ACUITY LAW

# INDIA UNION BUDGET 2020

## Key Highlights

*February 2020*

*Privileged and Confidential*

# The Economy - Current status, focus areas and way forward

- The prominent theme of Union Budget 2020-21 is facilitating ease of living through governance and robust financial sector
- Some key measures in 2019-2020 were reduction in corporate tax rate, policy initiatives for electric vehicles, schemes for MSME's, incentive for start ups, digital payments for improving ease of doing business
- Global confidence in the Indian economy continues to improve as reflected from the in growing inflows of FDI with accumulation of foreign exchange reserves at $ 457.5 bn as of December 2019
- The budget for 2020-2021 revolved around 3 prominent themes

**Aspirational India**

- Agriculture, Irrigation and Rural Development
- Wellness, Water and Sanitation
- Education and Skills

**Economic Development**

- Industry, Commerce and Investment
- Infrastructure
- New Economy

**Caring Society**

- Women & Child, Social Welfare
- Culture and Tourism
- Environment and Climate Change

# Key Highlights Union Budget 2020-21 – Infrastructure

## Logistics

- National logistics policy to be released soon (draft logistic policy was rolled out in February 2019)
- Geo tagging of warehouses
- Incentivizing farmers through village storage scheme to build warehouses
- Impetus to cold storage
- Capital outlay towards food storage and warehousing increased to INR 10.22 bn

Key Impact: Efficient implementation of these schemes would enable cost reduction in warehousing space, particularly cold storage segment (which is facing shortfall of about 50% of India's requirement). It will also reduce loss of perishable goods which is as high as about 40% of the agricultural produce. It is a positive move towards the Government's focus on reduction of logistics cost to 9% by 2022 from present 14%

## Road/Highways

- Accelerated development of highways
- Capital outlay allocated towards the Roads and Highway sector is INR 770 bn
- Development of 2,500 Kms access control highways, 9,000 Kms of economic corridors, 2,000 Kms of coastal and land port roads and 2,000 Kms of strategic highways
- Proposal to monetize at least 12 lots of highway bundles of over 6,000 Kms before 2024

Key Impact: Budget allocation appears low in comparison to allocation made under National Infrastructure Pipeline. Overall positive for connectivity of the nation's roads and highways and private interest in road development. Given the past records the timely fruitification of this proposal holds the key for the sector. Expected to attract the interest of Sovereign Wealth Funds

## Railways

- Proposed INR 100 trn investment in infrastructure in next 5 years
  - ✓ INR 1,700 bn for transportation sector for the year FY20-21 (vis-à-vis INR 1,590 bn as per est. for FY20).
  - ✓ Includes expenditure on railways of INR 722.16 bn for FY21, upwards by 6% on y-o-y basis
- 4 stations to be redeveloped
- Rolling out additional Tejas trains
- Setting up large solar power capacity alongside rail track on land owned by Indian Railways to optimise electrification cost
- Aim to achieve railway electrification of 27000 kms track
- PPP for re-development of 4 Stations and operation of 150 passenger trains

Key Impact: Stable and consistent Budget for Railways with similar capital expenditure allocation and opening-up of private investment for railway infrastructure creation

## Aviation

- 100 more airports to be developed under UDAAN by 2024
- Key measures to be introduced for pilot training
- Krishi Udaan to be launched by the Ministry of Civil Aviation on international and national routes

Key Impact: Will immensely help improve value realization especially in North-East and tribal districts and further improve the capacity utilization of airports in tier-III cities. Will attract significant private investment in airports. Air fleet number expected to go up from the present 600 to 1,200 in this period. CARE expects significant momentum in terms of investment and employment generation by the said timeline

## Power & Renewable

- KUSUSM scheme for setting up solar pumps has been extended to 2 mn farmers and assistance to set up solar plants in barren land of farmers
- Large solar power capacity installation along railway tracks
- Reduction of tax rate of 15% for new power generation companies
- Proposal to replace conventional energy meters by prepaid smart meters in next 3 years
- Budget allocation of INR 220 bn for power sector and renewable energy

Key Impact: Will push solar energy capacity additions and help government move towards achieving its renewable energy installation targets, generating extra resources for railways and additional revenue stream for the farmers. Conversion to smart meters to help in improving billing and collection efficiency of distribution companies (DISCOMS)

*(Source: CARE Ratings: Analysis of Union Budget 2020-21)*

ACUITY LAW

# Key Highlights Union Budget 2020-21 – New Economy

- Key disruptors of new global economy - AI, IoT, 3D printing, drones, DNA data and quantum computing
- Major change in Indian economy – aggregator platforms displacing conventional businesses
- Technological contribution to Government – direct benefit transfers and financial inclusion on a large scale
- Focus sectors

**Data Analytics**

- Introduce policy for enabling private sector enterprises to build data center parks throughout India to facilitate skillful incorporation of data in every step of the value chain
- Digitally connect all public institutions at Gram Panchayat level including health centers, schools, post offices and public distribution systems
- Allocation of INR 60 bn to Bharatnet programme for 2020-2021

**Development of Knowledge Centers**

- Promote digital platform to facilitate seamless application and capturing of IPRs

  Establish Institute of Excellence to work on complexity and innovation in IP
- Set up technology clusters across different technology sectors and emerging areas. Establish small scale manufacturing facilities to scale up technology clusters and for designing, fabrication and validation of proof of concept
- Initiate two national level science schemes to create a comprehensive database for mapping India's genetic landscape is critical for next generation medicine, agriculture and for bio-diversity management

  Government to provide early life funding to support ideation and development of early stage start-ups

**Quantum Technology**

- Provide an outlay of INR 80 bn over a period 5 years for the National Mission on Quantum Technologies and Applications

ACUITY LAW

# Key Highlights Union Budget 2020-21 – Technology and Digital

- Key Developments - analytics, machine learning, robotics, bio-informatics and AI
- Government propose to use technological development for – (a) delivery of service through digital governance (b) improve physical quality of life through National Infrastructure Pipeline (c) risk mitigation through disaster resilience (d) social security through pension and insurance penetration
- Key areas of focus

| | |
| --- | --- |
| Agriculture | • In the area of warehousing and storage, NABARD to undertake exercise to map and geo-tag warehouses / storages<br>• Integration of negotiable warehousing receipts (e-NWR) with national agriculture market (e-NAM) |
| Industry & Commerce | • MSME – (a) introduce scheme to digitally refund to exporters, duties and taxes (b) Government e-Marketplace (GeM) to create a Unified Procurement System in India for providing a single platform for procurement of goods, services and works |
| Healthcare | • Use machine learning and AI, in the Ayushman Bharat scheme, health authorities and the medical fraternity can target disease with an appropriately designed Preventive regime |
| Power | • Replace conventional energy meters by prepaid smart meters in the next 3 years which would give consumers the freedom to choose the supplier and rate as per their requirements |

ACUITY LAW

# Key Highlights Union Budget 2020-21 – Manufacturing, Oil & Gas and MSME

- Government to focus on (a) revitalization of manufacturing activities with focus on networked products, (b) introducing reforms in oil & gas sector to facilitate transparent price discovery and ease of transactions to deepen gas markets in India and (c) incentivize and stimulate MSMEs and ease restrictions on working capital credit as they are one of the prime sectors for job creation and innovation.

**Manufacturing**

- Focus areas – electronics and textiles
- Proposal –
  a) boosting domestic manufacturing of electronics value chain
  b) scheme on encouraging manufacture of mobile phones, electronic equipment and semi-conductor packaging and on medical devices
  c) quality and standard of manufacturing

**Oil & Gas**

- Focus areas – Open Acreage Licensing Policy for exploration by private sector and expansion
- Proposal – Expansion of national gas grid from 16,200 km to 27,000 km; reforms for ease of transactions

**MSME**

- Focus areas – economic and financial sustainability
- Proposal –
  a) amendments to Factor Regulation Act, 2011 to enable NBFCs to extend invoice financing
  b) scheme to provide subordinate debt for entrepreneurs of MSMEs
  c) to extend deadline of restructuring of debt of MSMEs to 31 March 2021
  d) app-based invoice financing loans product to be launched

ACUITY LAW

# Key Highlights Union Budget 2020-21 – Financial Sector

- Government focus on strengthening financial architecture in efforts to achieve the target of US$ 5 trillion economy
- Major Government initiatives – consolidation of public sector banks, infusion of INR 3,500 bn in public sector banks for regulatory and growth purpose and governance reforms, encouraging to approach capital markets to raise capital
- Key focus areas – debt recovery, growth of MSME sector, private capital and investments in government securities

**Deposit Insurance Coverage**

- Deposit Insurance and Credit Guarantee Corporation has been permitted to increase Deposit Insurance Coverage from INR 1,00,000 to INR 5,00,000 per depositor

**Eligibility limit for NBFCs for debt recovery**

- Limit for NBFCs to be eligible for debt recovery under the SARFAESI Act, 2002 is proposed to be reduced – asset size from existing INR 5 bn to INR 1 bn and loan size from existing INR 10 mn to INR 5 mn

**Sale of GoI holding in IDBI Bank**

- In a need for greater private capital, Government has proposed to sell its the balance holding in IDBI Bank to private, retail and institutional investors through stock exchange

# Key Highlights Union Budget 2020-21 – Financial Sector

### Ease of mobility in jobs

- Amendment in Pension Fund Regulatory Development Authority of India Act to separate NPS trust for government employees from PFRDA
- Employees other than government employees to be able to form pension trust

### Handholding support

- Support to mid-size companies, engaged in pharmaceutical, auto components and other selected sectors, to be successful in export market – for technology upgradation, R&D, business strategy etc.
- INR 10 bn scheme anchored by EXIM bank together with SIDBI

### Deepening of bond market

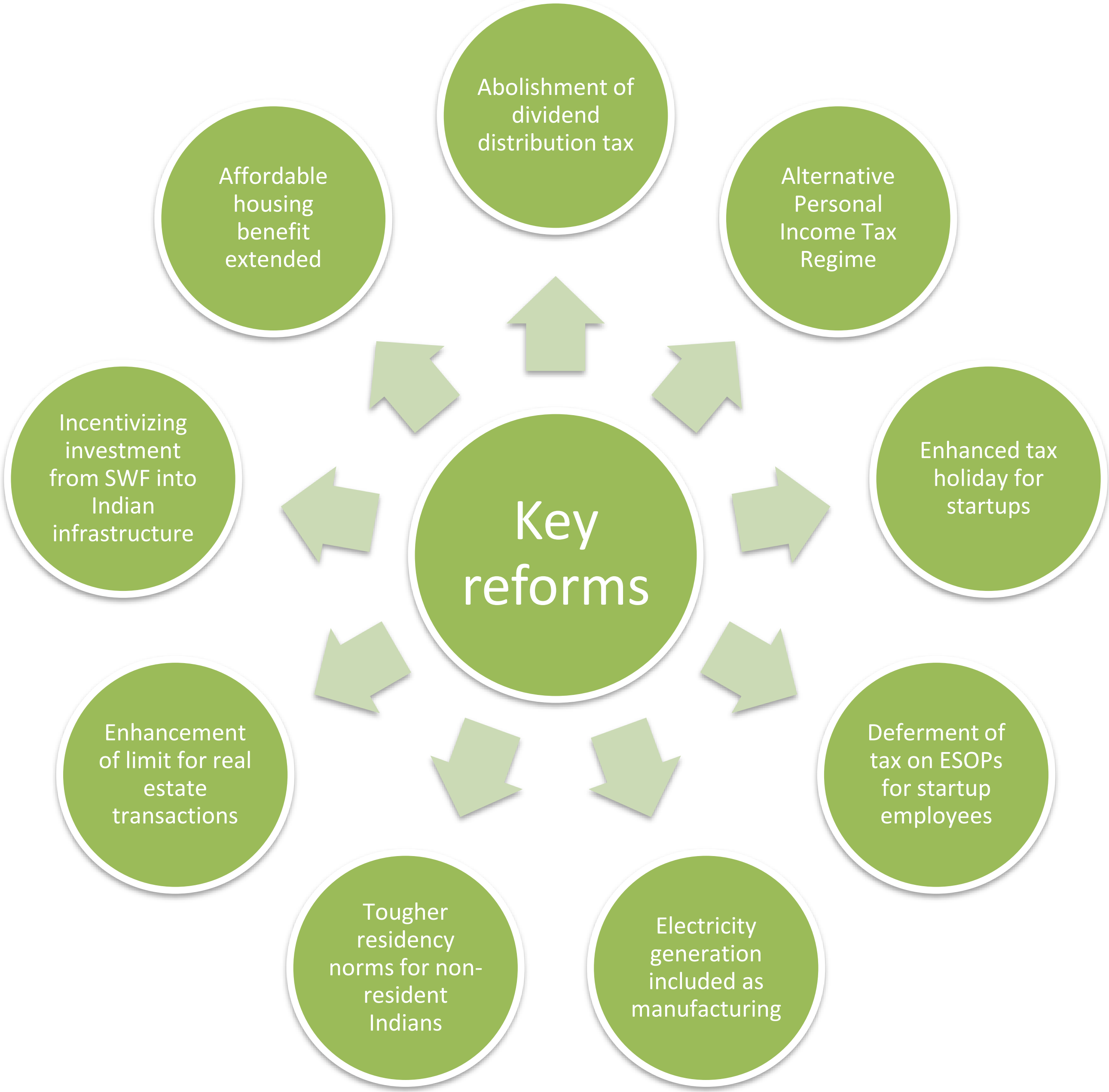
- Certain specified categories of Government securities to be opened fully for non-resident investors
- Limit for FPI in corporate bonds to be increased from 9% of outstanding stock to 15% of the outstanding stock of corporate bonds
- Legislation for laying down a mechanism for netting of financial contracts to improve investors' confidence and to expand the scope of credit default swaps
- Debt-based Exchange Traded Fund (ETF)

### Debt-based exchange traded fund (ETF)

- Proposal to float a new Debt-ETF consisting primarily of government securities to give retail investors access to government securities as much as giving an attractive investment for pension funds and long term investment

ACUITY LAW

# Direct Taxation



# Direct Taxation

**Abolishment of Dividend Distribution Tax ('DDT')**

- Currently, dividends declared by companies are subject to DDT @ ~20% in hands of companies and @ 10% in case of equity oriented mutual funds. However, net dividend received by shareholders/unitholder is exempt from tax in their hands
- In a major step towards rationalization of taxation structure and removal of cascading effect of taxes, DDT has been abolished w.e.f FY beginning 01/04/2020. Dividends would be taxable in the hands of shareholders/unitholders as per classical system of taxation
- However, since dividends would now be taxable in hands of shareholder/unitholder, a provision has been made to withhold tax @10% from such dividends, in excess of INR 5,000 p.a, paid to resident shareholders/unitholders. Further, w.r.t mutual funds, it has been clarified on 05/02/2020 that such withholding tax shall apply only on dividend income and not to capital gains arising on redemption of units

**Key impact**: For most resident shareholders/unitholders, the erstwhile DDT may have led to higher effective tax outflow. With this amendment, the taxation would be progressive as per applicable tax slabs for respective shareholder/unitholder and hence effectively lower than before. The TDS mechanism also ensures (a) timely and structured payment by company/mutual fund on behalf of shareholder/unitholder, and (b) no cumulative one-time tax outflow at the time of filing tax return by such shareholder/unitholder

**Relaxing conditions for developers of affordable housing projects in order to avail tax holiday**

- Developers of affordable housing projects in India are eligible to claim 100% deduction of profits from such business provided the housing project is approved by competent authority by 31/03/2020
- The above period for approval has been extended up to 31/03/2021 to incentivize affordable housing projects and boost supply of such affordable houses

**Key impact**: Affordable housing segment to get additional reprieve of one year and will facilitate more such projects to cater to the burgeoning middle class in the country

ACUITY LAW

# Direct Taxation

**Alternative Personal Income Tax Regime ('PITR')**

| (I) Current income slabs (INR) | Tax | (II) PITR - Alternative slabs available w.e.f FY beginning 01/04/20 (INR) | Tax |
|---|---|---|---|
| 2,50,000 to 5,00,000 | 5% | Up to 5,00,000 | NIL |
| 5,00,001 to 10,00,000 | 20% | 5,00,001 to 7,50,000 | 10% |
| 10,00,001 and above | 30% | 7,50,001 to 10,00,000 | 15% |
| | | 10,00,001 to 12,50,000 | 20% |
| | | 12,50,001 to 15,00,000 | 25% |
| | | 15,00,001 and above | 30% |

- PITR ensures individual taxpayers have recourse to alternative modes of computation of tax liability and choose the one with lower tax outflow
- (I) would compute taxable income after considering available deductions and exemptions while (II) PITR would compute the taxable income without considering certain deductions or exemptions
- Such PITR alternative option shall be available every year so long as individual taxpayer does not have any 'business income'
- In case there is 'business income', such PITR option shall be exercised only once and be valid for all subsequent years. In such case, the PITR option can also be withdrawn only once by such individual having 'business income' and thereafter till he ceases to have such 'business income', PITR option may not be exercised by him

**Key impact**: For most categories of individual taxpayers, PITR is likely to lead to lower tax outflow due to multiple slabs and lower slab tax rates. Individuals to have option of choosing PITR to effectively pay lower tax without claiming any exemption/deductions. This would make current slabs (with exemptions/deductions) redundant over a period of time

**Generation of electricity to be considered as 'manufacturing' for claiming beneficial tax rates**

- New Manufacturing Companies ('NMC') is a class of domestic companies set up on or after 01/10/2019 engaged in manufacturing of specified items or things. Such NMC would have the option to claim beneficial tax corporate rate of 15% on its taxable income computed without claiming any tax holidays or incentives
- Based on industry demand, for NMCs generation of electricity is also now included as manufacturing of specified items or things

**Key impact**: New companies qualifying as NMC and proposing to engage in electricity generation can also become eligible to claim beneficial corporate tax rate of 15%

ACUITY LAW

# Direct Taxation

**Tax exemption for Sovereign Wealth Funds ('SWFs') w.r.t income from investment in Indian infrastructure**

- A foreign SWF controlled by a foreign Government would enjoy tax exemption w.r.t dividend, interest or long term capital gains generated from investment made in the form of debt or equity in an Indian company engaged developing, operating and maintaining any infrastructure facility. Such investment should be made on or before 31/03/2024 and held for at least 3 years to qualify for such exemption
- The above exemption would also be available to a wholly owned UAE subsidiary of the Abu Dhabi Investment Authority that makes aforesaid investments in India out of the fund owned by Government of UAE
- Infrastructure facility would mean road (including toll road, bridge, rail system), highway project, water supply project, water treatment system, irrigation project, sanitation and sewerage system, solid waste management system, ports, airports, inland port, and navigational channel in the sea

**Key impact**: This is a welcome step in attracting long term foreign capital for key infrastructure projects in a capital deficient economy like India

**Enhanced tax holiday for startups**

- Eligible startups are entitled to claim 100% tax deduction w.r.t profits for any three consecutive years out of total seven years commencing from year of incorporation. Further, eligible startups have an INR 250 mn yearly cap on turnover
- Post amendment, yearly cap on turnover has been enhanced to INR 1 bn and such eligible startups would be eligible to claim 100% tax incentive for any three consecutive years out of ten years from year of incorporation

**Key impact**: More number of startups with potentially higher turnover (greater than INR 250 mn) can become eligible to claim tax incentive and the incentive can be claimed optimally for any three successive years out of a total pool of ten years from date of incorporation instead of current pool of seven years

ACUITY LAW

# Direct Taxation

**Safe harbor limit for real estate transactions enhanced to 10%**

- Currently, if any person receives an immovable property for payment of consideration (say, 100) which is less than stamp duty value of such property (say, 107) and the difference amount (i.e. 7 being 107 *less* 100) exceeds threshold of five per cent of such consideration (i.e. 5 being 5% of 100), then such difference amount (of 7) shall be taxable as 'income from other sources' in hands of such person
- It is now proposed to increase the threshold limit from five per cent to ten percent

**Key impact**: This would provide more flexibility to real estate transactions which would have faced a genuine hardship given the low threshold limit of five per cent. It would now be possible to consummate such transactions with a variance of up to ten per cent of consideration amount in case of higher stamp duty value

**Deferment of tax on Employee Stock Option Plans ('ESOPs') for startups**

- ESOPs are a mode of rewarding promising employees by providing them with ownership of the company. It is a non-cash way of recognizing and promoting talent within companies. Presently, there is a tax incidence in the hands of employee at the time of exercise of such ESOPs and allotment of underlying shares of the company to such employee. The difference between the fair market value of such underlying shares allotted and the exercise price thereof would be taxable as 'salary income' in the hands of the concerned employee at the time of exercise. Even if there is no cash flowing from employer (company) to employee at the time of exercise, such taxation leads to huge cash outflow in hands of employee. It is observed that this would be a concern especially for startup companies and their employees
- In order to address this cash trap in hands of such employees, especially of eligible startups, it is proposed to defer the taxation arising on exercise of such ESOPs by employees. Accordingly, the tax arising on exercise of ESOPs would be payable at a later date being earlier of - (a) 60 months from end of relevant FY of exercise, (b) sale of such shares by concerned employee or (c ) exit of such employee from such eligible startup company

**Key impact**: Employees of eligible startups having ESOPs can exercise their ESOPs and defer payment of taxation thereof to a much later date, thereby addressing their cash flow issues

# Direct Taxation

**Tightening residency norms for NRIs**

- A tax resident in India is liable to pay tax in India on his global income. However, a non-resident is taxable in India only for his Indian income and not income earned or generated outside India
- Presently, an individual is tax resident in India if he/she is in India for at least 365 days in previous four years **and** 60 days in current year. In case of an Indian citizen or a person of Indian origin (PIO) residing outside India and visiting India in any year, the window of ‘60 days’ is relaxed to ‘182 days’ so that they can visit India for longer duration without becoming resident in India for tax purposes. However, it has been observed that a section of the Indian diaspora, namely high net worth individuals (HNIs), residing outside India arrange their visits to India in such a manner that they nominally fall short of 182 days and hence do not become tax resident in India. For all practical purposes, they manage their affairs and carry out significant economic activities from India but their duration of stay falling short of 182 days ensures they remain non-resident and do not pay any tax in India on their global income which may also be managed from India. Further, such persons are known to arrange their affairs globally in such a fashion that they do not pay any tax in any country. This also leads to double non-taxation which needs to be addressed
- Accordingly, w.e.f FY beginning 01/04/2020, it is proposed to restrict the period of ‘182 days’ to ‘120 days’ for Indian citizens and PIOs
- Further, it is proposed that if such Indian citizen/PIO is not liable to pay any tax in such foreign jurisdiction by reason of his residence or any other similar criteria, such person shall be deemed to be tax resident of India. This would ensure such person is taxable in India for his global income. However, given the recent feedback surrounding genuine hardships faced by Indian citizens/PIOs working overseas, especially in Middle Eastern countries where there is no concept of income tax, CBDT has issued a clarification stating that the new provision is not intended to include in tax net those Indian citizens who are bona fide workers in other countries

**Key impact**: W.e.f 01/04/2020, HNIs being Indian citizens/PIO may need to stay for more than 245 days outside India (as against 183 days earlier) in order to qualify as non-resident for Indian tax purposes. Further, they may need to be mindful of their taxation in their foreign domicile

ACUITY LAW

Our HQ co-ordinates:

506, Marathon Icon
Off Ganpath Rao Kadam Marg  Lower
Parel, Mumbai – 400 013

www.acuitylaw.co.in

+91 22 6232 7000

AL@acuitylaw.co.in