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Tax & Trade Implications of ‘Ukraine-Russia Fiasco’ in India

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As I am penning down this piece, the market capitalisation worth Rs. 13.4 lakhs crores have already been eroded with BSE index plunging by 2700 points and NSE index tanking by 815 points, on account of Russia's launching of a special military operation cum all-out invasion by land, air and sea of Ukraine on 24-2-2022.

While all parts of the world are echoing serious concerns on this scary geo-political development, with European Union, NATO, Britain and USA, announcing stringent trade restrictions and sanctions on

Russia, our hon'ble PM Sh. Narendra Modi has already commenced his strategic action plan, to evacuate the stranded 20,000 Indians including students, in the war struck Ukraine, either by air-lifting, or by road via Poland.

Let us sincerely pray for the safe return of all our stranded Indian brothers and sisters in Ukraine and May Good Sense and Humanity prevails over Vested Interests, to avert this Third World War like situation.

Before we delve deeper into the probable trade and tax implications of this unfortunate development, in India, it becomes essential for us to first know the reason for this unwarranted war.

Origin of the Conflict: Ukraine is a democratic country of 44 million people, with more than 1000 years of history, and area-wise, it is the second-largest country in Europe, after Russia. Ukraine is considered as a gateway to Europe and shares a common border with Russia, and as such its geographical location is of paramount importance. After the fall of Soviet Union, Ukraine voted overwhelmingly for its independence from Russia, and indicated its desire to join NATO, a defensive military alliance of 30 European Nations.

After the toppling of Russian friendly government in Ukraine in 2014, the Russian President Vladimir Putin has demanded guarantees from the Western Countries, and Ukraine that it will not join NATO.

The genesis of this fiasco is rooted in the Ukrainian President Volodymyr Zelensky urging the US President Joe Biden to let Ukraine join NATO, in January 2021. This has irked Russia and has triggered the escalation of growing tensions between the two countries into a war-like situation, in fact, a real war.

Domino Effect in India: This grave and dangerous development has far-reaching repercussions and domino effect for all parts of the world including India.

The biggest macro headwind for India is a rally in crude prices. Crude Oil has surged to $105 per barrel, while gold has crossed the $1,900 mark amid risk aversion. The inflationary consequence of this may force the Reserve Bank of India to raise the interest rates.

The India-Ukraine bilateral trade assumes significance amid the escalating border tensions between the Eastern European Nations and Russia.

The Pharmaceuticals account for the majority of Indian exports to Ukraine. India is the third-largest exporter of pharmaceutical products to Ukraine, after Germany and France, in value terms.

A number of Indian companies like Ranbaxy, Dr Reddy's Laboratories and Sun Group have their representative offices in Ukraine. Representatives of major pharmaceutical companies have set up an Indian Pharmaceutical Manufacturers' Association (IPMA) in Ukraine.

Ukraine is India's major exporter of sunflower oil, followed by inorganic chemicals, iron and steel, plastics, chemicals among others.

Well yes Friends, this is the main reason for the shares of all pharma companies and cooking/sunflower oil companies plummeting to their historic lows and the benchmark BSE and Nifty indexes nose diving.

The Tax Effect: Before discussing the probable tax implications, I would like to make it very clear that nothing comes first before the human life, and the safety and security of all stranded Indians in Ukraine has to be the top most concern and priority of each one of us including our government.

However, this war-like situation may have its share of tax implications also, especially for the Ukrainian Expats working in India and Indian Expats working in Ukraine, and the Indian Pharma companies like Ranbaxy, Dr Reddy's Laboratories and Sun Group having their permanent establishments/business interests in Ukraine and the Ukrainian leading Sunflower manufacturing companies like Kernel having its business interests in India.

Differential Tax rates: Ukraine has a flat tax rate of 15% for non-corporate taxpayers including individuals, both for residents and non-residents. The corporate tax rate in Ukraine is flat 18%.

In India, the individuals and HUFs can avail the reduced personal tax rates based on their slabs, ranging from 5% to 30%, u/s 115BAC, subject to their foregoing of certain specified deductions.

Similarly, corporate entities can avail the reduced corporate tax rate of 22% u/s 115BAA, subject to their foregoing of certain deductions, exemptions and credits. The presence of surcharge makes this rate into an effective corporate tax rate of 25.17%.

The impact of the differential tax rates in both the countries, may be felt by the individual expatriates, forcefully stranded in the country, other than their home country, in this war-like situation. The residential status for tax purposes is determined by the number of days of physical stay of the taxpayers in a country. The threshold limit for determining the tax residency status of the number of days of stay is 182 days in both India and Ukraine.

Thus, this tensed situation may result in Ukrainian Expats working in India, being stranded in India, for more than 182 days (with Ukrainian expats now in fact wanting to remain in India) and similarly the Indian Expats working in Ukraine, though our sincere prayers and our government's determined action plan will surely result in evacuation of the stranded Indians in Ukraine.

Thus, this forced stay of the expats for more than 182 days, in the country, other than their home country, due to the prevailing tensed situation, may result in altering their tax residency status and consequential applicability of differential tax rates, in determination of their tax liability.

Similarly, for corporate entities, the India-Ukraine DTAA provides for a Service Permanent Establishment (PE), based on the physical stay of the key managerial personnel, for a period of more than six months, in the country other than the home country, where business interest lies.

Thus, the forced stay of the stranded expatriates of either of the two countries may result in formation of Service PEs, and thereby warranting appropriation of profits to these PEs and thereby altering their tax liabilities, due to the differential corporate tax rates in both the countries.

Concluding Remarks: The silver-lining of the above analysis is the inherent sincere prayer, best wishes and the firm and optimistic belief that this unwarranted and tensed situation will soon pacify and settle down and both, the precious human life and the going concern status of corporate businesses/business interests in Ukraine, will continue to exist and sustain, like before.