VISION 360

UNION BUDGET 2021

A VISION FOR **ATMANIRBHAR** BHARAT

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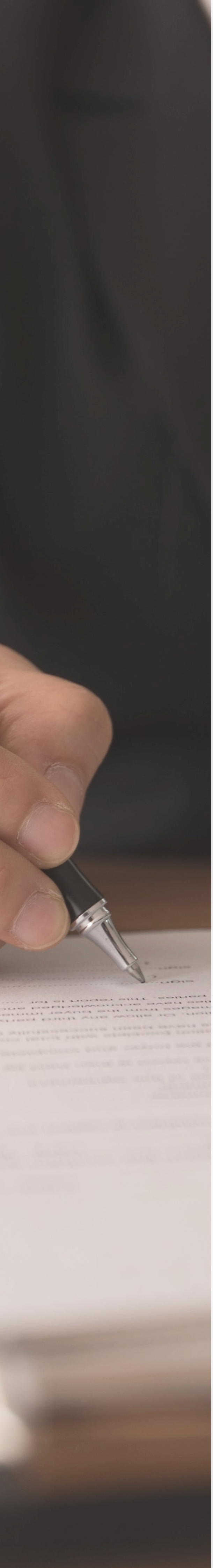

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PREFACE

Budget 2021-22: A Bold & Positive Endeavour !!!

'Economic revival and growth' are the words to reckon if Hon'ble Finance Minister's announcements today are implemented in letter and spirit.

It wouldn't be a shocker if our Minister introduced new levy to cope with COVID situations, which taxpayers too had swallowed with a bit of displeasure. But it was a feeling of respite and a pleasant surprise for many to see no such levy along with unchanged Income tax slabs. And although Customs duty saw a bit of surge, it seemed only to make domestic manufacturing conducive. A solid testament of the economic resilience.

With once in a century event like pandemic, the expectation was too for a 'once in a century' budget, and that alongside the continued hope for public welfare on one hand and to lay a road map for a double-digit growth on the other. For so many reasons, it was perhaps one of the toughest times to present a budget and majority would see it as sufficiently addressed.

With time-to-time measures already taken to address the dearth during COVID situation, the budget was more of continuity of initiatives already taken. The approach derived from 'Atmanirbhar Bharat' has certainly laid the foundation for a 'V-shaped' revival trajectory. The budget has fostered this theme through policy announcements for aptly identified 6-pillars – Health, Infrastructure, Inclusive development, Re-invigorating human capital, Innovation and R&D and Minimum Government Maximum Governance.

As a matter of fact, the budget is largely expenditure focused, with few important taxation proposals, that didn't find its mention in the speech such as the framework for corporate restructuring which defies Supreme Court's decision in Smifs Securities and excludes goodwill from scope of depreciation. Needless to say, all the restructurings, which were only spiked by COVID impact, now have to factor in this change. The proposal is certainly an unexpected dampener.

However, some of the announcements such as increase in FDI limit for insurance sector from 49% to 74% to attract greater foreign investment, creation of an Asset Reconstruction Company and Asset Management Company to help improve the health of the banking sector, provide a glimpse of the FM and her teams keen attention to the fundamentals of the economy. The announcements also entail some more of these welcome moves like reduced time limit for reopening of past cases from six to three years and benefit of lower withholding rates under tax treaties for foreign shareholders in Indian companies. While faceless assessments are a move towards technological advancements in faster and seamless assessments, it too has its own side story where assessees would be left wondering if their issues have been understood and appreciated appropriately.

The indirect tax regime too saw some significant proposals such as removal of mandatory requirement to getting annual accounts audited and reconciliation statement submitted by specified professional. Indeed, a major relief not only from the quantum of compliance but also from the ever-changing statutory framework and timelines in this regard. It is also interesting to see how the erstwhile mechanism of refund has been borrowed in the provisions of zero-rated supply and only allows a notified class of taxpayers or notified supplies of goods or services to be covered thereunder.

It is a mix of sentiments so far as GST related proposals are concerned. On one hand it is a bit too strict to allow ITC only if the supplier has furnished details of invoice or debit note in its return, on the other hand it is indeed a welcome step to see the budget finally effectuate GST Council's decision to retrospectively amend the law so as to charge interest only on net cash liability. Amongst all these changes, one couldn't fail to notice that while the Indian economy is very much on its way to emerge out of COVID -19 crisis, the display of commitment and sheer will of the FM will act as a catalyst in the next phase of the growth process.

To sum up, it is an ambitious budget, that now needs focused execution to sail through! And we at TIOL, in association with **Taxcraft Advisors LLP, GST Legal Services LLP** and **VMG & Associates**, have ventured to analyse its nitty-gritty for our esteemed readers.

We hope this booklet helps you to decipher key proposals of this budget. As always, we look forward to receiving your inputs, thoughts and feedback.

Happy Reading!

Best Regards,

Team Vision 360

INDUSTRY SPEAKS

The Government is clearly seeing the heavy expenditure as a means to spike the momentum in the economy. By pledging heavy investments in the National Highway projects to the tune of 8,500 km by March 2022 and an additional 11,000 km of National Highway Corridor, the future for the infrastructure and ancillary sectors like us, indeed seems to be very promising. Likewise, the proposed expenditure in the Health care sector would certainly lead to many technological developments and boost to the domestic manufacturing of medical devices. On the back-drop, though the BCD rate on certain electrical equipment, signalling equipment, etc. have been increased, it may not adversely impact the overall business growth of the automotive sector or rather would push for the re-location of supply alternatives in India itself.

SANJAI GUPTA
Vice President, Corporate Affairs
3M India Limited

While most of the Budget 2021 speculations such as the Customs Amnesty Scheme, COVID Cess, etc. have proven to be a speculation, the Budget has surely sought to promote the domestic manufacturing of various electronic items, even at the expense of injuring the importers. Being a pioneer in the LED sector, surely the increase in Customs Duty rate for LED inputs and LED lamps, lanterns, etc. would increase the costing of our products and would make even more difficult for us to compete with the Indian manufacturers. Having said that, we are glad to see that Government has indeed taken a pro-Consumer/business approach by promising 1000 new electronic national markets.

RAJESH UTTAMCHANDANI
Managing Director
Syska LED Lights Private Limited

The hospitality, Travel & Tourism Sector has been going through a challenging time owing to COVID-19 disruptions. In this backdrop, as a sector we were expecting some significant benefits either in the form of a fiscal incentive or reduction in tax rates or deferment of tax payments. Nonetheless, it seems that the Government has not taken cognizance of the hardships faced by the Sector and therefore, nothing of this sort has been announced.

AMIT GUPTA
India Tax Head
Oyo Hotels & Homes Private Limited

It is a progressive and inclusive budget. The Hon'ble FM has tried to capture critical aspects of the growth right from divestment to increasing the revenue proceeds to more spending on public infrastructure and healthcare. In direct tax proposals, Faceless ITAT, TDS on purchase of goods and rationalization of M&A related provisions are key ones. In indirect taxes, proposal to do away with the requirement of getting the reconciliation statement, which was required to be filed with the Annual Return, certified by a Chartered Accountant and replace it with self-certification, is a welcome move. Overall a positive budget!

MANOJ AGARWAL
Chief Financial Officer
Gujarat Fluorochemicals Limited

Allocation of INR 3.06 lakh crores for financial revival of DISCOMs is indeed a welcome move. Nonetheless, this of course is a short-term solution. We all know that in the long term the DISCOMs' privatization is the only feasible solution and the process has already begun with some of the DISCOMs being privatized in the recent past.

Another impact area is that of BCD on modules – which has still not been announced which in a way is good news as it appears (at least for the IPPs) that it has been deferred for the time being. On the other hand, increase of BCD from 5% to 20% on inverters is an intelligent move as it would promote domestic manufacturing and India as a country has sufficient capacity available.

The Industry though was expecting widening of definition of Sovereign funds [to include infra projects] which enjoy a tax concession. Lastly, the capital infusion in Sector's catalyst agencies such as SECI and IREDA is a welcome move and a much needed at that. Overall, it is an average budget!

PARAG SHARMA
Chief Executive Officer
O2 Power

Given the scale of the COVID-19 pandemic, the Budget 2021 was definitely a herculean task on the Finance Ministry to help get the economy back on track! The Government has indeed exercised a self restraint in not introducing any new levy or cess to reduce the fiscal deficit. Instead, the Government has chosen to spend excessively on health and infrastructure sector to promote economic growth.

While the budget is just as herculean as expected, there have been certain let-downs as well in the absence of any Customs Amnesty Scheme or any increase in Custom Duty on processed goods in plastic packaging industry. Owing to such leverage in Custom Duties, the Chinese and South East Asian Countries has been constantly dumping the goods in the Indian market owing to which imports have increased almost to five time in the last few quarters alone. Accordingly, it was expected that duties would be increased on such products to strengthen the Domestic Manufactures. Nonetheless, considering the trying times, this might as well be the best Budget one would have expected.

AKHILESH BHARGAVA
Managing Director
AVI Global Plast Private Limited

INDUSTRY SPEAKS

The FM seems to have struck a balancing act amidst the incumbent fiscal deficit and other economic challenges posed by the pandemic. Sensex too has reacted positively. No change in corporate tax rates is an extremely positive move from Hon'ble FM. Faceless litigation at ITAT level, introduction of dispute resolution scheme and reduction in time limit for reopening cases are some of the bold moves to settle disputes in a timely manner!

However, M&A space may take a hit owing to: (a) prospective disallowance of depreciation on goodwill; and (b) augmenting the fold of capital gains on slump exchange. Possible overlapping of TDS and TCS on purchase/ sale of goods may prove to be draconian from compliance perspective. In all, a bold and positive budget!

NIPUN MOHANKA
In Country Tax and Treasury Lead
Mars International India Private Limited

A progressive and growth-oriented digital budget with focus on healthcare spending and PLI scheme for various sectors would be much appreciated by Industry leaders and benefit Public at large.

Reduction of time-limit for reopening of tax assessments from 6 years to 3 years is much welcomed move and will help reduce tax uncertainties however, disallowance of deduction of goodwill is a surprise and will impact future M&A transactions. Additional Compliance burden under TDS and GST rules will require further automation of processes and use of technological assistance.

Seeing the budget estimates of fiscal deficit, experts were apprehensive of increase in tax liability and therefore in absence of any major change in Personal or Corporate tax rates, the markets reacted positively.

SHALABH GOEL
Director Finance [India & APAC]
Centrient Pharmaceuticals

SECTOR-WISE ANALYSIS

Key Sector Wise announcements / Proposals

Health and Sanitation

- In addition to National Health Mission, new centrally sponsored scheme, PM AtmaNirbhar Swasth Bharat Yojana to be launched with an outlay of about INR 64,180 crores over 6 years
- Increased budget outlay for Health and wellbeing of INR 223,846 crores [137% higher than previous year]
- Rs. 35,000 crores allocated for COVID-19 vaccine
- To strengthen nutritional content, delivery, outreach, and outcome Mission Poshan 2.0 has been launched
- The Jal Jeevan Mission (Urban) launched to ensure universal water supply in all 4,378 Urban Local Bodies with 2.86 crores household tap connections, as well as liquid waste management in 500 AMRUT cities
- Urban Swachh Bharat Mission 2.0 will be implemented with a total financial allocation of INR 1,41,678 crores over a period of 5 years from 2021-2026
- To tackle the burgeoning problem of air pollution, allocated an amount of INR 2,217 crores for 42 urban centres with a million-plus population

Infrastructure and Real Estate

- DFI is introduced as a catalyst for infrastructure sector long term financing. INR 20,000 allocated to DFI for FY 2021-22
- To boost infrastructure projects by creating financial structures, monetizing brown field assets and increasing capital expenditure budgets at state and central level
- National Infra pipeline worth INR 103 lakh crores involving 6835 projects expanded to 7,400 projects
- Debt financing to be done for InVITs and REITs by making necessary amendments in regulations to ease access to finance by infrastructure and real estate sectors
- Deduction of INR 1,50,000 for affordable housing extended by 1 more year, available for loans sanctioned up to March 2022
- Tax holiday on profits of developers involved in affordable housing projects extended by 1 year to March 2022
- Work underway on INR 5.35 lakh crores Bharatmala Pariyojana Project and further plans to develop national highways and special corridors

Power

- Hydrogen energy mission to be launched to promote power generation from hydrogen
- Strengthening of DISCOMs by financial package of INR 3.06 lacs crores
- Infusion of capital in SECI and IREDA to the tune of INR 1,000 crores and INR 1,500 crores respectively

Railways

- National Rail Plan to create a future ready Railway system by 2030
- Planned reduction of freight cost by introducing dedicated Freight Corridors in identified geographies

- 100% electrification of Broad Gauge line to be completed by 2023
- Metro services announced in 27 cities, plus additional allocations for Kochi Metro, Chennai Metro Phase 2, Bengaluru Metro Phase 2A and B, Nashik and Nagpur Metros

Insurance

- Increase in FDI limit from 49% to 74% in Insurance Companies with specified terms for composition of Board
- Proposed Initial Public Offering of Life Insurance Corporation of India in FY 2021-22
- Under Disinvestment program, one General Insurance Company to be privatized

Agriculture

- 1,000 more Mandis to be integrated into the E-NAM market place
- Multipurpose Seaweed Park to be set up in Tamil Nadu
- Modern fishing harbors and fish landing centers has been developed including Chennai and Kochi

Shipping

- Public Private Partnership model to be institutionalized for managing operational services of major ports
- Subsidy program introduced with a budget of INR 1624 crores to promote Merchant Shipping and to enable domestic players to work on international platforms
- Recycling of Ships Act, 2019 enacted and recycling capacity to be doubled by 2024

Employment

- One nation one ration card' scheme is under implementation in 32 states and UTs for the ease of migrant worker and laborers
- Social security benefits will be extended to gig and platform workers
- A portal to be launched to maintain information on gig workers and construction workers
- Margin capital required for loans via Stand-up India scheme reduced from 25% to 15% for SCs, STs and women

Education

- An expenditure of 3.5% of GDP allocated on Education
- 100 new Sainik Schools will be set up in partnership with NGOs/private schools/states
- A Central University in Leh to provide accessible higher education
- Revamped Post Matric Scholarship Scheme for welfare of SCs
- An amount of 35,219 crores allocated for 6 years till 2025-2026 which is to benefit 4 crores SC students.
- 750 Eklavya model residential schools in our tribal areas
- Realigning National Apprenticeship Training scheme for graduates and diploma holders in Engineering

SECTOR-WISE ANALYSIS

- Partnership with the UAE and Japan in area of skill development and recognition
- National Research Foundation with outlay of INR 50,000 crore over 5 years

Banking and Financial Sector

- Recapitalization of banking sector, allocation of INR 20,000 crores for better provisioning of NPAs
- Provisions introduced in necessary laws and enactments to institutionalize the increase in ceiling limit of deposit insurance introduced during last year/- [From INR 1 lacs to INR 5 lacs]
- Regulated Gold exchanges to be set up, SEBI notified as a regulator and Warehousing Development and Regulatory Authority to be set up for vaulting, assaying, warehousing and logistics
- Special Institution to invest into stressed and other bond securities to boost confidence into bond market investments
- A unified Securities Market Code to be launched which would subsume SEBI Act, SCRA Act, Government Securities Act and Depositories Act
- Investor Charter outlining the rights of the financial investors across all financial products to be launched
- Minimum loan size eligible for debt recovery under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 proposed to be reduced from the existing level of INR 50 lacs to INR 20 lakh

Textile Sector

- To enable the textile industry to become globally competitive, attract large investments and boost employment generation, a scheme of Mega Investment Textiles Parks (MITRA) will be launched in addition to the PLI scheme

Petroleum and Natural gas

- Gas pipeline project to be set up in Jammu and Kashmir
- 100 more districts brought under the umbrella of city gas distribution network
- Independent gas transport system operator has to be set up for facilitation and coordination of booking of common carrier capacity
- Ujjwala scheme for LPG connection to poor households extended to cover 1 crore more beneficiaries

Digital Sector

- An allocation of INR 1500 crores for a proposed scheme to give boost to digital transactions
- INR 3,768 crores allocated for forthcoming census which would be country's first digital census

Amendment in Section 2

- Bill proposes to insert definition of the term 'liable to tax' in sub-section 29A of Section 2 to include tax liability on a person under any law of any country, and to include a case where an exemption has been provided subsequent to imposition of tax liability.

Depreciation on Goodwill

- Bill proposes to amend the definition of the term 'block of assets' defined in sub-section 11 of Section 2 to exclude 'Goodwill' from the same.
- Corresponding amendments are made in Clause (ii) of Section 32, insertion of Explanation 3 to Section 32, Section 50, and Section 55.

Author's Note

The intent is clearly to exclude Goodwill from the definition of 'block of assets' resulting into prospective restriction on claiming depreciation on Goodwill in all situations. It is important to note that Ind AS 103 – 'Business Combinations' does not permit to recognize Goodwill in the books.

The amendment overrules the settled principle laid down by the Hon'ble SC in the case of **Smifs Securities Limited [2012-TIOL-53-SC-IT]**

Increase in limit for Income Tax Audit

- Bill seeks to amend Section 44AB of the IT Act *qua* audit of accounts of certain persons carrying on business or profession.
- Bill proposes to increase the limit for tax audit from five crore rupees to ten crore rupees for a person carrying on business of which aggregate of all receipts and payments in cash during the PY does not exceed five per cent of such receipt and payments respectively.

Author's Note

It is a welcome step to promote digital economy and reduce compliance for small businesses subject to the critical condition that aggregate of cash receipts and payments is less than or equal to 5% of the total receipt and payments respectively.

Tax Deduction at Source on purchase of goods

- Introduction of new Section 194Q w.e.f. July 01, 2021 wherein any person (having total sales, gross receipts or turnover from the business carried on by him exceeds ten crore rupees) who is responsible for paying any sum to any resident for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any FY shall at the time of payment to the seller deduct an amount equal to 0.1% of such sum exceeding fifty lakh rupees as income tax.
- Such provisions shall not apply to a transaction on which TDS is deducted under any other provisions of the IT Act or tax is collected under
- 06C (other than sub-section (1H)) of the IT Act.

Author's Note

It is an additional burden on the businesses. Moreover, it entails cash flow issues for the seller of goods who are already struggling on similar count owing to COVID-19 scenario. The practical application shall have its own set of challenges and suitable timely clarifications would be highly appreciated.

Increase in Safe Harbour Limit u/s 43CA

- Bill proposes to increase the safe harbour threshold from existing 10% to 20% under Section 43CA of the IT Act.
- Transfer to satisfy following conditions to be eligible for increase limit:
    - Transfer of residential unit takes place during from November 12, 2020 to June 30, 2021;

- * Transfer is by way of first-time allotment of the residential unit to any person; and
- * Consideration received or accruing as a result of such transfer does not exceed INR 2 crore.

- Corresponding amendment is also made in Section 56 of the IT Act.

Author’s Note

Said amendment is for a limited period to cover the purchase of residential units subject to specified conditions. This should (to some extent) help in boosting the demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory of residential units.

Clarificatory amendment to exclude LLPs from the provision of presumptive taxation for professionals under Section 44ADA

- Bill proposes to amend sub-section (1) of Section 44ADA of the IT Act to clarify that the said Section shall apply to an Assessee, being an individual, HUF or partnership firm, *not being an LLP.*

Rationalization of provision of transfer of capital asset to partner on dissolution or reconstitution

- Bill proposes to insert new sub-section (4A) to Section 45 which brings the (i) revalued assets or (ii) self-generated assets, under the ambit of Capital Gain taxation.

- Receipt of such capital asset by the partners or members shall be chargeable to income tax as income of the specified entity (partnership firm or AOP /BOI) under the head capital gains and shall be deemed to be the income of such specified entity (partnership firm or AOP /BOI) of the PY in which the capital asset was received by the partner or member (as the case may be).

- These amendments shall be effective from AY 2021-22 and onwards.

Author’s Note

This amendment is in the nature of plugging the loop holes in the taxation for partnership firms, AOPs and BOIs. Coupled with a higher tax rate, this will discourage formation of partnership structures.

Tax incentives for units located in International Financial Services Centre

- Bill proposes to amend Section 9A to empower Central Government to exempt or apply any conditions with modification applicable to eligible investment fund and its manager if any located in IFSC.

- Further, Bill proposes to amend the expression ‘Specified Fund’ amended to include the investment division of Offshore Banking Unit (‘OBU’) which has been granted category-III AIF registration and fulfills other conditions.

- Bill proposes to amend clause 4D u/s 10 to exempt any income accrued or arise to or received to the investment division of OBU.

- Furthermore, Bill proposes to insert new clause (4E) to Section 10 to exempt any income accrued or arise to or received by non-resident on transfer of Non-deliverable forward contracts entered into with an OBU of IFSC and clause(4F) to Section 10 to exempt any income of non-resident by way of royalty on account of lease of aircraft by a unit of IFSC which is eligible for deduction u/s 80LA.

- Bill proposes to insert new clause (23FF) to Section 10 to exempt capital gain income arising or received by Non-resident on account of share transfer of company resident in India by resultant fund on account of relocation.

- Bill proposes to make consequential amendments in Sections 80 LA, 47, 49, 56, 79 and 115AD.

- Said proposed amendments shall take effect from April 01, 2022.

Author's Note

In order to target more investments and make IFSC attractive, steps have been taken to cover investment divisions OBU under the definition of 'Specified Fund'.

Further, consequential amendments have been made to exempt the income in relation to forward contracts, in the form of royalty and capital gains.

Relaxation to Specified Senior Citizen from filing IT return

- New Section 194P is sought to be introduced wherein the specified banks in case of a specified senior citizen shall compute total income after giving effect to the deduction allowable under Chapter VI-A and rebate allowable u/s 87A and deduct income-tax on such total income on the basis of the rates in force.
- Specified senior citizen have been defined to mean (i) who is of the age more than 75 years; and (ii) who is having income only of the nature of pension and interest receivable on such bank account; and (iii) has furnished declaration containing such particulars, in such form and verified in such manner, as may be prescribed.
- Filing of Income tax return under Section 139 shall not apply to such specified senior citizens.

Author's Note

Relaxation is sought to be provided to the specified category of senior citizens which are either pensioners or earning income from bank deposits.

This proposal would result into additional burden of compliance on the banks to compute the taxable income giving effect to Chapter VI-A deductions and Section 87A.

Tax neutral conversion of Urban Co-operative Bank into Banking Company

- Bill proposes to extend the benefit of Section 44DB i.e., Business re-organization of Co-operative banks to the transition of primary co-operative bank [Urban Co-Operative Banks ('UCB')] into a banking company as permitted by the RBI.
- It is further proposed that transfer of capital assets by the UCB to the banking company as a result of conversion shall NOT be treated as transfer under Section 47 of the IT Act.

Facilitating strategic disinvestment of public sector company

- Section 72A of the IT Act inter alia provides that accumulated loss and unabsorbed depreciation of the amalgamating company or companies shall be deemed to be accumulated losses and unabsorbed depreciation of the amalgamated company or companies in specified cases and subject to the conditions specified in the said section.
- It is proposed to relax these provisions so as to facilitate strategic disinvestment by the Government. Accordingly, facility of carrying forward accumulated losses and unabsorbed depreciation is now extended where one or more public sector company or companies is amalgamated into one or more public sector company or companies.
- The bill also provides for following changes:
  - Scope of clause (19AA) of Section 2 is proposed to be clarified by insertion of Explanation, to deemingly cover reconstruction or splitting up of a public sector company into separate companies as a demerger;
  - Section 72A shall also apply in case of amalgamation of an erstwhile public sector company with one or more company or companies, subject to specified conditions;
  - Accumulated loss and unabsorbed depreciation of the amalgamating company, in case of an amalgamation referred to in clause (d), which is deemed to be loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company shall not be more than the accumulated loss and unabsorbed depreciation of the public sector company as on the

date on which the public sector company ceases to be a public sector company as a result of strategic disinvestment; and

* Explanations to define Control, Erstwhile public sector company and Strategic disinvestment.

- These amendments are proposed to be effective from April 01, 2021 and thus be applicable to AY 2021-22 and subsequent years.

Extension of date of sanction of loan for affordable residential house property

- In order to help first time home buyers, it is proposed to amend the provision of Section 80EEA of the IT Act [which allows deduction of interest paid on home loan]. The benefit was earlier available only to such loans sanctioned between April 01, 2019 to March 31, 2021. The proposed amendment now extends the limitation till March 31, 2022.

Extension of date of incorporation for eligible start-up for exemption and for investment in eligible start-up

- In order to provide support to eligible start-up, it is proposed to amend the provision of Section 80-IAC of the IT Act [which allows complete exemption from Income tax for three consecutive years out of initial ten years]. The benefit was earlier available only to such start-ups incorporated between April 01, 2016 to March 31, 2021. The proposed amendment now extends the limitation till March 31, 2022.

- The Bill also proposes to amend the provision of Section 54GB of the IT Act [which exempts capital gains out of LTCG, being residential property, when utilized for subscribing equity shares in eligible start-up, which the start-up must utilize to purchase new capital assets]. The benefit was earlier available only when the residential property was transferred on or before March 31, 2021. The proposed amendment now extends the limitation till March 31, 2022.

Incentives for affordable rental housing

- Section 80-IBA of the IT Act which provides complete exemption from Income tax to profits earned from developing and building affordable housing project approved by the competent authority after the 1st day of June 2016 but on or before the 31st day of March 2021 is also sought to be extended to notified rental housing projects.

- The provision is also proposed to amend the limitation for approval by competent authority from March 31, 2021 to on or before March 31, 2022.

Author's Note

The amendment is aimed at promoting affordable rental which is a key concern for migrant labors. It would be a boost for all the migrant labour displaced by COVID-19 to return and resume in these post COVID times.

Addressing mismatch in taxation of income from notified overseas retirement fund

- Section 89A is proposed to be inserted to provide that the income of a specified person from specified account shall be taxed in the manner and in the year as prescribed by the Central Government.

Author's Note

Presently withdrawal from retirement funds which were opened by a resident when they were non-resident are facing mismatches in its taxation, given that these funds may be taxed on receipt basis in foreign countries, while on accrual basis in India.

The newly inserted section provides a necessary tool to the Government to address such anomalies.

Taxation of proceeds of high premium unit linked insurance policy

- Clause (10D) of section 10 of the IT Act provides for exemption to sum received under a life insurance policy. Under the existing provisions, there is no cap on the amount of annual premium being paid by any person during the term of the policy. The provisions are being exploited by the high-net-worth individuals by investing in ULIP with huge premium, while the benefit was actually framed for the small and genuine cases of life insurance.
- To plug this situation, the Bill proposes various amendments to clause 10D of Section 10, Section 45 and Section 3.

Rationalization of provisions of MAT

- It is proposed to insert sub-section (2D) in Section 115JB so as to empower the Board to make rules to provide for the manner of recomputing the book of profit of the past year for the purposes of payment of tax of the company, if there is any increase in the book profit in the previous year due to income of a past year included in the book profit on account of an advance pricing agreement or secondary adjustment.

Extending due date for filing return of income in some cases, reducing time to file delayed return and to revise original return and also to remove difficulty in cases of defective returns

- Section 139 provides for the filing of return of income for different persons and related time-limits. The Section is proposed to be amended to following effect:
  - Due date for filing return of income for the spouse of the partner of a firm, if governed by the provisions of Section 5A, shall be October 31 of the AY;
  - Due date for filing of return of income for partners of a firm, which is required to furnish report referred to in Section 92E, shall be November 30 of the AY;
  - Any person who has not furnished a return of income within due date may furnish a return for any previous year at any time within three months prior to the end of the relevant AY or before the completion of the assessment, whichever is earlier;
  - A return of income filed under sub-sections (1) or (4) can be revised at any time within three months prior to the end of the relevant AY or before the completion of the assessment, whichever is earlier;
  - Board is empowered to specify, by notification, that any of the conditions specified in clauses (a) to (f) of the Explanation to Sub-section 9 shall not apply to such class of assessees or shall apply with such modifications, as may be specified in such notification.

Allowing prescribed authority to issue notice under clause (i) of sub-section (1) of Section 142

- A proviso to Section 142 is proposed to be inserted to empower prescribed income-tax authority, in addition to Assessing Officer, to serve notice under clause (i) of sub-section (1) of the said Section.

Rationalization of the provision relating to processing of returned income and issuance of notice under sub-Section (2) of Section 143 of the Act

- Section 143 of the IT Act is proposed to be amended to:
  - allow adjustment on account of increase in income indicated in the audit report but not taken into account in computing the total income;
  - allow deduction admissible under Section 10AA or under any of the provisions of Chapter VIA under the heading "C.—Deductions in respect of certain incomes";
  - reduce the time limit specified or sending intimation under sub-section (1) from one year to nine months and to reduce the time limit for sending notice under sub-section (2) from six months to three months from the end of the financial year in which the return is furnished.

Clarification regarding the scope of the Direct Tax Vivad se Vishwas Act

- Bill proposes to amend the provisions of VsV to clarify and keep case concluded / pending before Income-tax Settlement Commission under Chapter XIX-A of the IT Act OUTSIDE the purview of the VSV scheme.
- Further in order to clarify the original legislative intent, the definitions of 'appellant' in Section 2(1)(a), 'disputed tax' in Section 2 (1)(j) and 'tax arrears' in Section 2(1)(o), of the VsV are proposed to be amended.

No interest under Section 234C on Advance Tax instalment for dividend income

- Provisions of Section 234C have been amended so as to provide that the interest under the said section shall not be applicable to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of failure to estimate the dividend income accurately.
- It may be noted that the first proviso of the sub-section (1) to Section 234C already provides for the relaxation where the shortfall in the advance tax installment or the failure to pay the same on time is on account of the income listed therein, as long as the Assessee has paid full tax in subsequent advance tax instalments. It is proposed to include dividend income in the above exclusion but not deemed dividend as per sub-clause (e) of clause (22) to Section 2 of the IT Act.

Special TDS/TCS rates for non-filer of IT return

- Stringent measures have been proposed to be introduced against taxpayers who have not filed return of income for two AYs immediately prior to the PY in which tax is required to be deducted for which the time limit of filing return of income under Section 139(1) has expired and the aggregate of TDS and TCS exceeds rupees fifty thousand in each of the two years. Specified person shall not include a non-resident who does not have a permanent establishment in India.
- In order to ensure faster compliance, Section 206AB is being introduced w.e.f. 01.07.2021 wherein TDS is required to be deducted by such persons from a specified person under the provisions of Chapter XVIIB other than Sections 192, 192A, 194B, 194BB, 194LBC or 194N on any sum or income or amount paid, the tax shall be deducted at higher of the following rates:
  - At twice the rate specified in the relevant provision; or
  - At twice the rate or rate in force; or
  - At the rate of 5%.
- It is further clarified that if the provision of Section 206AA is applicable to specified person in addition to this provision, the tax shall be deducted at higher of the two rates provided in this Section and Section 206AA.
- Similar provisions are introduced under TCS compliances, wherein Section 206CCA is introduced w.e.f. 01.07.2021 wherein TCS required to be collected by a person from a specified person under the provisions of Chapter XVII-BB, the tax shall be collected at higher of the following rates:

- At twice the rate specified in the relevant provision; or
- At the rate of 5%.

Author's Note

The Government, on several instances in the past, has already clarified its stand on zero-tolerance towards perceived lack of discipline in compliances under various Acts. For instance, under GST, qua e-way bill, a taxpayer is not permitted to generate e-waybills if returns are pending to be filed for two or more months. On similar lines, the Government is now looking to introduce penal provisions for taxpayers not filing their income tax returns for two or more years.

Rationalization of the provision of slump sale

- Bill proposes to enlarge the scope of the definition of 'slump sale' by amending the provision of clause (42C) to Section 2 of the IT Act so that all types of 'transfer' as defined in clause (47) to Section 2 of the IT Act are included within its fold.
- This amendment shall take effect from April 01, 2021 and shall accordingly apply to the AY 2021-22 and onwards.

Author's Note

There have been divergent judicial views on the subject issue inasmuch as one school of thought advocated that transfer of an asset in lieu of another asset (non-monetary), could not be considered as 'sale', leading to non-applicability of Section 50B; while as per the other, such exchange of assets ought to be construed as 'sale' leading to applicability of Section 50B.

With this amendment, the said ambiguity is brought to an end and thus, certainty has been provided qua taxability on a prospective basis. Nonetheless, past transactions shall have to pass the rigors of court room dramas.

Constitution of the Board for Advance Ruling [Section 245N to Section 245U]

- The posts of Chairman and Vice-Chairman, critical to the functioning of the bench of an AAR, have been vacant for a long time and it has seriously hampered the working of AAR resulting in a large number of applications remaining pending. In order to fast track the process of advance ruling and grant relief to the taxpayers in a timely manner, alternative methods for providing advance rulings need to be looked at. Consequently, it is proposed to constitute a Board of Advance Ruling and make the following amendments in the existing provisions of AAR:
    - Section 245-O to be suitably amended to provide that the Authority for Advance Ruling shall cease to operate with effect from the notified date.
    - Advance Ruling shall now be imparted by the Board for Advance Ruling, which shall consist of two members, each being not below the rank of Chief Commissioner. Accordingly, Section 245N to be suitably amended to include the required definition.
    - Advance Rulings shall not be made binding and can be appealed against by the Applicant or the Department before the High Court by making suitable amendment in Section 245S. Further, Section 245W is proposed to be inserted to provide the manner in which appeal to High Court can be made by the Applicant or the Department.
    - The applications in respect of which order has not been passed before the notified date shall be transferred to the Board for Advance Ruling.
    - Section 245R, Section 245T and Section 245U shall be suitably amended to mutatis mutandis apply to the Board for Advance Ruling as they applied to the Authority for Advance Ruling.
    - Reference made to Customs Act, Central Excise Act and Finance Act under Section 245N and Section 245Q relating to application for advance ruling is proposed to be omitted.
- The above amendment shall take effect from 01.04.2021.

Author's Note

Advance Ruling mechanism was instituted with the intention to provide definite tax implications to the taxpayer before undertaking such transaction and therefore, it can act as a powerful tool to curb litigations. However, as rightly noted by the Government, owing to lack of its members, the AAR was not able to function at full capacity resulting in significant delays in disposing off the applications. Accordingly, revamping of the entire AAR structure was the need of the hour!

Also, noteworthy is the fact that such rulings would no longer be binding on the taxpayer. However, as seen with advance rulings under GST, having only technical members representing the Government, there is a risk that that rulings pronounced shall be pro-revenue resulting in increase in appeals and overall litigation, beating the very purpose of having advanced ruling mechanism in the first place.

Constitution of Dispute Resolution Committee for Small and Medium taxpayers [Introduction of new section 245MA]

- Taking a leaf out of the success of the Vivaad-se-Vishwas scheme launched last year to settle pending disputes, it is proposed to introduce a new scheme for preventing new disputes for small and medium taxpayers *vide* introduction of Section 245MA. The Assessee would have an option to opt for dispute resolution through Dispute Resolution Committee ('DRC').
- Only those disputes where the returned income is INR 50 lakh or less (if there is a return) and the aggregate amount of variation proposed in specified order is INR 10 lakhs or less shall be eligible to be considered by DRC.
- The Central Government shall constitute one or more DRC who shall resolve the dispute of such persons or class of persons who shall be specified by the Board.
- Following specified orders shall not be eligible for being considered by DRC, if they are based on:
    - search initiated u/s 132; or
    - requisition u/s 132A; or
    - survey initiated u/s 133A; or

* information received under an agreement referred to in Section 90 or 90A.

- The Assessee would not be eligible for benefit of this provision if there is detention, prosecution or conviction under various laws as specified in the proposed Section.

- The DRC subject to conditions prescribed shall have the power to reduce or waive penalty or grant immunity from prosecution for any offence under the IT Act.

- The Central Government has also been empowered to make scheme by notification for the purpose of dispute resolution under this provision. The Central Government may for the purpose of giving effect to such scheme may by notification in the Official Gazette direct that any provision may apply or not apply with such modifications, exceptions etc. However, no such direction shall be issued after 31.03.2023.

- This amendment shall take effect from 01.04.2021

Author's Note

This is a welcome move for small and medium taxpayers who cannot afford to get into long litigations with the department.

Faceless proceeding before ITAT [Section 255]

- The Government seems to have committed to its stand of imparting greater efficiency, transparency and accountability to the assessment, penalty and appeal processes. Accordingly, the Government has notified faceless schemes that otherwise required physical interface with taxpayers. Taking the initiative to the next level, it is now proposed to amend the provisions of Section 255 *qua* procedure of filing appeal with Appellate Tribunal.

- The Central Government may notify a scheme for the purpose of disposal of appeals by:

  * eliminating interference between the Appellate Tribunal and the parties to the Appeal during the proceedings to the extent technologically feasible;

  * making optimum utilization of resources through economies of scale and functional specialization;

  * introducing an appellate system with dynamic jurisdiction; and

  * the Central Government may direct that the provisions of the IT Act shall not apply to such scheme or apply with such exception, modification and adaption as may be specified.

Provisional attachment in case of Fake invoices [Section 281B]

- Provisions of Section 281B *qua* provisional attachment of any property have been amended in order to provide that the aforesaid provisional attachment of a property of the Assessee may also be made during the of proceedings for imposition of penalty under Section 271AAD where the amount or aggregate of amounts of penalty likely to be imposed under that Section exceeds two crore rupees.

Rationalisation of the provisions of Equalisation Levy

In the context of Equalisation Levy, it is proposed to carry out the following amendments to correctly reflect the intention of various provisions concerning the said levy:

- Insert an Explanation to Section 163 of the Finance Act, 2016, clarifying that consideration received or receivable for specified services and consideration received or receivable for e-commerce supply or services shall not include consideration which are taxable as royalty or fees for technical services in India under the IT Act read with the agreement notified by the Central Government under Section 90 or Section 90A of the IT Act.

- Insert an Explanation to clause (cb) of section 164 of the Finance Act, 2016, providing that for the purposes of defining e-commerce supply or service, — online sale of goods‖ and —online provision of services‖ shall include one or more of the following activities taking place online:

* Acceptance of offer for sale;
* Placing the purchase order;
* Acceptance of the Purchase order;
* Payment of consideration; or
* Supply of goods or provision of services, partly or wholly

- Amend Section 165A of the Finance Act, 2016, to provide that consideration received or receivable from e-commerce supply or services shall include:
    * consideration for sale of goods irrespective of whether the e-commerce operator owns the goods; and
    * consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator.

These amendments will take effect retrospectively from 1st April, 2020.

Payment by employer of employee contribution to a fund on or before due date

- Section 43B of the IT Act covers only employer's contribution and does not cover employee contribution, some courts have applied the provision of section 43B on employee contribution as well. There is a distinction between employer contribution and employee's contribution towards welfare fund. It may be noted that employee's contribution towards welfare funds is a mechanism to ensure the compliance by the employers of the labour welfare laws.
- Hence, it needs to be stressed that the employer's contribution towards welfare funds such as ESI and PF needs to be clearly distinguished from the employee's contribution towards welfare funds. Employee's contribution is employee own money and the employer deposits this contribution on behalf of the employee in fiduciary capacity. By late deposit of employee contribution, the employers get unjustly enriched by keeping the money belonging to the employees. Clause (va) of sub-section (1) of Section 36 of the IT Act was inserted to the IT Act *vide* Finance Act 1987 as a measures of penalizing employers who mis-utilize employee's contributions.
- Accordingly, in order to provide certainty, it is proposed to:
    * Amend clause (va) of sub-section (1) of Section 36 of the IT Act by inserting another explanation to the said clause to clarify that the provision of Section 43B does not apply and deemed to never have been applied for the purposes of determining the 'due date' under this clause; and
    * Amend Section 43B of the IT Act by inserting Explanation 5 to clarify that the provisions of the said section do not apply and deemed to never have been applied to a sum received by the assessee from any of his employees to which provisions of sub clause (x) of clause (24) of section 2 applies.
- These amendments will take effect from 1st April, 2021 and will accordingly apply to the AY 2021-22 and subsequent AYs.

Time limit for completion of assessment, reassessment and recomputation

- Bill seeks to amend Section 153 of the IT Act relating to time limit for completion of assessment, reassessment and recomputation:
    * It is proposed to amend sub-section (1) of the said section to insert the third proviso so as to provide that for the AY commencing on or after the 1st April, 2021, the time limit for making an assessment order under Sections 143 or 144 shall be reduced from the existing twenty-one months to nine months from the end of the AY in which the income was first assessable. This amendment will take effect from lst April, 2021.
- Bill seeks to amend Section 153A of the IT Act relating to assessment in case of search or requisition:
    * It is proposed to amend the said section so as to provide that the search or requisition shall only apply where search or requisition is made on or before 31st March, 2021. Consequently, assessments under Section 153A and 153C shall not be made in respect of a search or requisition made on or after 1st April, 2021. This amendment will take effect from 1st April, 2021.

- Bill seeks to amend Section 153C of the IT Act relating to assessment of income of any other person
    - It is proposed to amend the said section so as to insert sub-section (3) therein to provide that nothing contained in the said section shall apply in relation to a search initiated under Section 132 or books of account, other documents or any assets requisitioned under Section 132A on or after 1st day of April, 2021. This amendment will take effect from 1st April, 2021.

Widening the scope of supply so as to include transactions between a person (AOP/BOI) and its members [Section 7 of the CGST Act]

- In order to widen the tax net, a new clause (aa) to sub Section (1) of Section 7 of the CGST Act has been inserted to include tax activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice – versa within the scope of 'supply'. Such transactions shall be liable to GST irrespective of whether it is for cash, deferred payment or other valuable consideration.
- An *Explanation* has also been inserted therein to clarify that the person, its members and its constituents shall be deemed to be two separate persons and such supply shall be deemed to take place from one person to another.
- Consequent to above proposed amendment, Para 7 of Schedule II to the CGST Act, which provides for supply of goods from unincorporated associations or body of persons to a member thereof to be treated as supply of goods, has also been omitted with retrospective effect.
- The amendment will be made effective retrospectively from the date of introduction of the CGST Act i.e. 01.07.2017.

Author's Note

Taxability on supply of service or goods by any association of person such as club or society has been a contentious issue both, in pre and post era of GST. As per the principles of *'doctrine of mutuality',* any supply made to self and consideration thereof would not qualify as consideration. A view has been taken by the taxpayers in the past that the clubs or societies operate on the concept of mutuality and therefore one cannot be said to be supplying goods or service to its own self. On the same issue, recently Hon'ble Supreme Court in the case of **State of West Bengal & Ors. vs. Calcutta Club Limited and Chief Commissioner of Central Excise and Service & Ors. v Ranchi Club Limited [2019-TIOL-449-SC-ST-LB],** it was held that the services rendered by an unincorporated clubs to its members are exempted from service tax. In order to negate the effect of Supreme Court decision and avoid similar litigation in the GST regime with respect to taxability of any activities or transactions by clubs / societies to its members or constituents, the government has bought the said amendment in the provisions of Section 7 of the CGST Act.

Additional condition introduced to avail ITC [Section 16 of the CGST Act]

- To ensure uniformity and consistency between Rule 36(4) and the CGST Act itself, it is proposed to add a new condition for availing ITC by inserting a clause (aa) to Section 16(2) of the CGST Act. The said amendment intends to allow ITC only when details of underlaying invoice or debit note is appearing in the outward supplies of the said supplier and such details have been communicated to the recipient of such invoice or debit note.
- The amendment shall take effect from 01.04.2021

Author's Note

Recently, the government had introduced Rule 36(4) of CGST Rules which intends to restrict the availment of ITC only after matching the same with the Form GSTR 2A. Further, the ITC with respect to unmatched invoices can be availed only to the extent of 5% of the total amount of ITC matched with Form GSTR-2A. It would be pertinent to note that the constitutional validity of the provisions of Rule 36(4) was challenged in the cases of **Bharti Telemedia Limited [W.P.(C) 6895/2020], Sales Tax Bar Association [W.P.(C) 13097/2019] and Himanshu Mohta and Associates [W.P.(C) 13154/2019]** before the Delhi HC, especially when there is no similar restriction under the CGST Act itself. The said rule has also been challenged on similar grounds in the case of **HSIL Limited [CWP-9861-2020]** before Punjab and Haryana HC, and in the case of **Society for Tax Analysis and Research [R/Special Civil Application No. 19529 of 2019**] before the Gujarat HC.

The instant amendment aims to bring in the provisions of Section 16 of the CGST Act in line with the restriction under Rule 36(4) of the CGST Rules to allow credit only in respect to the invoices which are being uploaded on the GST portal by the supplier and communication is made to the recipient. Further, the Government is in process to introduce a robust system to implement such provision of the Act. This is evident from by the introduction of recent facility enabled on the GSTN portal which will provide a communication platform for taxpayers, wherein a recipient can ask his supplier to upload any invoice that has not been uploaded but is required by the recipient to avail ITC.

Furnishing of Reconciliation Statement in Form GSTR-9C has been abolished [Section 35(5) r/w Section 44(2) of the CGST Act]

- Section 35(5) requires every taxpayer with a turnover exceeding Five Crores to get his accounts audited and submit the reconciliation statement along with copy of audited annual accounts. This sub-Section is proposed to be omitted thereby, removing the mandatory requirement of conducting audit under the GST Law.
- Accordingly, Section 44 of the CGST Act has been amended to provide for submission of the annual return in Form GSTR-9 on self -certification basis. Further, the Commissioner has been empowered to notify a class of taxpayers who will be exempted from the requirement of filing the annual return.
- The amendment shall take effect from 01.04.2021.

Author's Note

In view of the challenges in collating the information for filing the annual return in Form GSTR-9 and the reconciliation statement in Form GSTR-9C, there have been multiple extension in the due dates for furnishing these documents for FY 17-8 and FY 18-19. However, instead of simplifying the forms and rationalizing the requirements for reporting in GST Audit, the Government has altogether abolished the requirement of GST Audit. Audit is a powerful tool to detect any tax leakages and ensure timely tax payments at the time of audit itself and removing the requirement of audit may result in potential lowering of tax collections. However, from the industry perspective, it's a welcome move and would go a long way in reducing the compliance burden.

Interest to be paid on net cash liability with retrospective effect [Section 50 of the CGST Act]

- Section 16 of the IGST Act allows for refund to be claimed by the taxpayer in respect of zero-rated supplies which includes export and supplies made to SEZ units and / or SEZ developers. However, the said Section is now being amended so as to:
    - Restrict zero-rated supplies made to SEZ unit / developer only when the same are made in respect of authorized operations of the said SEZ unit / developer.
    - Restrict the zero-rated supplies on payment of IGST only to the notified class of taxpayers or notified goods or services.
    - Restrict the refund in case of export of goods with refund to cases where the foreign currency remittance is within the period specified under the FEMA Act.

Author's Note

The Government has prescribed an important condition for realization of sale proceeds within the time limit prescribed under the provisions of FEMA for the purpose of claiming refund of unutilized ITC in case of export of goods. It seems that such an amendment has been brought with an objective to provide enabling provisions under the IGST Act for the operation of recently introduced Rule 96B vide **Notification No. 16/2020 – Central 23rd March 2020**. The said Rule provides for recovery of refund claimed for unutilized ITC or integrated tax paid on account of export of goods, in case where the export proceeds are not realized within the time limit prescribed under the FEMA.

Further, in order to monitor and control the refund of integrated tax paid on making zero rated supplies, the Government has restricted the refund of integrated tax paid on zero-rated supplies only to a notified class of taxpayers or notified supplies of goods or services.

Summary of Other amendments in the CGST Act

Section reference	Amendments
Section 74	Seizure and confiscation of goods and conveyances in transit is proposed to be treated as a separate proceeding from recovery of tax.
Section 75(12)	An explanation is being inserted to clarify that "self-assessed tax" shall include tax payable in respect of outward supplies, the details of which have been furnished under Section 37, but not included in the return furnished under Section 39.
Section 83	The Section is being amended to provide that provisional attachment shall remain valid for the entire period starting from the initiation of any proceeding under till the expiry of a period of one year from the date of order made thereunder.
Section 107(6)	A proviso is being inserted to provide that an appeal shall be filed against an order made under sub-Section (3) of Section 129, only on payment of a sum equal to twenty-five per cent of the penalty levied.
Section 129 / 130	Relevant amendment being made to delink the proceedings under Section 129 relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under Section 130 relating to confiscation of goods or conveyances and levy of penalty.
Section 151 r/w 168	Section 151 is amended to Empower the Jurisdictional Commissioner to call for information from any person relating to any matter dealt with in connection with the CGST Act. Similarly, Section 168 of the CGST Act is being amended to enable the Jurisdictional Commissioner to exercise such powers.
Section 152	Provides that no information obtained under Sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned.

Author's Note

Pursuant to amendment in Section 83 of the CGST Act, the scope of the said section has been increased and such an action of attaching property would be taken by department even in case of any proceeding under Chapter XII, Chapter XIV or Chapter XV. Recently, the Hon'ble Gujarat HC in case of **M/S Alfa Enterprise Vs State Of Gujrat [TS 945 GC 2019]** and in case of **Valerius Industries Vs Union Of India [TS-1255-HC-2019(GUJ)-NT]** has set aside the order passed by the department under Section 83 of the CGST Act to attach bank account of the assessee and block its Electronic Credit Ledger. The attachment of the bank account and trading assets should be resorted only as a last resort or measure. It is therefore expected that the Government shall issue relevant guidelines in this regard in order to protect honest taxpayers from the harassment by the tax department.

With respect to provisions regarding detention and confiscation of goods in transit, the Hon'ble Karnataka HC in the case of **M.S. Logistics [TS-1152-HC-2020(KAR)-NT]** has observed that the provisions of Section 129 are intended to ensure that there is no contravention of provisions of Act or Rules whereas proceedings u/s 130 could be initiated only if there is a reason for authorities to believe that there is contravention with provision of Act/Rules with an intention to evade tax. The Government has now amended the provisions of both Section 129 and Section 130 to delink the respective proceedings which may provide some relief to the taxpayers.

Legislative Changes – Customs Act

- Section 25 of the Customs Act has been amended so as to include a sunset clause for the conditional exemptions. It has been provided that all the conditional exemptions shall come to an end on 31st March falling immediately two years after the grant of such exemption, unless specifically rescinded.
- As far as the existing conditional exemptions, the same shall come to an end on 31.03.2023 unless specifically extended or rescinded.
  - For example, if a particular grade of steel has been conditionally exempted w.e.f. 01.04.2021, such exemption shall come to an end on 31.03.2023, unless otherwise provided or rescinded.
  - Similarly, the existing exemption benefit of Notification No. 12/2012 – Customs dated 17.03.2012, shall continue until 31.03.2023, unless specifically rescinded or extended before such date.

Author's Note

The Hon'ble Finance Minister in her Budget Speech had expressed that the Customs Duty Policy in India shall have a twin objective of Domestic Manufacturing and help Indian get onto global value chain by increasing exports. Accordingly, with a view to overhaul the Customs Duty structure, the Government had already eliminated 80 outdated exemptions in the previous year.

This year too, the Government has proposed to review about 400 old exemptions and put in place a new customs duty structure, free from distortions.

- Section 28BB is being introduced so as to provide a limitation of two years, for completion of relevant proceedings which would culminate into issuance of show cause notice. It can be further extended by another year by the Principal Commissioner or Commissioner of Customs upon sufficient cause.

Author's Note

Section 28(4) of the Customs Act provides a time-limit of five years for issuance of Show Cause Notice in cases of collusion, willful mis-statement, suppression of facts. However, in absence of any specified limitation of time to conclude investigations, the limitation provided under Section 28(4) was lefty unfructuous.

More often than not, and project industry in particular, faced investigations that extended for years together before a Show Cause Notice is issued.

Now, with the insertion of Section 28BB, the investigation is capped with limitation, which would certainly minimise the taxpayer's pain caused by erroneously lengthy investigations. The newly introduced limitation seems to be derived from decisions of Hon'ble Tribunal in the case of **Studioline Interior Systems Private Limited vs. Commissioner of Central Excise [2006 (201) ELT 250 Tri Bang] ; Dolphine Detective Agency vs. Commissioner of Central Excise [2006-TIOL-1238-CESTAT-BANG] ; Raja Ram Corn Products Limited vs. Commissioner of Central Excise [2004-TIOL-242-CESTAT-DEL] .**

- A proviso u/s. 149 of the Customs Act has been inserted which *inter alia* provides that certain documents, such as Bills of Entry, Shipping Bills, etc. can be amended electronically on the customs system on the basis of risk evaluation through appropriate selection criteria. A third proviso has also been added to provide that amendments, as may be specified by the CBIC, may be done on the common portal itself.

Author's Note

Section 149 of the Customs Act provides that documents under the Customs Act may be amended by the Proper Officer on the basis of documentary evidence. It further provides that the Proper Officer shall scrutinize and verify the supporting documents and subsequently put it up to the concerned Superintendent for approval.

However, the current process is rather time-consuming and the importers / exporters, more often than not, are forced to go into litigation for amendment / re-assessment of document. This new provision would substantially speed-up the process of amendment of documents as the same has now been made possible on the digital platform itself.

Other Miscellaneous Amendments:

Section Reference	Amendment
2(7)(B)	Defines 'Common Portal' to mean Common Customs Electronic Portal
5(3)	Empowers Commissioner (Appeals) to carry out the functions to summon persons to give evidence and produce documents
46(3)	Mandates the filing of bills of entry before the end of the day preceding the day (including holidays) of arrival of goods. Further, adds a new proviso to enable the CBIC to notify the time period for presenting bill of entry in certain cases
110	Provides for Commissioner (Appeals) having jurisdiction, to certify the correctness of inventory of the seized goods and carry out other procedures as prescribed, before the disposal of the gold in a prescribed manner
113	Provides for confiscation of goods entered for exportation under claim of remission or refund of any duty, so as to make a wrongful claim in contravention of the provisions of the Customs Act
113(ja)	Provides for the confiscation of goods entered for exportation under claim of remission or refund of any duty or tax, so as to make a wrongful claim in contravention of the provisions of the Customs Act
114AC	Imposes penalty on persons who obtain any invoice by fraud, collusion, or suppression of facts, etc. to utilize ITC on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of any duty or tax
139	Explanation amended to include inventories, photographs and lists certified by the Commissioner (Appeals) to the documents within the meaning of that section to give evidentiary value to such documents
153(1)(ca)	Enables service of order, summons, notice, etc. by making it available on the common portal

Tariff Rate Changes:

Sr.	Product Name	Chapter	Heading	Sub-	HSN Code	Pre	Post
1	Carbon Black	28	2803	-	2803 00 10	5%	7.5%
2	Builders' Ware Of Plastics, Not Elsewhere Specified Or Included	39	3925	-	-	10%	15%
3	Safety Glass, Consisting Of Toughened (Tempered) Or Laminated Glass (All Goods Under This Heading, Other Than Those Used With Motor Vehicles, Will Continue To Attract The Existing Effective Rate Of BCD At 10%)	70	7007	-	-	10%	15%
4	Synthetic or reconstructed precious or semiprecious stones, whether or not worked or graded but not strung, mounted or set; ungraded synthetic or reconstructed precious or semi-precious stones, temporarily strung for convenience of transport.	71	7104	-	71049090 (OTHERS)	10%	15%
5	Compressors of a kind used in refrigerating equipment	84	8414	-	84143000	12.5%	15%
6	Air compressors mounted on a wheeled chassis for towing :	84	8414	8414 40	All	7.5%	15%
7	Compressors of a kind used in air-conditioning equipment.	84	8414	8414 80	84148011	12.5%	15%
	Gas Compressors (other than of a kind used in airconditioning equipment), free-piston generators for gas turbine, turbo charger and other compressors, (Except 84148011)				ALL	7.5%	15%
8	Electric Motors	85	8501	850110 to 850153	-	10%	15%
9	Printed Circuit Board Assembly [PCBA] of charger or adapter (All goods under this tariff item, other than specified HSN,will continue to attract the existing effective rate of BCD at 10%)	85	8504	-	85049090	10%	15%
10	Parts of Electrical lighting and signaling equipment, windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicle	85	8512	-	85129000	10%	15%
11	Relays	85	8536	-	85364100	10%	15%
					85364900		

Sr.	Product Name	Chapter	Heading	Sub-	HSN Code	Pre	Post
12	Boards, panels, consoles, etc. for electric control or distribution of electricity	85	8537	-	ALL	10%	15%
13	Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	85	8544	-	85443000	10%	15%
14	Other instruments, appliances and machines	90	9031	-	90318000	7.5%	15%
15	Electronic automatic regulators and other controlling instruments or apparatus	90	9032	903289	All	10%	15%
16	Instrument Panel Clocks and Clocks of a similar type for vehicles, Aircraft, Spacecraft or Vessels	91	9104	-	91040000	10%	15%

Sr.	Product Name	Chapter	Heading	Sub-	HSN Code	Pre	Post
17	**Agricultural Products and By Products**						
	Denatured Ethyl Alcohol (ethanol) for use in manufacture of excisable goods	22	2207	-	2207 20 00	2.50%	5.00%
	All goods except dog and cat food and shrimp larvae feed	23	-	-	-	Nil/ 5 % / 10%/ 15%/	15.00%
18	**Minerals**						
	Natural borates and concentrates thereof	25	2528	-	-	Nil / 5%	2.50%
19	**Fuels, Chemicals and Plastics**						
	Naphtha	27	2710	-	-	4.00%	2.50%
	Bis-phenol A	29	2907	-	2907 23	Nil	7.50%
	Epichlorohydrin	29	2910	-	2910 30	2.50%	7.50%
	Caprolactam	29	2933	-	2933 71	7.50%	5.00%
	Polycarbonates	39	3907	-	3907 40	5.00%	7.50%
	Nylon chips	39	3908	-	-	7.50%	5.00%
	Other plates, sheets, films, etc. of other plastics	39	3920	-	3920 99	10.00%	15.00%
20	**Leather**						
	Wet blue chrome tanned leather, crust leather, finished leather of all kinds, including splits and sides of the aforesaid	41	-	-	-	NIL	10.00%
21	**Textiles**						
	Raw Silk (not thrown)	50	5002	-	-	10.00%	15.00%
	Silk yarn, yarn spun from silk waste (whether or not	50	5004, 5005,	-	-	10.00%	15.00%
	Raw Cotton	52	5201	-	-	NIL	5%+5% AIDC*
	Cotton waste (including yarn waste or garneted stock)	52	5202	-	-	NIL	10.00%

Sr.	Product Name	Chapter	Heading	Sub-	HSN Code	Pre	Post
	Nylon Fibre and Yarn	54	5402, 5403, 5404, 5405 00 00, 5406	-	-	7.50%	5.00%
	Nylon Fibre and Yarn	55	5501 to	-	-	7.50%	5.00%
22	**Gems and Jewellery Sector**						
	Silver	71	7106	-	-	12.50%	7.5% +2.5%
	Silver Dore	71	7106	-	-	11.00%	6.1%
	Gold	71	7108	-	-	12.50%	7.5% +2.5%
	Base metals or precious metals clad with pre- cious metals	71	7107, 7109, 7111	-	7107 00 00, 7109 00 00, 7111 00 00	12.50%	10.00%
	Other precious metals like Platinum, Palladium,	71	7110	-	-	12.50%	10.00%
	Waste and scrap of precious metals or metals clad with precious metals	71	7112	-	-	12.50%	10.00%
	Spent catalyst or ash containing precious metals	71	7112	-	-	11.85%	9.17%
	Gold or Silver Findings	71	7113	-	-	20.00%	10.00%
	Coin	71	7118	-	-	12.50%	10.00%
23	**Metals**						
	Iron and steel scrap, including stainless steel scrap [up to 31.03.2022]	72	7204	-	-	2.50%	NIL
	Primary/Semi-finished products of non-alloy	72	7206 &	-	-	10.00%	7.50%
	Flat products of non-alloy and alloy steel	72	7208, 7209, 7210, 7211, 7212, 7225, 7226		All (except 7225 11 00 & 7226 11 00)	10% / 12.5%	7.50%
	Long product of non-alloy, stainless and alloy steel	72	7213, 7214, 7215, 7216, 7217, 7221, 7222, 7223, 7227 & 7228	-	-	10.00%	7.50%

Sr.	Product Name	Chapter	Heading	Sub-	HSN Code	Pre	Post
	Raw materials for use in manufacture of CRGO steel	72	7225	-	-	2.50%	NIL
	Copper Scrap	74	7404	-	-	5.00%	2.50%
	Screw, bolts, nuts, etc. of iron and steel	73	7318	-	-	10.00%	15.00%
24	**Captial Goods**						
	Tunnel boring machines	84	8430	-	-	Nil	7.50%
	Parts and components for manufacture of tunnel boring machines with actual-user condition	84	8431	-	-	Nil	2.50%
25	**IT, Electronics and Renewable**						
	Specified insulated wires and cables	85	8544	-	All (except 8544 70 & 8544 30 00)	7.50%	10.00%
	Former, bases, bobbins, brackets; CP wires; P.B.T.; Phenol resin moulding powder; Lamination/ El silicon steel strips for use in manufacture of transformers (entry at S.No. 198 of 25/1999-Customs)	39, 74 & 85	-	-	-	NIL	Applicable Rate
	Inputs or parts for manufacture of Printed Circuit Board Assembly (PCBA) of cellular mobile phone (w.e.f. 1.4.2021)	Any Chapter	-	-	-	NIL	2.50%
	Inputs or parts for manufacture of camera module of cellular mobile phone (w.e.f. 1.4.2021)	Any Chapter	-	-	-	NIL	2.50%
	Inputs or parts for manufacture of connectors of cellular mobile phone(w.e.f. 1.4.2021)	Any Chapter	-	-	-	NIL	2.50%
	Inputs or raw material for manufacture of specified parts like back cover, side keys etc. of cellular mobile phone(w.e.f. 1.4.2021)	Any Chapter	-	-	-	NIL	2.50%
	Inputs or raw material (other than PCBA and moulded plastics) for manufacture of charger or adapter of cellular mobile phones	Any Chapter	-	-	-	NIL	10.00%
	Moulded plastics for manufacture of charger or adapter	8504 / 3926	-	-	8504 90 90 or 3926 90	10.00%	15.00%
	Inputs or parts of Printed Circuit Board Assembly of charger or adapter of cellular mobile phones	Any Chapter	-	-	-	NIL	10.00%
	Inputs or parts of Moulded Plastic of charger or adapter of cellular mobile phones	Any Chapter	-	-	-	NIL	10.00%

Sr. No	Product Name	Chapter	Heading	Sub-Heading	HSN Code	Pre	Post
	Inputs or raw materials (other than Lithium-ion cell and PCBA) of Lithium-ion battery or battery pack (w.e.f. 1.4.2021)	Any Chapter	-	-	-	NIL	2.50%
	Parts or components of PCBA of Lithium-ion battery or battery pack (w.e.f. 1.4.2021)	Any Chapter	-	-	-	NIL	2.50%
	Inputs or raw materials of following goods: - (i) Other machines capable of connecting to an automatic data processing machine or to a net-work (8443 32 90) (ii) Ink cartridges, with print head assembly (8443 99 51) (iii)Ink cartridges, without print head assembly (8443 99 52) (iv) Ink spray nozzle (8443 99 53) (w.e.f. 1.4.2021)	Any Chapter	-	-	-	NIL	2.50%
	Inputs and parts of LED lights or fixtures including LED Lamps	Any Chapter	-	-	-	5.00%	10.00%
	Inputs for use in the manufacture of LED driver or MCPCB (Metal Core Printed Circuit Board) for LED lights or fixtures including LED Lamps	Any Chapter	-	-	-	5.00%	10.00%
	Solar lanterns or solar lamps	94	9405	-	9405 50 40	5.00%	15.00%
	Solar Inverters	85	8504	-	8504 40	5.00%	20.00%
	Parts of Electronic Toys for manufacture of electronic toys	95	9503	-	-	5.00%	15.00%
26	**Aviation Sector**						
	Components or parts, including engines, for manufacture of aircrafts or parts of such aircrafts, by Public Sector Units under Ministry of Defence subject to condition specified.	Any Chapter	-	-	-	2.50%	0.00%
27	**Medical Devices**						
	Medical Devices imported by International Organization and Diplomatic Missions	90	9018 - 9022	-	-	2.50%	0.00%
28	**Goods imported under Project Import Scheme**						
	High Speed Rail Projects being brought under project imports	98	9801	-	-	Applicable Rate	5.00%
	All goods other than Bicycle parts and components	87	8714		8714 91 00, 8714 92, 8714 93, 8714 94 00, 8714 95, 8714 96 00, 8714 99	10.00%	15.00%

New items inserted/modified to the First Schedule of Customs Tariff Act

Sr. No	Product name	Heading	Sub-heading	HSN code	BCD rate %	Preferential %
1	Flours, meals and pellets of fish, crustaceans, molluscs and other aquatic invertebrates, fit for human consumption	309	-	-	30%	-
2	Insects and other edible products of animal origin, not elsewhere specified or included	410	-	-	Same as before	-
3	Other vegetables, fresh or chilled	709	-	0709 52 00 to 0709 56 00	30%	20%
4	Olive oil and its fractions, whether or not Refined, but not chemically modified	1509	-	1509 20 00 to 1509 40 00	Same as before	Same as before
5	Other oils and their fractions obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 1509	1510	1510 00	1510 10 00	Same as before	Same as before
6	Other fixed vegetable fats and oils, (including jojoba oil) and their fractions, whether or not refined, but not chemically modified	1515	-	1515 60 00	100%	90%
7	Radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes) and their compounds; mixtures and residues containing these products	2844	-	2844 41 00 to 2844 44 00	Same as before	-
8	isotopes other than those of heading 2844; Compounds, inorganic or organic, of such Isotopes, whether or not chemically defined	2845		2845 20 00 to 2845 40 00	10%	-
9	Halogenated derivatives of hydrocarbons	2903	2903 29/39	2903 29 00 to 2903 31 00 and 2903 39 11 to 2903 76 30	Same as before	-
10	Other organo-inorganic compounds	2931	2931 10/ 90	2931 10 10 - 2931 39 00 2931 90 10- 2931 90 90	Same as before	-

Sr. No	Product Name	Heading	Sub-Heading	HSN Code	BCD Rate %	Preferential %
11	Alfentanil (INN), anileridine (INN), bezitramide (INN), bromazepam (INN), difenoxin (INN), diphenoxylate (INN), dipipanone (INN), fentanyl (INN), keto bemidone (INN), methylphenidate (INN), pentazocine (INN), pethidine (INN), pethidine intermediate A, phencyclindine (INN) (PCP), phenoperidine (INN), radrol (INN), piritramide (INN), propiram (INN) and trimeperidine (INN); salts thereof	2933	2933 33	2933 33 11 to 2933 33 18/2933 33 21 to 2933 33 28/ 2933 33 31 to 2933 33 35/ 2933 34 00/ 2933 35 00/ 2933 36 00/ 2933 37 00	10%	-
12	Alkaloids, Natural Or Reproduced By synthesis, And Their Salts, Ethers, Esters And Other Derivatives	2939	-	2939 30 00 to 2939 49 00	Same as before	Same as before
13	Mixtures Containing Halogenated Derivatives Of 196 Methane, Ethane Or Propane, Not Elsewhere Specified Or Included	3827	-	3827 11 00 to 3827 14 00, 3827- 20 00,31 00, 32 00, 39 00, 40 00, 51 00, 59 00, 61 00, 62 00, 63 00, 64 00, 65 00, 68 00, 69 00, 90 00.	10%	-
14	Fuel Wood, In Logs, In Billets, In Twigs, In Faggots Or In Similar Forms; Wood In Chips Or Particles; Sawdust And Wood Waste And Scrap, Whether Or Not Agglomerated In Logs, Briquettes, Pellets Or Similar Forms	4401	-	4401 41 00 and 4401 49 00	5%	-
15	Carpets and other textile floor coverings, tufted, whether or not made up	5501	5703 10/20/30	5703 10 10 to 5703 10 90/ 5703 2010 to 5703 2090/ 5703 90 10 to 5703 90 90	Same as before	Same as before
16	Terry towelling and similar woven terry fabrics, other than narrow fabrics of heading 5806; tufted textile fabrics, other than products of heading 5703	5802	5802 10	5802 10 10 to 5802 10 90	Same as before	Same as before
17	Bismuth and articles thereof, including waste and scrap	8106	8106 00	8106 00 10 to 8106 00 90	Same as before	Same as before

Sr. No	Product Name	Heading	Sub-Heading	HSN Code	BCD Rate %	Preferential %
18	MACHINE-TOOLS (INCLUDING PRESSES) FOR WORKING METAL BY FORGING, HAMMERING OR DIE FORGING (EXCLUDING ROLLING MILLS); MACHINE-TOOLS (INCLUDING PRESSES, SLITTING LINES AND CUT-TO-LENGTH LINES) FOR WORKING METAL BY BENDING, FOLDING, STRAIGHTENING,FLATTENING, SHEARING, PUNCHING, NOTCHING OR NIBBLING (EXCLUDING DRAW-BENCHES); PRESSES FOR WORKING METAL OR METAL CARBIDES, NOT SPECIFIED ABOVE	8462	-	-	Same as before	Same as before
19	MACHNES FOR ADDITIVE MANUFACTURING	8485	-		7.5%	-
20	Petroleum Crude	2709			Nil	
	Others					

Note: Only key entries/products have been included in the aforesaid table.

Imposition of Agriculture Infrastructure and Development Cess on Import of certain items (to be effective from 02.02.2021)

Sr. No.	Heading, sub-heading tariff item	Commodity	Basic Customs Duty	AIDC
1	0808 10 00	Apples	15.0%	35.0%
2	1511 10 00	Crude Palm Oil	15.0%	17.5%
3	1507 10 00	Crude Soya-bean Oil	15.0%	20.0%
4	1512 11 10	Crude Sunflower seed oil	15.0%	20.0%
5	0713 10	Peas (Pisum sativum)	10.0%	40.0%
6	0713 20 10	Kabuli Chana	10.0%	30.0%
7	0713 20 20	Bengal Gram (desichana)	10.0%	50.0%
8	0713 20 90	Chick Peas (garbanzos)	10.0%	50.0%
9	0713 40 00	Lentils (Mosur)	10.0%	20.0%
10	2204	All goods (Wine)	50.0%	100.0%
11	2205	Vermouth and other wine offresh grapes, flavoured	50.0%	100.0%
12	2206	Other fermented beverages for example, Cider, Perry, Mead, sake, mixture of fermented beverages or fermented beverages and nonalcoholic beverages	50.0%	100.0%
13	2208	All goods (Brandy, Bourbon whiskey, Scotch etc.)	50.0%	100.0%
14	2701	Various types of coal	1.0%	1.5%
15	2702	Lignite, whether or not agglomerated	1.0%	1.5%
16	2703	Peat, whether or not agglomerated	1.0%	1.5%
17	3102 10 00	Urea	Nil	5.0%

Sr. No.	Heading, sub-heading tariff item	Commodity	Basic Customs Duty	AIDC
18	3102 30 00	Ammonium nitrate	2.5%	5.0%
19	31	Muriate of potash, for use as manure or for the production of complex fertilisers	Nil	5.0%
20	3105 30 00	Diammonium phosphate, for use as manure or for the production of complex fertilisers	Nil	5.0%
21	5201	Cotton (not carded or combed)	5.0%	5.0%
22	7106	Silver (including imports by eligible passengers)	7.5%	2.5%
23	7106	Silver Dore	6.1%	2.5%
24	7108	Gold (including imports by eligible passengers)	7.5%	2.5%
25	7108	Gold Dore	6.9%	2.5%

Other Changes in Customs

- High Speed Rail Projects have been included in list of projects to which Project Imports Scheme would be applicable. Further, National High Speed Rail Corporation Ltd. has been nominated as the 'Sponsoring Authority' under Project Import Regulations, 1986 for approving the items required to be imported under the Project Imports Scheme for High-Speed Rail Projects.

- Exemption from Basic Custom Duty has been withdrawn on many of the products *inter-alia* including ink cartridges, ribbon assembly, wax items, fasteners, zippers, buckles, buttons, curtain hooks, Tassel, Beads, Sequins, sewing threads, poly wadding materials etc.

- SWS prescribed vide NN. 12/2018-Customs dated 02.02.2018 on various certain items, including gold and silver, has now been rescinded. Further, SWS has been exempted on the value of AIDC imposed on gold and silver. Accordingly, these items would attract SWS, at normal rate, only on the value plus basic customs duty.

- Customs (Import of Goods at Concessional Rate of Duty) Rules, has been amended to provide the following facilities
  - To allow job-work of the materials (except gold and jewelry and other precious metals) imported under concessional rate of duty.
  - To allow 100% out-sourcing for manufacture of goods on job-work.
  - To allow imported capital goods that have been used for the specific purpose to be cleared on payment of differential duty, along with interest, on the depreciated value. The depreciation norms would be the same as applied to EOUs, as per FTP.

- Other Miscellaneous changes pertaining to Anti-Dumping Duty and Countervailing Duty
  - Changes are being made in the rules that provide for the manner and procedure for investigation into dumping of goods that cause injury to domestic industry. It is provided w.e.f 01.07.2021 that final findings are to be issued by the designated authority in review cases at least three months prior to expiry of ADD under review.
  - Changes are being made in the rules that provide for the manner and procedure for causing investigation into the cases of imports of subsidized goods that cause injury to domestic industry. It is provided that w.e.f .1.07.2021 that final findings are to be issued by the designated authority, in review cases at least three months prior to expiry of CVD under review.
  - Changes are being made in the rules that provide for manner and procedure for causing investigation into the cases of imports in increased quantity that cause injury to domestic industry. It is proposed to elaborate in detailed manner the modalities of implementation of safeguard measure, along with technical modalities consequent to changes made in sec 8D of CTA vide Finance Act,.

* ADD is being temporarily revoked for the period commencing from 02.02.2021 till 30.09.2021 on the imports of the following
  - Straight Length Bars and Rods of alloy-steel, originating in or exported from People's Republic of China
  - High Speed Steel of Non-Cobalt Grade, originating in or exported Brazil, People's Republic of China and Germany
  - Flat rolled product of steel, plated or coated with alloy of Aluminium or Zinc, originating in or exported from People's Republic of China, Vietnam and Korea RP
* Countervailing duty is being temporarily revoked for the period commencing from 02.02.2021 till 30.09.2021, on imports of Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products, originating in or exported from People's Republic of China.
* Provisional Countervailing duty is being revoked on imports of Flat Products of Stainless-Steel originating in or exported from Indonesia.
* ADD on Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250 mm of non bonafide usage originating in or exported from People's Republic of China, Korea RP, European Union, South Africa, Taiwan, Thailand and United States of America has been discontinued upon expiry of the ADD hitherto leviable vide NN. 61/2015 - Customs (ADD) dated 11.12.2015 and 52/2017 - Customs (ADD) dated 24.10.2017.

Non-Applicability Of Stamp Duty On Disinvestment By Government Company

Stamp duty shall not be applicable if all following conditions are met:

- Transfer of a business or asset or right in immovable property;
- Transfer made by Government company;
- Transaction of transfer made by way of strategic sale or disinvestment or demerger or any other scheme of arrangement; and
- Transfer made to another Government Company or Government.

Amendment To The Definition Of Small Company

- A private company registered under the Companies Act which does not exceed a specified threshold is categorized as 'small company'. In this budget, the threshold limit has been increased as follows:

Particulars	Old Provision	New Provision
Definition (Small Companies)	Paid-up capital ≤ INR 50 lakh and Turnover ≤ INR 2 crore	Paid-up capital ≤ INR 2 crore and Turnover ≤ INR 20 crore

Author's Note

The Companies Act provides many privileges to small company in terms of compliance requirements. Some of those benefits or privileges are: no requirement of preparation of Cash flow statements, holding 2 board meetings instead of 4, and reduced amount of penalties etc. This extension of limit will incentivize more than 2 lakh companies in easing their compliance burden.

One Person Company

- OPC concept was introduced in the past to facilitate small businesses to operate in company form with one member instead of usual requirement of at least 2 members. Apart from this, there are numerous other benefits in terms of lesser compliances which are available to OPC. In this Union Budget, the provisions with respect to such companies have been further relaxed to help the small businesses. The key changes are as follows:

Particular	Old Provision	New Provision
NRI to setup OPC	Only resident Individual persons could start the OPC in India. An individual shall be considered as resident if it stays in India for at least 182 days during the last financial year.	Now the limit of minimum 182 days for residing in India has now been reduced to 120 days for the purpose of setting up OPC which will allows NRI also to enter into Indian Market.
Removal of the restrictions on conversion of OPC	Restriction on limit of Turnover and capital If paid-up share capital of OPC and its average turnover during the preceding of 3 consecutive years exceed INR 50 lakh and INR 2 crores respectively then it will lose the status of OPC. Restriction on time period Minimum 2 years have been elapsed to covert voluntarily into any other type of company which will be subject to above condition.	As per proposed amendments, an OPC can convert itself into any type of company without any restriction of turnover and paid-up capital. Conversion can be done by OPC voluntarily at any time.

Author's Note

In India, the concept of OPC came into existence in 2005. This concept helps in giving a spotlight to single person economic entities such as small traders. An OPC enjoys many benefits as the OPC is free from many stringent legal compliance such as board meetings, financial statement inclusions, quorum, and mandatory rotation of auditors. Over the years, OPCs have ventured into other sectors including construction, mining and quarry, and electricity, etc. Hence, this move will give more relief to start ups and innovators. Also, it will ease the entry of the Indian diaspora into the market.

Prohibition Of Benami Property Transaction Act

Particulars	Old Provision	Amended Provision
Appointment of Adjudicating Authority	Sec 7 provides for appointment of AA specifically to exercise its powers provided in PBPT Act. Further sec 28 provides that Unless the CG appoints AA, AA appointed under PMLA will discharge the functions and perform duties of AA under PBPT Act.	It is now proposed that Competent Authority under Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, (SAFEMA) shall be the AA under PBPT Act. Accordingly, the provisions related to appointment, administration, composition, constitution etc. under sec 8 to 17 omitted. Power of CG to make rules related to appointment and salaries are also omitted. Such AA shall start performing its functions wef 1st July,
Time-Limit for Passing Order	One year from the end of the month in which initiating officer sends the statement of the case.	If due date of passing order falls during the period from 1st July, 2021 to 29th September, 2021, such due date shall be extended to 30th September, 2021.

Life Insurance Corporation Act

Bill proposes for following provisions:

- Insertion of Sections 4A, 4B, 4C and 4D in the LIC Act to provide for disqualifications of a director, and disclosure of interest by director etc.
- Substitution of Section 5 of the LIC Act, to provide for LIC's capital, issue of equity shares to the Central Government in consideration for paid-up equity capital
- Insertion of provisions for transferability of shares, voting rights, register of members, declaration in respect of beneficial interest in shares
- Insertion of provisions related to holding of AGM, books of account, financial statements, Boards report and penalties for contravention
- Insertion of provisions related to the declaration of dividend and crediting of unclaimed and unpaid dividend amount to an Unpaid Dividend Account

Securities And Exchange Board Of India Act

Bill proposes insertion of following clause:

- Any alternative investment fund or a business trust as defined in clause (13A) of Section 2 of the Income-tax Act, 1961, shall establish and operate only after the Securities and Exchange Board of India grants a certificate of registration in accordance with the regulations made under the said Act.

GLOSSARY

Abbreviation	Meaning
AA	Adjudicating Authority
AE	Associated Enterprise
AGM	Annual General Meeting
AIDC	Agriculture Infrastructure and Development Cess
AIF	Alternative investment fund
ALP	Arm's length price
AMT	Alternate minimum tax
AO	Assessing officer
AOP	Association of persons
APA	Advanced pricing agreement
ARE	Alternate reporting entity
AVGC	Animation, Visual effects, Gaming and Comics
AY	Assessment year
BBT	Buy-back tax
BCD	Basic Customs Duty
BED	Basic Excise Duty
BEPS	Base erosion and profit shifting project
BOI	Body of individuals
CAT	Common aptitude test
CBCR	Country by country reporting
CBDT	Central Board of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CGST Act	Central Goods and Services Tax Act, 2017
CG	Central Government
Customs Act	Customs Act, 1962
CVD	Countervailing Duty
DDT	Dividend Distribution Tax
DTAA	Double Taxation Avoidance Agreement entered into by India
FAME	Faster Adoption and Manufacture of Hybrid and Electric Vehicles
FDI	Foreign Direct Investment
Finance Bill	Finance Bill, 2021
FM	Finance Minister
FMV	Fair market value
FPI	Foreign Portfolio Investors
FTP	Foreign trade policy
G2B	Government to Business
GST	Goods and Services Tax
CGST Act	Central Goods and Services Act, 2017
HFC	Housing Finance Company
HNI	High net worth individual
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code, 2016
IFSC	International Financial Services Centre
IGST	Integrated Goods and Services Tax
IGST Act	Integrated Goods and Services Tax Act, 2017
IIM	Indian Institute of Management
Ind AS	Indian Accounting Standards

GLOSSARY

Abbreviation	Meaning
InvITs	Infrastructure Investment Trusts
IT Act	The Income-tax Act, 1961
ITC	Input Tax Credit
KYC	Know Your Customers
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
LTCG	Long-term Capital Gains
MAT	Minimum Alternate Tax
MoF	Ministry of Finance
MSME	Micro Small and Medium Enterprises
NBFC	Non-Banking Finance Company
NCCD	National Calamity Contingent duty
NCLT	National Company Law Tribunal
NEFT	National Electronic Funds Transfer
NELP	New Exploration Licensing Policy
NHB	National Housing Bank
NPA	Non-performing assets
NRI	Non-Resident Indian
OECD	Organization for Economic Co-operation and Development
OBU	Offshore Banking Unit
OPC	One Person Company
PAN	Permanent Account Number
PBPT	Prohibition of Benami Property Act, 1988
PIV	Pooled Investment Vehicle
PMLA	Prevention of Money Laundering Act, 2002
PSU	Public sector undertaking
RBI	Reserve Bank of India
RBI Act	Reserve Bank of India, Act, 1934
REITs	Real Estate Investment Trusts
RIC	Road and Infrastructure Cess
RTGS	Real Time Gross Settlement
SAD	Special Additional Duty
SAED	Special Additional Excise Duty
SAFEMA	Smugglers and Foreign Manipulators (Forfeiture of Property) Act, 1976
SCN	Show Cause Notice
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SEBI Act	Securities Exchange Board of India Act, 1992
SFT	Statement of financial transaction
TCS	Tax Collected at Source
TDS	Taxes Deducted at Source
UCB	Urban Co-operative Bank
UK	United Kingdom
USA	United States of America
u/s.	Under Section
VsV	Vivad se Vishwas
WTO	World trade Organization

FIRM INTRODUCTION

Taxcraft Advisors LLP ('TCA') is a multidisciplinary advisory, tax and litigation firm having multi-jurisdictional presence. TCA team comprises of professionals with diverse expertise, including chartered accountants, lawyers and company secretaries. TCA offers wide-ranging services across the entire spectrum of transaction and business advisory, litigation, compliance and regulatory requirements in the domain of taxation, corporate & allied laws and financial reporting.

TCA's tax practice offers comprehensive services across both direct taxes (including transfer pricing and international tax) and indirect taxes (including GST, Customs, Trade Laws, Foreign Trade Policy and Central/States Incentive Schemes) covering the whole gamut of transactional, advisory and litigation work. TCA actively works in trade space entailing matters ranging from SCOMET advisory, BIS certifications, FSSAI regulations and the like. TCA (through its Partners) has also successfully represented umpteen industry associations/trade bodies before the Ministry of Finance, Ministry of Commerce and other Governmental bodies on numerous tax and trade policy matters affecting business operations, across sectors.

With a team of experienced and seasoned professionals and multiple offices across India, TCA offers a committed, trusted and long cherished professional relationship through cutting-edge ideas and solutions to its clients, across sectors.

GST Legal Services LLP ('GLS') is a consortium of professionals offering services with seamless cross practice areas and top of the line expertise to its clients/ business partners. Instituted in 2011 by eminent professionals from diverse elds, GLS has constantly evolved and adapted itself to the changing dynamics of business and clients requirements to offer comprehensive services across the entire spectrum of advisory, litigation, compliance and government advocacy (representation) requirements in the field of Goods and Service Tax, Customs Act, Foreign Trade, Income Tax, Transfer Pricing and Assurance Services.

Of-late, GLS has expanded its reach with offerings in respect of Product Centric Regulatory Requirements (such as BIS, EPR, WPC), Environmental and Pollution Control laws, Banking and Financial Regulatory laws etc. to be a single point solution provider for any trade and business entity in India.

With a team of dedicated professionals and multiple offices across India, it aspires to develop and nurture long term professional relationship with its clients/ business partners by providing the most optimal solutions in practical, qualitative and cost-efficient manner. With extensive client base of national and multinational corporates in diverse sectors, GLS has fortified its place as unique tax and regulatory advisory rm with in-depth domain expertise, immediate availability, transparent approach and geographical reach across India.

VMG & Associates ('VMG') is a multi-disciplinary consulting and tax firm. It brings unique experience amongst consulting firms with its partners having experience of Big 4 environment, big accounting, tax and law firms as coupled with significant industry experience. VMG offers comprehensive services across the entire spectrum of transaction support, business and risk advisory, financial reporting, corporate & allied laws, Direct & Indirect tax and trade related matters.

VMG has worked with a range of companies and have provided services in the field of business advisory such as corporate structuring, contract negotiation and setting up of special purpose vehicles to achieve business objectives. VMG is uniquely positioned to provide end to end solutions to start-ups companies where we offer a blend of services which includes compliances, planning as well as leadership support.

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