

UNION BUDGET 2022

USHERING INTO AMRIT KAAL





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Introduction

PREFACE



Amrit kaal! might just be the most googled term in India today.

It refers to run-up period of 25 years from 75th year of India's independence to 100th, and forms central theme of the Budget 2022 announced by Hon'ble Finance Minister Ms. Nirmala Sitharaman.

The overall outlook of the budget is ambitiously aimed at creating a foundation in this *Amrit Kaal* to prepare India for the next century of Independence. The five big proposed infrastructure projects *inter-alia* expansion of highways in the country by 25,000 kilometres, allocating INR 60,000 crore to the 'Nal-se-Jal' scheme, five river link projects across various states, an additional INR 48,000 crore in the PM housing scheme, and boosting infrastructure development in the North East.

The Government would invest INR 7.50 lakh crore as capital expenditure for these and many other development projects giving a sharp rise of 35.4% from 5.54 lakh crore of the capital expenditure in the previous fiscal year!

Apart from these traditional developments, the Minister also proposed some contemporary developments such as auction of 5G spectrum in 2022, setting up of 75 digital banking units in 75 districts. Surprisingly, the proposal not only announced introduction of Digital Rupee, a currency backed by blockchain technology but also proposed to tax gains out of transfer of Virtual Digital Assets. This move effectively brought virtual currencies like cryptocurrency and Non-Fungible Tokens (NFTs) under the tax net, despite ambiguity as to its legality.

Interestingly, the announcements also include a National Programme for Mental Health, triggered by severity of mental health issues owing to pandemic and lockdown. Although this will need to go through multiple hassles to succeed amidst strong stigma and taboo associated with mental health issues it is indeed a pragmatic and laudable decision.

India has rapidly gained recognition for producing start-up unicorns. It is home to third highest number of unicorns only after US and China. To create an even more conducive environment, the surcharge on Long-Term Capital Gains (LTCG) from shares of unlisted companies is proposed to be capped at 15%. This will no doubt boost the investment in start-ups and make issuance of ESOP a lucrative option.

The Budget has given special focus on defence sector as well which saw a increase in the capital outlay by 10% as compared to previous fiscal year. Out of the total outlay, 68% is earmarked for domestic industry, giving a definitive push towards promoting the country's domestic defence industry. This will not only support Make in India initiative but also bring more autonomy to the country's defence scheme.

On personal taxation front, although common expectation was for some tax breaks from personal taxation the focus appeared to be more on providing stability to taxpayers and encouraging voluntary compliance. The tax returns can now be revised for omission and mistakes including declared income not reported. The changes can be made through a one-time window till two years from the end of the assessment year on payment of tax.

The Budget has also extended the timelines for benefits under the new corporate tax regime. The Government had announced a 15% corporate tax rate for newly incorporated manufacturing companies till March 31, 2023, which has now been extended till March 31, 2024. The period of incorporation for startups to avail tax benefits has also been extended by a year to March 31, 2023.

PREFACE

In a bid to reduce litigation, the Minister announced that Revenue shall defer filing of repetitive appeals against an assessee until the substantial question of law is decided by the jurisdictional High Court or the Supreme Court coming as a much-needed relief for already overburdened court of law.

On the indirect tax front, GST saw few positive changes such as extending the final date for availment of credit from September to November, mechanism to allow transfer of balance between electronic cash ledger of different states. It also witnessed additional restrictions on availment of credit such as payment of tax by vendor, legitimacy of vendor's entire credit pool, etc.

The amendments in Customs law also saw overcoming the decision of Hon'ble Supreme Court's decision in the case of Canon India, wherein DRI's jurisdiction to issue Show Cause Notice was invalidated for want of appropriate authority. Relevant provisions are now amended to institute proper authority to DRI.

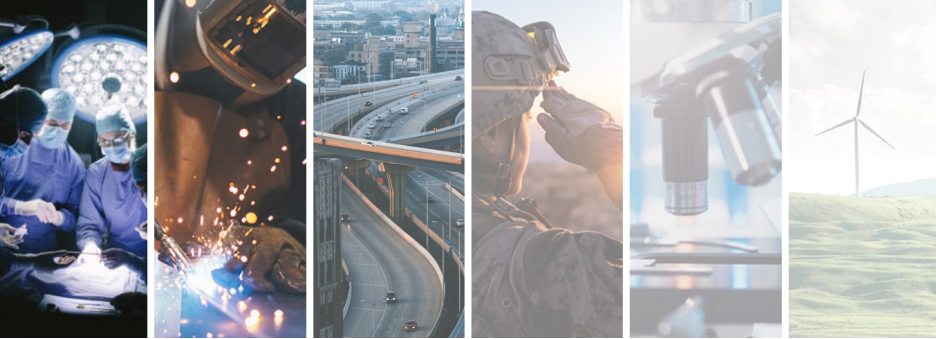
To sum up, it is an ambitious budget, that now needs focused execution to sail through! And we at TIOL, in association with **Taxcraft Advisors LLP**, **GST Legal Services LLP** and **VMG & Associates**, have ventured to analyse its nitty-gritties for our esteemed readers.

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,

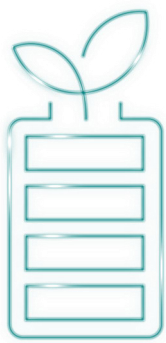
Team Vision 360



KEY POLICY INITIATIVES

Battery Swapping Policy

Encouraging electronic vehicles has been Government's prime agenda for some time now. Extending this endeavour, the Hon'ble Finance Minister announced Battery Swapping Policy to be introduced soon. The process lets vehicle owners exchange a discharged battery with a charged battery, much like exchange of LPG cylinders. This will eliminate need for charging time and increases adoptability of electronic vehicles. This model has already seen wide acceptance in the US and Europe and is supported by policies that standardise usage of batteries.



In India, only a handful OEMs provide for replaceable batteries while many others prefer non-removable batteries. A uniformity is needed to effectively implement the Battery Swapping Policy which will be catered by standardisation of removable/disposable batteries.

One thing however remains unattended globally and that is appropriate disposal of waste batteries. In absence of concrete framework, battery waste can soon turn electronic vehicles from being a green initiative to an environmental hazard. While there are announcements relating to circular economy for electronic waste, end-of-life vehicles, used oil waste, and toxic/hazardous industrial waste, etc. it is silent about vehicle battery wastage. It is a just time

to remember '**a stitch in time saves nine!**'.

Special Economic Zones

In 2018, Ministry of Commerce constituted a committee headed by Mr. Baba Kalyani aimed at developing policy framework that capitalize global growth opportunities as well as develop, domestic competitive environment.

The committee recommended (vide its report published in May 2019) to shift from SEZ which are essentially island of exports to 3 Es i.e. Employment and Economic Enclave which catalyses economic and employment growth. This would require creation of manufacturing ecosystem that will be delinked from export performances and more focused on investment committed, job creation, promoting women in job, value addition, technology differentiation, trade potential and priority industry.

Given these recommendations and also taking cues from the challenge posed by US to the scheme of SEZ before World Trade Organisation, the Minister indicated that replacement of the Special Economic Zones Act with a new legislation that will enable the states to become partners in 'Development of Enterprise and Service Hubs'. Further, while finalising the desired legislature in place of SEZ Scheme, the Government should align the same with the existing MOOWR Scheme, 2020 and Private Bonded Warehouse to avoid any possible conflicts or duplication of the legislature with the same underlying objectives.

Circular Economy

Circular Economy, is known to enhance productivity, create opportunities and also be environment friendly. It is a sustainable approach in true sense. Presently, Circular Economy action plan for ten sectors (including electronic waste, end-of-life vehicles, used oil waste, and toxic and hazardous industrial waste) is ready; and

Highlights



Easy replacement of Batteries



Concerns of Waste Management remains open



Boost to Circular Economy

KEY POLICY INITIATIVES

the focus is shifting on addressing important cross cutting issues of infrastructure, reverse logistics and technology upgradation, etc.

Another step by Budget'22 towards green economy is sovereign Green Bonds which are a part of the government's overall market borrowings in 2022-23. These will be issued for mobilizing resources for green infrastructure.

Solar Power plays an important role in reducing carbon footprints of fossil fuel. To facilitate domestic manufacturing for the ambitious goal of 280 GW of installed solar capacity by 2030, an additional allocation of INR 19,500 crore for Production Linked Incentive for manufacture of high efficiency modules, with priority to fully integrated manufacturing units from polysilicon to solar PV modules, is proposed to be made.

Highlights



Emphasis on indigenous manufacturing



Alignment with MOOWR scheme critical



Push for digital economy and digital currency



Managing Supply chain issues would be critical

Digital Rupee

In a move to step-up with competing futuristic currencies, the budget announces India's own Central Bank Digital Currency to be known as 'Digital Rupee'. It would be backed by blockchain and other technologies and will be issued by the RBI in 2022-23. Definition of 'bank note' provided under the RBI Act is also proposed to be suitably amended to include digital note issued by a bank.

Surprisingly, the legality of currencies backed by blockchain widely known as cryptocurrencies is still unclear and ambiguous, yet the Government has announced introduction of similar currency of its own, which is a bold move indeed.

This digital currency is hoped to boost digital economy and lead to a more efficient and cheaper currency management system. The Minister however did not delve into any further details.

The move appears to be triggered by introduction of e-CNY or 'Digital Yuan' by China in 2022. The currency, introduced after eight years of its announcement, was first amongst Central Bank Digital Currencies across the globe. Introduction of e-CNY had two-fold agenda (i) creation of digital currency that can compete with other digital currencies such as



KEY POLICY INITIATIVES

bitcoins, stablecoins etc. (ii) to reshape payment system that is accessible to all, is low cost and facilitates competition amongst payment service options. Observance of e-CNY and deriving suitable learnings therefrom could be a stepping stone for successful introduction of 'Digital Rupee'.

Taxation of Digital Assets

As the economy evolves, so does the tax policy. Given the magnitude of transactions in digital assets, the Minister announced 'scheme of taxation' for virtual digital assets. To start with, any income from transfer of any virtual digital asset shall now be taxed at the rate of 30%.

Historically, digital assets were limited to mere photos and videos. This ambit is however widened and it now covers within its fold anything ranging from documents and presentations to Non-Fungible Token i.e. NFT which can represent high value real-world items such as artwork and real-estate, etc.

The proposed taxation scheme is a bit stringent inasmuch as it does not allow deduction of any expenditure other than cost of acquisition and even bars set-off of any loss incurred towards other income. It also proposes to tax gift of digital assets in the hands of recipient and introduces 1% TDS. Introduction of TDS on digital asset will substantially increase transparency and help government track every transaction as buyers shall be liable to deduct taxes and report the transaction to the authorities.

Atmanirbharta in Defence

'Make in India' and 'Atmanirbhar Bharat' have been given a major impetus during planning and procurement of equipment for Indian Army. Atmanirbharta in defence is aimed at enhancing domestic manufacturing and making the country a net exporter in this field.

The endeavour has furthered its way into defence sector, more particularly equipment for the Armed Forces. The Government has earmarked 68% of its capital procurement budget for domestic industry in 2022-23. This is a 10% increase from 58% in 2021-22.

The Minister also announced opening of defence R&D for industry, start-ups and academia and earmarked 25% of the defence R&D budget for the same. Private industry is being encouraged to take up design and development of military platforms and equipment in collaboration with DRDO and other organizations through SPV model.





INDUSTRY SPEAKS



Harmeet Chopra | Tax Head – India, Oyo Hotels and Homes

The Union Budget has indeed provided some relief in terms of Extension of the Emergency Credit Line Guarantee Scheme (ECLGS) and allocation of additional INR 50,000 crores for hotels and hospitality sector till March 2023 which is expected to boost the already diminished moral and growth of the tourism travel and hospitality industry. The budget is also inclusive of aggressive infrastructure development with eight ropeways, an additional 25,000 km of National Highways, 400 new Vande Bharat Trains with modern facilities, etc.

However, there was an immediate opportunity for more direct intervention and support to the highly stressed tourism and travel companies and their employees – this is where perhaps the Government has missed out.

Inderpal Ahluwalia | Senior Process Manager, Clariant India Ltd

The Hon'ble Finance Minister has clearly prioritized the Ease of Doing Business and IT driven administration in the current budget. From Indirect Tax standpoint, various significant proposals have been made. However, Government's silence on launch of new Foreign Trade Policy has brought resentment amongst exporters' community. To strengthen 'AtmaNirbhar Bharat' and 'Make in India' movement, Government has phased out 350 exemptions for protecting interests of domestic producers. While removal of some exemptions may be warranted, overall, the Government ignored ground-level challenges of scarcity of like-quality goods in India, likely increase in price of such goods etc.



Amit Gupta | Head of Tax, One97 Communications Ltd (Paytm)



The Hon'ble Finance Minister has indeed presented a reformatory, forward-looking, and well-balanced Budget proposals containing the tax reform agenda. Extension of time-limit for newly incorporated manufacturing entities and start-ups under the 15% concessional tax regime to March 31, 2023. The 30% tax on Income from Digital Assets shall provide much-needed clarity on the taxation of cryptocurrencies and NFTs. The FM has once again tried to curb litigation with proposals such as facilitating filing of updated tax returns and appeals to higher forums by the Union to avoid repeated litigations is laudable.

In a much-anticipated move, the proposals contain amendments to Special Economic Zones Act, 2005, which will be replaced with a new legislation to enable the states to become partners. Further, several concessional rates are incorporated in the Customs Tariff Schedule as a simplification measure.

Rakesh Sharma | Vice President, TK Elevator India Private Limited

The paradigm shift in pushing the digital currency and virtual assets together with the narrative for urban development quite clearly signals a pro-growth stance of the Government. Notably, the emphasis on the increased capital expenditure leading to surge of infrastructure sector growth coupled with rationalisation of the import tariffs would essentially boost the domestic supplies in the elevator industry.



INDUSTRY SPEAKS



Jay Singh Yadav | Senior Manager – Indirect Tax, Mukand Ltd

Budget 2022 is an inclusive and growth-oriented Budget, catering to the needs of every sector. The Finance Minister gave a much needed boost to infrastructure sector by announcing significant capex outlay for infrastructure raising it to nearly 7.5 lakhs corers. Further, increase in tariffs with an objective at reducing imports to nurture the development of local industries is a welcome step. On the direct tax front, refraining from any increase in existing tax rate or imposing any new taxes or surcharge. Further, in a welcome move, surcharge on LTCG has been restricted to 15% for all assets

including unlisted securities and real estate thus partially offsetting the enhanced surcharge of upto 37% applicable to high income earners.

Ankush Goel | Head of Tax, India and Sri Lanka, Wabtec Corp

The Union Budget surely comes with a big push on the technology front and proposes to use capital expenditure arising out of buoyant tax collections to spur growth. Measures such as imposition of additional import tariffs, preferential treatment to indigenous players in the Government procurement etc. are steps in the right direction to boost the domestic production of the Capital Goods and will add impetus to 'Make in India' and 'Atamnirbhar' initiative of the Government.



Mayank Bidawatka | Senior Manager – Indirect Taxes, GlaxoSmithKline Pharmaceuticals Limited

It is indeed a growth-oriented budget, laying the foundation for different sectors such as Transportation, Digital Banking, Electronic Vehicle Sector, Virtual Assets, among others. The Government, as part of its 'Make In India' initiative and review of Customs Duty exemptions, has withdrawn 350 exemption entries, thus taking away certain concessional duty benefits such as electronic devices, agricultural produce, medicines, etc., which may ultimately lead to increase in cost of production or higher cash outflow at the consumers' end, adding to inflation. The amendments on GST front are filled with restrictions on ITC availment mechanism, in order to reduce the claim of improper ITC based on fraudulent invoices, which is leading to tax control. However, with no flexibility in ITC availment process, Industry may suffer with working capital issues and increase in tax disputes in the long run.



Mohit Sharma | DGM – Tax, Faiveley Transport Rail Technologies India Pvt Ltd

Overall, the budget has been presented on expected lines with focus on infrastructure boost and more surprisingly, regulation of the digital currency. When it comes to GST, in a much-anticipated move, the government has taken a very positive step in allowing the transfer of cash from one branch of the Company to another. Further, the GST Council suggestion to not levy interest on ITC wrongly availed but not utilised finds place in this Budget with retrospective impact, which is a welcome move. Given that many Companies are not able to close their annual accounts and audits by the month of September, extension of time limit to avail credit, make correction and report Credit notes to November 30 of the next FY seems to be beneficial to the taxpayers. However, there are rigorous restrictions being introduced on the ITC availment, which seem to be now dependent on the accurate and timely tax compliances (including correct tax availment and tax payments) by the suppliers, over which the taxpayer, as a recipient, may have little to no control.



INDUSTRY SPEAKS



Shailesh Kedawat | CFO, Future Consumer Ltd

Budget appears to be a balanced one. It boosts spending towards growth-oriented policies that create jobs, boost manufacturing, help agro-economy and infrastructure creation. On the direct tax side, to ease compliances for taxpayers, new IT return system is proposed to be introduced. The Government has marginally increased the time-limit to commence production by March 31, 2024 for units opting for the beneficial corporate tax rate of 15%. Announcement qua introduction of digital currency by RBI and taxation of digital assets at 30% are interesting developments in the Indian context. From an indirect tax viewpoint, the government's long-term goal appears to be supporting domestic manufacturing, exports and move towards sustainable growth. Gradual increase in Customs duty rates and phase out of concessions under project import scheme are steps in that direction. The proposals on GST front include restrictions on input tax credit, on utilizing the amounts in electronic credit ledger and on claiming of refund of tax paid on inward supplies. The Government however has accepted the GST Council recommendations qua levy of interest on wrongly availed credit only if it is utilized.

Nipun Mohanka | In Country Tax & Treasury Head, Mars Wrigley Confectionery India

The Budget 2022 is clearly ticking the right boxes from an overall perspective. On a direct tax side, key proposals include (a) introduction of taxation qua cryptocurrency @ 30%; (b) a Litigation Management System to be introduced to avoid repetitive appeals involving identical issues; (c) proposal to extend the capital gains exemption for investment in start-ups by one more year; and (d) concessional tax regime u/s 115BAB for new manufacturing companies extended by one year. On the indirect tax front, amendments proposed to Section 16 has virtually taken away the life of ITC in GST. Various simplification measures are proposed in the Customs Tariff such as elimination of various exemption entries and amendment to Customs duty rate in the First Schedule.

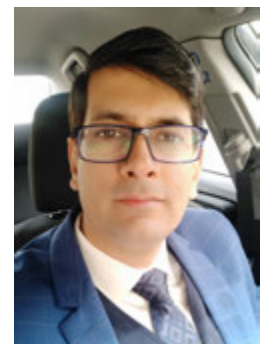


Giriraj Agiwal | Head of Tax, Aarti Industries Limited

From a tax perspective, the focus of the Budget has been to achieve simplification and reduction of litigation. One of the key proposals is the potential for taxpayers to voluntarily update its income tax returns and rectify errors/omissions. The new updated return can be filed within one/two years from the end of the relevant assessment year by paying the prescribed taxes. In furtherance of litigation management system, unnecessary litigation will be significantly reduced by not filing repetitive appeals on identical questions of law pending before jurisdictional HC or SC. Much needed clarity on cryptos provided. The transfer of virtual digital asset will be subject to capital gains tax @ 30%. Enabling provisions introduced in GST laws to limit the amount of input tax credit that can be used to pay output tax liability. Rationalisation of customs duty by removing exemptions on finished goods and providing concessional rate on raw material required for manufacture of finished goods is step in the direction of promoting "Make in India".

Prashant Bora | MD, Bora Group of Companies

The Budget 2022 is progressive and addresses all the major expectations from various sectors including Fintechs, EVs, MSMEs, Start-ups, etc. Extension of tax incentive by another year will hugely benefit the newly started ventures and will motivate the businesses to contribute to the macro-economic growth. The Hon'ble Finance Minister proposes to set-up an expert committee to monitor mobilization of funds to start-ups through VCs and



INDUSTRY SPEAKS

Private equities which is indeed a major welcome step. The introduction of central bank digital currency will further boost the digital economy and will hugely benefit the Fintech ecosystem. With setting up of 75 digital banking units in next two years India is set to become a robust digital economy. This being said, pandemic has increased the financial burden for the middle class. Some kind of allowances for them would have been welcomed.



Manoj Agarwal | CFO, Gujarat Flourochemicals Limited

The Budget 2022 through PM GatiShakti Scheme aims at providing much needed impetus to Infrastructure and job creation. Also, inclusive development and climate related proposals are more forward looking while much depends on implantation at ground level. On the direct tax side, there are no new taxes or enhancement or reduction in taxes other than some minor changes. Ahead of the Budget, there was an expectation that the Hon'ble FM would leave more money in the pockets of middle class when everyone is reeling under the pressures of Pandemic and the aftermath which does not

seem to have been addressed. At an overall level, while the Budget has provided a foundation for infrastructure-led growth, it has also provided a blueprint to propel the economy over the next 25 years towards its journey from India@75 to India@100. A trust-based tax system would act as an enabler in this journey.

Sunil Kumar | Finance Controller, Sensient India Private Limited

The budget has primarily laid down the roadmap for growth of specific sectors such as infrastructure, transportation, logistic sectors, electronic vehicles etc. For other sectors in general, the concessional rate on capital goods imports under Project Import Scheme is proposed to be withdrawn or reduced intended to the growth of domestic industry. Amendment proposed under the GST, particularly relating to the Input Tax credit has a deeper impact compare to what appears on *prima facie* basis. On the direct tax front, easing of compliances for taxpayers through the new IT return system would be something to watch out for.



Madhur Sharma | CFO, Louis Dreyfus Company India Pvt. Ltd.

The GoI and FM have firmly continued the path of long-term growth and progressively unshackling hurdles in various sectors of the economy in Budget of 2022. The phenomenal and record setting increase of over 35% in capital expenditure bears testimony to this resolve and firmness in policy objective. The proposal to extend the date of setting-up of new manufacturing unit for the concessional tax rate of 17% (including surcharge) to March 31, 2024 will give time to business entities to avail of this incentive especially as many would also be applying for PLI benefits which have been only recently finalised

across many sectors. The FM has clarified tax position qua investing in various forms of 'virtual currencies' with the imposition of a flat rate of 30% tax and other restrictions. The salaried class may be disappointed to find no further reliefs in the tax rates or deduction which could be a signal to move towards the alternative lower personal tax regime in due course.





INCOME TAX ACT

Voluntary contribution received by trust if not used for the specified purpose to be deemed as income

- The voluntary contribution received by trust for the purpose of renovation or repair of temple, mosque, gurdwara, church or other place shall be deemed to be income of such trust or institution for the previous year in which notified violation takes place.
- Notified violation as referred to above shall include failure to:
 - ◇ apply the funds for the purpose for which the voluntary contribution was made; or
 - ◇ apply the funds for making contribution or donation to any person; or
 - ◇ maintain separate records of contribution received; or
 - ◇ invest or deposit in the forms and modes specified as per Section 11(5).
- The above amendments will take effect retrospectively from April 1, 2021, and will accordingly apply in relation to the AY 2021-22 and subsequent AY.
- Explanation 3 is proposed to be inserted to provide that where 85% of income received by any fund or institution or trust or any university or other educational institution is not applied wholly and exclusively to the object to which such trust or institution is established during the previous year, but such income is set aside or accumulated for the object to which such trust or institution is established, then such income would not become part of total income subject to compliance with the specified conditions. This proposed amendment would come into effect from April 1, 2023.

Highlights

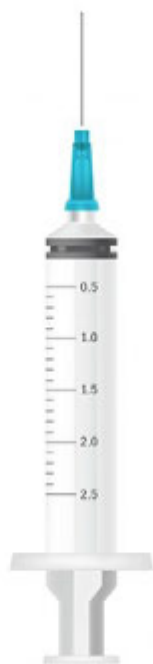
- Virtual Digital Assets to be taxed @30%
- Filing of updated returns within 2 yrs on payment
- Exemption of amount received on account of death due to COVID-19

Amount received towards Covid-19 related medical treatment by an employee from the employer treated as non-perquisite

- Bill proposes that any sum paid by the employer in respect of any expenditure actually incurred by the employee towards his medical treatment or treatment of any member of his family *qua* any illness relating to COVID-19 subject to specified conditions shall not form part of 'perquisites' for the purpose of the IT Act.
- This amendment made in Section 17 will take effect retrospectively from April 1, 2020.

Non filing of the statement of donations leads to disallowance of deduction claimed by the donor

- Bill proposes to disallow the deduction claimed by the donor with respect to the donation received by any research association, university, college or other institution where the above institutions fail to file the statement of donations.
- This amendment will take effect retrospectively from April 1, 2021.



INCOME TAX ACT

AUTHOR'S NOTE

Sub-section (1A) to Section 35 of the Act was inserted by Finance Bill 2021, which mandated the research association, university, college or other institution to file the statement of donations received by these entities from the donors. However, an inadvertent drafting error meant that the donation on account of non-compliance was to be disallowed in the hands of research association, university, college or other institutions rather than in the hands of donors. The said anomaly now stands corrected with the subject amendment.

Scope of disallowance under Section 37(1) has been widened

- Bill proposes to clarify the phrase 'expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law' to additionally include the expenses incurred for any purpose which is an offence under, or which is prohibited by, any law for the time being in force outside India, or expenses incurred to compound an offence under any law outside India.
- Bill also proposes to disallow any benefit or perquisite provided to a person, whether or not carrying on a business or exercising a profession, where acceptance of such benefit or perquisite results in violation of any law or rule or regulation or guideline governing the conduct of such person.
- This amendment will take effect from April 1, 2022.

AUTHOR'S NOTE

It was observed by the Authorities that some taxpayers had been claiming deduction of expenses incurred for purposes which qualified as offence under foreign law or for compounding of an offence for violation of foreign law - which clearly was against the intention of the law. Also, it has been clarified that freebies given to the Doctors by pharmaceutical companies which are in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, shall also be inadmissible under Section 37(1) for being prohibited by the law.

Tax includes and shall be deemed to have always included 'any surcharge or cess

- Bill proposes to provide that the term "tax" includes and shall be deemed to have always included any surcharge or cess on such tax, by whatever name called.
- The Amendment is made retrospectively effective from the 1st day of April, 2005 to make clear the position irrespective of the circular of the CBDT.



INCOME TAX ACT

AUTHOR'S NOTE

*Certain taxpayers have been claiming deduction on account of 'cess' or 'surcharge' under Section 40 of the IT Act claiming that 'cess' has not been specifically mentioned in the provisions of Section 40(a)(ii) and therefore, cess ought to be an allowable expenditure. Such assessee placed strong reliance on judgements such as **Sesa Goa Limited vs. JCIT** (2020) - (2007) 213 CTR Bom 579, 2007 294 ITR 101 Bom and **Chambal Fertilizers & Chemicals Ltd vs. JCIT** - D.B. Income Tax Appeal No. 52/2018 wherein the courts held that 'education cess' could be claimed as an allowable deduction. Notably some High Courts have also given contrary judgements (ref. **M/s. Kanoria Chemicals & Industries Ltd** ITA No. 2184/Kol/2018 (TS-1129-ITAT2021 Kol)). Hence, in order to make the intention of the legislation clear, Bill now proposes to include the*

Scope of deductions under Section 43B to be widened

- Section 43B of the IT Act provides for certain deductions on actual payment basis only. In this regard, Bill proposes to amend Explanation 3C, Explanation 3CA and Explanation 3D of Section 43B to provide that conversion of interest payable to specified financial institution, NBFC, scheduled bank or a co-operative bank into debenture or any other instrument by which liability to pay is deferred to a future date, shall not be deemed to have been actually paid. Thus, such conversion of interest payable shall not be allowed as a deduction.

AUTHOR'S NOTE

It was observed by the Authorities that certain taxpayers had been claiming deduction under Section 43B on account of conversion of interest payable on an existing loan into a debenture on the ground that such conversion is a constructive discharge of interest liability and thus, amounted to actual payment which has been upheld by several Courts. The Government has clarified that such interpretation was against the intent of legislation and accordingly, the proposed amendment is introduced.

Section 50 amended to provide for computation of capital gains in case of depreciable assets

- Bill seeks to amend Section 50 of the IT Act relating to special provision for computation of capital gains in case of depreciable assets.
- Said section provides for certain modification in the applicability of the provisions of Sections 48 and 49 for computation of capital gains in case of depreciable assets where the capital asset is an asset forming part of a block of asset in respect of which depreciation has been allowed under the IT Act.
- Proviso to said section provides that in a case where goodwill of a business or profession forms part of a block of assets for the assessment year beginning of April 1, 2020 and depreciation thereon has been obtained by the assessee under the IT Act, the written down value of



INCOME TAX ACT

that block of asset and short-term capital gain if any, shall be determined in such manner as may be provided by rules.

- Bill proposes to amend Section 50 to insert an Explanation to clarify that for the purposes of the said section 50, reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub-item (B) of item (ii) of sub-clause (c) of clause (6) of Section 43 shall be deemed to be transfer.

Exemption of amount received for medical treatment and on account of death due to COVID-19

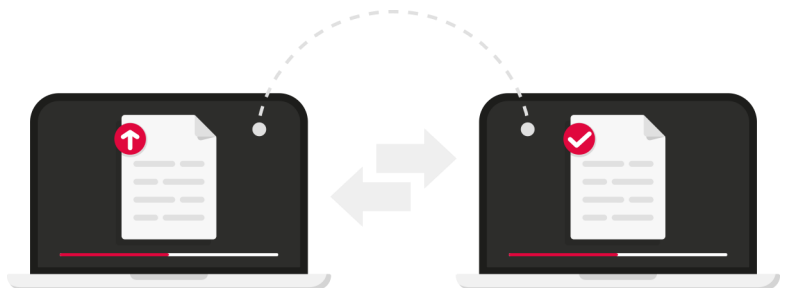
- Bill proposes to amend the proviso to Clause (x) of Sub-section (2) of Section 56 and insert following clauses in the proviso to exempt:
 - ◇ money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to notified conditions;
 - ◇ money received by a member of the family of a deceased person, from the employer of the deceased person (without limit), or from any other person or persons (aggregate of such sums not to exceed ten lakh rupees), where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person, and subject to notified conditions.
- The proposed amendment would be effective from the April 1, 2020

Section 68 dealing with unexplained cash credits amended

- Bill proposes to insert a new proviso to Section 68 where the sum credited in books of consists of loan or borrowing or any such amount by whatever name called, any explanation offered by the assessee shall be deemed to be not satisfactory unless (a) the person in whose name such credit is recorded in the books of the assessee also offers an explanation about the nature and source of such sum so credited, and (b) such explanation in the opinion of the Assessing Officer has been found to be satisfactory and consequential amendments in the other provisos.
- The subject amendment shall be effective from April 1, 2023.

Carry forward and set off of losses in case of change in ownership of closely held companies

- Section 79 of the IT Act provides for carry forward and set-off of losses in case of certain companies. Section 79(1) *inter-alia* provides that where a change in shareholding has taken place during the previous year in case of a company (not being a company in which the public are substantially interested), no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of year or years in which the loss was incurred. Sub-section (2) of the said section provides certain circumstances in which the provisions of Sub-section (1) shall not apply.



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- It order to facilitate the strategic disinvestment of public sector companies, it is proposed to amend Section 79 of the Act to provide that the provisions of Sub-section (1) of Section 79 shall not apply to an erstwhile public sector company subject to the condition that the ultimate holding company of such erstwhile public sector company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least fifty one per cent of the voting power of the erstwhile public sector company in aggregate.
- It is further proposed to provide that if the above condition is not complied with in any previous year after the completion of strategic disinvestment, the provisions of sub-section (1) shall apply for such previous year and subsequent previous years.
- The terms “erstwhile public sector company” and “strategic disinvestment” shall have the meaning assigned to in clause (ii) and (iii) of the Explanation to clause (d) of Sub-section (1) of Section 72A respectively.
- This amendment will take effect from April 1, 2022.

Benefit of deduction *qua* contribution towards pension scheme under Section 80CCD extended to the ‘State Government’ employees

- Bill proposes to widen the scope of the deduction to include the contribution made by the ‘State Government’ to the account of the employee under a notified pension scheme with capping of 14% of his salary in the previous year.
- This amendment will be applicable retrospectively from April 1, 2020.

AUTHOR’S NOTE

In order to bring about uniformity among Central and State government employees while allowing benefits of deduction in respect of any contribution made by the State and Central Government to the account of the employee under a notified pension scheme.

Extension of benefits of Tax Incentives for Startups

- Section 80IAC *inter alia* provides for deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years, at the option of the assesses subject to following condition that:
 - ◇ the total turnover of its business does not exceed one hundred crore rupees;
 - ◇ it is holding a certificate of eligible business from the Inter-Ministerial Board of Certification; and
 - ◇ it is incorporated on or after the April 1, 2016 but before the April 1, 2022.
- Bill proposes to extend the period of incorporation of eligible start-ups to April 1, 2023.

Extension in implementation of Faceless Assessment Schemes for transfer pricing and international taxation related matters

- Section 92CA and Section 144C of the IT Act deal with the transfer pricing functions and international taxation which are presently out of the regime of faceless assessment. New schemes for these two functions are a part of the assessment function and should follow the faceless assessment procedure,

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wherein certain modifications are proposed which will have an impact on the information technology structure. Therefore, notification at this time shall result in delay in stabilization of the systems

- As for notification of scheme under Section 255, the Appellate Tribunal is deemed to be a civil court for all the purposes of Section 195 of the Act and Chapter XXXV of the Code of Criminal Procedure, 1898. Therefore, a scheme governing the procedures to be followed by such a body needs to be formulated after due consultations with Ministry of Law & Justice. Similarly, the scheme under Section 253 have to follow the scheme under Section 255.
- In light of the above limitations, it is proposed to extend the date for issuing directions for the purposes of these Sections 92CA, 144C, 253 and 255 till March 31, 2024.

Scope of provisions pertaining to bonus stripping and dividend stripping to be widened to include securities and units

- Bill seeks to amend Section 94 of the IT Act relating to avoidance of tax by certain transactions in securities.
- The current provisions of 94(8) of the IT Act do not apply to bonus stripping undertaken in case of securities. It is also not applicable to units of InvIT or REIT or AIFs as the definition of the term “unit” has not been modified subsequent to introduction of provisions relating to RETIs, InvITs etc. Further, the current provisions of Section 94(7) of the IT Act, i.e. provisions pertaining to dividend stripping, are not applicable to the units of new pooled investment vehicles such as InvIT or REIT or AIFs.
- Bill proposes to amend Section 94(8), pertaining to the prevention of tax evasion through bonus stripping, so as to make the said provision applicable to securities as well. 4. Bill also proposes to amend the Explanation to said section to modify the definition of unit, so as to include units of business trusts such as InvIT, REIT and AIF, within the definition of units.
- The subject amendment will be effective from April 1, 2023.

Extension of last date for commencement of manufacturing for new domestic manufacturing companies opting concessional rate of tax at 15%

- Section 115BAB of the IT Act provides an option to new domestic manufacturing companies to pay tax on its income at concessional rate of 15% subject to the condition that the company was set-up and registered



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on or after October 1, 2019 and the manufacturing activity ought to have commenced on or before March 31, 2023.

- Bill proposes to extend the date of commencement of production from March 31, 2023 to March 31, 2024.

Increase in rate of Tax on dividend income earned by an Indian company from a foreign company

- In terms of Section 115BBD of the IT Act, dividend received by an Indian company from a foreign company where it holds 26 % or more in nominal value of equity share capital of the foreign entity is currently taxed at 15%.
- However, the benefit of concessional rate of 15% shall not be applicable on the subject dividend from April 1, 2023 and it would be taxable at applicable tax rate plus surcharge and cess.

AUTHOR'S NOTE

The Finance Bill, 2020 eliminated dividend distribution tax and taxed the dividend in the hands of the shareholder at applicable tax rates plus surcharge and cess. The subject amendment seeks to bring parity in the tax treatment with regard to dividend received by the Indian companies from specified foreign companies vis a vis dividend received from domestic companies.

Virtual Digital Assets which include *inter alia* crypto tokens, NFTs to be taxed at the rate of 30%



- Bill proposes to insert definition of the term “virtual digital asset” in Sub-section 47A of Section 2 to include:

◇ any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or

traded electronically;

◇ a non-fungible token or any other token of similar nature.

- The Central Government may notify any other virtual digital asset as virtual digital asset by way of notification in the Official Gazette.
- Section 115BBI has been inserted under the IT Act to tax the income arising on account of virtual digital assets transactions at the rate of 30%. Further, the complete gains arising on account of transaction in virtual digital assets shall be subject to tax without any deduction for expenditure except the cost of acquisition.
- Moreover, losses incurred from transfer of the virtual digital asset shall not be allowed as an adjustment against profit from any other head in current year. Also, the subject loss shall not be eligible to be carried forward to succeeding assessment years for set off.
- The proposed amendments will be effective from April 1, 2022.

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- TDS shall be deducted at the rate of 1% of the sum paid to a resident by any person responsible for paying by way of consideration for transfer of a virtual digital assets at the time of credit or payment of such sum by any mode, whichever is earlier. TDS provisions will be effective from July 1, 2022.

AUTHOR'S NOTE

As the economy evolves, so does the tax policy. Given the magnitude of transactions in digital assets, the Minister announced 'scheme of taxation' for virtual digital assets. To start with, any income from transfer of any virtual digital asset shall now be taxed at the rate of 30%.

Historically, digital assets were limited to mere photos and videos. This ambit is however widened and it now covers within its fold anything ranging from documents and presentations to Non-Fungible Token i.e. NFT which can represent high value real-world items such as artwork and real-estate, etc.

The proposed taxation scheme is a bit stringent inasmuch as it does not allow deduction of any expenditure other than cost of acquisition and even bars set-off of any loss incurred towards other income. It also proposes to tax gift of digital assets in the hands of recipient and introduces 1% TDS. Introduction of TDS on digital asset will substantially increase transparency and help government track every transaction as buyers shall be liable to deduct taxes and report the transaction to the authorities.

Rationalization in rate of AMT for co-operative societies and units located in International Financial Services Centre

- Bill proposes to rationalize the rate of AMT for the units located in the International Financial Services Centre which derives its income solely in convertible foreign exchange from 18.5% to 9%. Further, the rate of AMT has been reduced to 15% for co-operative societies.
- The amendment shall be effective from April 1, 2023.

AUTHOR'S NOTE

Minimum Alternate Tax rate for companies was reduced to 15% vide the Taxation Laws (Amendment) Act, 2019 and the subject amendment seeks to bring parity between the co-operative societies and companies.



Provisions relating to retention of books of accounts and treatment of assets seized during search for assessment extended to reassessment or recomputation

- Scope of Section 132(8) of the IT Act which bars the authorised officer from retaining the books of account or other documents seized under Section 132(1) / 132(1A) for a period exceeding thirty days from the date of the order of assessment under Section 153A or clause (c) of Section 158BC has been extended to cover the order of assessment or reassessment or recomputation under Section 143(3) or Section 144 or Section 147 from April 1, 2022.
- Further, similar amendment has been carried under Section 132B which deals with treatment of assets seized during the search proceedings. The subject amendments shall be effective April 1, 2022.

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Definition of the term 'Income Tax Authorities' has been amended

- Section 133A of the IT Act which enables the Income Tax Authorities to enter any place of business or profession or charitable activity within his jurisdiction and verify the books of account or other documents, cash, stock or other valuable article or thing while conducting any proceeding under the IT Act has been amended.
- Bill proposes to amend the Explanation to Section 133A of the IT Act and thereby, the 'Income Tax Authority' for the purpose of this Section shall be sub-ordinate to Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner, as the case may be, specified by the Board.

Facility of filing updated return on payment of additional tax

- Bill proposes to insert Section 139(8A) which shall allow the assessee to furnish an updated return of income within 24 months from the end of the relevant assessment year. The updated return can be filed irrespective of the fact whether the assessee has furnished a return for an assessment year or not.



- Bill also proposes that the provisions of Section 139 (8A) shall not apply where the updated return is a return of a loss or has the effect of decreasing the total tax liability or results in refund or increases the refund.
- Bill also proposes that where any proceeding of survey, search, seizure, requisition of asset, etc. under the IT Act has been initiated/conducted/ made in such assessment years or two assessment years preceding such assessment years, the assessee shall not be eligible to furnish an updated return under this Sub-section.
- Bill also proposes that once updated return is filed for any assessment year, the same cannot be furnished again. Further, Bill lists additional instances where the assessee is barred from filing updated return under Section 139(8A).
- Section 140B introduced vide Bill provides that **incremental tax along with interest and additional tax** shall be paid prior to filing return under Section 139(8A) as a consequential amendment.
- The assessee filing return under Section 139(8A) shall be liable to all types of interests and fees payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional income-tax, before furnishing such return.
- Bill also proposes that the additional income-tax, payable at the time of furnishing the return under Sub-section (8A) of Section 139, shall be equal to:
 - ◇ 25 % of aggregate of tax and interest payable, if such return is furnished within 12 months from the end of the relevant assessment year; or
 - ◇ 50% of aggregate of tax and interest payable, if such return is furnished after the expiry of 12 months from the last date of the relevant assessment year.
- The scope of Section 144 of the IT Act which allows the Proper Officer to make best judgement assessment if any person fails to furnish return under various Sub-sections of Section 139 of the IT Act has been extended

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to newly introduced Section 139(8A) of the IT Act.

- While calculating interest under Section 243A and Section 243B, interest on additional tax shall not be considered. Further, where return of income is filed under Section 139(8A) proceedings under Section 276CC which deals with failure to file return, shall not initiated.

AUTHOR'S NOTE

Facility to update the return of income is surely a welcome move as this will help the assesseees to disclose the income missed during filing of original return and also reduce department's workload. However, the additional tax of 25% - 50% likely to pinch the assesseees.

Revamping of Faceless Assessment Scheme

- Bill proposes to substitute the old Sub-sections of Section 144(B) with new Sub-sections to provide for modified procedure of faceless assessment for resolving the difficulties faced in its implementation. The provisions of the proposed amendment to the said section shall apply for faceless assessment, reassessment or recomputation under Section 143(3) or under Section 144 or under Section 147 of the IT Act, as the case may be.
- Bill also proposes the setting up of various units such as NaFAC, AU, VU, TU and RU and ensures all communication, among the AU, RU, VU or TU or with the Assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the NaFAC, between the NaFAC and the Assessee exclusively by electronic mode.
- The authentication of electronic record for the purposes of faceless assessment is also proposed.

Provisions in relation to assessment and reassessment

- Bill proposes to retrospectively amend the procedure for assessment or reassessment of income in the Act with effect from April 1, 2021. Accordingly, Sections 147 to Section 149 have been amended and Section 148A has been introduced.
- Section 148 of the IT Act provides for issuance of notice to a person before making the assessment, reassessment or recomputation under Section 147 of the IT Act.
- Bill also proposes to insert a new proviso to the effect that approval to issue notice under Section 148 shall not be required where the proper officer, with the prior approval of the specified authority has passed an order under clause (d) of Section 148A that it is a fit case to issue a notice under the said section.
- Bill proposes to amend Explanation 1 to Section 148 to increase the scope of the term 'information'.
- With effect from April 1, 2022, the order of assessment or reassessment or recomputation under the IT Act shall not be passed by an Assessing Officer below the rank of Joint Commissioner, except with the prior approval of the Additional



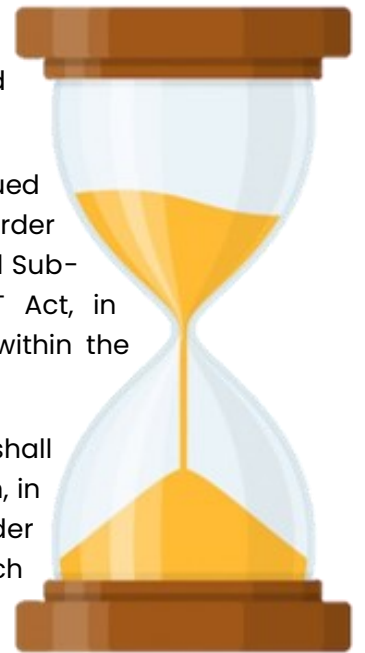
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Commissioner or Additional Director or Joint Commissioner or Joint Director.

- Bill proposes to amend Section 149 to provide that no notice under Section 148 shall be issued for the relevant assessment year after three years but prior to ten years from the end of the relevant assessment year unless the AO has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of an asset, expenditure in respect of a transaction or in relation to an event or occasion, an entry or entries in the books of accounts which have escaped assessment amounting to INR 50 Lakhs or more.

Provisions in relation to time limits for assessment and reassessment

- Bill proposes to insert Section 153(3) of the IT Act whereby an order of assessment under Section 143 or Section 144 may be made at any time before the expiry of nine months from the end of the financial year in which updated return is furnished under 139(8A) of the IT Act.
- Bill further proposes to apply Section 153(3) of the IT Act to the fresh order issued under Section 92CA, in pursuance of an order, setting aside or cancelling an order under Section 92CA of the IT Act shall also come within the provision of the said Sub-section and an order passed by the TPO under Section 92CA of the IT Act, in consequence to an order under Section 263 of the IT Act shall also come within the purview of the IT Act.
- Bill also proposes to insert a sub-section 153(5A) wherein the Assessing Officer shall proceed to modify the order of assessment or reassessment or re-computation, in conformity with order of the TPO under Section 263 by means of an order under Section 92CA of the IT Act, within two months from the end of the month in which such order of the TPO is received by him.
- Bill proposes to insert a Sub-section 153(4) to provide that nothing contained in Section 153B of the IT Act shall apply to any search initiated under Section 132 of the IT Act or requisition done under Section 132A of the IT Act on or after April 1, 2021.



Modification and revision of demand notice in conformity with the order of an Adjudicating Authority under the IBC

- Bill proposes to allow the proper officer to modify the demand payable [in conformity](#) with order passed by an Adjudicating Authority under the IBC. Such notice of demand shall be deemed to be a notice under Section 156 of the IT Act and the provisions of the IT Act shall apply accordingly.
- Bill further proposes to provide that where the above order is modified by the NCLAT or the SC, as the case may be, the modified notice of demand issued by the AO shall be revised accordingly.

AUTHOR'S NOTE

In cases of business reorganisation, the Courts under Section 5(1) of IBC recasts the liabilities leading to modified tax demand. However, there was no mechanism under the IT Act to deal with such instances. The proposed insertion vide Section 156A shall help officers to comply with the orders of the Adjudicating Authorities.

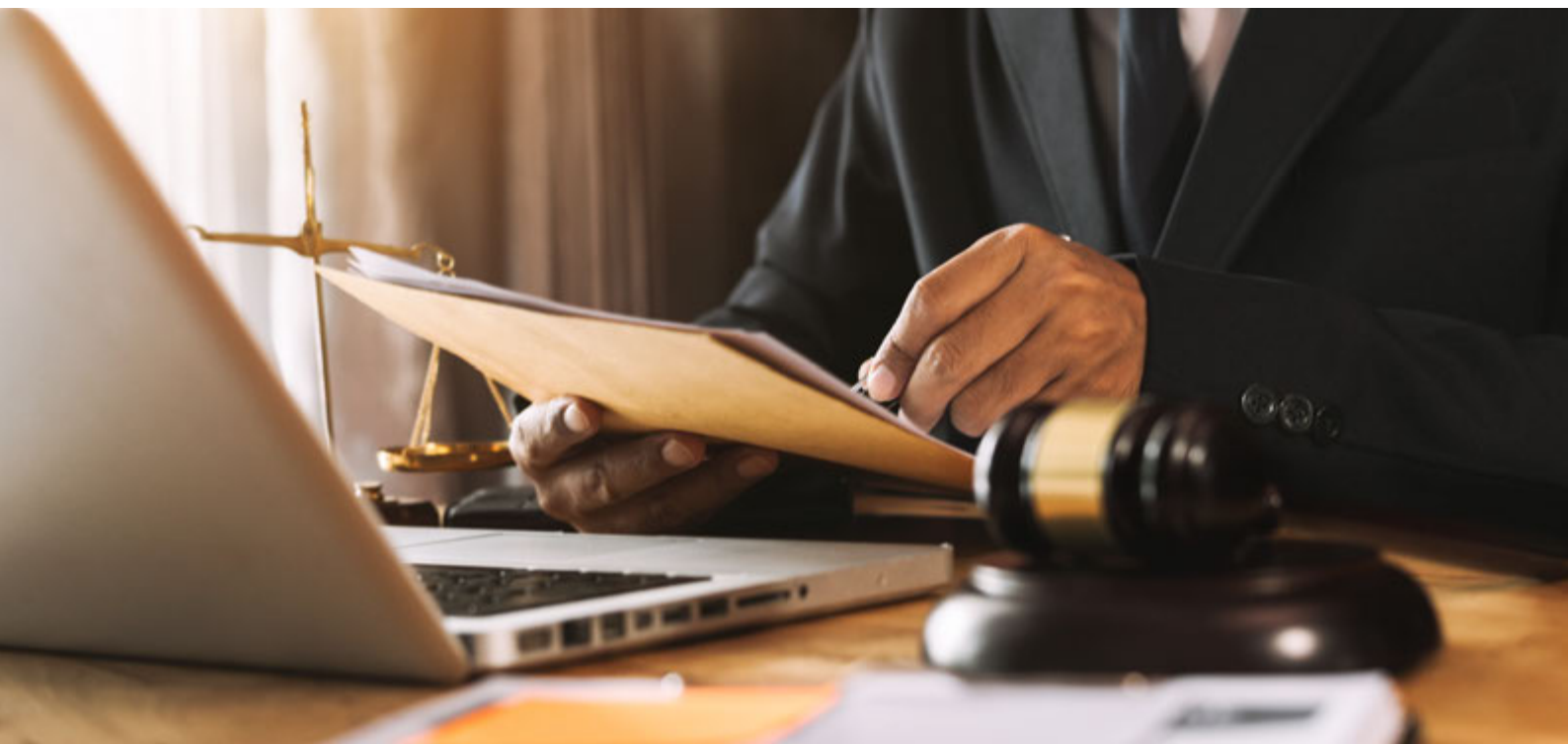
INCOME TAX ACT

Provision introduced to prescribe procedure where an identical question of law is pending before the High Courts or Supreme Court

- Bill proposes to insert Section 158AB which provides the procedure to stall an appeal where a collegium of Chief Commissioners or Principal Commissioners or Commissioners is of the opinion that any question of law arising in any assessee's case is identical with a question of law arising in his case for another assessment year or in the case of any other assessee, which is pending before the jurisdictional High Court or the Supreme Court. The subject insertion shall be effective from April 1, 2022.
- Bill further proposes that the Principal Commissioner or Commissioner shall, on receipt of communication from the collegium, direct the Assessing Officer to make an application to the Appellate Tribunal or the HC, as the case may be, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case.
- The Principal Commissioner or Commissioner shall obtain acceptance from the assessee that question of law in its case is identical to the question in another case and it shall be bound by the decision of the High Court or Supreme Court.
- Bill further proposes to provide that when in an appeal by revenue an identical question of law is pending before SC, no direction shall be given under Section 158AA on or after April 1, 2022.

Deeming Provisions introduced to cast tax liability of predecessor on the successor in the event of business reorganization

- Bill proposes to insert a deeming provision in order to save and validate the proceedings and to hold the assessment or other proceedings pending or completed on the predecessor in the event of a business reorganization and to held the same liable in the hands of the successor.
- Bill also proposes to insert Section 170A which shall enable the entities going through business reorganization to file modified returns for the period between the date of effectivity of the order and the date of issuance of final order of the competent authority on business reorganization.
- The amendment shall be effective from April 1, 2022.



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Liability of directors of private company in case of liquidation

- Bill proposes to recover of tax dues of a private company from its directors where the subject tax dues cannot be recovered from the company itself. Bill also proposes to include fees within the scope of the expression 'tax due'.
- However, the subject provisions shall not apply where the company is in the process of liquidation.
- The proposed amendment shall be effective from April 1, 2022.

Rationalisation of provisions of TDS on transfer of immovable property



- Bill proposes to amend Section 194-IA of IT Act to provide that in case of transfer of an immovable property (other than agricultural land), TDS is to be deducted at the rate of one per cent of such sum paid or credited to the resident or the stamp duty value of such property, whichever is higher.
- Bill further proposes that no tax to be deducted under this Section in case the consideration paid or for the transfer of immovable property and the stamp value of such property are both less than INR 50 Lakhs.
- Stamp duty value shall have the same meaning as in clause (f) of the explanation to clause (vii) of Sub-section (2) of Section 56.
- The proposed amendment shall be effective from April 1, 2022.

Deduction of tax on benefit of perquisite in respect of business or profession

- Bill proposes to insert new Section 194R w.e.f July 01, 2022 wherein any person who is responsible for paying any benefit or perquisite to a resident, arising from carrying out of a business or profession, whether convertible into money or not, shall be deducted tax in respect of such benefits or perquisites at the rate of 10 per cent if such value exceeds twenty thousand rupees during the financial year.
- For this Section, person responsible for providing such benefits has been proposed to mean a person providing such benefit or in case of a company, the company itself including the principal officer. The person who is responsible to providing such benefits or perquisites shall ensure that tax has been paid, if such benefit or perquisite, is wholly in kind or partly in cash and partly in kind, and such cash is not sufficient to meet the liability of deduction of tax.
- This Section is not applicable to an individual or a Hindu undivided family, whose total sales or receipts does not exceed INR 1 crore in case of business or INR 50 Lakhs in case of profession during the financial year immediately preceding the financial year in which such benefit or perquisite paid.

Clarification regarding computation of interest in case of default in relation to TDS/TCS

- Bill proposes to include the proviso to Section 201(1A) and 206C(7) to provide that where any order is made by the Assessing Officer for the default of deduction/collection of tax or payment of tax, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard.
- The amendment shall be applicable from April 1, 2022.

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Rationalization of TDS on rent provision in relation to specified person

- Bill proposes to amend Section 206AB and 206CCA to reduce period of one year instead of two years for the purpose of definition of 'Specified Person' to mean as a person who has not filed its return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is to be deducted or collected.
- It is further proposed to amend Section 206AB to reduce the applicability of the said section in relation to transactions on which tax is deducted under the Section 194-IA, 194-IB and 194M. As consequence, the reference of Section 206AB in Sub-section 4 of Section 194-IB has been omitted.
- The amendment shall be applicable from April 1, 2022.

Insertion of new Section 239A for claiming refund of tax deductible where liability is to be borne by payer

- Bill proposes that where under an agreement, the tax deductible on any income other than interest under Section 195 is borne by the payer and after paying the tax he claims that no tax was deductible, then he may file an application before assessing officer within a period of thirty days from the date of payment for claiming refund of tax.
- In above case, order shall be passed by the assessing officer within a period of 6 months from the end of month in which application is received.
- Bill proposes to amend Section 246A to include that if assessee is not satisfied with the order passed by the assessing officer under Section 239A, then such order is appealable before Commissioner (Appeals).
- Bill proposes to amended Section 248 to exclude the filling of appeal before Commissioner of Income Tax (Appeals).
- The amendment shall be applicable from April 1, 2022.

AUTHOR'S NOTE

The existing provisions of the said section do not contain any provision which will enable the Assessing Officer to pass an order giving effect to the order or directions of the Dispute Resolution Committee under the said section. Vide this amendment, assessing officer shall pass the final order in conformity with the order by the Dispute Resolution Committee even in the case of an eligible assessee.

Power given to assessing officer under Section 245MA for passing of order

- Bill proposes that upon the receipt of order of Dispute Resolution Committee, if specified order is a draft of proposed order, assessing officer shall pass an order of assessment, reassessment, computation or in any other case modify the order within a period of one month from the end of the month in which such order is received.

The existing provisions of the said section do not contain any provision which will enable the Assessing Officer to pass an order giving effect to the order or directions of the Dispute Resolution Committee under the said section. Vide this amendment, assessing officer shall pass the final order in conformity with the order by the Dispute Resolution Committee even in the case of an eligible assessee.

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- The amendment shall be applicable from April 1, 2022.

AUTHOR'S NOTE

Allowing Commissioner (Appeals) to levy penalty under Section 271AAB, 271AAC AND 271AAD

- Bill proposes to give powers to Commissioner (Appeals) along with Assessing Officer to levy penalty in case of following circumstances:
 - ◇ Search has been initiated under Section 132;
 - ◇ Income determined includes any income referred to in Section 68, Section 69, Section 69A, Section 69B, Section 69C or Section 69D for any previous year;
 - ◇ during any proceeding, if it is found that in the books of account maintained by any person there is a false entry or an omission of any entry which is relevant for computation of total income of such person, to evade tax liability.

AUTHOR'S NOTE

Presently, Commissioner (Appeals) has concomitant powers with Assessing Officer to levy penalty in eligible cases under Section 270A, Section 271, Section 271A, Section 271AA, Section 271G, Section 271J. In order to improve deterrence against non-compliance among taxpayers, it is proposed to amend the Sections 271AAB, 271AAC and 271AAD to enable the Commissioner (Appeals) to levy penalty under these Sections along with the Assessing Officer.

Insertion of Section 271AAE for levy of penalty

- Bill proposes to provide that where the funds of charitable institution, university or other educational institution, hospital or other medical institution is utilized for the benefit of person specified in Section 13(3) then a penalty equal to aggregate amount of income applied will be levied if violation is noticed for the first time and a penalty of two hundred percent will be levied for subsequent violation.
- This amendment will be effective from April 1, 2023.

AUTHOR'S NOTE

Unill now, there was no penalty for such misutilisation of fund. Levy of penalty for utilisation of funds for specified person is a welcome step taken to stop the misutilisation of funds. This step will lead to effective utilisation of funds for members and general public.

Widening of the scope of the provisions relating to offences and prosecutions

- Bill proposes to introduce sunset clause in Section 276AB that deals with the prosecution with regards to transfer of immovable property as mentioned in Section 269 UC/UE/UL. Hence it is proposed that no fresh prosecution proceeding shall be initiated under this Section (276AB) on or after April 1, 2022.
- Bill further proposes to remove the word 'second' from the phrase 'the second proviso to Section 194B' as

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mentioned in Section 271C & 276B since the first proviso to Section 194B has already been omitted vide Finance Act, 1999.

Amendment in respect of second and subsequent offences

- Bill proposes to amend the Sections 278A relating to punishment for second and subsequent offences and Section 278AA relating to punishment not to be imposed the certain cases so as to bring Section 276BB within the purview of said sections. Section 276BB deals with prosecution for failure to credit TDS to the Central Government.

Amendment in the provisions of Section 272A of the IT Act

- Bill proposes to amend the Sections 272A relating to compliance with various obligations under the IT Act by penalizing non-compliance and acting as a deterrent so as to increase the amount of penalty for failures listed under Sub-section (2) of Section 272A to INR 500 from the existing sum of INR 100.

Inclusion of definition of Specified Activities for submission of Statement

- Bill proposes to amend Section 285B of IT Act to include the definition of specified activities for submission of statement.
- It is proposed that 'Specified Activity' means event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.





GOODS & SERVICES TAX

Changes in Conditions for availing ITC of GST [Section 16]

- A proviso has been inserted into Section 16 to provide that no ITC shall be available if the ITC has been restricted u/s. 38.
- The condition to avail ITC only if the return has been filed in terms of Section 43A has been done away with.
- The last date for availing Input Tax Credit has now been extended to November 30 following the end of FY.

AUTHOR'S NOTE

In October 2019, the CBIC had inserted Rule 36(4) into the CGST Rules, which inter alia restricted ITC claims to a particular percentage of such credit appearing and matched with Form GSTR-2A. However, w.e.f. from January 01 2022, ITC is allowed to be claimed only if it appears in GSTR-2B. Thus, Section 43A , which had been inserted to provide the procedure for furnishing return and availing input tax credit could not be implemented thus far and therefore, is done away with.

The Government has notably extended the last date for availing credit in respect of any invoice / debit note till November 30 of the following FY. This comes a welcome move as the books of accounts of many Companies are not finalized till September 30, resulting in loss of credit. Such extension would be useful in identifying the missed credits and avail them in the GST returns before 30 November.

Highlights



Retrospective amendment w.r.t. interest on ineligible ITC, only if it is utilised



Time-limit to avail credit, issue Credit Notes and make corrections extended to 30 November



Balance in Cash ledger can be transferred to distinct persons, subject to conditions



ITC to be claimed on self-assessment basis instead of provisional basis



ITC availment linked to timely and proper credit availment and tax payments

Cancellation or suspension of GST Registration [Section 29]

- Section 29 has been amended so to provide that the proper officer may cancel the GST registration of a person registered as composition dealer u/s 10 , if the said person has not furnished his return for a financial year beyond three months from the due date.
- Further, the CBIC may prescribe the period of continuous non-filing of returns of other taxpayers, basis which the GST registration would be cancelled.

Furnishing details of Debit / Credit Notes [Section 34]

The time period to furnish the details of debit / credit notes following the end of the FY in which such supply was made has been extended till November 30 following such FY or the due date of annual return, whichever is earlier.

Conditions and restrictions for furnishing details of outward supplies [Section 37]

- Time-limit for rectification of error in respect of details of outward supplies has been extended to November 30 of the following financial year.

GOODS & SERVICES TAX

- Consequent to the substitution of Section 38, the two-way communication process in return filing has been done away with.
- Filing of return shall not be allowed for a tax period, if the details for any previous tax periods have not been furnished.

Conditions and restrictions for communication of details of inward supplies and ITC [Section 38]

Section 38 is being entirely substituted to prescribe the manner, conditions and restrictions for communication of details of inward supplies and ITC to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing. Further, it has been mentioned that credit cannot be availed on auto-populated amount in below cases where supplies are furnished by any registered person:

- within such period of taking registration as may be prescribed;
- who has defaulted in payment of tax for prescribed period;
- whose output tax payable as per statement of outward supplies ('Form GSTR-1') exceeds the amount of tax actually paid by prescribed limits;
- who has availed Input tax credit in excess of credit than be availed, by such limits as prescribed;
- who has defaulted in discharging his tax liability as per provisions of Section 49(12).

Furnishing of Returns [Section 39]

- Non-Resident taxable persons shall furnish the return for a month by 13th day of the following month.
- An option has been provided to certain registered persons to pay either the self-assessed tax or an amount that may be prescribed.
- The time-limit for rectification of errors in the return has been extended till November 30 of the following concerned FY.

- Prescribes furnishing of details of outward supplies as a condition for furnishing the return under section 39 for the said tax period.

Availment of Input Tax Credit [Section 41]

- The provision is being substituted so as to do away with the availment of eligible ITC on a 'provisional' basis. Instead the taxpayer shall be required to avail 'self-assessed' ITC, subject to such conditions and restrictions as may be prescribed.
- Further, in respect of Input tax credit, where tax payable has not been paid by the supplier, shall have to be reversed



GOODS & SERVICES TAX

with appropriate Interest. However, when the supplier makes payment of the relevant taxes, the taxpayer can re-avail the amount of credit so reversed.

Two-Way Communication Provisions [Section 42, 43 and 43A]

The provisions are being omitted to discontinue with the two-way communication process in return filing.

AUTHOR'S NOTE

With the intent to plug revenue leakages, restrictions have been placed both with respect to filing of statement of outward supplies as well as availing Input tax credit. It should be noted that the restriction to file GSTR-1 due to non-filing of GSTR-3B was already proposed in the GST Council meeting on September 17, 2021. Further, the government seems adamant on punishing the recipient by restricting the ITC due to the non-compliances of the supplier.

*The amendment seems to negate the judgment of Calcutta HC in the recent case of **LGW Industries Limited & Ors (2021-TIOL-2308-HC-KOL-GST)** which held that benefit of ITC cannot be denied if the assessee has documents to support their claim of genuineness of the transactions, especially when there was no failure in complying with any of the obligations under the GST Act. This view has also been held by different Courts in the Pre-GST regime as well.*

It is pertinent to note that currently there is no facility to verify whether the supplier is making timely and correct tax payments and the Form GSTR-2B is auto-populated basis the statement of outward supplies i.e. Form GSTR-1 filed by the suppliers. In the absence of any such mechanism to verify the tax payments made by the supplier, introduction of such provision is likely to result in increase in litigations on the subject matter. The taxpayer will be burdened with the responsibility to verify the compliances and certify the ITC claimed and tax payments made by their suppliers, which does not seem feasible in the real world. This may even hamper the business of many small and medium business taxpayers, who are already grappling with the ill-effects of the ongoing pandemic, as there could be many valid reasons for delayed payment of taxes.

Levy of Late Fee [Section 47]

The provision is being amended so as to provide for levy of late fee for delayed filing of TCS Return, while removing the reference to amended Section 38.

Transfer of Amount in Electronic Cash Ledger to distinct person.[Section 49]

A facility shall be provided to allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person. However, such transfer shall not be allowed if the taxpayer has any unpaid liability.

AUTHOR'S NOTE

Earlier, even when there was excess cash balance in one state, the taxpayer still had to deposit cash in other states requiring cash payment. This welcome amendment will help to avoid such unnecessary blocking of funds.

Interest on Credit wrongly availed and utilized [Section 50]

- It has been provided that the interest on wrong availment of credit shall be applicable only where such wrongly availed credit has been utilized.

GOODS & SERVICES TAX

- The amendment has been proposed to be effective retrospectively w.e.f. July 01, 2017.

AUTHOR'S NOTE

*It would be pertinent to note that the GST Council in its 45th Meeting on September 17 2021 had recommended the exact same amendment to be applicable retrospectively. This view was earlier taken by Patna High Court in the case of **Commercial Steel Engineering Corporation (2019-TIOL-1585-HC-PATNA-GST)** and further upheld by the Madras HC in **FI Auto Components Private Limited [2021-TIOL-1509-HC-MAD-GST]**, wherein it had been held that interest shall be applicable only on the portion of credit wrongly availed but not utilised.*

Rectification of Errors in TCS Return under GST [Section 52]

Section 52 has been proposed to be amended so as to provide an extended time upto November 30, of the following FY for rectification of errors in the return furnished in Form GSTR-8.

Refund Provisions under [Section 54]

- The refund claim of any balance in the Electronic Cash Ledger shall be made in such form and manner as may be prescribed.
- The time limit for filing of refund applications for certain class of persons such as specialized agencies of the United Nations Organisation or any Multilateral Financial Institution, etc. has been prescribed as from the last day of the quarter in which supply was received.
- The time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 has been extended to two years from the last day of the quarter in which the said supply was received.
- Provided clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit.

AUTHOR'S NOTE

Explanation has been suitably inserted to provide the relevant date as the due date for furnishing returns u/s 39 in cases of refund pertaining to zero-rated supply of goods or services or both to SEZ Unit or Developer.

Power to issue instructions / directions [Section 168]

- Pursuant to the amendment to Section 38, it contains no reference to the powers of the board to issue instructions / directions. Thus, the reference to Section 38 has been removed.



GOODS & SERVICE TAX

Notification Amendments:

Sr. No.	Notification No. and Date	Update
1	Notification No. 09/2018 – Central Tax, dated January 23, 2018	<ul style="list-style-type: none">• <www.gst.gov.in> has been notified as the Common GST Electronic Portal for all functions provided under CGST Rules retrospectively w.e.f. June 22, 2017, except e-way bills and generation of e-invoices.
2	Notification No. 13/2017 – Central Tax, dated June 28, 2017	<ul style="list-style-type: none">• The interest rate u/s. 50(3) applicable in respect of reversal of excess claimed credit has been notified as 18%
3	Notification No. 01/2017 – Central Tax – Rate, dated June 28, 2017	<ul style="list-style-type: none">• Central Tax on supply of unintended waste generated during the production of fish meal except fish oil is being exempted w.e.f. July 01, 2017 to September 30, 2019.• Refund would not be eligible if tax has been collected.
4	Notification No. 25/2019 – Central Tax – Rate dated September 30, 2019	<ul style="list-style-type: none">• Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee by the State Governments, has been declared as an activity which would be treated neither as a supply of goods nor a supply of service.• No refund to be made of tax which has been collected, but which would not have been collected, had the notifications been in force at all material times.

CUSTOMS ACT



Powers of Customs Officers [Section 2 (34)]

The definition of the term 'Proper Officer' is being amended to specifically provide that the assignment of functions to an officer of Customs by the Board or the Principal Commissioner shall be governed by the newly inserted provisions under sub-section (1A) and (1B) of Section 5 of the Customs Act.

Amendment in the classes of customs officers [Section 3]

The provision is being amended to include DRI, Audit and Preventive Officers, etc. to be designated as 'Proper Officers' under the Customs Act.

Powers of Officers of Customs [Section 5]

- Sub-section 1A and 1B have been inserted into the provision to empower the Principal Commissioner of Customs or Commissioner of Customs to explicitly provide powers and functions of assignment of functions to the officers of Customs.
- It has been provided that in assigning the functions to an officer of customs, the Board may consider any or more of the prescribed criteria such as territorial jurisdiction, cases or class of cases, etc.
- Wherever necessary, for the proper management of work, two or more officers of customs, can concurrently exercise powers and functions.

AUTHOR'S NOTE

*A much-anticipated amendment has been introduced in the Customs law, particularly in the aftermath of the Apex Court's decision in the case of **Canon India Limited [2021-TIOL-123-SC-CUS-LB]**. In the said judgement, the Hon'ble Court held that the DRI has no authority under law to reassess imports and recover duty under Section 28(4) of the Customs Act. In the absence of necessary authority, the entire proceedings initiated by the DRI by issuing show cause notices were held to be invalid. Accordingly, the instant amendment has now been proposed so as to designate the DRI officers as 'proper officers' under the law and validate the authority of issuance of recovery notices. Moreover, these amendments have been notified retrospectively, thus, essentially negating the judgement of the SC in **Canon India (supra)**.*

It would further be pertinent to note that basis the said judgement, which became a declared law under Art. 141 of the Constitution, various Tribunals have already passed judgements in favour of assesseees, who had challenged the notices issued by the DRI. Now, given the retrospective amendments, empowering the DRIs, it would be interesting to see the fate of such dismissed matters.

Valuation of Goods [Section 14]

Amendment has been proposed to include provisions for rules enabling the Board to specify the additional obligations of the importer whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods.

Highlights



DRI officers are designated as proper officers. Apex Court decision in **Canon India** Negated



Publishing of import / export data prohibited

CUSTOMS ACT

Definitions [Section 28E]

- The explanation to the definition of 'Applicant', which provided the meaning of 'Joint Venture in India' has been omitted.
- The definition of the terms 'Non-resident', 'Indian Company' and 'Foreign Company' has been omitted.

Application for Advance Ruling [Section 28H]

- A fee would be required to be paid for filing of Applications for Advance Ruling. The quantum of such fees is to be prescribed.
- The Applicants have been provided the facility to withdraw their applications at any time before the Ruling has been pronounced.

Applicability of Advance Rulings [Section 28J]

The provision has been proposed to be amended so as to provide that the advance rulings under the Customs Act shall remain valid for three years (instead of two years, as prescribed earlier) or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.

AUTHOR'S NOTE

The Advance Ruling mechanism under Customs, is one which is seldom in the limelight vis-à-vis its GST counterpart. This is mostly because the Customs Advance Ruling authorities are overburdened. It would be pertinent to that application for advance rulings under Customs can be filed to seek clarification on tariff classification, valuation, applicability of notifications, etc. Thus, if this mechanism is used more often, it would considerably reduce litigation.

Action subsequent to an enquiry [Section 110AA]

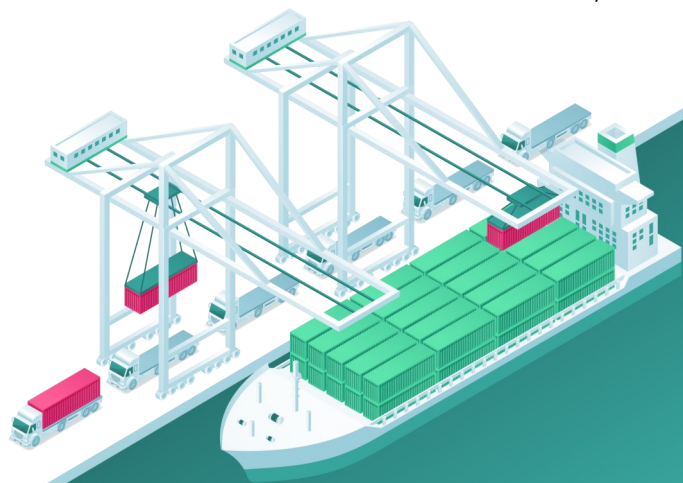
A new provision has been proposed to be inserted so as to provide that when an original function has been duly executed by the officer of customs and subsequently, an inquiry, investigation, audit has been initiated by any other officer of customs, then, the officer, who originally exercised the functions shall have the sole authority to exercise further action like reassessment, adjudications, etc.

Protection of Data [Section 135AA]

A new provision has been inserted to provide that if any person publishes any data in relation to the value, classification or quantity of goods entered for export from India, or import into India, or the details of the exporter or importer, he shall be punishable with imprisonment for a term of six months maximum, or with fine which may extend to Rs. 50,000/- or both.

AUTHOR'S NOTE

The amendment has been proposed to regularize the uncontrolled flow of data by private parties involving the import/export details of various assesses hampering the trade and industry in general. Going forward, the said circulation of details would not only be un-authorized but also punishable with an imprisonment extending up to six months.



CUSTOMS TARIFF ACT

A. Changes to Tariff Rates, effective from February 02, 2022			Rate of Duty	
S. No.	Heading, sub-heading or tariff item	Commodity	From	To
		Edible Oils		
1	1516 30 00	Microbial fats and oils and their fractions	30%	100%
		MSME sector		
2	6601	Umbrellas	10%	20%
		Gems and Jewellery Sector		
3	7117	Imitation Jewellery	20%	20% or INR 400/kg., whichever is higher
		Electrical and electronic items		
4	8518 21, 8518 22, 8518 29	Single or multiple loudspeakers, whether or not mounted in their enclosures Note: Effective BCD rate on these goods, other than hearable devices would continue to be '15%'. BCD rates on hearable devices will be governed by the PMP as mentioned at V below.	15%	20%
5	8518 30	Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers Note: Effective BCD rate on these goods, other than hearable devices would continue to be '15%'. BCD rates on hearable devices will be governed by the PMP as mentioned at V below.	15%	20%
6	9028 30 10	Smart Meters Note: Effective BCD rate on these goods would continue to be '15%' till 31.03.2022	15%	25%
7	9028 90 10	Printed Circuit Board Assembly of Smart Meters Note: Effective BCD rate on these goods would continue to be '7.5%' till 31.03.2022	10%	20%
		Solar Energy Sector		
8	8541 42 00	Solar Cells (other than those exclusively used with ITA-I items) Note: Effective BCD rate on these goods would continue to be 'Nil' till 31.03.2022.	20%	25%

CUSTOMS TARIFF ACT

S. No.	Heading, sub-heading or tariff item	Commodity	From	To
9	8541 43 00	Solar Modules (other than those exclusively used with ITA-1 items) Note: Effective BCD rate on these goods would continue to be 'Nil' till 31.03.2022.	20%	40%
		Others Sectors		
10	0307 32 00	Frozen Mussels	30%	15%
11	0307 43 20	Frozen Squids	30%	15%
12	1301 90 13	Asafoetida [The current applicable Basic Customs Duty is 20% vide S. No. 51 of notification No. 50/2017- Customs]	30%	5%
13	1801 00 00	Cocoa Beans, whole or broken, raw or roasted	30%	15%
14	2905 11 00	Methyl alcohol (methanol) [The current applicable Basic Customs Duty is 5% vide S. No. 200 of notification No. 50/2017- Customs]	10%	2.50%
15	2915 21 00	Acetic acid [The current applicable Basic Customs Duty is 7.5% vide S. No. 185 of notification No. 50/2017- Customs]	10%	5%
16	6203 39	Men's jackets and blazers, of other textile materials	25% or Rs. 755 per piece, whichever is higher	20%
17	6203 43 00, 6203 49	Men's trousers, bib and brace overalls, breeches and shorts, of synthetic fibres or of other textile materials	25% or Rs. 110 per piece, whichever is higher	20%
18	6204 11 00, 6204 13 00	Women's suits of wool or of fine animal hair or synthetic fibre	25% or Rs. 550 per piece, whichever is higher	20%
19	6204 19	Women's suits of other textile materials	25% or Rs. 500 per piece, whichever is higher	20%
20	6204 31 10, 6204 31 90	Women's jackets and blazers, of wool or fine animal hair	25% or Rs. 370 per piece, whichever is higher	20%
21	6204 32 00	Women's jackets and blazers, of cotton	25% or Rs. 650 per piece, whichever is higher	20%

CUSTOMS TARIFF ACT

B.	Tariff rate changes [to be effective from 01.05.2022, unless otherwise specified]		Rate of Duty	
S. No.	Heading	Product Description	Existing Rate	Proposed Rate
1	2207 20 00	Ethyl alcohol and other spirits, denatured	30%	5%
2	Chapter 23 (except 2309 10 00)	Residues and waste from the food industries; prepared animal fodder	30%	15%
3	25 (except 2515, 2516, 2523, 2524 and items at S. No. 28, 29, 30, 31 and 32 below)	Salt, Sulphur, Earth and stone, lime etc.	10%	5%
4	2710 12 41, 2710 12 42, 2710 12 49	Motor Spirit commonly known as petrol	10%	2.50%
5	2710 19 44, 2710 19 49, 2710 20 10, 2710 20 20	High speed diesel (HSD)	10%	2.50%
6	2711 11 00	Liquefied natural gas (LNG)	10%	2.50%
7	2711 12 00	Propane	10%	2.50%
8	2711 19 10,	Liquefied petroleum gases (LPG)	10%	5%
9	2801 20 00	Iodine	5%	2.50%
10	2825 40 00	Nickel oxide and hydroxide	10%	Free
11	3301	Essential Oils	30%	20%
12	3403	Lubricating preparations etc.	10%	7.50%
13	3901 to 3915 (except 3904, 3906 90 70, and 3908)	Plastics in primary forms (except polymers of vinyl chloride , polyamides)	10%	7.50%
14	4001 21, 4001 22, 4001 29	Natural rubber in forms other than latex	25%	25% or INR. 30/- per kg, whichever is lower
15	5003 to 5006	Silk Waste and Silk Yarn	25%	15%
16	7015 10 10	Rough ophthalmic blanks, for manufacture of optical lenses	10%	5%
17	7110 31 00, 7110 39 00	Rhodium	12.50%	2.50%

CUSTOMS TARIFF ACT

B.	Tariff rate changes [to be effective from 01.05.2022, unless otherwise specified]		Rate of Duty	
S. No	Heading	Product Description	Existing Rate	Proposed Rate
18	7404	Copper waste and scrap	5%	2.50%
19	7411 or 7412	Copper tubes and pipes, or fittings	10%	7.50%
20	7602	Aluminium scrap	5%	2.50%
21	8407 21 00	Outboard motors	15%	5%
22	8419 19 20	Specified non-electric instantaneous or storage water heaters	10%	7.50%
23	8421 39 20, 8421 39 90	Air separators, purifiers, cleaners, etc.	15%	7.50%
24	8502 (except 8502 11 00, 8502 20 10, 8502 40 00)	Specified electrical generating sets and rotary convertors	10%	7.50%
25	8503 00 10, 8503 00 21 or 8503 00 29	Parts of electric motors or generators	10%	7.50%
26	8504 10 10, 8504 10 20 or 8504 10 90	Ballasts for discharge lamps or tubes	10%	7.50%

D.	New entries added to the First Schedule (to be effective from 01-05-2022 unless otherwise specified) [Clause 97(b) of the Finance Bill, 2022]
1	<p>Amendments have been proposed in the Finance Bill, 2022, to align the Indian Tariff with the Complementary Amendments to the HS-2022 published by WCO, as signatory to HS Convention. These complementary amendments include minor changes across chapters in the Tariff, all aimed at bringing greater clarity to the HS. Further, New Tariff entries are being introduced by accommodating the requests from different Ministries and Departments. These new entries will help-</p> <ul style="list-style-type: none"> • to identify new categories of Fuels being introduced in the Country; • to give a fillip to identification and exports of Handicrafts; • to clarify the manner of determination of Fe content in iron ore being exported; • to provide greater clarity on the goods being exempted through different notifications of the Government.

CUSTOMS TARIFF ACT

Withdrawal of Concessional BCD Rate			
S. No	Sectors	S. No. of notification	Descriptions
1	Textile Sector	399	<ul style="list-style-type: none"> Concessional BCD rate has been withdrawn for Spindles, Yarn guide, Ballon Control Rings and Travellers (w.e.f 01.04.2022) Concessional BCD rate has been withdrawn for Machinery for continuous polymerization plant, Machinery for synthetic fibre plant etc. (w.e.f 01.04.2023)
		400	Concessional BCD rate has been withdrawn for Machinery for garment sector, Machinery for manufacture of technical textiles, Woollen machinery items (w.e.f 01.04.2023)
		433	Concessional BCD rate has been withdrawn for Machinery or equipment for effluent treatment plant for handloom sector or handicraft sector (w.e.f 01.04.2022)
		434	Concessional BCD Rate has been withdrawn for Machinery use in the silk textile industry (w.e.f 01.04.2023)
2	Power Sector	397	<ul style="list-style-type: none"> Concessional BCD rate has been withdrawn for Transformers, Reactor, Circuit Breaker etc. (w.e.f 01.4.2022) Concessional BCD rate has been withdrawn for High Voltage DC Divider and CT, High Voltage DC Reactor, High TRV Circuit Breaker for High Voltage DC application, (w.e.f 01.04.2023)
		406	Concessional BCD rate has been withdrawn for Permanent magnets for manufacture of PM synchronous generators above 500KW for use in wind operated electricity generators (w.e.f 01.04.2023)
		413	Concessional BCD rate has been withdrawn for All goods, for renovation or modernization of a power generation plant (other than captive power
3	Petroleum Sector	403	Concessional BCD rate has been withdrawn for Parts and raw materials for manufacture of goods to be supplied in connection with the purposes of off-shore oil exploration or exploitation (w.e.f 01.04.2023)
		410	Concessional BCD Rate has been withdrawn for spirit or diesel driven vehicles into Compressed Natural Gas driven or Propane driven or Liquefied Petroleum
4	Leather Sector	396	Concessional BCD Rate has been withdrawn for Machinery or equipment for effluent treatment plant for leather industry (w.e.f 01.04.2022)
		439	Concessional BCD Rate has been withdrawn for designed for use in the leather industry or the footwear industry, like Air blast dust removing machine,
5	Food Packaging Sector	455	Concessional BCD Rate has been withdrawn for Machinery for filling, closing, sealing or labelling bottles, cans, boxes, bags or other containers (w.e.f
		458	Concessional BCD Rate has been withdrawn for Machinery for Machinery for the industrial preparation or manufacture of food or drink, other than machinery for the extraction or preparation of animal or fixed vegetable fats or oils (w.e.f 01.04.2023)

CUSTOMS TARIFF ACT

Withdrawal of Concessional BCD Rate			
S. No	Sector	S. No. of Notif. No. 50/2017	Descriptions
6	Other Sector	394	Concessional BCD Rate has been withdrawn for Bacteria removing clarifier (w.e.f 01.04.2023)
		395	Concessional BCD Rate has been withdrawn for Marine seawater pumps with fibre impellers and Automatic fish/prawn feeder (w.e.f 01.04.2023)
		436	Concessional BCD Rate has been withdrawn for Spares, supplied with outboard motors for maintenance of such outboard motors . (w.e.f 01.04.2023)
		440	Concessional BCD Rate has been withdrawn for Fogging machines imported by a Municipal Committee, District Board etc (w.e.f 01.04.2023)
		444	Concessional BCD Rate has been withdrawn for Geothermal ground source heat pumps (w.e.f 01.04.2023)
7	Project Import	597/ 598/ 599/ 600/ 601/ 602/ 603/ 604/ 605/ 606	<ol style="list-style-type: none"> Concessional BCD rate has been withdrawn on the following items: <ol style="list-style-type: none"> Power Projects, including Nuclear and Solar Power Coal Projects Gas Projects Iron Ore Projects Water Supply Projects Mandi and Warehousing Projects for Food Grains Other Projects 7.5 % BCD rate would be levy for all the newly project registered after 30th September 2022. All project registered After 30th September 2023, under project imports will attract 7.5% BCD rate Note: Changes in rules under the Customs Act, 1962 Trade Facilitation- Amendment to IGCR rules, 2017 Customs (Import of goods at concessional rate of duty) Rules, 2017 are being amended to provide the following facilities: <ol style="list-style-type: none"> Automation is being used introduced wherein all the necessary details is required to submit electronically through a common portal. Standardizing and notifying the various forms in which details are to be submitted electronically. Any transaction based permissions and intimations are simplified by leveraging the advantage of such submissions electronically. Consequently, the procedure to claim the notification benefit is being simplified and automated. A monthly statement is being proposed which is to be submitted by the importer on the Common Portal for effective monitoring. An option for voluntary payment of the necessary duties and interest, through the Common Portal is being provided to the importer.

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The BCD exemptions available on certain goods are being withdrawn by omitting some the entries of Notification No. 50/2017-Customs dated June 30, 2017. These changes are mentioned hereinunder:

S. No.	S. No. of notification No. 50/ 2017	Description
1	4	Atlantic Salmon
10	124	Marble, travertine, granite other than rough marble and travertine blocks and marble slabs
14	173	Goods used in manufacture of telecommunication grade impregnated glass reinforcement roving, namely: E-glass roving/ yarn, liquid absorbent polymer, polyurethane polymer and vinyl polymer
15	175	Common Salt (including Rock salt, Sea salt and Table salt)
23	277	Mica glass tape for use in manufacture of insulated wire and cables
31	402	Goods, for use in the manufacture of static converters of automatic data processing machines: PCBA, Transformer, Battery and Copper enameled wires
32	424	Listed goods for paging goods and its parts
34	431	Goods used for Research and development in Agro-Chemical Sector Unit
35	449	Goods for use in the manufacture of refrigerator compressor namely: - (i) C-Block compressor; (ii) Crankshafts.
37	501	Recorded magnetic tapes and floppy diskettes, imported by the University Grants Commission for use in Computers

Entries wherein the End-dates for Concessional Duty has been prescribed

S. No.	S. No. of notification No. 50/ 2017	Description
41	289	Wood in chips for use in manufacture of paper, paperboard & newsprint [End-date of 31.03.2023 is prescribed]
42	430	Goods used for Research and Development purpose in pharmaceutical and bio-technology sector. [End-date of 31.03.2023 is prescribed]
43	479	Mono or Bi polar Membrane electrolyzers and parts; Membrane and parts; Parts, other than those for caustic soda unit or caustic potash unit [End-date of 31.03.2024 is prescribed]
44	594	Snow-skis and other snow-ski Equipment; Water-skis, surf- boards, sailboards and other water-sport equipment [End-date of 31.03.2023 is prescribed]

CUSTOMS TARIFF ACT

The BCD exceptions available on certain goods are being withdrawn by omitting some the entries in the nature of technical changes of Notification No. 50/2017–Customs dated June 30, 2017. These changes are mentioned hereinunder:

S. No.	S. No. of notification No. 50/ 2017	Description
48	161	Electrical Energy originating from Nepal and Bhutan
49	192	Alkyl esters of long chain fatty acids obtained from vegetable oils, commonly known as bio- diesels
50	215	The Blood group sera, namely: -Anti C., anti E., anti c., anti e., anti M., anti N., anti Le., anti-Pl., anti S., antihuman globulin sera, anti F., anti kell, anti cellane, anti Jka., and anti I
51	224	Potassium Nitrate, in a form indicative of its use for manurial purpose
52	248	Dipping oil, Paclobutrazol (Cultar)
53	466	Parts/ sub-parts, components or accessories for use in the manufacture of tablet computer.
54	485	Deflection components for use in colour monitors for computers or for use in PCBs of colour monitors for computers
55	496	Stepper Motors for use in the manufacture of goods falling under heading 8471
56	505	Parts of Set-top box for use in its manufacture
57	506	Parts/sub-parts, components for use in manufacture of broadband modem Other than PCBA, charger.
58	507	Parts/ sub-parts, components and accessories for use in manufacture of routers other than PCBA, charger.
59	508	Parts/ sub-parts, components and accessories for use in manufacture of set top boxes for gaining access to internet other than PCBA, charger.

CUSTOMS TARIFF ACT

BCD Rates in respect of Phased Manufacturing Program (PMP)							
S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To			
PMP for Wrist Wearable Devices (Smart watches)				2022 -23	2023 -24	2024 -25	2025 -26
Following parts [S. No. 1 to 7] for manufacture of wearable devices falling under tariff item 8517 62 90 of the Customs Tariff							
1	8517 79 10	Printed Circuit Board Assembly	NIL	NIL	10%	15%	15%
2	8544	Charging Cable	10%	NIL	5%	10%	15%
3	39, 73, 85	Specified parts of wearable devices	As per CTH	NIL	5%	10%	15%
4	8507 60 00/ 8507 80 00	Battery	15%	NIL	5%	10%	15%
5	8517 79 90	Display Assembly	NIL	NIL	NIL	5%	10%
6	8501	Vibrator Motor	10%	10%	10%	10%	10%
7	Any Chapter	Parts, sub-parts, and raw materials for use in the manufacture of the S. Nos 1 to 6	As per CTH	NIL	NIL	NIL	NIL
8	8517 62 90	Wrist Wearable Devices (Commonly known as Smart	20%	20%	20%	20%	20%
Note: IGCR conditions shall apply for the items in S. No. 1 to 7 above.							

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S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To			
PMP for Hearable Devices				2022-23	2023-24	2024-25	2025-26
Parts [S. No. 1 to 6] for manufacture of hearable devices falling under sub-headings 8518 21, 8518 22, 8518 29 or 8518 30 of the Customs Tariff							
1	8518 90 00	PCBA for Hearable Device	10%	NIL	10%	15%	15%
2	8544	USB Cable	10%	15%	15%	15%	15%
3	73, 74, 85	Specified parts of hearable devices	As per CTH	NIL	5%	10%	15%
4	8507 60 00/ 8507 80 00	Battery	15%	NIL	5%	10%	15%
5	8518 90 00	Speaker Assembly (Pre-assembled speaker driver with protective mesh, but not including PCBA or battery)	10%	NIL	NIL	5%	10%
6	Any Chapter	Parts, sub-parts, and raw materials for use in the manufacture of the S. Nos 1, 3, 4, and 5 above	As per CTH	NIL	NIL	NIL	NIL
7	8518 21, 8518 22, 8518 29, 8518 30	Hearable Devices Note - Hearable devices mean: - (i) true wireless stereo (TWS), headphones, earphones and similar devices like earbuds, neckbands, headsets, etc., whether or not combined with a microphone, being capable of connecting through a wireless medium; and (ii) portable bluetooth speakers comprising of an amplifier and loudspeaker(s) with maximum output power not exceeding 40 Watts, having battery as a source of power and capable of wireless connectivity through bluetooth	15%	20%	20%	20%	20%
Note: IGCR conditions shall apply for the items in S. No. 1 to 6 above.							

CUSTOMS TARIFF ACT

S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To			
PMP for Smart Meters				2022-23	2023-24	2024-25	2025-26
Following parts [S. No. 1 to 6] for manufacture of smart meters falling under tariff item 9028 30 10 of the Customs Tariff							
1	9028 90 10	Assembled / Populated PCB for Smart Meters	7.50%	20%	20%	20%	20%
2	8517 69 90	Communication Module	10%	NIL	NIL	5%	10%
3	8536 49 00	Relay	10%	5%	10%	10%	15%
4	8517 71 00	Antenna	NIL	NIL	NIL	5%	10%
5	8524 11 00/ 8524 91 00	LCD & Backlight for LCD	15%	NIL	5%	10%	10%
6	8506 50 00	Battery	10%	NIL	5%	10%	10%
7	Any Chapter	Parts, sub-parts, and raw materials for use in the manufacture of the S. Nos 1 to 6 above	As per CTH	NIL	NIL	NIL	NIL
8	9028 30 10	Smart Meters	15%	25%	25%	25%	25%
Note: IGCR conditions shall apply for the items in S. No. 1 to 7 above.							

CUSTOMS TARIFF ACT

Key Amendments in BCD rates					
Sr. No.	Commodity	Heading	Product Description	Existing Rate	Proposed Rate
1	Agricultural	306	Live Black tiger shrimp (<i>Penaeus monodon</i>)	30%	10%
2	Products and	0306 19 00	Frozen Krill	30%	15%
3	By Products	1518	Algal Oil for manufacturing of aquatic feed	30%	15%
4	Fuels, Chemicals and Plastics	2710 19	Fuel oil	5%	2.50%
5		2710 19	Straight run fuel oil	5%	2.50%
6		2710 19	Low sulphur wax residue	5%	2.50%
7		2710 19	Vacuum residue, Slurry	5%	2.50%
8		2710 19	Vacuum gasoil	5%	2.50%
9		2837 11 00	Sodium cyanide	7.50%	10%
10	Paper	4707	Recovered (waste and scrap) paper or paperboard for use in manufacturing of paper, paperboard or	NIL	2.50%
11	Gems and Jewellery Sector	7102 21	Simply Sawn Natural Diamonds imported under	Applicable Rate	NIL
		7102 31 00	Kimberley Process Certification Scheme (KPCS)		
12		71	Cut and Polished Diamonds	7.50%	5%
13		71 (except 7104 99 00)	Cut and Polished Natural Gemstones	7.50%	5%
14	Metals	7204	Iron and steel scrap, including stainless steel scrap [Exemption hitherto available till 31.3.2022 is being extended up to 31.03.2023]	NIL [upto 31.3.2022]	NIL [upto 31.3.2023]
15	Electrical and Electronics Sector	3920 99 99, 9002 11 00	Camera lens for use in manufacture of Camera Module for Cellular Mobile Phone	10%/15%	2.50%
16		Specific CTH	Specified parts for use in manufacture of transformers of chargers/adapters	10%/15%	5%
17		74 or 76	Copper/Aluminium based Copper clad laminate for use in manufacture of PCB/MPCB	5%/7.50%	NIL
18		90	Following items used in manufacture of X-ray items: a) X-Ray grid b) Multi Leaf Collimator/ Iris c) Static User Interface	5%	10%
19		90	X-Ray Machines	7.50%	10%
20	Medical devices	9018 32 10	Surgical needles imported for manufacture of Surgical sutures	Health Cess @ 5%	Health Cess @ Nil
21	Toys	9503	Parts of electronic toys for manufacture of electronic toys	15%	25%

CUSTOMS TARIFF ACT

Key Amendments in BCD rates					
Sr. No.	Commodity	Heading	Product Description	Existing Rate	Pro-posed Rate
22	Capital Goods	7325 10 00	S. G. Ingot Castings used in manufacturing of	10%	7.50%
23		8483 40 00,	Ball Screw and Linear Motion Guide used in manufacturing of Plastic Processing Machinery	7.50%	5%
		8477 90 00			
24		84	Bushing (made up of platinum and rhodium alloy, imported in exchange of worn-out bushing exported for refurbishment)	10%	7.50%
25		8419	Coffee roasting, brewing or vending machineries for use in the manufacturing or processing of coffee	10%	7.50%

CUSTOMS TARIFF ACT

Duty concessions on specified items when imported by bonafide exporters:

- A scheme for duty-free imports wherein bonafide exporters required exporting value added products manufactured using inputs imported under these exemptions, within a period of six months. The importer will be required to follow the procedure under the Import of Goods at Concessional Rate (IGCR) Rules, 2017.
- The following changes are being made to operationalize the scheme as detailed under:
 - ◇ Conditions required for availing exemptions vide S. No. 257 are being amended.
 - ◇ The following S. Nos. is being inserted to provide for conditional exemptions for import of specified items to be used in manufacture meant for export:

S. No.	Specified Items	Used in manufacture of
257A	decorative papers, motifs, back of photo frames, etc	handicraft products
257B	fasteners, inlay cards, lining and inter-lining materials, wet blue chrome tanned leather, etc	textile or leather garments
257C	buckles, buttons, locks etc	leather or synthetic footwears, or other leather products

- S. No. 288, having been subsumed under new S. No. 257B, is being omitted.

Other miscellaneous changes in various notifications providing concession on imports:

- Notification No. 38/96-Customs dated July 23, 1996 grants custom duty exemption on trans – shipment of goods either imported from foreign country for export to Bhutan/Nepal, all goods imported from Bhutan/Nepal for export to other countries and certain other specified goods. This notification has been amended to provide exemption from Health Cess, Agriculture Infrastructure and Development Cess (AIDC) and Road and Infrastructure Cess (RIC) for goods imported under this notification.

Anti-dumping duty (ADD)/ Countervailing duty (CVD) / Safeguard measures

- Anti-Dumping duty is being permanently revoked, on imports of the following:
 - ◇ Straight Length Bars and Rods of alloy-steel, originating in or exported from People's Republic of China, imposed vide notification No. 54/2018-Cus (ADD) dated October 18, 2018;
 - ◇ High Speed Steel of Non-Cobalt Grade, originating in or exported from Brazil, People's Republic of China and Germany, imposed vide notification No. 38/2019-Cus (ADD) dated Sep 25 2019;
 - ◇ 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, imposed vide notification No. 16/2020-Cus (ADD) dated 23.06.2020.
- Countervailing duty is being permanently revoked on imports of Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products, originating in or exported from People's Republic of China, imposed vide notification No. 1/2017-Cus (CVD) dated 07.09.2017.

GLOSSARY

Abbreviation	Meaning
AA	Adjudicating Authority
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
ADD	Anti-Dumping Duty
AE	Associated Enterprise
AGM	Annual General Meeting
AICD	Agriculture Infrastructure and Development Cess
AIF	Alternative investment Fund
AIFs	Alternative Investment Funds
ALP	Arm's length price
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
APA	Advanced Pricing Agreement
ARE	Alternate Reporting Entity
AU	Assessment Unit
AY	Assessment Year
B2B	Business to Business
B2C	Business to Customer
BBT	Buy-Back Tax
BCD	Basic Customs Duty
BED	Basic Excise Duty
BEPS	Base Erosion and Profit Shift
BOI	Body of Individuals
CAG	Comptroller and Auditor General of India
CAT	Common Aptitude Test
CBCR	Country By Country Reporting
CBDT	Central Board of Direct Taxes
CBI	Central Board of Indirect Tax
CBIC	The Central Board of Indirect Taxes and Customs
CG	Central Government
CGST	Central Goods and Services Tax
CGST Act	Central Goods and Services Act, 2017
CIT	Commissioners of Income Tax
Cus	Customs Act, 1962
CVD	Countervailing Duty
DDT	Dividend Distribution Tax
DRC	Dispute Resolution Committee
DRI	Directorate of Revenue Intelligence
DTAA	Double Taxation Avoidance Agreement
FDI	Foreign Direct Investment
Fin	Finance Bill Finance Bill, 2022
FM	Finance Minister
FMV	Fair Market Value
FPI	Foreign Portfolio Investors
FTP	Foreign Trade Policy
G2B	Government to Business
GST	Goods and Services Tax
H&EC	Health and Education Cess
HFC	Housing Finance Company
HNI	High Net Worth Individual
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code
IFSC	International Financial System Code
IFSCA	International Financial Services Centres Authority Act, 2019

Abbreviation	Meaning
IGST	Integrated Goods and Services Tax
IIM	Indian Institute of Management
IMC	Indian Medical Council Act, 1956
Ind AS	Indian Accounting Standards
InvITs	Infrastructure Investment Trusts
IT Act	The Income-tax Act, 1961
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit
ITO	Income-tax Officer
KYC	Know Your Customers
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
LTC	Long-Term Capital Gains
MAT	Minimum Alternate Tax
MoF	Ministry of Finance
MSME	Micro Small and Medium Enterprises
NaFAC	National Faceless Assessment Centre
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
NPS	National Pension System
NRI	Non-Resident Indian
OBU	Offshore Banking Unit
OEC	Organization for Economic Co-operation and Development
OPC	One Person Company
PAN	Permanent Account Number
PBPT	Prohibition of Benami Property Act, 1988
PCIT	Principal Commissioners of Income Tax
PIV	Pooled Investment Vehicle
PMLA	Prevention of Money Laundering Act, 2002
PSU	Public Sector Undertaking
PY	Previous Year
RBI	Reserve Bank of India
REITs	Real Estate Investment Trusts
RIC	Road and Infrastructure Cess
RTGS	Real Time Gross Settlement
RU	Review Unit
SAD	Special Additional Duty
SAED	Special Additional Excise Duty

GLOSSARY

Abbreviation	Meaning
SCGT	State Goods and Services Tax
SCN	Show Cause Notice
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SFT	Statement of Financial Transaction
SPF	Specific Pathogen Free
SWS	Social Welfare Surcharge
TAN	Tax Deduction Account Number
TCS	Tax Collected at Source
TDS	Taxes Deducted at Source
TPO	Transfer Pricing Officer
u/s	Under Section
UCB	Urban Co-operative Bank
UK	United Kingdom
USA	United States of America
UTGST	Union Territory Goods and Services Tax
VsV	Vivad se Vishwas
VU	Verification Unit
WTO	World trade Organization
HC	High Court
SC	Supreme Court
FY	Financial Year
NFT	Non-Fuungible Tokens

FIRM INTRODUCTION



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