BUDGET and the knowledge economy

INDIA'S BUDGET AND ITS EFFECT ON 3i – Innovation, Intellectual Property & India

The Union Budget 2013-14 has failed to address the apprehensions of IP creators and investors. It should also have concentrated on areas such as innovation, R&D and commercialisation of research and IP

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Everyone waited with bated breath to listen to the Union Finance Minister P. Chidambaram's presentation of the Union Budget 2013-14. For different people, the let down emerged in a variety of ways. For me, as an IP practitioner, of course, it was the fact that the Budget refused to address the issues and concerns linked to the increasing intangible-based knowledge economy.

On one hand, India is highly regarded as an agricultural country, where most of the population still remains employed in the agricultural sector. On the other hand, the country seems to still depend heavily on revenue generated from the manufacturing sector so as to mainly cover its current account deficit (excess of India's imports over its exports). However, the Budget indicated that the current account deficit for India was on the rise, which does not at all augur well for a developing and intellectual nation such as ours. Further, India's current economic space seems to be constrained because of a high fiscal deficit, reliance on foreign investment to finance the current account deficit, lower savings and lower investment. The FM also indicated that during the period between 2004 and 2010-11, India's average growth rate was about 8% or slightly more, which now seems to be in the range of 5%-5.5%, and is still below India's potential growth rate of 8%. This growth rate is one of the major challenges facing our country.

While this article does not intend to be a corollary of the Union Budget, it seems that the foregoing points/ observations, whether through a Union Budget or appropriate Government notifications or policies, should be introduced for the overall socio-economic development of India and specifically, if India's average growth rate was to exceed far beyond 8%.

Budget and IP Foreign Investment

A country needs tangible and intangible capital in some form or the other for its overall economic growth and development. Typically, tangible investments are inbound i.e procured locally through taxes or otherwise or outbound i.e. by way of foreign investment; while the intangibles take the form mainly in the form of human intellect.

Much of the foreign investment into India is by way of foreign direct investment or FDI. Investment is ultimately an 'act of faith'. With FDI flows in 2012-13 falling by 43%, the Government must specifically introduce benefits in terms of providing a better and more transparent corporate, regulatory and investment framework, and the same must be communicated to the various stakeholders on a timely and regular basis so as to remove any apprehension or distrust in their minds, especially the foreign investors and more so, if India is serious about managing its rising current account deficit problem.

Budget and Entrepreneurs

Business incubators play an important role in mentoring start-ups and promoting entrepreneurship. Incubators in general provide assistance to start-ups to overcome their initial tough stages by provision of office space, networking opportunities and other management and administrative assistance. The FM announced that all donations made by corporates to early-stage start-ups/business incubators located within Government approved academic institutions will qualify as Corporate Social Responsibility (CSR) expenditure. Further, the proposed Companies Bill also obliges companies (based on certain criteria) to spend 2% of their profits on CSR activities.

While this gives a big financial boost to business incubators, setting up a start-up company in India still remains a daunting process as it is quite a time-consuming process to incorporate a company in India, especially when in other countries, an entity can be formed in less than a week and in some countries such as Singapore, in one single day. A lot of apprehension has also been generated among the domastise investor community with regards to the business plans received from on-campus business incubators vis-à-vis private incubators. According to most investors, the latter are of much better quality and stand a greater chance of being funded. Maybe the Government could consider expansion of incentives for private incubators, angel investors and private incubators, especially considering the fact that this will ultimately help the Indian economy in terms of generating employment, tax revenues, innovative and better products, etc. This would further surely lead to providing the necessary thrust to the entrepreneurial ecosystem. Further, public and private financial institutions can consider widening their scope for allocation of funds for entrepreneurial start-ups, small and medium-sized enterprises. As India still seems to depend heavily on the manufacturing sector, manufacturing companies must be incentivised to allocate certain portion of their revenues towards applied industrial research and technology development.

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Budget and Radio Broadcasters

In his speech, the FM announced expansion of private FM radio services to cities with a population of more than 100,000. Pursuant to this, India's Information & Broadcasting Ministry will auction 839 new FM radio channels this year and provide smaller cities to get private FM radio services. This is certainly a big boost for radio broadcasters and radio jockeys.

We have come a long way since the AIR (for radio) and later the Doordarshan (for television) penetrated the Indian households. However, we are now living in the global digital age surrounded with emerging and disruptive technologies. While the Government is still struggling to penetrate internet/broadband throughout India, levy of service tax on them is acting as a further deterrent. Telecom services, just like internet, also attract service tax. While India continues to enjoy one of the lowest mobile tariffs in the world and as majority of Indians seem to have at least one mobile connection, it is felt that abolishing or reducing service tax on mobile, and internet/broadband services as well as providing further incentives to the communications sector would make such communication services and global connectivity more affordable and boost its penetration as well as help in the empowerment of users through knowledge and information especially in non-metros and rural India.

Budget and Information Technology

In a move to promote electronic gadgets and devices, zero customs duty was announced for chip manufacturers willing to start operations in India. For the next two years, the Government's move to waive customs duty for plant and machinery for manufacturing of semi-conductors is likely to attract foreign investment in electronics and apart from semi-conductor manufacturers, companies manufacturing TV, mobile, computers, digital home appliances, etc are also sure to benefit.

Granting such customs exemption will certainly help in reducing the price of these electronic items. However, it seems that two years is quite a short period for developing and promoting the growth of the semi-conductor industry in a country like India, where forming a company and getting requisite licenses, approvals, etc still remains a time-consuming affair. Further, it remains unclear if the Government will extend such benefits or grant additional incentives or exemptions post such two-year term.

Since almost a decade, India has been talked about as an emerging IT superpower and the next Silicon Valley and the Budget can create the required freeway for such golden opportunity. Appropriate policies, guidlines and measures must be developed for the domestic IT industry where IT companies can be motivated to develop IP-based products and solutions for long-term global competitiveness of the Indian IT industry especially considering the scenario where technology changes at a much rampant pace than necessary amendments in law. This will also benefit India in terms of export revenues. Currently, the lack of a strong software protection IP framework is damaging the overall

reputation of the Indian IT industry across the globe. The STPI scheme (a 100% export-oriented scheme for undertaking software development) helped in boosting the growth of domestic software companies. Unfortunately, the situation is quite gloomy today. A lot can be done to develop an IP-based technology ecosystem, which will not only fortify the Indian IT industry but will also create more patents, trademarks and copyrights and ultimately benefit various stakeholders, including the Government by way of tax revenues.

Many also feel that the Budget did not address issues relating to taxation of IP and as a result, global IT giants may prefer investing in more favourable foreign jurisdictions where holding the IP is a lot more easier and friendly.

Budget and IP

The budget allocation for the HRD Ministry has been increased to the tune of 17%. The Indian Copyright Office falls under the HRD Ministry. It remains unclear from the Budget whether any allocation will be made towards the Copyright office. It is unfortunate to note that IPRs such as patents and trademarks have various branches throughout India, whereas for copyrights, there is just one central office located in Delhi. Although, the Indian Copyright Law does not mandate copyright registration, there are various cases filed in Indian courts dealing with matters pertaining to copyright infringement. There is no significant move initiated by the Government, which conveys the compelling need to copyright creators to file and enforce their copyrights. Again, the administrative delays within the Copyright and other IP offices make matters worse for the IP applicants. All these lead to discomfort and unwillingness in developing and enforcing IPRs.

While the Budget did not address the IP issues in greater detail, a company's budget must not ignore continuous investment in IP. Unfortunately in India, many companies consider investing in IP as an overhead instead of an intrinsic and strategic investment. Continuous investment must be done in the area of IP, which must be further leveraged to drive innovation. This will ultimately benefit all stakeholders – IP creators/developers, *IP owners, JV partners, investors, government and consumers*.

Conclusion

The FM rightly stated in his Budget speech "*A country's most important resource is its people. Madam Speaker, on the one side, is economic policy. On the other side, is economic welfare. We are a developing country. The link between policy and welfare can be expressed in a few words: opportunities, education, skills, jobs and incomes*." It is strongly felt that if the word 'opportunities' is taken care of appropriately after considering various facets, the other words expressed by the FM (i.e. education, skills, jobs and incomes) will just be a fallout from the former.

The Government must specifically introduce benefits in terms of tax and related exemptions, relaxations and incentives, provide a better and more transparent legal, corporate, regulatory and investment regime and framework, all of which will ultimately directly motivate companies to embark upon such opportunities, invest heavily in R&D resulting in IP generation in terms of better products and solutions. Further, the investors will have faith in such companies and will provide them the required mentoring and funds to achieve their corporate and entrepreneurial vision. Consequently, this will help in achieving the link between 'policy and welfare' as indicated by the FM through education (*as people will also be motivated to get the right education based on the 'opportunity'*), skills (*as 'education' will further provide them with the requisite 'skills'*), jobs (as the necessary 'skills' will give them the desired 'jobs') and incomes (*as the 'jobs' will ultimately generate 'income'*). All of these will ultimately fill the government's booty by way of taxes.

> The Government must specifically introduce benefits in terms of tax and related exemptions, relaxations and incentives which will motivate companies to invest heavily in R&D and innovation resulting in IP generation in terms of better products and solutions. This will further help in achieving the link between 'policy and welfare' as indicated by the FM in his Budget speech

Lastly, doing business in India, from India and with India must be considered as an easy and friendly activity among domestic as well as global entrepreneurs, companies and investors for restoring confidence in Asia's third-largest economy.

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