



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

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VIVAD SE VISHWAS

AUTHORED BY - SHUBHAM SRIVASTAV

India has set the tone and perspective for commitment to development with the aim of developing a circular economy, each year in the month of February our Hon'ble Finance Minister presents a Budget in the parliament before the country which we know that is an instrument which states about the expenditure and receipts of our country for every year. Budget is basically more than the financial statement because it not only predicts receipts or expenditure of our country but it also includes several other different schemes and policies which assists government in governing and solving different types of issues of citizens and country's from time to time, progress is also needs to be considered while making a budget like economic, technological, corporate, health, education and several others so that with the growth of our country citizens can also enjoy a growth of prosperity at the same time. Budget also provides opportunity to other country's as well to invest in different projects in our country because budget shows Gross Development Product rate which is a projection of country's economy in other words it predicts import and export goals for our country in future or how much we will achieve in future.

Since last three years after the pandemic nature of budgets are of achieving long term goals keeping in view to fulfil the objectives and goals which were not able to achieve due to pandemic situation, which not only resulted in causing a loss to economy but also aroused many other problems along with these problems we are also have to face another issue which was of disruptions in supply chain of several commodities which we have to import as a result it also resulted in rise in inflation target set by Reserve Bank of India, not only in India but war strike between Russia and Ukraine resulted rise in inflation in other countries as well around the world due to which United States of America hiked its rate of interest many a times because of which RBI Monetary policy meeting also have to rise its repo rate several times which leads to make a loan interest rate increased by the banks, so these types of issues are faced by the world at this current time which can only be remitted by following a policies and schemes to be introduced these issues mentioned above, which can be done only by making a budget taking all this issues into account.¹

¹ Gajendra Yadav," Her Balancing Act : Won't tax – will spend", Indian Express, August 8,2023.

If we look at a glance previous years of budgets they actually had been made to provide relief to rural and urban class of poor sections of society because of pandemic situation which led the government to formulate policies and schemes which help to rural and urban poor class of society because parliament initiated several schemes and policies like Pradhan Mantri Garib Kalyan Anna Yojana in which it provides that 5 kg of additional grain per person per month to be provided free of cost, Ujjwala and Saubhagya Scheme which initiated to provide LPG and electricity connections free of cost, Pradhan Mantri Awaas Yojana ,Swachh Bharat Abhiyaan, Jan Dhan Scheme , MGNREGA and like these several others to the poor sections of society to the person standing at a last resort. It helped to the people due to which our country able to fought the pandemic phase without any much issues, not only to the this the budget was also took consider other plans and schemes to boost our economy and for that government formulated several plans to help the growth of a corporate sector as well in our country through earlier budgets because as we know that pandemic not only creates trouble for poor class of society but for other sectors as well of our country so to gain market share for firms in various industries and to help them in ease of doing business and at the same time helping in strengthening public private partnership as well which further help in growth of Gross Domestic Product of our country, several policies and plans helped the corporate sectors by reducing tax rate on their profits from 30 to 22 percent so that the dried up funds of IT Sector gets restored after the pandemic², in spite of assisting an each and every sector between march 2020 to September 2022 Central Banks have to tight up monetary policy by increasing tax rate which led a looming recession in United States and European Countries are now witnessing layoffs and a hiring freeze in tech giants firms. Effects of rate hike by the US Federal Bank led in India as well to repo rate hike in India by Monetary Policy Committee of Reserve Bank Of India from time to time to control inflation in our country and to make ease of doing business because rate hike led to starting to flow of foreign direct investment from India which effect in reducing of foreign reserve of our country, but still our country is managing to walk on the path of prosperity and continuous development through following different schemes and policies of budget in time. In spite of many challenges our country's economy achieved a rapid growth in various sectors of our economy, this all was possible only because of previous budgets which was introduced with inclusiveness of various policies which provided a growth and boost to our economy at the time of pandemic, but along with this we also required to need a budget which not only provides schemes and policies for

²Harish Damodaran, "After Targeting rural and urban poor, the pre-2024 message ",Indian Express, 02.Feburary,2023

different welfare measures but also which yields a good result in a long span of time.

In 2023 to 2024 we witnessed a budget which was presented by Hon'ble Finance Minister Nirmala Sitaraman at parliament on 1st April 2023 with an aim to provide schemes and policies with respect to achieve a goals and services of a long term which in future yields an impact on our country's economy because a more larger a size of Gross Domestic Product a larger will be our country's economy this was kept while making a budget at this year , it not only yields a better result but will also help in finding a substitute of a goods and services for global disruptions in supply chains because of war between Russia and Ukraine as well as due to pandemic. If I talk about particular aims and objectives or some of the points about on which current budget focused was to make policies focused on budgets are for tribals, youths, women, middle class, rebate in a tax slab of income up to 7 lakh rupees under new tax regime and on several other important sectors of our economy which will help us to make our country's economy more strong and vibrant in the era of Azadi Ka Amrit Mahotsav and will help in achieving aspirational dreams of our society along with increasing the consumption and reducing through reducing personal income tax.³Despite the disruptions in global supply chain due to pandemic and a war between Russia and Ukraine current year budget made a projection of Indian economy to grow at 7 % of Gross Domestic Product which will be a much major growth of our country's economy as compared to other economies of the world, along with facing all challenges our country is on a path of peace , prosperity , a bright future and vision of Amrit Kaal which will be technology driven ,strong public finances, knowledge based economy and a robust financial sector .Inclusion of different policies will provide ample of opportunities for youth which will help in making them skilful so that in future our country will become a hub of start ups in different sectors which not only make a growth of country Gross Domestic Product but will also reduce unemployment and strengthen a macro economic stability of our country, growth in capital expenditure was projected at 3.3% and our nominal gross domestic product was also 10.5% for this year ,all this was possible because of right strategies and policies at right time which acted as a cushion against global head winds.⁴ If we talk about an investment in infrastructure a budget have a inclusive policy for country's investment model because central government has announced that interest free loans will be provided to state governments for a period of additional twelve months so that our country

³ Liz Mathew, " Budget focus aligns with BJP support base of middle class, youth, women", Indian Express, February 02,2023.

⁴ Hitesh Vyas and Sukalp Sharma , "Economy on right track; to grow at 7% in FY23:FM", Indian Express, February 02,2023.

could achieve a progressive growth at each and every level. Investment model will lead to develop a connectivity of roads, railways which are two sector which requires a higher additional capital outlays in capital expenditure , in addition housing , urban affairs, additional airports, water aerodromes and advanced landing grounds will be rejuvenated for regional air connectivity which will provide an additional push to UDAAN scheme also. In 2023 this year allocation of share of capital expenditure was also raised to Rupees 1.05 lakh crore from Gross Domestic Product which will give a boost to our state governments in creating capital assets. Capex led growth will definitely help in managing debt levels and will lead a longer term implications for growth at each level.⁵A major push was also provided to rural infrastructure through initiating a boost which is highest ever since the inception of the scheme in 2016 of Pradhan Mantri Awaas Yojana Gramin, this scheme will help in creating an assets in rural areas, which will provide a holistic growth at each level of our country.⁶

Inception of pandemic arises several many health problems to those who are effected by a covid 19 and there are others who are availing different health problems after suffering from pandemic so to solve these several health issues of citizens government had increased a ratio of health sector investment from 2.1% to 2.5% of Gross Domestic Product by the year 2025 because as we know that cure and treatment of different health diseases is very expensive now a days some of the famous health schemes which are provided by our government are Pradhan Mantri Ayushman Bharat and National Digital Health Mission are a major assistance for our citizens who are availing these facilities from government hospitals in a timely manner.⁷ Government since last several years trying its best through the cooperation of its citizens to make our country a global leader in each and every aspect of our country's economy , from last few years our country has achieved a landmark by becoming a 5th largest economy of the world from the position of 10th, this was achieved because of adopting various schemes and policies from time to time and according to a need of an hour in our country like as mentioned earlier also due to several disruptions globally due to covid 19 and now due to a war between Russia and Ukraine it become very important for us to make those policies which do not hamper our supply chain of import and export of goods and services in our country.

All of the issues were always kept in a budget and then schemes were drafted due to these several

⁵ Anchal Magazine, "Renewed thrust on capex: Rs. 10 lakh cr outlay, 33% hike", Indian Express ,February 02,2023

⁶ HariKishan Sharma, "Highest ever PMAY-G outlay to spur capex", Indian Express, February 02,2023.

⁷ Anonna Dutt , "Overall health allocation up, but capital spending cut", Indian Express, February 02,2023

last year budget schemes which were adopted in several past years we were able to record an eighteen months low inflation from 5.66 percent to 4.6 percent from last April which moderated food prices, tax which was collected was utilised in different welfare schemes, upgrading infrastructure of urban and rural, health facilities so that citizens can have easily available essential things on timely basis, in the agriculture sector as well India is emerging as a leader in milk and banana production and in wheat also we have done much more to make our self-reliance, in horticulture as well there is emerged a growth of 110 lakh tonnes from 56 lakh tonnes in last nine years.⁸ If we want that a growth of our economy to be maintained in this particular manner and we achieve a long term benefits of our budgets then we have to strive make our country's economic environment conducive to business needs in our country, then only in future we will be able to become a most developed nation and a world's leader, because next 25 years are very important for our country, so schemes should be such type which help in achieving aspirational goals of our society and at the same time we must ensure to have an ease in doing of business in our country.

In an analysis of previous and current year budget in the above paragraphs of this article, one of the scheme of utmost importance which was introduced in a budget was known as Vivaad se Vishwas scheme and which I have discussed here in this particular article in later paragraphs, this scheme was introduced in budget to resolve contractual disputes between the government and private contractors, the major reason for the scheme to be introduced was due to covid 19 because, before covid19 our country economy was going in its assigned way, but as we know that this pandemic situation aroused many types of problems in front of us in many ways which we had overcome since last years by making different policies from time to time same situation which leads to making of this scheme was a contract of work which was signed between government and contractors for the completion of different types of infrastructure, in which government or a government undertaking was one of the parties in a litigation, this scheme was introduced to clear a backlog of disputes which was hampering a government to do investment in new sectors or to take up fresh investment projects because in today's era when our country is facing a disruptions in supply chains of several commodities due to several external factors like covid19 and a war between Russia and Ukraine, this scheme is very much important at this particular time to settle a backlog of contractual disputes between a government's undertaking and

⁸ Express News Service, "centre monitoring inflation closely with ground level data : Sitharaman", Indian Express, May 30, 2023.

a contractors.⁹

Vivad Se Vishwas Scheme¹⁰

Ministry of finance drafted and presented this scheme before the parliament in a union budget of 2023-24, to solve the problem of pending cases of contractual disputes, so that in a quick and in an easy manner without much delaying as a result of which this scheme initiated in a union parliament and got accent of the president , because its motive or an aim was to do an ease of doing business in a hassle free manner for both the government undertakings and for stakeholders as well ,as a result this scheme helped in settling backlog of cases in an effectively and efficiently because it was hampering a fresh investments of the government in various infrastructure of our country's development, so to cure this problem of backlog of cases this one time settlement scheme helped in a many ways and it later on proved to be a win-win situation for the both a stakeholders and government also.

Salient features of the scheme are discussed below:

- 1) Application of this scheme will be on Government , Autonomous bodies , Public Sectors Banks, Government public sector financial institutions, Central Public Sector Enterprise, Union Sector Enterprise, National Capital Territory of Delhi, and all of government agencies and undertakings thereof where central government have 50% shareholding.
- 2) A contractors shall be eligible in this scheme if they had submitted disputed claims either to court or to arbitration or to the conciliation on or before 30.09.2022.
- 3) Under this scheme claims of only financial in nature will be settled in this scheme.
- 4) Depending upon the pendency level of a disputed claims a scheme consists of a graded settlement terms through which a disputed claims will be settled.
- 5) A cases of domestic arbitration in nature will be settled under this scheme, this scheme was implemented through online Government e Market portal.

After the salient features of this scheme another crucial aspect of this scheme was a criteria through which settlement compensation will be awarded to the contractors were discussed under below mentioned points.

⁹ Visited on June 13,2023.

[Vivad Se Vishwas Scheme 2020 \(taxguru.in\)](https://www.taxguru.in)

¹⁰ *Ibid.*

Amount of Settlement :¹¹

Settlement amount will be provided under graded settlement scheme to the contractors in the following ways :

- 1) Eighty percent of the net amount will be awarded by the court when an order of court was passed to pay an amount which was payable to the contractor. A court order will include a case when parties have approached a courts directly or subsequent to arbitral award.
- 2) When a case is not under an appeal before a court and if an arbitral award is passed in such a case, a settlement amount of sixty percent of the amount shall be awarded by the arbitral tribunal.
- 3) Thirty percent of the net claim amount shall be paid by the contractors subtracting an amount of counter claim of procuring entity, this will be done or followed only when a case is in process before the arbitral tribunal, conciliation or either in court.
- 4) Twenty percent of the net claim amount will be awarded when in a case of litigation either in court where in a case no arbitration was done or an arbitration was done or when a case is in an ongoing litigation.

To Initiate a process mentioned above or to participate in this particular scheme a contractor should have to registered on an online platform Government -e- Marketplace and then a process will begin after the verification of contractors details through a nodal officers on an online platform, and then when a settlement agreement was concluded by the parties under this settlement it shall have a same effect, meaning and consequence just like in any other agreement under the Arbitration and Conciliation Act 1996.

Section 73 of Arbitration and Conciliation Act 1993.¹²

Section 73 of Arbitration and Conciliation Act 1993 is an heart and soul of this particular scheme because an agreement of settlement between the contractors and a government will come in effect through this particular section only, because this particular section stats that whenever a conciliator finds that there exists a terms of settlements between the parties a conciliator will pursue an agreement terms and conditions to both the parties and then gives them time to agree on the terms and conditions of an agreement and later on will receive a feedback on an agreement provided earlier and made some other suggestions also as provided by the parties on an

¹¹ *Ibid.*

¹² *Ibid.*

agreement. After this a parties will have to reach on agreement of settlement between both the parties ,if parties find it difficult to reach or make a terms of settlement of an agreement then conciliator will assists them in drawing up an agreement. Parties then have to sign an agreement of settlement which shall be final and binding between both the parties who are claiming under it. Conciliator shall authenticate an agreement of settlement and will provide both the parties a copy of an agreement. Section 73 basically have much more dominance in this particular scheme because settlement agreement will have to be made under this section only.

Section 74 of Arbitration and Conciliation Act 1993.¹³

On the settlement of an agreement between the contractor and procuring entities, a status of disputed agreement will have a same effect as stated by an Arbitral Tribunal under section 30 of an Arbitration and Conciliation Act 1993.

Section 75 of Arbitration and Conciliation Act 1993.¹⁴

Contractor and a procuring entity have to keep secret a document of settlement agreement signed between them and required to disclose a document where ever it is required to implement or enforce a document.

A procuring entity after following or settling their matters of dispute under one time settlement scheme of vivad se vishwas by following a particular procedures as mentioned in above sections of Arbitration and Conciliation Act ,1993 then all types of obligations or litigations filed before a court of law will be stand discharged between both the parties under this settlement scheme. If we come to the conclusion we will observe that this scheme facilitates a solution to a dispute between different contractors involved to do some or the other types of work with a government under a different types of contracts, instead of involving in a regular litigation which hamper a socio-economic development of our country, this scheme adopts such a type of mechanism which settles a disputes between a contractors and governments, another important point on which this particular scheme was introduced was that majority of cases in which a arbitral award was challenged by the contractors , majority of cases were decided in favour of contractors only which led a huge financial loss to our government.¹⁵

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

Conclusion

Vivad se Vishwas scheme is very much a need in a present era for our country at this particular time because in current scenario our country India is in a phase of inspiring a whole world by achieving a new landmark achievements every day through its innovation, planning schemes and through its resources which are proving to be an important destination of investment and innovation for the whole world, if we took a glance of last five years we are going to become a third largest economy from tenth largest economy in few coming years only, International Monetary Fund also sourced its data that by 2027 India will become a third largest economy the reason behind this is very simple that through its policies and schemes in different complex time we are heading a world today. Gross Domestic Product of our country has also scored a very much better growth as compared to other different developed countries like our country's GDP had grown by 83% between a time span of ten years and other developed nations like France growth was only of 2%, United Kingdom grown by 3% only in this time, a reason behind it was none but Global Financial Crises which had hit a whole world in 2008 – 09 this also had hit India but have not much impacted our country because of our policies and schemes made from time to time.¹⁶

In our country macro - economic environment foreign portfolio investment are continuously rising a risk appetite for our country's economic development because since three months foreign portfolio investment had witnessed a major hike in its investment which is a very positive sign for any country's economic growth or a growth in a domestic equity market, previously when federal reserve had done a hike in its currency exchange rate our country had witnessed a major outflows but as now we are on a much stable condition for foreign investors this was only possible because of following a right policies at right time and one of the most important example here, I like to quote was of a monetary policy committee which from time to time maintain an inflation rate through opting out changes in a repo rate from time to time.¹⁷

One another major reason to have a requirement of several such schemes like vivaad se vishwaas was that this year our country is heading a presidentship of G-20 which is a major and a proud moment for all of us because from being a member of G-20 to having its leadership is just a

¹⁶ Udit Misra, "3rd largest economy in 3rd Modi term ? Anatomy of India's growth", The India Express, July 28, 2023.

¹⁷ Hitesh Vyas, "FPIs back with a bang, but tighter disclosures may impact inflows", The Indian Express, June 5, 2023.

marvellous achievement for our country in this year, several meeting on different types of issues were being held every month in different states of our country with a theme of one earth one family and one future which makes a vivad se vishwas schemes an another important factor for our country because when we make such types of settlement schemes to resolve and adjudicate issues it will leads to make our country's economic environment very much suitable for business of other country's to invest in our country which will leads to employment generation , foreign direct investment inflow and leads to grow a gross domestic product of our country ,because we now have to find different ways to solve different issues emerging in our country rather than only depending upon a traditional techniques of solving issues.

In recent years only when we started adopting schemes of settlement in a timely manner especially in cases of resolving business issues or issues of economic in nature like the one we have seen in vivad se vishwas scheme our country's economy have become a highly promising for us as well as for others nations who want to invest and to do business with us. In recently I would like to mention some examples which have participated with us in an era of growth, prosperity and development, an "Act East Policy", signed between India and South East Asia which main motive is to strengthen economic, strategic, cultural relations in Indo- Pacific region , which will in future result in buttressing the region as a global economic power house.¹⁸In our country recently we had rolled a red carpet for two major industries of semiconductor chip making that is Japan's Foxconn Semi conductor chip making industry and another was of United States corporation an Advance Micro Devices in an event organised recently in India in a state of Gujarat in which these two major companies are very much assured that our country's is viable for them in each and every way whether it be a demographically or in many other ways because they feel that our country is having an environment for business organization stable, responsible, and reform – oriented government¹⁹ .Our country's electronic production was also increased in a couple of years from 30 billion USD to 100 billion USD, Internet users also increased from 6 crore to 80 crore ,these figures not just depict the growth and success of India but also an increased business of semiconductor industries, another important factor for other nations in investing in our country is that India has a fast paced infrastructure growth , finance assistance, low corporate tax structure, and massive talent pool needed for the semi conductor industry.²⁰ Ultimately this

¹⁸ Enrique Manalo, "Partnership for the future", Indian Express, June 29, 2023.

¹⁹ Soumy Arendra Barik & Avinash Nair, "India Will be your trusted global partner, P.M. promises semi conductors makers", The Indian Express, July 29, 2023.

²⁰ Soumy Arendra Barik, "AMD to invest \$400 m n in India over 5 years for its biggest design centre", The Indian Express, July 29, 2023.

all will benefit us by creating employment generation, growth in a Gross Domestic Product of our country and later on will create a strong and vibrant economy in a recent coming years and this will be achieved by us only because we have adopted such types of schemes and policies which are favourable for our country because if we continue to adopt schemes of settlement then it will helps in reducing burden of court cases and along with it will help in development of our country in economically and socially as well and our country's talented people will get an employment and will increase in socially and economically in all aspect.

If policies and schemes like vivad se vishwas will be implemented in our country form time to time it will make our country a pro business environment friendly in making a contract between a government and several contractors of domestic as well as of international as well, a pro business environment will definitely encourage private investors to establish several types of ventures in our country which will help in generating employment in our country and also make an image of our country as an business environmental friendly country in the whole world, other than this it will also reduce a burden of cases on our country's judicial system and along with this problem another issue which will arise is that it will hamper a growth of our country's economy, and as a result we have to face a depreciation in our country's gross domestic product in a long span of time . A schemes of this types is an extreme need for our country because this is the only way through which we can do development and providing justice at the same time.

In present era when we are following a principle of "one earth, one family and one future" or in other way it is also called a principle of "Vasudhaiva Kutumbakam" we can follow such principle only when we make such type of policies from time to time which in a long term benefits all of us whether in our country or to other countries as well in a long span of time.