



# INDIA – BUSINESS OPPORTUNITY

Overview

# Executive Summary

- This presentation aims to inform user of this information to get the macro view of basic economic and social structure prevalent in India. It then compares recent trends in Indian economy, FDIs flowing into various sector and why India ranks highest amongst the investors.
- It also gives an overview of how to set up business in India, its associated law, tax consideration, exchange control laws and way to conduct business in India.
- This information is time specific and reader must exercise due care while taking any decision based on the information given herein.

# Economic Facts

- Second fastest growing economy in the world.
- India emerged unscathed from sub-prime and followed financial crisis in the world due to strong banking system and internal consumption.
- Average GDP growth rate from 2008 to 2013 is 6.48%.
- Foreign investment has been very robust via both FDI and portfolio investments.
- One of three largest Asian economy.



# Why India presence

- Rate of Direct and Indirect Taxes are competitive.
- India's population has a median age of 25 years with 28.9% of population are under the age of 15 years ensuring enough supply of manpower.
- Young, qualitative and talented workforce.
- 100 plus Fortune 500 companies in India.
- PE/VC investment flowing consistently.
- Rupee fully convertible on current account and partially convertible on capital account.

# Why India presence

- While world economy taking beating in past, sectors like service, pharma and automobile have seen promising growth in India.
- Member of WTO and Labour laws getting liberalised.
- Cost benefit – It is still 1/5 of the cost as compared to U.S.
- Significant English speaking population and prime business language.
- 2<sup>nd</sup> in rank in most attractive destination in FDI as per 2012 A.T.Kearney FDI Confidence Index.

# FDI flows so far

- Service sector attracts the highest FDI with average share of 27% in last 5 years.
- Investment are mainly routed through Mauritius due to tax benefits.
- Followed by Singapore, U.K. Japan, U.S. and Netherland.
- Recent trend shows Pharmaceutical and Drugs industry is attracting most FDI equivalent to Service sector.

# Entry Strategy

- Depend upon nature of business and industry.
- Tax consideration in cross border transaction.
- FEMA rules/sectoral cap to be checked.
- Can be Incorporated or non-incorporated entity.
- Non-incorporated entities in form of Liaison office, Branch office or Project office can be formed only for specific purpose and do only limited activity.



# Entry Strategy

- Incorporated Entities are Company under Companies Act and LLP under Limited Liability Partnership Act, Joint venture for carrying out actual business in India.
- FIs and Broad based funds for investment purpose.
- Wholly owned subsidiary is a very popular form of entity adopted by Foreign company/NRIs.
- Management and ownership control can be with foreign company/NRIs subject to sectoral cap

# Funding of business

- Once decided the structure, business need to be funded on-going basis.
- Subject to permission route or automatic route depending on nature of activity/sector.
- Most of the activities are under automatic route whereby no prior permission is required to commence the business, only post funding, few compliances to be made.
- For permission route, need to apply to FIPB.
- Few activities are not permitted like Nidhi companies, Agriculture, plantation etc.

# Mode of funding

- Subscription to new shares, Right shares
- Acquisition of existing shares from Resident
- Issue of shares under ESOPs.
- ADR/GDR/FCCBs allowed.
- ECBs in form of Bank loan, buyer's credit, supplier's credit subject to interest rate and repayment schedule.
- Most of the above funding is now self regulated and now need only compliances to be done on regular basis by meeting valuation criteria.

# Tax consideration

- Direct taxes in form of income tax, wealth tax.
- Indirect taxes in form of Custom, Excise, Value added Tax, Central Sales Tax, Service Tax, Entry tax etc.
- Special provisions relating to Non-residents.
- Company and LLPs are subject to Minimum Tax subject to allowability of carry forward of losses.
- Foreign companies pay higher tax than the subsidiary company in India, therefore subsidiary is preferred mode of entity.

# Transfer Pricing

- Any Transaction with foreign associated enterprise is subject to Transfer price regime.
- An exercise to find the Arm's length price in the market to be compared with transaction value undertaken by entity.
- Purpose is to plug the loopholes by restricting the artificial lowering the profit in India or flight of capital out of country.
- Examples are sale, purchase, lending, borrowing, guarantees, IPRs, management charges etc.

# Business encouragement Scheme

- Government has rolled out many schemes in form of capital and tax subsidiary.
- Aim is to attract capital and ensuring development of region/industry.
- Special Economic Zone, Software Technology Park, IT Zone, Sales Tax (VAT) subsidiary, Income Tax concession, MSME, Liberal policies for granting Industrial License etc.

# NRI Section

- Non-Resident can open account in India for business or investment purpose.
- Tax exemption on interest earned.
- Concession in terms of return filing, capital gain if certain conditions are met.
- Favorable Exchange Management Rules, Attractive Bank interest rate, increased avenue for investment, exciting Real estate opportunity is drawing NRI money in India.
- Can invest directly in equity or through MF.

# Important Business Regulation

- Companies Act which regulates incorporation, management, shareholding, administration, powers of company/management, winding up, financials, auditing, CSR of companies.
- LLP Act regulates LLP.
- IPR protection and regulation thereof.
- Labour laws like PF, ESIC, Payment of wages, Bonus, Minimum wages, Gratuity etc
- Taxation laws for Direct and Indirect Tax

# IPRs

- Well established statutory, administrative and judicial framework for safeguarding IPRs.
- India is part of Agreement on Trade Related IPRs.
- Trademark, Patent, Copyright, Plant Breeders Right, Utility model/design, Geographical indication, Trade Secrets are IPRs.
- While patents, Trademark and copyright have its own established laws, know-how and trade secrets are protected under Common laws.

# Labour Laws

- ❑ Labour laws are increasingly liberalised as India is part of WTO.
- ❑ Foreign firms allowed to supply their service under Internationally accepted conditions.
- ❑ Consistent and aligned with global standard of working for labour and expatriates of foreign company.
- ❑ It assures employees of MNCs the standard treatment in India.



# Documentation/Accounting/Auditing

- Required to maintain statutory registers, licence, Returns etc.
- Required to maintain Accounts under Indian GAAP with all supporting and follows Ind AS.
- Audit under statute is compulsory, Tax audit, VAT audit applicability on revenue, Transfer price audit in case of dealing with Foreign Associated Enterprises.



# Compelling reason

- India offers a vast opportunity for doing business for foreign company/NRIs.
- Due to competitive labour and other cost, cost of doing business is significantly lower than developed markets.
- Young and English speaking people offers an abundant supply of competent labour force now and in future.
- Indian banking system is robust and withstood global crisis in past.
- New Companies Act 2013, Impending GST, DTC and other regulations are getting aligned with best of global practices and raised a transparency level which ensures a standard treatment for MNCs/NRIs to do business in India.

# Interesting Facts

- ❑ 28 states, 7 Union Territories.
- ❑ Largest Democracy of the world
- ❑ 7<sup>th</sup> largest country and 2<sup>nd</sup> most populous
- ❑ IST is 5.30 ahead of GMT.
- ❑ Favorable climate, one of largest Rail and second largest road network.
- ❑ Population is 1.2 billion people.
- ❑ Follows judicial and non-judicial system of law.



# Welcome India

□ Thank you.

