

Union Budget – Continued Focus on Infrastructure and Sustainability

On February 1, 2023, the Hon'ble Minister for Finance, Ms. Nirmala Sitaram, presented the Union Budget for FY 2023-24 (“**Budget**”) to the Parliament of India. While India’s economy has rebounded from the pandemic-related downturn, new headwinds are on the horizon in the form of inflation, slowing global growth and the war in Ukraine. Nevertheless, India’s economy has proved remarkably resilient to the ongoing impacts of the deteriorating external environment and is projected to be one of the fastest growing major economies in the world, a state of affairs which the Budget attributes to focus on wide-ranging reforms and sound policies targeted support to those in need.

The Union Economic Survey for FY 2022-23, published on January 31, 2023, highlighted the critical role played by infrastructure in economic growth, observing that investing in high-quality infrastructure is crucial for accelerating and sustaining economic growth as it has a salutary effect on the productivity and efficiency of manufacturing. Also notable are the ‘Panchamrit’ outlined by the Prime Minister at COP26 to deal with the climate change challenges, with India focused on achieving net-zero carbon emission by 2070.

Against this backdrop, the Budget has made a number of significant announcements relating to the infrastructure sector. ‘Investment and infrastructure’ is one of the 7 (seven) priorities underpinning the Budget, with the Budget looking to take the “lead once again to ramp up the virtuous cycle of investment and job creation.

1. **Green Growth:** ‘Green Growth’, which is another of the seven priorities underpinning the Budget, aims to reduce the economy’s carbon intensity and to provide for largescale green job opportunities. To this end, the Budget highlights the following measures:
 - a) The recently launched National Green Hydrogen Mission, with an outlay of INR 19,700,00,00,000 (Indian Rupees nineteen thousand seven hundred crore), is expected to facilitate transition of the economy to low carbon intensity, reduce dependence on fossil fuel imports, and ensure technology and market leadership. It is hoped to achieve annual production of 5 (five) MMT by 2030.
 - b) INR 35,000,00,00,000 (Indian Rupees thirty five thousand crore) has been provided for priority capital investments by Ministry of Petroleum & Natural Gas towards energy transition and net zero objectives, and energy security.
 - c) 4000 (four thousand) MWh of battery energy storage systems will be supported through viability gap funding in order to steer the economy on the sustainable development path. A detailed framework for pumped storage projects will also be formulated.
 - d) An inter-state transmission system for evacuation and grid integration of 13 (thirteen) GW renewable energy from Ladakh will be constructed at an investment of INR 20,700,00,00,000 (Indian Rupees twenty thousand

seven hundred crore), including central support of INR 8,300,00,00,000 (Indian Rupees eight thousand three hundred crore).

- e) A 'Green Credit Programme' will be notified under the Environment (Protection) Act in order to encouraging behavioural change. The programme is intended to mobilize additional resources for and incentivize environmentally sustainable and responsive actions by companies, individuals and local bodies.
- f) A 5% compressed biogas mandate will be introduced for all organisations that market natural and biogas. Further, 200 (two hundred) compressed biogas plants (including 75 (seventy five) plants in urban areas) and 300 (three hundred) community/ cluster based plants would be established with total investments of INR 10,000,00,00,000 (Indian Rupees ten thousand crore).
- g) To avoid cascading of taxes on blended compressed natural gas, GST-paid compressed biogas contained in it will be exempt from excise duty.
- h) To provide impetus to green mobility, capital goods and machinery required for manufacture of lithium-ion cells for batteries used in electric vehicles will be exempt from customs duty.
- i) To support ethanol blending programme and facilitate energy transition, basic customs duty on denatured ethyl alcohol has been exempted.

2. **Sustainable Cities:** A number of proposals have been announced targeting at urban transformation for a better tomorrow:

- a) With a view to developing 'sustainable cities of tomorrow', state and city authorities will be encouraged to undertake urban planning reforms in the form of efficient use of land resources, adequate resources for urban infrastructure, and transit-oriented development.
- b) Efforts will be made to improve their creditworthiness by way of property tax governance reforms and ring-fencing user charges on urban infrastructure.
- c) An 'Urban Infrastructure Development Fund' will be established to finance creation of urban infrastructure in Tier 2 (two) and Tier 3 (three) cities. The fund, which will be managed by the National Housing Bank, is expected to make available INR 10,000,00,00,000 (Indian Rupees ten thousand crore) per annum.

The focus on green growth and sustainable urban development is a welcome response to the need for sustain economic growth, address the burgeoning population and also ensure mitigate the clear and present threat of climate change. The wide-ranging slew of initiatives is expected to underpin and galvanize a move towards knowledge-based green growth and will also serve to incubate and promote 'Make in India' technologies and products for consumers around the globe.

3. **Increase in Expenditure:** The Budget has increased the outlay for capital investment to INR 10 lakh crore (Indian Rupees ten lakh crore), which constitutes a whopping 3.3% of GDP and is almost 3 (three) times the outlay in FY 2019-20. This is the centrepiece of the government's efforts to enhance growth potential, create jobs, crowd in private investments, and provide a cushion against global headwinds. Additionally, a newly established Infrastructure Finance Secretariat has been tasked with assisting stakeholders for more private investment in infrastructure (including railways, roads, urban infrastructure and power), which predominantly depend on public resources.

However, the Budget does not appear to feature sufficient focus and initiative to spur private investment in infrastructure, instead predicating private investment on the flow of public funds. There is a need for innovative models and true-blue public private partnerships to be revived and brought into play. Nevertheless, this increased expenditure is sensible as it entails meaningful investment in infrastructure development and nation-building, with monetisation following thereafter after.

4. **Transportation:** The transportation sector has once again found priority in the Budget, having been allocated a sum of INR 5.17 lakh crore (Indian Rupees five hundred seventeen lakh crore), with enhancement of connectivity a key theme.

- a) An investment of INR 75,000,00,00,000 (Indian Rupees seventy five thousand crore) (including INR 15,000,00,00,000 (Indian Rupees fifteen thousand crore) from private sources) is envisaged for 100 (one hundred) critical transport infrastructure projects for last and first mile connectivity in the ports, coal, steel, fertilizer, and food grains sectors.
- b) An unprecedented capital outlay of INR 2.40 lakh crore (Indian Rupees two hundred forty lakh crore) has been provided for the Railways, which includes in its scope the following heads of expenditure:

Head of Expenditure	Amount (INR)
New Lines	31850.00
Gauge Conversion	4600.00
Doubling	30749.40
Rolling Stock	37581.00
Road Safety Works - Level Crossings	700.00
Road Safety Works - Road Over/Under Bridges	7400.00
Track Renewals	17296.84
Bridge Works, Tunnel Works and Approaches	1255.00
Signalling and Telecom	4198.22
Electrification Projects	8070.00
Metropolitan Transportation Projects	2450.00

- c) 50 (fifty) additional airports, heliports, water aerodromes and advance landing grounds will be revived for improving regional air connectivity.
- d) An amount of INR 1,244,00,00,000 (Indian Rupees One Thousand Two Hundred Forty Four Crores) has been earmarked for the regional airport connectivity scheme UDAN (Ude Desh ka Aam Naagrik) for revival of 22 (twenty two) airports, commencement of 100 (one hundred) RCS (Regional Connectivity Scheme) routes and viability gap funding for North East connectivity.
- e) Coastal shipping will be promoted by means of public private partnerships (“PPPs”) with viability gap funding as an energy efficient and lower cost mode of transporting both passengers and freight.

This infrastructure development will mark an important step towards improving, easing and making more efficient the transportation of goods and services and fast-tracking India’s emergence as a key player in logistics. However, the specifics of the financing and implementation structures, the proposed framework, and the exact manner of their roll-out wait to be seen. The ability to leverage private sector investment will hinge on these designs as also if and how they are sustained. As the history of municipal bonds and their low market ratings showcases, the devil lies in the detail.

The coming years are expected to be challenging for the global geopolitical and economic order. How India navigates these tricky waters will be key to achieving vision of a prosperous and inclusive India@100 (one hundred). While the Budget rightly states that the Indian economy is recognised as a ‘bright star’ and is on the right track towards a bright future, it is imperative that timely, constructive and sustained actions are rolled out in the coming years to ensure India’s growth story is not side-tracked and that our economic potential is fully realised.

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JSA provides end to end assistance to its clients in all aspects of development and operations including but not limited to setting up of green field projects and documentation in respect thereof such as joint venture agreements, shareholders agreements, foreign direct investment approvals, project financing, EPC contracts, O&M contracts, vetting of tender documents including review of concession agreements and regulatory issues including competition, licensing and tariff matters before various regulatory fora.

JSA advises clients on across the spectrum of contractual, commercial, policy, regulatory and legal issues at all stages of the value chain. JSA has been regularly engaged in advising project developers, investors, suppliers and contractors on commercial/ transactional issues, advising financial institutions and borrowers in relation to financing transactions and dispute resolution (including arbitration, litigation and representation before various judicial fora).

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