SKV Law Offices

Update

BUDGET 2021 & POWER SECTOR

February 05, 2021

The spirit and focus of the Finance Ministers budget speech has been the creation and augmentation of infrastructure. The target to enhance large scale infrastructure augmentation coupled with fiscal and resource measures is a step in the right direction. Escalation in budgetary allocation towards infrastructure is a move that will positively elevate manufacturing, generate employment, and becoming a multiplier for economic growth. The recognition of the drift in energy sector from Renewable to Hydrogen and Smart Metering and simultaneously recognising the deficiencies in operation of discoms is imperative for the holistic evolution of power sector. Discom revival and management of stressed assets have being recognised and addressed in the Budget and reforms in these areas have been introduced. Viability of distribution companies, is the sectors' most critical area which remains fragmented till date as discoms act as the interface with end consumers. Then entire value chain of power sector in some way or the other is dependent upon the performance of discoms. The measures introduced in the Budget, support the ambitious energy transition announced by the Prime Minister, including the renewable energy target of 450 GW by 2030.

Some of the key measures announced in this regard are below:-

- **Setting up of Development Financial Institution**

  The government has announced that it will introduce a bill to setup a new Development Financial Institution (**DFI**) with an initial capital infusion of Rs 20,000 crore. The need for long term debt financing and a professionally management institution to act as a provider, enabler and catalyst for infrastructure financing are the reasons given for the introduction of the DFI. It is expected that allocation towards the energy sector from such capital outlay shall be substantial. The Finance Minister in her speech stated that "*Infrastructure needs long term debt financing. A professionally managed Development Financial Institution is necessary to act as a provider, enabler and catalyst for infrastructure financing… The ambition is to have a lending portfolio of at least Rs 5 lakh crore for this DFI in three years' time,*"

- **Additional Capital Infusion into SECI and IREDA**

  The Finance Minister has committed to an additional capital infusion into SECI and IREDA stating that "*To give a further boost to the non-conventional energy sector, I propose to provide an additional infusion of Rs 1,000 crore to Solar Energy Corporation of India and Rs 1,500 crore to Indian Renewable Energy Development Agency*." Infusion of capital into SECI and IREDA, stamps the intent of the government in promotion and augmentation of renewable energy.

- **Launch of National Hydrogen Mission**

  The Finance Minister has proposed the setting up of the National Hydrogen Mission expected to be launched in 2021-22 for generating Hydrogen from green power sources. This move has been welcomed by the industry for obvious reasons of it aiding in the fulfilment of a sustainable, revolutionary energy mix and additional energy storage. The idea behind the mission to decarbonise heavy industries like steel and cement.

- **New package of 3.05 lakh crores**

  This year's budget has proposed to revamp the health of discoms and make it reform based and result linked, and to do so a scheme will be introduced with an outlay of Rs. 3.05 crores in the next 5 years. The scheme will provide assistance to DISCOMS for infrastructure creation including pre-paid smart metering and feeder separation.

  By tying funds to improvements, the Budget has sent out a clear message that funds can be availed on successful outcomes only, consistent with the ongoing model. The nature of schemes under this allocation (such as prepaid smart metering, feeder separation and upgradation of systems) is largely towards system strengthening and making Discoms commercially sound.

- **Framework for more than one discom**

  While stating that "Power distribution companies are currently monopolies, whether public or private. There is a need to provide choice to consumers. There should be a framework to give consumers alternative of more than one discom,", the Finance Minister has touted and once again highlighted the need to provide choice of supplier in electricity distribution. Privatisation of the sector (as already underway in some UT's) and additional discom players is the only way ahead. This has also been introduced through the Electricity (Amendment) Bill, 2020. The Government is proposing a framework which can effectively address the monopolisation of the discoms in certain areas, can lead to actual advancement in the distribution sector allowing market forces like quality service, consumer centric approach to get built in, imitating a free market approach with multiple players competing in the retail segment. This will also provide impetus to existing Discoms to buck up, in the real sense and face market play.

- **Monetisation of public infrastructure project**

  The Finance Minster has stated that "*A National Monetization Pipeline of potential brownfield infrastructure assets will be launched, for monetizing operating public infra assets*". It has been indicated that this initiative will cover the assets of Powergrid Corporation (PGCIL), Dedicated Freight Corridor Corporation (DFCC), National Highways Authority (NHAI) etc.

- **Relaxation of norms for foreign investors to allow investment in InvITs**

  Relaxation of norms for foreign investors to allow investment in InvITs is a welcome move. PGCIL, is the first PSU which has already offered an InvIT as part of the Government's brownfield asset monetisation strategy and it is expected that other projects will also be attracted to leverage InvITs to unlock their equity.

  Further, the Finance Minister has proposed to make dividend payments to REIT and InvIT exempt from Tax Deducted at Source (TDS). Also, as the amount of dividend income cannot be estimated correctly by the shareholders for paying advance tax, the minister has proposed to provide that advance tax liability on dividend income would arise only after the declaration or payment of dividend. Also, for FPIs, it has been proposed to enable deduction of tax on dividend income at lower treaty rate.

  Thus, the monetisation of transmission assets through the InvIT model is an encouraging step that will aid funding for infrastructure sector, to cater to the demand of electricity generation.

- **Phased manufacturing plan for solar cells and panels**

  In order to give an impetus to the domestic manufacturing market and aid the Atmanirbhar philosophy propagated in the last year, the Finance Minister has announced a phased manufacturing plan for solar cell and modules in the Budget. Owing to the border tension and the intent to reduce Chinese imports, the Government is focussed on creating domestic manufacturing capacity to reduce dependence on imports.

  The Finance Minister has also proposed to raise customs duty w.e.f 01.10.2021 for solar invertors and solar lanterns. Further, Exemption to all items of machinery, instruments, appliances, components or auxiliary equipment for setting up of solar power generation projects is being rescinded. The production-linked incentive scheme for battery manufacturing will also boost the biome for storage manufacturing in the country and create an upbeat environment for renewable energy and e-mobility sectors.

- **Separate asset reconstruction and management company for NPA's**

  The Budget proposes to set up a separate asset reconstruction and management company to clean up NPA's. Given that excessive provisioning for their stressed assets has been carried out by banks and measures to take over these assets and dispose then off economically is imperative. This is the need of the hour as due to IBC, India has been burdened with stranded assets which are economically non-viable, and unable to deliver returns owing to various factors.

Comments…

The Budget, seems a step in the right direction, insofar as it has recognised the areas of concern looming over the infrastructure sector. However, some of the aspirational initiatives such as DFI need further clarity. There also seems to be systematic thought to explore alternative and innovative sources of energy so as to bring India at par with other countries. Infusion of capital into SECI and IREDA, stamps the intent of the government in promotion and augmentation of renewable energy. There is no mention of tariff reform, however the intent to introduce free market play in the discom sector, and reducing the monopolistic practices, can only be achieved by privatisation of existing discoms and introduction of new players. These issues area already under consideration before the parliament in the Electricity (Amendment) Bill, 2020. There is always a worry that such measures should be adequately implemented, and it is a wait and watch situation, as it is only when adequate legislative and administrative reforms are introduced, will the very intent of the Budget materialise. Health and viability of the energy sector stands at the core of any developing economy.