Union Budget 2018-19 - A Green Signal to Farmers

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Union Budget In the Company of Farmer Producers

Though India is primarily an agriculture-based economy the conditions and premise for their continued economic viability and growth have remained elusive for long. The Union budget 2018-19 brought in sufficient focus on this sector with a slew of announcements. Significant among those was the tax benefit extended to the Farmer Producer Organisations (FPOs).

This article explores the various formats of FPOs with the tax provisions and takes the discourse towards recommending a format of FPO as better equipped for meeting the needs of our times.

FPOs can be registered as a Society or Trust or Section 8 Company. Where the FPO is registered as a society or a trust, it will be taxable as 'Association of Person'. If it is registered as Sec 8 Company it will be taxed as 'a company in which public are substantially interested', subject however, to the benefit of exemption provided under section 11 and 12 of the Act if they are registered under sec 12AA of the Act.

The agricultural income is exempt under section 10(1) of the Income Tax Act, 1961 ('the Act'). This exemption is available to a person who carries out primary and secondary activities in agriculture. Since the FPOs are not engaged in either the primary or secondary agricultural activities, it cannot avail the exemption under section 10(1) of the Act. At best, FPOs could claim benefit under Rule 7 (General), 7A (Rubber), 7B (Coffee) and 8 (Tea) of the Income Tax Rules, 1962 to the extent it derives partially agricultural income and partially business income.

In case the FPO is registered as a Trust or a Society registered under section 12AA of the Act, or in the case of Sec 8 Company the income earned cannot be distributed to its members.

FPOs can also be registered as a Co-operative Society. At present, Cooperatives enjoy income tax relief under section 80P of the Act. Profits and gains of cooperative societies is deductible if it is engaged in certain business activities, *inter alia*

a) Providing banking or credit facilities to its members; or

b) marketing of agricultural produce grown by its members; or
c) purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for supply to its members; or
d) Processing agricultural produce of its members without the aid of power.

While FPOs registered as a Cooperative society can claim the deduction under sec 80P of the Act, it has certain inheritance limitations. The cooperative society format that was hugely popular in the 70s and 80s saw a decline in popularity 1990s and 2000s. They could not keep up to the liberalised era and the sociocultural changes in India. Their political intermingling added much to their decreasing popularity. To over the come the limitations of Cooperative Society and include the benefit of a Corporate form of organization, was the need of the hour. This coincided with the movement by Amul, the largest cooperative at one point in time, to review the cooperative structure. The Government's Alagh committee recommended a model with the best balance of a co-operative society model and the corporate structure of business. 'Producer Company' or Farmer Producer Company (FPC) is a body corporate registered under Companies Act 2013. In terms of Sec 465 of the Companies Act, 2013 the provisions of Part IX-A of the Companies Act 1956 shall be applicable mutatis mutandis to a produce company. The objects of producer company shall confirm to the activities included sec 581B of Companies Act 1956.

The highlights of the Companies Act's provisions are:

- The Producer Company can have an unlimited count of shareholder members unlike any other company or form of business but with a condition that the member should only and only be a primary producer / farmer.
- It can have a single registration and operate throughout India including exporting business in contrast to co-operatives.
- No political intervention by the government / local authorities, which will enable the entity to run autonomously.
- It can enter into JVs, alliances and also have subsidiaries which is not the case for a society.
- It can distribute its earnings back to members (need not plough back the profits unlike NPO / Section 8 companies) in the proportion of contribution and not necessarily as per the share holding pattern.
- Every member has one vote irrespective of number of shares held by him which is the essence of co-operative society.
- It can be run by professionals by designating them on board which is not the case for a society.

The provisions prevent recurrence of problems of the cooperative sector by keeping the government involvement and thereby control out of it. The members are all primary producers.
It provides an emphasis for professional management with appointed of CEO and providing for a board structure. The Board members are farmers entrenched within the ecosystem and have voting rights. Alliances and JVs enable the FPC to work at improving its supply chain, storage facilities and provide access to technology thereby enhancing the profitability. There are no restrictions on borrowing options and on the area of operations. It can function across India and be an exporter. FPCs provide the professionalism, reach and autonomy for the growth of FPOs. While cooperatives ensured benefits to farmers via state intervention, FPCs were conceived to empower farmers through collective bargaining along with instilling an entrepreneurial quality to farming.

Producer Companies therefore are non-political entities with an aim to provide business services to small landholder farmer members. They work to promote collaborative principles in inputs like seeds, fertilizers, credit, insurance, knowledge, collective marketing and technology usage. Producer Companies are conceived to be institutions that have all the significant features of private enterprise with principles of mutual assistance of cooperatives.

The intention of the Government while introducing a Producer Company was to bring them at par with the cooperative societies as far as taxation is concerned. This intention was not translated by any amendment to income tax legislation. Consequently, Cooperative Societies enjoyed the benefit under sec 80 P of the Act while Producer Companies were taxed as a company in which public are not substantially interested.

To overcome the undue hardship and the bias in the taxation of the FPOs, the Government in the Union Budget 2018-19, has provided a tax benefit to the FPOs. It is, therefore, been proposed to extend the 100% tax deduction to Farmer Producer Company having a total turnover up to Rs. 100 crores. In other words, any Producer company making a turnover of up to 100 Crores and earning profit out of the same, will now not need to pay any corporate tax, 100% tax deduction has been allowed by proposing an extension to section 80P by inserting section 80PA to the Act. The benefit shall be available for a period of five years from the FY 2018-19. The benefit will be available in respect of the following activities of the Producer Companies:

(a) the marketing of agricultural produce grown by the members; or

(b) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the members; or

(c) the processing of the agricultural produce of the members;

Conclusion:

In 2014/2015, the Government set the goal of supporting the creation and/or registration of 2000 FPOs across India over the next few years. The official numbers don't match up close to this as per last available data. In the current budget a further fillip has been given with the tax incentives. A farmer producer company is best suited to make the best of the tax incentives and export encouragement provide in the budget. The profit and growth focus that will come in with the provisions of the budget can only be taken forward with professional leadership and organised management. The professionalism push that can come from the corporate set up in a FPC and the scale potential that comes with this format sets up the sector for the much-awaited acceleration and transformation.

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