

US-India Tax Forum

NEWSLETTER

Thursday | February 09

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LATEST NEWS AND HIGHLIGHTS

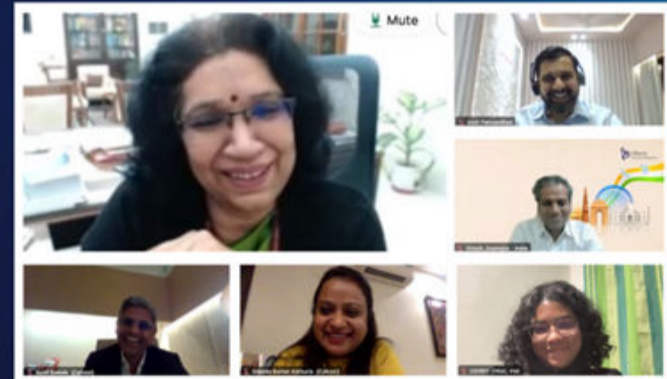
USISPF Post-Budget Engagements

Hon'ble Finance Minister Nirmala Sitharaman presented Union Budget for 2023-24 in the Parliament on February 01, 2023

A summary of the tax proposals announced in the Budget can be accessed on the Tax Forum website [here](#). Following the Budget announcements, USISPF conducted a series of virtual briefings for our members to get expert views from industry and government.

Virtual Roundtable on Corporate and International Tax Proposals

Wednesday, February 08, 2023



USISPF hosted an interactive roundtable to discuss corporate and international tax proposals announced in Union Budget 2023.

The session was chaired by Ms. Pragya Sahay Saksena, Member, (Legislation & Systems), Central Board of Direct Taxes.

Post-Budget Roundtable: Initial reactions and key implications for Foreign Investors

Friday, February 03, 2023



USISPF hosted a post-Budget roundtable to discuss the impact of tax proposals under the Union Budget 2023 on foreign investment.

The panel consisted of:

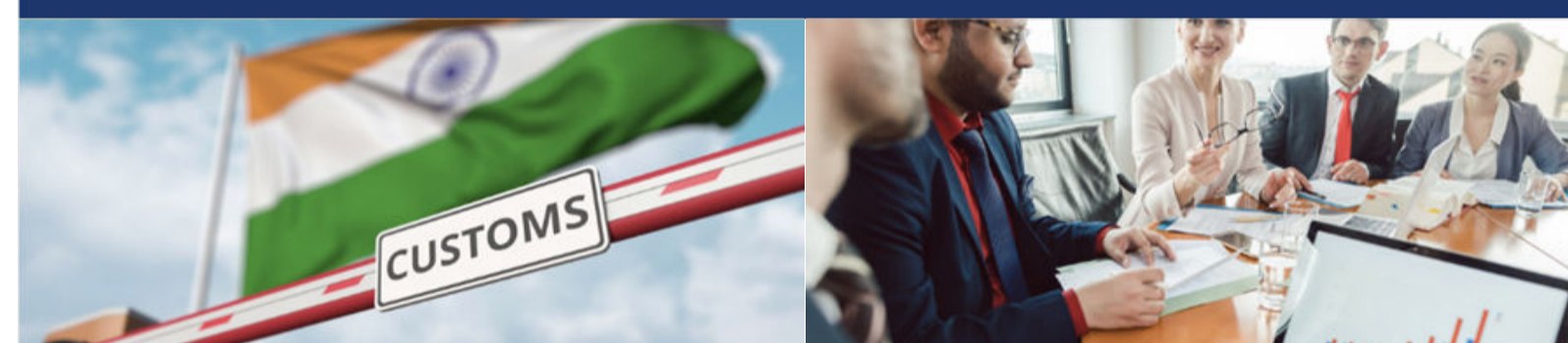
- Mr. Subhash Chandra Garg, Former Finance Secretary, Ministry of Finance
- Mr. Akhilesh Ranjan, Advisor, Price Waterhouse & Co LLP and Former Member, Central Board of Direct Taxes
- Mr. D P Nagendra Kumar, Former Member, Central Board of Indirect Taxes and Customs
- Mr. Mukesh Butani, Managing Partner, BMR Legal
- Moderated by Mr. Sanjay Tolia, Partner, Price Waterhouse & Co LLP

US-INDIA TAX FORUM'S ADVOCACY EFFORTS



GST

- Advocacy on legislative and procedural issues
- GST issues impacting courier and transportation industry
- Advocacy with Goods and Services Tax Network (GSTN) around technical issues
- Engagement with Group of Ministers constituted on various issues
- Practical challenges faced during GST audits requiring state wise/ GSTIN wise financial statements
- Clarification on reimbursement of ESOP provided by parent company being classified as import of service



CUSTOMS AND EXCISE

- Advocacy to address ambiguities in classification of products
- Advocacy efforts for release of outstanding SEIS refunds
- Issues and challenges under CAROTAR rules and Faceless Assessments
- Determination of RoDTEP rates for exports from designated areas
- Review of All Industry Duty Drawback Rates
- Duty rationalisation requests
- Amendment in custom duty benefits for Oil & Gas sector
- Challenges in implementation of Advanced Analytics in Indirect Taxation (ADVAIT) Module under Customs

CORPORATE TAX

- Recommendations for policy and procedural changes in Indian Transfer Pricing regime
- Challenges emerging from implementation of TDS under various provisions of the Act
- Taxability of per-diem allowance

US-INDIA TAX FORUM SOLICITS INPUTS ON

- Post-Budget Memorandum: Feedback invited on Tax proposals announced in Union Budget 2023

RECENT TAX RULINGS

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On the international tax front, [Delhi High Court](#) quashed reassessment proceedings against Blackstone Group's Singaporean Co. with regard to taxability of capital gains arising from sale of an Indian company. The High Court held that the Singaporean company was eligible for treaty benefits as it held a valid Tax Residency Certificate (TRC). The High Court also held that the Revenue cannot go behind TRC and deny treaty benefit as it would be contrary to repeated assurance given by the Government of India to the foreign investors.

[Delhi ITAT](#) held that fees received for providing services in relation to software license to be not taxable as fee for technical services where software related payments were not taxable. ITAT observed that mere use of words 'make available' in the service agreement would not mean that the provisions of India-UK DTAA have been satisfied.

On transfer pricing front, [Mumbai ITAT](#) rejected Revenue's Discounted Cash Flow (DCF) method to determine ALP of sale of shares given the uncertainty regarding income/future cash flow projections in the method and adopted value determined on the date of sale of shares by following method under Rule 11UA, accompanied by unaudited financial statements as on that date, as FMV. In a separate case, considering the APA assessee entered into that covered AYs 2015-16 to 2019-20 with a roll back period of three years covering AYs 2012-13 to 2014-15, [Chennai ITAT](#) directed TPO to restrict TP adjustment considering 100% of sale consideration receivable from Nike.

Separately, [Bangalore ITAT](#) rejected assessee's plea regarding adjustment of under-utilization capacity and held that if assessee had under-utilization capacity during the subject assessment year, it would be factually and legally eligible for an adjustment for the same although assessee had failed to demonstrate except stating the installed capacity and utilization level. ITAT went on to agree with TPO's opinion observing that all the costs could not be removed for capacity under-utilization adjustment.

[Read More at Taxsutra.com](#)

OTHER TAX NEWS

CORPORATE & INTERNATIONAL TAX

- Finance Ministry issues order for implementation of Vivaad Se Vishwas Scheme for MSMEs
- Income Tax Department releases FAQs on e-Verification Scheme 2021
- OECD releases technical guidance for implementation of global minimum tax
- CBDT notifies Centralised Processing of Equalisation Levy Statement Scheme, 2023

To contribute to our ongoing discussions on these matters, please write to [@Shweta Kathuria](#) and [@Anikha.Ashraf](#)

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