industry, traders, service providers, investors both from within and outside, everybody expects the 2012-13 Budget would be used to initiate new reform measures to energize growth.

* At present, government is suffering serious fiscal pressure, causing great anxiety. Government may have to evolve measures to ease the pressure. FICCI's out-of-the-box thinking is to:-

  - Privatize coal mines

  - Encourage Indians to bring their overseas wealth back to India – kindly consider announcing one time amnesty scheme

  - Build Inventory of government assets other than PSUs, that can be monetized

  - Widen the Direct Tax base - currently less than 4 percent of our population, are within the tax net - streamline the existing procedures and make the tax administration assessee-friendly to improve compliance

* Another area of grave concern is that the GDP growth in the current fiscal may be in the lower band of 7% to 7.5%, with some significant downside risks. The budget will need to initiate fiscal measures to facilitate the economy to recover from the on-going slowdown, come back on its growth trajectory and to move on to the 9 percent mark in the next 2-3 years.

* A conducive economic environment and the initiation of new tax reforms in the right direction can go a long way in helping us to achieve the desired growth trajectory from next year onwards.

* Towards this end, may I submit that **this year's budget must**:-

  (i) script a strategy for investment led growth

  (ii) stimulate demand through fiscal measures

  (iii) push the envelop on social sectors, with a thrust on human capital formation, skill formation, better health at the bottom of the pyramid and better education for the relatively disadvantageous; and

  (iv) allocate significant resources towards the agriculture sector

With a view to operationalizing these submissions, our concrete ideas, Sir, are:-

One, **Restore Investment Allowance** – Kindly consider restoring investment allowance to enthuse entrepreneurs and motivate them to undertake productive investments that otherwise may not materialize.

Two, Streamline Investment-Linked Incentive for specified businesses – you introduced this incentive in 2009 for specified businesses, **by way of allowing 100% deduction of expenditure of capital nature incurred by the assessee** (section 35-AD). Sir, the benefit is merely of accelerated depreciation, which is **neither attractive nor an adequate substitute for profit-linked incentive. To make it more meaningful**, may I urge that the **losses from the specified business under this section should be made eligible for set-off against profits from other businesses of the taxpayer**, and not restricted to be set-off against only the specified businesses, as it is not always the case that the taxpayer would only be carrying on the 'specified business'. What I am suggesting is that **Section 73A**, which provides the said restriction, **be deleted**.

Three, Provide additional depreciation for Climate Change - **Additional depreciation, possibly 100% may kindly be provided, on Plant and Machinery to be replaced to upgrade technology to meet climate change norms** - This will have **twin impact** of **higher productivity** and obviously **jobs**, in addition to helping in climbing the technology ladder with environment-friendly new technologies.

Four, Remove Cascading impact of DDT – May I urge you that the **cascading impact of DDT be totally removed**. Sir, you may kindly recall that your predecessor in his 2008 budget provided the deduction benefit upto one level in the multi-layered corporate subsidiary chain, which though was a welcome move, but has not gone far enough to mitigate the hardship fully. **The deduction benefit must be extended to all levels of multi-layered corporations**. May I humbly **submit** for your kindly **restoring Section 80-M**, which provided similar deductions in respect of inter-corporate dividends.

Five, Rationalize MAT – The existing rate of MAT at 18.5%, translating into almost 20% with surcharge and education cess, has impacted significantly cash flow of companies with low or no taxable income. May I urge you to kindly reduce the rate of **MAT** to a reasonable level – **not exceeding 50% of the basic corporate tax rate**. May I also urge that **infrastructure companies, units in SEZs, SEZ developers** and **investment companies** be **exempted from MAT**.

Six, Encourage consumption spending by leaving more money in the hands of the people – My submission is that **the peak rate of 30% for individuals be made applicable over an income of Rs.10 lakhs**. We believe that if our individuals are allowed to face lower tax rates at higher income level, **it will incentivize people to come into the tax net, ensure higher collection from greater compliance and encourage consumption and savings**.

Seven, **Extend tax holiday benefit for EOUs and undertakings in FTZs for 2-3 years**

Eight, Reduce cost of borrowings for funding infrastructure development and other important projects - My suggestions are two-fold:-

One, **Restore tax exemption** of income from investment in infrastructure and other projects **under section 10(23G)**, and;

Two, **Interest earned by foreign lenders** on overseas loans availed by Indian borrowers **be tax exempt** in all cases, as was the position earlier under section 10(15)(f). **Alternatively**, the **taxation of interest payable on long term overseas debt**, particularly in the nature of bonds in the international markets, **be provided at 5 percent on the gross basis in all cases**, and **not** only **restricted to the interest received from a notified International Debt Fund**, which you had kindly provided in your last year's budget. Permit me to submit that if our suggestion is implemented, it **will make the foreign currency bond issuances commercially viable for Indian issuers**, more particularly those that need capital for long gestation projects. Moreover, **it will also generate additional tax revenues for the government** as the lower withholding tax will be applicable only for **long dated (over 10 years) issuances**, which in any case **are not being accessed by Indian issuers presently due to high tax rates**.

Nine, Encourage repatriation of Dividend Income / Capital Gains by our overseas subsidiaries – While a large number of Indian corporate houses have been making huge investments abroad to tap the foreign markets, but owing to high tax rates in India, the profits from such overseas business are not being repatriated back to India. Although, Sir, in your last year's budget, **you had kindly provided a special tax regime of taxing dividend income from foreign companies at the rate of 15 percent for the year 2011-12, it has not bolstered the Corporate India's inclination to repatriate profits back to India**.

With the signs of weakening economy and liquidity, beneficial tax regime for repatriation of dividend and capital gains would provide sustainability to India's growth story. **May I, therefore, urge you to kindly consider taxing foreign sourced dividend / capital gain income at a special rate - not exceeding 10 percent, on a continuous basis.**

Ten, Encourage R&D – May I urge you to kindly extend weighted deduction for R&D to service sector, to investments by private sector in agri-infrastructure as also to extension services provided to the farmers. May I also humbly submit that:-

- All expenditures related to research whether involving in-house facility or outside approved facilities should be eligible for weighted deduction.
- Weighted deduction benefit under Section 35(2AB), which is expiring on March 31, 2012, should be extended for another 5 years.
- Amount of weighted deduction under section 35(2AB) should be deductible while computing tax under MAT.

Eleven, Streamline Transfer Pricing Regulations – May I submit for your kindly introducing appropriate guidance on pricing of inter-company funding, an appropriate APA framework, and to strengthen Dispute Resolution Panel (DRP) as an effective tool for alternate dispute resolution - by constituting DRP as an 'independent' judicial board with panelists from economic, legal and accounting background and tax department, while simultaneously prescribing time-frame for disposal of appeals.

Twelve, Foreign Exchange Transactions - India has seen huge volatility in the foreign exchange rates. To avoid hardship on the taxpayers, may I submit that **losses on account of foreign exchange should be allowed as revenue expenditure** including unrealized year end mark-to-market losses. Also, forex derivative and hedging transactions be specifically excluded from the definition of speculative transaction under Section 43(5)(d)

Thirteen, on the **Social Sector**, I would like to make two concrete suggestions:-

(i) To attract large scale private investments in healthcare, tax holiday benefit be made available for 10 consecutive assessment years in any of the 15 years of its inception, and

(ii) Government should formulate a National policy for PPP initiatives in the **higher education** sector and private sector be encouraged to set up **higher educational** institutions as a Section 25 Company.

Fourteen, Mandatory requirements of obtaining Permanent Account Number (PAN) – You may kindly consider **doing away** with the **mandatory requirements of** obtaining Permanent Account Number (**PAN**) under Section 206AA **in case of non-residents** receiving income on which tax is deductible. In any case, you may kindly appreciate that withholding tax rate specified under Section 206AA cannot exceed the tax treaty rate. May I also urge your kindly providing **mandatory disposal of cases by Commissioner of Appeals** under Section 250(6A) to dispose of cases **within one year** from the end of the financial year in which such appeal is filed.

Fifteen, Direct Taxes Code (DTC) – Sir, our submissions is that **if the DTC launch** is going to get **delayed** beyond 1st April, 2012, the dates provided in the Code for **grandfathering** of the availability **of tax incentives** as on or before 31st March, 2012, should automatically **be extended and** grandfathering **made effective** as **on the date of the DTC launch**. May I humbly suggest you to **kindly clarify accordingly in the ensuing budget**, to avoid any uncertainty in this regard.

Sixteen, Other Sector-specific suggestions:-

Oil and Gas - May I urge you to kindly explicitly provide that the term "Mineral Oil" will include natural gas for all past and future rounds of production of Natural gas for the availability of tax holiday, including to Coal Bed Methane.

Power - At present an undertaking is eligible for tax holiday only if it has started generating power before 1st April, 2011. May I suggest your kindly extending the period for another six years and the tax holiday benefit be made available to undertakings beginning generation of power by 31st March, 2017.

Aviation - Given the severe stress on the aviation sector, may I urge you to kindly

– Grant aviation sector 'Infrastructure' status

– And, Aviation Turbine Fuel (ATF) be granted 'Declared Goods' Status.

Telecom - On Telecom sector, I have three submissions:-

– Telecom sector be classified as Infrastructure and tax benefits provided accordingly

– Tax holiday benefit be also made available to telecom companies starting services after 31st March, 2005

– Cenvat Credit on Telecom towers should be allowed as these are used in the provision of taxable services.

Tyre - There is a need to reduce customs duty on Natural Rubber from the present level of 20% to preferably 7.5%.

Housing - May I request you to allow funding of township and residential / commercial buildings, by financial institutions and banks at concessional rates on the same norms as for infrastructure sector.

Seventeen, On **Indirect Taxation**, my suggestions are:-

On Policy Front

- Evolve suitable mechanism for expeditious refunds of service tax, SAD as also cenvat accumulations, which cannot be modvated. It may also kindly be ensured that refund is granted in time bound manner.
- Litigation matters should be adjudicated within a defined/ prescribed timeframe.
- Advance Ruling should be allowed even in case of transactions between domestic entities.

Service tax

- Suitable provisions should be made to allow all input/services related credits
- Adjustment of excess or short payment of service tax to be permitted within the same financial year, without any monetary limit
- Extension of time limit for revision of service tax return

- Export of Service related disputes are mounting. They should be favorably resolved at the earliest

Goods and Services Tax (GST) – Sir, the delay-after-delay in the GST launch has been causing great anxiety amongst the business community. May I urge you to **kindly** expeditiously **find a way forward to end the current impasse**. Industry is eagerly awaiting some clarity of GST timeline. Kindly ensure that when GST is launched, clarity is provided on transitional provisions for brought-forward credits from Pre-GST to Post-GST.

A word about **charitable organizations**. Charitable organizations including inter-alia NGOs, Chambers of Commerce and Trade Associations, you will kindly appreciate, are playing a vital role in the industrial development and social upliftment of the country. **May I urge you, Sir, that these should continue to be explicitly tax exempt, so long the surplus generated are exclusively utilized by them over a certain period for the charitable activities** rendered by them. It is our firm belief that the underlying objective of tax exemption for such an organization should be the end use of its income and not the generation of income.

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