

# UNION BUDGET 2023

## AN ANALYSIS



# CONTENTS

## TABLE OF



<b>PREFACE</b>	<b>03</b>
<b>KEY POLICY INITIATIVES</b>	<b>05</b>
<b>INDUSTRY SPEAKS</b>	<b>08</b>
<b>INCOME TAX</b>	<b>15</b>
<b>GOODS &amp; SERVICE TAX</b>	<b>30</b>
<b>CUSTOMS ACT</b>	<b>37</b>
<b>CUSTOMS TARIFF ACT</b>	<b>38</b>
<b>GLOSSARY</b>	<b>48</b>
<b>FIRM INTRODUCTION</b>	<b>50</b>

# PREFACE



## UNION BUDGET 2023: THE CONSTELLATION OF FISCAL GROWTH

A budget prioritising long term growth policy to lay foundation of 'Amrit Kaal' couldn't be better ascribed than referring to 'Saptarshi' – the seven sages, who built the very foundation of 'Dharma'.

The seven (7) priorities that form the central theme of this budget – Inclusive development, Reaching the last mile, Youth Power, Financial Sector, Green Growth, Unleashing the potential, Infrastructure and investment, are all mutually complimentary and it's sharp focus on fiscal prudence, economic growth, capital investment and job creation, is a key enabler to help the economy perform well in face of the global headwinds.

When India was going through the pandemic, the Central Government supported the economy, through one of the biggest food subsidy and vaccination programmes in the world. And now, when the situation demanded a step-up in investments in infrastructure, the government has stepped up its capital spending. The second term of this Government seems to indeed deliver the budget 'as the situation demands'.

Most popular feature of this budget has to be increased rebate limit from INR 5 Lakh to INR 7 Lakh and realignment of rates in the tax slab. This is followed by the proposal for salaried class and the pensioners, reduction in highest surcharge to 25% and extending the exemption limit for leave encashment. Notably, new Income Tax regime has now received a default status.

With these middle-class oriented proposals, the last full-scale budget of the second term of this incumbent Government may just have reinforced its position for the general elections next year, but this is not it. The most significant proposal of this budget is the capital investment that has a far-reaching impact in creating long term growth. Some significant proposals such as 33% increase in the outlay that forms about 3.3% of the GDP, effective Capital Expenditure budgeted at INR 13.70 Lakh Crore (out of which INR 2.40 Lakh Crore is dedicated to railways alone), 50-year interest free loan to state, direct capital investment by the Centre coupled with creation of capital assets through Grants-in-Aid to States, speaks volume of Government's resolve to pave a solid foundation to an ambitious growth.

Apart from capital investment and expenditure, the key policy initiatives of the budget revolve around Green growth that lays foundation for net zero carbon emission by 2070, impetus to MSMEs and Digital Public Infrastructure for Agriculture that can potentially transform the agriculture sector in India.

On the indirect tax front, the Hon'ble Finance Minister referred them to promote exports, boost domestic manufacturing, enhance domestic value addition, encourage green energy and mobility. While Electric



# PREFACE

Vehicle, Electronics, Chemical and petrochemical sectors may have cherished the concessional rates, extension in various exemptions, the overall industry is taken by surprise by complete silence on setting-up of the GST Tribunals, introduction of amnesty scheme for Customs law despite long burning issue of pendency in litigation. The GST law too witnessed a surprise proposal that restricts Input Tax Credit on CSR expenditure. Off-late, CSR expenditures have come under regulatory scanner and now the proposal to restrict the related credit thereon is the latest.

With the buzz around ChatGPT, it is evident that AI is on the cusp of exponential growth and the budget has well recognising the need to do its bit. It has proposed to set up three Centres of Excellence for Artificial Intelligence in top educational institutes. Leading industry players will partner in conducting interdisciplinary research, develop cutting-edge applications and scalable problem solutions in the areas of agriculture, health, and sustainable cities. This will galvanize an effective AI ecosystem and nurture quality human resources in the field.

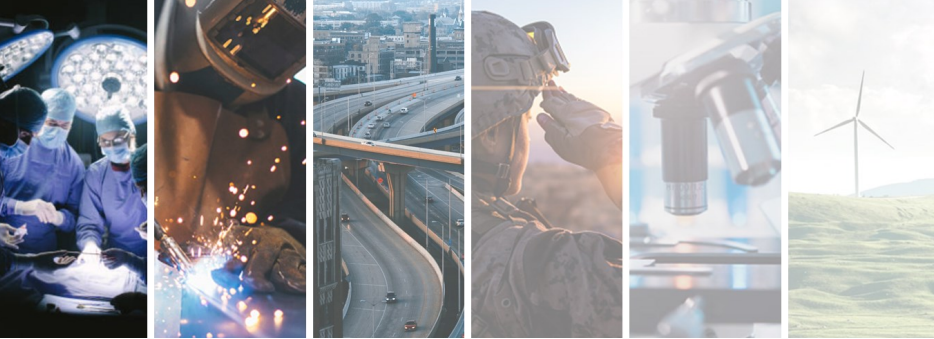
To further capitalising on its digital infrastructure expertise the budget also proposes to some novel initiatives like National Digital Library for children and adolescents, National data governance policy, E-courts project and expanding scope of documents available in Digilocker. In all, the budget proposals are well-balanced, focused on growth, driven by capital expenditure, and provides an adequate push to rural welfare and agriculture. Barring few shortcomings, it delivers well on most of the expectations.

A 'qualified optimist' would emphasise on 'Well begun is half done', and indeed this budget has set the stage for ushering into 'Amrit Kaal'. It is now left to effective implementation of these proposals that will set the progressive tone for the times to come! And, we at **TIOL**, in association with **Taxcraft Advisors LLP**, **GST Legal Services LLP** and **VMGG & Associates**, have ventured to analyse its nitty-gritties for our esteemed readers.

We do hope that the 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

## Pumping the Capital Investment

Highest ever Capital investment and Capital expenditures are perhaps the most significant pillars of the Union Budget 2023 which aim at infrastructure growth simultaneously with job creation – a significant multiplier effect on the overall growth prospects of the economy.



The key infrastructure and strategic Ministries such as Road Transport and Highways, Railways, Defence, etc. will lead

in driving the capital expenditure. According to fiscal policy it magnifies Government's thrust on infrastructure development through enhanced capital expenditure. It also seeks to ensure equity and equality of such investments across the country. This is in line with the Government's focus and commitment to Four I's viz., Infrastructure, Investment, Innovation and Inclusion in the next 25 years.

Some significant proposals such as 33% increase in the outlay that forms about 3.3% of the GDP, effective Capital Expenditure budgeted at INR 13.7 Lakh Crore, 50-year interest free loan to states, direct capital investment by the Centre coupled with creation of capital assets through Grants-in-Aid to States, speaks a volume of Government's resolve to pave a solid foundation to an ambitious growth.

Though much ambitious, it is to be seen if the proposed surge in capex spending is actually achieved.

### Highlights



Infra Growth and Job



Road Transport, Highway, Railways, Defence, etc.



Equity & Equality of

## Cultivating Digital Public Infrastructure for Agriculture

India has garnered its recognition to develop robust Digital Public Infrastructure that has deeply enhanced reach of social sector schemes to intended beneficiaries and thus improved quality of life. UPI, Aadhar, Co-win stand a tall testament. These platforms have exemplarily come handy especially during the pandemic. Now the Government plans to extrapolate its massive experience in this field to benefit Agriculture Sector.


This digital infrastructure will delve into information services for crop planning and health, improved access to farm inputs, credit, and insurance, help for crop estimation, market intelligence, and support for growth of agri-tech industry and start-ups. It will be an open-source platform and is proposed to be inclusive, farmer-centric solution. The platforms will democratise digital payments, enable interoperability, and bring down transaction costs. This could potentially transform the agriculture sector in India – a much needed measure to boost the overall economy.


To further boost start-ups sprouting out of rural areas, the Honourable FM also said the Government will launch an agriculture accelerator fund for young entrepreneurs. The fund will aim at bringing innovative and affordable solutions for challenges faced by farmers. It will also bring in modern technologies to transform agricultural practices and increase productivity and profitability.


# KEY POLICY INITIATIVES

## Green: The next-gen growth

### Highlights

 Net Zero carbon emission by 2070

 17,500 crore for green hydrogen, 35,000 crore for energy

 6 lakh full time green jobs.

'Low-carbon', 'sustainable' development have become buzzwords globally, and India has chipped its part by pledging net zero carbon emission by 2070 under Paris Agreement at United Nation's climate conference in 2021. The green growth initiative becomes of special importance to India given that by 2030, India will be the third largest consumer of the energy and by 2040 its dependence on oil is likely to increase from 75% to 90%.

Budget 2023 unfolds a slurry of initiatives for Green Growth that comprises an outlay of INR 17,500 Crores for green hydrogen, INR 35,000 crores for energy transition and net zero objectives, Viability Gap Funding for Battery Energy Storage Systems with capacity of 4,000 MWH, INR 20,700 crores for renewable energy evacuation out of Ladakh and Green Credit Programme, etc. are all likely to be instrumental in catapulting India towards its goal of net zero carbon emission.


Additionally, these proposals will also reduce fossil fuel imports worth over INR 1 lakh crore and thus abate nearly 50 MMT of annual greenhouse gas emissions. It will generate over 6 lakh full-time green jobs, which is another thrust area for the green growth of the economy.


## MSMEs: Boosting the Growth Engine


At 30%, MSMEs have been the single largest contributor to India's GDP. No wonder, its protection and promotion has always played a significant role in overall economic development and employment generation. Budget 2023 has increased its thrust in achieving the same. This employment sensitive sector, which was promised a revamped credit guarantee scheme in previous budget is now being infused with INR 9000-crore credit guarantee scheme. The scheme will be effective from April 01, 2023.

Increase in presumptive tax limit to INR 3 Crore is a unanimously applauded, clear winner. Further, the restriction on deduction of expenditure subject to timely payment to MSME is also being widely cherished, albeit with a silhouette of being counter productive, as large companies may want to restrict number of their MSME vendors. The sector is also being offered refund of 95% of forfeited amounts

### Highlights

 9000 crore credit guarantee scheme

 Refund of 95% forfeited amount

 Vivad se Vishwas - I'





# KEY POLICY INITIATIVES

through '**Vivad se Vishwas – I**' initiative for contract which did not meet the bid timelines during COVID restrictions. This relief certainly relieves the MSMEs with cash flow.

Speaking of start-ups, India is already third largest ecosystem in the world for start-ups. This ecosystem just found further re-enforcement by extension of date for incorporation for eligible start-ups by an additional year for income-tax benefits and to also lengthen the period for carry forward of losses to 10 years. These proposals will provide a further impetus to business sentiment among our talented youth.

## Vehicle Replacement Policy

In a major boost to the Automobile sector, which seems to have finally found its rhythm after a long sluggish period, the Hon'ble FM announced introduction of the Vehicle Replacement Policy.

The policy will force out the old polluting vehicles and in-turn generate demand for the new ones. The policy that finds its mention in the previous budget, now is allocated with the funds to scrap old vehicles of the Central Government

The policy will also be made applicable for the States, who will receive support in replacing old vehicles and ambulances.

The policy although being seen as a green initiative will also benefit Auto OEM and Auto ancillary.





# INDUSTRY SPEAKS

## **Manoj Agarwal** | CFO, Gujarat Fluorochemicals Limited



The Budget focuses on capex spending being the engine of growth while also aiming to achieve the desired fiscal consolidation. The surge in capex spending, if achieved, will have a significant impact on the growth prospects of the economy.

The indirect tax proposals in the Budget largely seem to be Customs centric with the goal of rate rationalization for promoting exports and Indian manufacturing. The rates of key chemicals, which are majorly imported from the foreign market is now being exempted. On same lines, the tariff rates on a number of chemicals is being rationalized. However, the much anticipated additional PLI schemes and the amnesty schemes for Customs litigation disputes remained unannounced.

## **Nitin Jain** | Global Head of Tax, OYO Hotels & Homes

It has been rather refreshing to see the Government focusing on Tourism in the Budget proposals. While the priorities have been set in seven separate areas (Saptarishi), the major focus seems to be given to the infrastructural industry, which inter alia also covers tourism within its ambit. For the development with an integrated and innovative approach, at least 50 destinations are to be selected through challenge mode.

In addition to aspects such as physical connectivity, virtual connectivity, tourist guides, high standards for food streets and tourists' security, all the relevant aspects would be made available on an App to enhance tourist experience. The focus of development of tourism would be on domestic as well as foreign tourists.

The Budget has also simplified the tax benefits for the Industry by extending 15% corporate tax benefit to new cooperatives, commencing manufacturing till March 31, 2024. The extension of the date of incorporation by one year for income tax benefits to start-ups and extension of period of tax benefit to funds relocating to IFSC, GIFT City is also a step in the right direction, which will certainly boost the Ease of Doing Business.



## **Ashok Agarwal** | Director – Finance & Legal, Capri Global Capital Limited

True to the vision of Sabka Saath Sabka Vikaas, the Finance Minister has presented a well-rounded Budget, covering all the aspects of the economy i.e., ranging from agriculture development, infrastructure development to Ease of Doing Business. The Finance Minister has also proposed positive amendments for the middle-class by providing 100% tax rebate for income upto INR 7 lacs. While appearing futuristic, it does have a realistic vision by using the seven priorities called as Saptrishi i.e. Inclusive development, Reaching the last mile, Infra & investment, Unleashing the potential, Green growth, Youth power, and Financial





sector. All in All, the Budget '23 has been well-thought out and well-formulated by the Finance Ministry, aimed at achieving the vision set-out in the previous Budget which talked about 'Amrit Kaal.'

## **Amit Kale** | Associate Vice President, Reliance Brands Limited



The seven priorities set by the Government in the Budget '23 is an umbrella covering entire economic sphere of the nation. Apart from the infrastructural development, the Finance Minister also focused on Millets, which everybody will now remember as the 'Sree Anna' scheme. The scheme is aimed at promoting research at the Indian Institute of Millet Research, by providing more credit to the Agriculture Sector.

On the tax front, while there have been positive proposals, with unified filing system, decriminalization of offences, reduced and simplified compliances, it would have been apt if the Government would have also clarified in certain key areas such as the need of the hour under the GST regime i.e., formation of an Appellate Tribunal. Similarly, in Customs, the new FTP is awaited.

Also the Government has increased its focus on Railways, especially the speed of railway movement, which will definitely ease the pressure on common man to get a confirmed ticket. Railways which is the world cheapest mode of locomotion, government has announcing a capex budget of 2.4 lakh crore. It is a positive step towards building a robust infrastructure.

## **CA Prabhat Ranjan** | Tax Professional, Working with a leading Pharma Company

Ahead of the general elections of 2024, Union Budget 2023 was expected to meet the demands of the Industry and to please the masses. Thus, in lines with the steps towards achieving major economic objectives i.e., infrastructural development by allocating a record INR 10 lakh crore in infrastructure development (a whopping 3.3% of GDP), the Government has also pleased the middle class by granting relief in personal income tax.

As regards the pharma sector, the Hon'ble FM, Nirmala Sitharaman, in her Budget speech announced the launch of a new programme to promote research in pharmaceuticals with a view to promoting growth of the sector. The FM also emphasized that facilities in certain ICMR Labs would be made available for research by public and private medical faculties, which should certainly give a boost to the pharmaceutical industry. The industry is also being encouraged to invest in research and development in specific priority areas.



While the proposals made in the speech made the Budget seem too good to be true, the Finance Bill showed that such is not the case, especially in the tax changes. The proposed amendment u/s 56(2) of the IT Act, which is being made applicable to non-resident investors, would have serious implications and may turn-out to be a major pain-area in the coming days. Even under the GST laws, disallowing ITC on CSR expenditure, despite favourable judicial precedents in the past, would indeed hurt the industry. Thus, while the Budget overall is laudable, it certainly has a flip-side as well.

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



The Hon'ble FM during the Budget 2023 speech took note of humungous success of Digital Payments in India. I wouldn't shy away calling the digital payment system a REVOLUTION. In 2022, there has been an increase of 76 per cent in transactions and 91 per cent in value. Fiscal support for this digital public infrastructure is to be continue in 2023-24.

The economy has become a lot more formalized as reflected in the EPFO membership more than doubling to INR 27 crore, and 7,400 crore digital payments of 126 lakh crore through UPI in 2022 alone. Given such strides, a new scheme titled 'PM Vishwakarma Kaushal Samman' is proposed to be launched. The new scheme will enable the traditional artisans and craftspeople to improve the quality, scale and reach of their products, integrating them with the MSME value chain. The

components of the scheme will include not only financial support but also access to advanced skill training, knowledge of modern digital techniques and efficient green technologies, brand promotion, linkage with local and global markets, digital payments, and social security. This will greatly benefit

the Scheduled Castes, Scheduled Tribes, OBCs, women and people belonging to the weaker sections.

Similarly, under the Skill India Digital Platform, for skilling will be further expanded with the launch of a unified Skill India Digital platform for enabling demand-based formal skilling, inking with employers including MSMEs, and facilitating access to entrepreneurship schemes.

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.

## Gaurav Gupta | Head of Finance, Divyani International Limited

The Budget 2023 has identified seven priority areas, which needs focus for the development of the economy to recognize the targets set by the Amrit Kaal. The target, being collective for the development of contemporary as well as non-contemporary areas, inter alia includes Industrial Development. The Industrial Development targets to make India Global Hub for Millets. The Hon'ble FM in her speech highlighted that the PMGKAY launched during the pandemic was 'the war against the pandemic and not against hunger.' During the pandemic, the Government ensured that no one goes to bed hungry, with a scheme to supply free food grains to over 80 crore persons for 28 months. Further, the Finance Minister implemented, scheme from January 01, 2023 to supply free food grain to all Antyodaya and priority households for the next one year, under PMGKAY.



Driving on the force of success of PMGKAY, the FM highlighted that India is the largest producer and second largest exporter of 'Shree Anna' in the world such as jowar, ragi, bajra, etc. The Finance Minister also focused on Millets as the scheme is aimed at promoting research at the Indian Institute of Millet Research, by providing

more credit to the Agriculture Sector.

Apart from the policy initiatives, the tax proposal largely remained disappointing. The much-needed formation and launch of GSTAT remains unannounced. Further, the disallowance of ITC on CSR expenditure was a shocker. However in Customs, the changes seem to be in line with the past policies and the emphasis is on 'Atmanirbhar Bharat'.

## **Chandrabali Prajapati** | CFO, Airnov India Limited

The remark made by the Finance Minister at the beginning of her Budget '23 speech that India has been recognized as 'Bright Star', projecting 7% GDP growth, which is highest among the major economies, clearly indicates that the economy is on the right track to get back to the pre-COVID growth stage in a short while. Continuing the focus on infrastructure development, the capital expenditure is proposed to raise to INR 10 lakhs crore, covering railways, transport infrastructure projects for connectivity for ports, coal, steel and fertilizer sectors, green growth and creation of urban infrastructure. This stands testament to the fact that while the Government has covered all sections of the Economy, the key focus remains on infrastructure development. Along with above, India, being recognised as the third largest nation for startup, the budget looks to has given its ecosystem a boost by extending the eligibility of tax holiday even if incorporated till 31 March 2024 and allowing the carry forward of loss for 10 years.



## **Amit Kakkar** | Senior Vice President – Commercial, Adage Automation Private Limited



With the introduction of this Budget '23, the Government has once-again affirmed its faith in the MSME sector. Promoting their development, the Government has enhanced the limits to avail benefits of presumptive taxation, tax deduction for payments made to MSMEs only on payment basis.

Further, extending 15% beneficial corporate tax rate to new co-operative societies commencing manufacturing before March 2024 promotes the entrepreneurial spirit among the stakeholders.

Furthermore, in the personal tax regime, the Rebate limit has been increased to INR 7 Lakh. Similarly, the number of tax slabs have been proposed to be reduced to 5, and increase the exemption limit to INR 3 Lakhs. These would certainly boost the

Ease of Doing Business and develop faith in the self-assessment tax regime.



## Sunil Kumar | Financial Controller, Sensient India Private Limited

The Hon'ble Finance Minister in her Budget '23 speech had aimed to maintain continuity and stability of taxation, further simplify and rationalise various provisions to reduce the compliance burden, promote the entrepreneurial spirit and provide tax relief to citizens. Its noteworthy that more than 39,000 compliances reduced and more than 3,400 legal provisions decriminalized to enhance Ease Of Doing Business. While the proposals in the Budget Speech were all laudable, the fine print of the Finance Bill '23 show-cased some disappointments as well. The amendment under the CGST Act disallowing ITC on CSR expenditure incurred under the Companies Act, is not something that was expected. Similarly, the amendment u/s. 56(2)(viib) of the IT Act, whereby share premium received in excess of the valuation as per the prescribed Rule would be taxed even if the amount is received from non-residents is a flip-side of this Budget.



## Ashes Nandi | CFO, Fuji Electric India Private Limited



The previous Budget 22 had certainly laid down the foundation of Amrit Kaal for the coming 25 years. This Budget, as a successor, has formulated a road-map for crystalizing the targets. As little drops of water makes the mighty ocean, small steps achieve the macro-economic targets. In the tax front, the Government has made strides towards the Ease of Doing Business, by reduction in more than 39,000 compliances and decriminalization of more than 3400 legal provisions. This, coupled with unified filing system and commercial dispute settlement scheme, will be welcome by the Trade and Industry. In a nutshell, the overall Budget seems to cover all the key aspects of the economy. Further, the direct tax proposals truly reflect the steps taken to meet the government's vision of having a simple tax regime which is also stable and predictable.

## Meghana Joshi | CFO, Nobel Biocare India Private Limited



In the backdrop of Budget 2022, which laid down the foundation of Amrit Kaal, the Hon'ble FM has now set seven priority areas, which go hand-in-hand with the vision of Sabka Saath Sabka Vikaas. With key focus on infrastructural development, the Budget also stresses upon the importance of the Financial Sector for the economic growth.

The FM has proposed to set-up National Finance Information Registry to enable efficient lending, promote financial inclusion and enhance financial stability. Further, a Central Data Processing Centre has also been proposed to be set-up for faster handling of administrative work under the Companies Act. Other financial initiatives proposed to be implemented include business activities in GIFT IFSC and creating more trained professionals in Securities Markets via award of education certificates. On the tax front, the Budget has proposed to introduce Vivad Se Vishwas II for easier and standardized settlement scheme and the launch of Phase 3 of E-Courts. These initiatives would certainly help in reducing considerable litigation burden on the judicial and quasi-judicial authorities.

## Peeyush Gupta | CFO, Viterra India

The Hon'ble FM has embarked upon the Budget 2023 exercise with precision and vision. The momentum for the development and investment in infrastructural development has been maintained. The 'Seven Saptarishis' which the FM referred to are well thought and covers agriculture, education, airports, ease of doing business, unified filing process, contract dispute settlement, green focused, tourism and financial sectors.

The Government has also proposed to launch Credit Guarantee Scheme for MSMEs, which will expand corpus under a revamped scheme to enable additional collateral free guaranteed credit of INR 2 lakh crores. As an initiative for the women development, a Mahila Samman Bachat Patra has been launched, which is a one-time new small savings scheme for 2 year period with a deposit facility of up to INR 2 lakh for women. In a nutshell, the Budget 2023 is certainly a growth oriented one, with key focus on financial sector among others.



## Rakesh Khaitan | Head – Strategy, Finance and Asset Management, Mahindra Susten

The Saptarishi i.e., the priority areas in the Budget seems to holistically cover all the verticals of the economy. However, the sector, which takes away the biggest piece of the cake is the infrastructure industry. Riding on the momentum created in Budget 2022, which had proposed the expansion of highways in the country by 25,000 kilometers, the Government has now allocated the highest-ever INR 10 lakh crore, covering infrastructure projects for connectivity for ports, railways, and creation of urban infrastructure in Tier-2 and Tier-3.

Further, for green fuel, green energy, green farming, green mobility, green buildings, and green equipment, the Government has come up with suitable policies for efficient use thereof across various economic sectors. These green growth efforts help in reducing carbon intensity of the economy and provide for large-scale green job opportunities. The Green Credit Programme will surely incentivize environmentally sustainable and responsive actions and help mobilize additional resources for such activities. Thus, while being a holistic budget, the major focus area seems to be infrastructural development and enabling India to achieve its ambitious 'net-zero' carbon emission target by 2070 to usher in green industrial and economic transition.



## Giriraj Agiwal | Head of Tax, Aarti Industries Limited

The proposals in indirect tax aim to promote exports, boost domestic manufacturing, enhance domestic value addition, encourage green energy and mobility. Considering the fact that Denatured ethyl alcohol is widely used in chemical industry, the FM has proposed to exempt the BCD on the same. This will also support the Ethanol Blending Programme and facilitate the Government's endeavour for energy transition. BCD is also being proposed to be reduced on acid grade fluorspar to 2.5 per cent to make the domestic fluorochemicals industry competitive.



As regards Direct tax, while it was emphasized by the FM that proposals aim to maintain continuity and stability of taxation, and further simplify and rationalize various provisions to reduce the compliance burden, such was not the case in entirety. The proposed amendment to Section 10(10D) of the IT Act and imposition of tax on the amounts received under an insurance policy subject to certain limits, largely remain unwelcome. Apart from the policy initiatives, the tax proposal largely remained disappointing. The much-needed formation and launch of GSTAT remains unannounced. Further, the disallowance of ITC on CSR expenditure was a shocker. However in Customs, the changes seem to be in line with the past policies and the emphasis is on 'Atmanirbhar Bharat'.







# INCOME TAX ACT

## Rates of Income-Tax for AY 2024-25

- Income-tax rates (including surcharge, health and education cess) for companies (domestic and foreign), firms, limited liability partnerships and individuals to remain unchanged. This includes rates for minimum alternate tax and alternative minimum tax.
- New Personal Tax Regime ('NPTR') to be extended to cover AOPs (other than a co-operative society), Body of individuals and artificial judicial persons – tax slabs have been proposed to be revised as follows:

### Highlights

• New tax regime of 15% for manufacturing co-operatives

Income limit for rebate of IT increased from 5 Lakhs to 7 Lakhs

Existing Tax Regime		New Tax Regime	
Slab (INR)	Rates	Slab (INR)	Rates
Up to 2,50,000	Nil	Upto 3,00,000	Nil
From 2,50,001 to 5,00,000	5%	From 3,00,001 to 6,00,000	5%
From 5,00,001 to 7,50,000	10%	From 6,00,001 to 9,00,000	10%
From 7,50,001 to 10,00,000	15%	From 9,00,001 to 12,00,000	15%
From 10,00,001 to 12,50,000	20%	From 12,00,001 to 15,00,000	20%
From 12,50,001 to 15,00,000	25%	Above 15,00,000	30%
Above 15,00,000	30%	-	-

- The maximum surcharge under NPTR is proposed to be restricted to 25% (against 37%).
- Other benefits proposed to be provided to taxpayers under NPTR are as follows:
  - ◇ Rebate enhanced upto INR 25,000; and
  - ◇ Standard deduction, family pension and deduction in respect of the amount paid or deposited in Agniveer Corpus Fund allowable as deduction.
- Persons having income from business and profession can opt out from NPTR only once.
- It is proposed to provide a concessional tax regime of 15% (plus 10% surcharge) for newly set-up co-operative societies (set-up on or after April 1, 2023) that are engaged in manufacturing, which commence operations on or before March 31, 2024.
- In case of AOPs that consist of only companies as their members, the maximum surcharge is restricted to 15%.

# INCOME TAX ACT

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## Increase in threshold limits for presumptive taxation schemes

It is proposed to provide that:

- Under Section 44AD of the IT Act, for eligible business, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed 5% of the total turnover or gross receipts, a threshold limit of INR 3 Crores will apply.
- Under Section 44ADA of the IT Act, for professions referred to Section 44AA(1) of the IT Act, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed 5% of the total gross receipts, a threshold limit of INR 75 Lakhs will apply.
- The receipt by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.
- Provision of Section 44AB of the IT Act shall not apply to a person, who declares profits and gains for the previous year in accordance with the provisions of Section 44AD(1) or Section 44ADA(1) of the IT Act, as the case may be.
- The proposed amendment would be effective from April 01, 2024

## Providing clarity on benefits and perquisites paid in cash

- Section 28 of the IT Act provides for income that shall be chargeable to income-tax under the head "Profits and gains of business or profession". Section 28(iv) brings to chargeability the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession. However, Hon'ble Supreme Courts in the case of **CIT vs. Mahindra & Mahindra Ltd [2018-TIOL-173-SC-IT]** had interpreted that if the benefits or perquisites are paid in cash, it would not be covered within the scope of said provision.
- In order to align of the IT Act the provision with the intention of legislature, it is proposed to amend Section 28(iv) to clarify that said provision also applies to cases where benefit or perquisite provided is in cash or in kind or partly in cash and partly in kind. Likewise, it is also clarified that withholding tax under Section 194R of IT Act is applicable whether or not the perquisite is received in cash or in kind of as a combined of the two.
- The proposed amendment would be effective from April 01, 2024.

## Ease in claiming deduction on amortization of preliminary expenditure

- Section 35D of the IT Act provides for amortization of certain preliminary expenses which are incurred prior



# INCOME TAX ACT

to the commencement of business or after commencement, in connection with extension of undertaking or setting up of a new unit. This includes expenditure in connection with preparation of feasibility report, project report etc.

- Said provision inter-alia provides that the work in connection with the preparation of feasibility report or the project report or the conducting of market survey or of any other survey or the engineering services would need to be carried out either by the assessee himself or by a concern which is approved by the Board.
- In order to ease the process of claiming amortization of these preliminary expenses, it is proposed to amend Section 35D to remove the condition of activity in connection with these expenses to be carried out by a concern approved by the Board and assessee shall be required to furnish a statement containing the particulars of this expenditure within prescribed period to the prescribed income-tax authority in the prescribed form and manner.
- The proposed amendment would be effective from April 01, 2024.

## Promoting timely payments to Micro and Small Enterprises

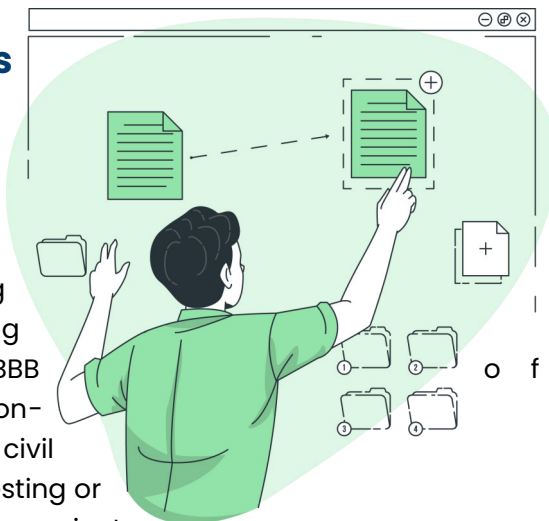
- It is proposed to insert a new clause (h) in Section 43B of the IT Act to provide that any sum payable by the assessee to a Micro or Small Enterprise beyond the time limit specified in Section 15 of the MSMED Act shall be allowed as deduction only on actual payment.
- The MSMED Act mandates payments to MSME within the time as per the written agreement, which cannot be more than 45 days. If there is no such written agreement, the said provision mandates that the payment shall be made within 15 days. Thus, the proposed amendment will allow the payment as deduction only on payment basis.
- The proposed amendment would be effective from April 01, 2024.

## AUTHOR'S NOTE

*The amendment shall cast additional responsibility on assessee as well as tax auditors to carefully check status of payments qua MSME Creditors at the time of filing of IT Return for allowability or otherwise in view of stringent provisions of the MSMED Act read with Section 43B of IT Act – if it remains unpaid, the same shall be disallowed for the purpose of Computation of Taxable Income.*

## Preventing misuse of presumptive schemes U/s 44BB and 44BBB of the IT Act

- Section 44BB of the IT Act provides for presumptive scheme in the case of a non-resident assessee who is engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils. Further, Section 44BBB of the IT Act provides for presumptive scheme in the case of a non-resident foreign company who is engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project





# INCOME TAX ACT

approved by the Central Government.

- It is proposed to insert a new Sub-Section to Section 44BB and to Section 44BBB provide that where an assessee declares profits and gains of business for any previous year in accordance with the provisions of presumptive taxation, no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year,
- The proposed amendment would be effective from April 01, 2024.

## AUTHOR'S NOTE

*It is often observed that taxpayers opt in and opt out of presumptive scheme in order to avail benefit of both presumptive scheme income and non-presumptive income. In a year when they have loss, they claim actual loss as per the books of account and carry it forward. In a year when they have higher profits, they use presumptive scheme to restrict the profit to 10% and set off the brought forward losses from earlier years and hence, the subject amendment is proposed to put a check on such practices.*

## Alignment of provisions of Section 45(5A) with the TDS provisions of Section 194-IC

- Section 45(5A) of the IT Act, provides that on the Capital Gain arising to an assessee (individual and HUF), from the transfer of a capital asset, being land or building or both, under a Joint Development Agreement, the Capital Gains shall be chargeable to Income Tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority. However, this is not in accordance with the intention of law as is evident from the provisions of Section 194-IC of IT Act which, inter alia, provides that tax shall be deducted on any sum by way of consideration (other than in kind).
- Accordingly, it is proposed to amend Section 45(5A) of the IT Act so as to provide that the full value of consideration shall be taken as the stamp duty value of assessee share as increased by any consideration received in cash or by a cheque or draft or by any other mode.
- The proposed amendment would be effective from April 01, 2024.

## Author's Note:

*It has been noticed that the taxpayers are inferring that any amount of consideration which is received in a mode other than cash, i.e., cheque or electronic payment modes would not be included in the consideration for the purpose of computing Capital Gains chargeable to tax and hence, the subject amendment.*

## Scope of deemed income for gifts has been broadened to include Not Ordinary Residents

- Bill proposes to expand the deemed income accrual rule include under Section 9(4) of the IT Act. Prior to the amendment the provision was only applicable to the gifts given by the Resident to the Non-Resident. However, it shall now also include the gifts exceeding INR 50,000 received without consideration by the Not-Ordinarily-Residents.

# INCOME TAX ACT

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- The proposed amendment would be effective from April 01, 2024.

## **Section 56(2)(viib) Amended to include Non-resident investors within its ambit**

- Bill proposes to include the non-resident investors within the ambit of Section 56(2)(viib) of IT Act. The said Section provides that when a privately held company issues shares to a resident at a particular price, which is greater than Fair Market Value (FMV), tax is chargeable to the amount received in excess of FMV.
- The provision is broadly applicable to all persons regardless of their residency status and aim at widening the scope of the consideration obtained by the non-resident.
- The proposed amendment would be effective from April 01, 2024.

## **Terms 'Cost of Acquisition' and 'Cost of Improvement' have been defined to be Nil for computing Capital Gains**

- As the term 'cost of acquisition' and 'cost of improvement' have not been explicitly defined in the present provision of Section 55(31) of the IT Act, the Bill proposes to define the term 'cost of acquisition' and 'cost of improvement' of assets under Section 55(31) of the IT Act to be NIL.

## **Capital Gains on investment in residential house capped at Maximum deduction of INR 10 crore**

- Provisions of Section 54(2) and Section 54F(4) deals with the deposit in the Capital Gains Account Scheme. The existing provisions allows deduction on the Capital Gains arising from the transfer of long-term capital asset.
- It is proposed to insert a proviso to effect that the deposit in the Capital Gains Account Scheme, shall apply only to Capital Gains or net consideration, and the limit on the maximum deduction that can be claimed by the assessee under Section will be INR 10 crore.
- The proposed amendment would be effective from April 01, 2024.

## **Prevention of double deduction claimed on interest on borrowed capital under Section 48**

- Under Section 24(b) of the IT Act, the amount of any interest payable on borrowed capital for acquiring, renewing or reconstructing a property is allowed as a deduction under the head "Income from house property". The same amount was being claimed under Section 48 of the IT Act as part of cost of acquisition causing double deduction on the same amount.
- In order to disallow this double deduction, the Bill proposes introduction of Section 48(ii) of the IT Act specifying that the cost of acquisition or cost of improvement shall not include the amount of interest claimed as a deduction previously.

## **Conversion of physical gold to EGR not to attract Capital Gains tax**

- In order to promote the notion of Electronic Gold, the Bill proposes to remove from the definition of 'transfer'

# INCOME TAX ACT

for the purposes of Capital Gains qua the conversion of physical gold into EGR and vice versa by a SEBI-registered Vault Manager.

- In addition, the cost of acquiring EGR for tax purposes shall qua equal to the cost of gold, and the holding period for Capital Gains shall include the period during which the assessee held gold prior to its conversion into EGR. Similarly, a provision for conversion from gold to EGR is also proposed.
- Further, any transfer of physical gold to an EGR issued by a Vault Manager or from an EGR to physical gold should not be considered a transfer.
- Furthermore, it is proposed that, newly inserted clause in Section 47 which shall provide that when an EGR issued by a Vault Manager becomes the property of a person in exchange for a transfer, the cost of acquiring the asset for the purposes of the transfer shall be deemed to be the cost of gold in the hands of the person to whom the EGR was issued.
- The proposed amendment would be effective from April 01, 2024.

## Tax Relief for Market Linked Debentures

- Bill proposes, a special provision for taxation of Capital Gains has been introduced in case of Market Linked Debentures. 'Market Linked Debentures' are listed securities and they are currently being taxed as long-term capital gain at the rate of 10% without indexation.
- In order to tax Capital Gains arising from transfer or redemption or maturity of these securities, the Bill proposes to insert a new Section 50AA in the IT Act to treat the income from market linked debentures to be taxed as short-term Capital Gains at the applicable rates.
- The proposed amendment would be effective from April 01, 2024.

## Penalty for cash loan/transaction against primary co-operatives

- Section 269SS and Section 269T of the IT Act restricts acceptance of loan or deposit or repayment thereof amounting to INR 20,000 or more by any means of payment other than through banking channels. The subject threshold has been increased to INR 2,00,000 for Primary Agriculture Credit Societies and Primary Co-Operative Agricultural and Rural Development Bank as they are involved in providing credit facilities at the grass-root level.





# INCOME TAX ACT

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- The proposed amendment would be effective from April 1, 2023.

## Introduction of the authority of Joint Commissioner (Appeals)

- Considering the fact that the Commissioner (Appeals) being the First Appellate Authority under the IT Act are overburdened, the Bill has introduced Joint Commissioner (Appeals) as an Income Tax Authority under the IT Act by amending Section 2 and Section 116 of the IT Act.
- Accordingly, corresponding amendments have also been carried out in relevant provisions of the IT Act to ensure that functioning of the Joint Commissioner (Appeals) is aligned with that of the Commissioner (Appeals).
- The proposed amendment would be effective from April 1, 2023.

## Amendments in consequence to new provisions of TDS

- Section 194R and Section 194S were introduced in the IT Act *vide* Finance Act, 2022. Section 194R and Section 194S of IT Act makes provisions for deduction of tax on benefit or perquisite in respect of business and provisions for deduction of tax on payment on transfer of VDA owing to their very nature, payments related to benefit or perquisite or VDA may also be wholly in kind or partly in cash and partly in kind respectively.
- Bill proposes to amend Section 271C by inserting two new Sub-clauses under Sub-Section (1)(b) providing reference to the first proviso to Section 194R and the first proviso to Section 194S to enable such penalty and prosecution in order to ensure that tax has been paid in a situation where benefit or perquisite is transferred in kind.
- The above amendments would be effective from April 1, 2023.
- Accordingly, Bill proposes to insert Sub-Clauses under Section 271C and Section 276B providing reference to Section 194B(2).
- This amendment would be effective from July 1, 2023.

## Decriminalisation of Section 276A of the IT Act

- Section 276A of the IT Act makes provision for prosecution with rigorous imprisonment up to two years in the case of a person, being a liquidator who fails to give notice in accordance with Section 178(1), or fails to set aside the amount as required by Section 178(3) or parts with any of the assets of the company or the properties in contravention of the provisions of the said Section.
- Government in stated policy to decriminalise minor offences examined Section 276A, which provides for prosecution of liquidator for non-compliance with Section 178.
- Further, with the operationalisation of the IBC 2016 waterfall mechanism for payment of dues is now in place for companies under liquidation and Section 178(6) (the parent Section) provides that this Section shall not have effect when provisions of the IBC are in contrary.
- Bill proposes to amend Section 276A by providing sunset clause on the Section with effect from March 31, 2023. Hence, proposes that no fresh prosecution shall be launched under this Section on or after 1st April, 2023. The earlier prosecutions will however continue.
- The proposed amendment would be effective from April 1, 2023.

# INCOME TAX ACT

## Penalty for furnishing inaccurate statement of financial transaction or reportable account

- Section 285BA of the IT Act makes it mandatory for a person responsible for registering, maintaining books of account or other document containing a record of any specified financial transaction or any reportable account as may be prescribed, under any law for the time being in force, to furnish a statement in respect of such specified financial transaction or such reportable account to the prescribed income-tax authority.
- Further, vide Finance (No. 2) Act, 2014, Section 271FAA was inserted in the IT Act in Chapter XXI to provide for penalty for furnishing inaccurate statement of financial transaction or reportable account.
- Self-certifications by reportable persons and the account holders are mandated under the Rule 114H of the IT Rules for different purposes. However, there is no penal provision for the submission of a false self-certification which in turn leads to furnishing of an incorrect statement under Section 285BA.
- Bill proposes to insert a new Sub-Section (2) to Section 271FAA which provides that if, there is any inaccuracy in the statement of financial transactions by a prescribed reporting financial institution and such inaccuracy is due to false or inaccurate information submitted by the account holder penalty of INR 5,000 shall be imposed on such institution, in addition to the penalty leviable on such financial institution in the said Section.
- The proposed amendment would be effective from April 1, 2023.

## TDS on payment of accumulated balance due to an employee

- The second proviso to Section 192A of the IT Act provides that any person entitled to receive any amount on which tax is deductible shall furnish his PAN to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.



- The Bill proposes to omit the said proviso, so that in case of failure to furnishing of PAN by the person relating to payment of accumulated balance due to him, tax will be deducted at the rate of 20% as in other non-PAN cases in accordance with Section 206AA of the IT Act, instead of deduction at maximum marginal rate.
- The proposed amendment would be effective from April 1, 2023.
- 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.

## Removal of exemption from TDS on payment of interest on listed debentures to a resident

- Section 193 of the IT Act provides for TDS on payment of any income to a resident by way of interest on securities;
- Clause (ix) of the proviso to the aforesaid Section provides that no tax is to be deducted in case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India;

# INCOME TAX ACT

- Bill proposes to omit this clause meaning thereby that from now onwards TDS will be deducted even on payment of interest on listed securities to a resident;
- The proposed amendment would be effective from April 1, 2023.

## Set off and withholding of refunds in certain cases

- Presently, as per Section 241A of the IT Act, where a refund becomes due to an assessee under Section 143(1) and notice for assessment is issued to him under Section 143(2), the AO may withhold such refund (subject to prior approval of the Principal Commissioner or Commissioner) in the interest of revenue till the date of such assessment is being made;
- Similarly, Section 245 of the IT Act states that where refund is found to be due to any person under provisions of the IT Act, the AO or any other income-tax authority mentioned in the Section, may, in lieu of payment, set off part or whole of the refund against any sum remaining payable by such person;
- Bill proposes to amend Section 241A of the IT Act to make the provisions of that Section inapplicable from April 1, 2023 and integrate these two Sections by substituting Section 245, so as to provide that where, a refund is due to any person, the AO or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against any sum remaining payable under the IT Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this Section;



- Bill also proposes that where a part of the refund has been set off as above or where no amount is set off, and refund becomes due to a person, then, the AO, having regard to the fact that proceedings of assessment or reassessment are pending in such case and grant of refund is likely to adversely affect the revenue, may withhold the refund till the date on which such assessment or reassessment is made subject to prior approvals;
- Further, it is proposed to amend Section 244A(1A) by inserting a proviso that in case of an assessee where proceedings for assessment or reassessment are pending, the additional interest shall not be payable to the assessee under this Sub-Section, for the period beginning from the date on which such refund is withheld by the AO, in accordance with and subject to provisions of Section 245(2), till the date on which the assessment or reassessment pending in such case, is made;
- The proposed amendment would be effective from April 1, 2023.

## Extension of time for disposing pending rectification applications by Interim Board for Settlement

- The Finance Act, 2021 had abolished the Settlement Commission with retrospective effect from Feb 1, 2021 and IBS were constituted for settlement of applications pending before Settlement Commission as on January 31, 2021;



# INCOME TAX ACT

- In this regard, grievances have been received from the stakeholders regarding extension of time available to the IBS under the IT Act, to pass rectification/ amendment orders. Therefore, it is proposed that the time-limit available to IBS for passing such orders may be extended in order to dispose the pendency and to avoid any further litigation.
- Accordingly, the Bill proposes to substitute Section 245D (9) (iv) with a new clause to provide that where the time-limit for amending an order or for making an application under Sub-Section (6B) expires on or after February 1, 2021 but before February 1, 2022, such time-limit shall stand extended to September 30, 2023.
- This amendment shall take effect retrospectively from February 1, 2021.

## Tax treaty relief while withholding tax of TDS under Section 196A

- Section 196A of the IT Act provides for TDS to be deducted at the rate of 20% on the payment of any income in respect of units of a Mutual Fund specified under Section 10 (23D) of the IT Act to a non-resident (not being a company) or to a foreign company.
- In order to boost investment in mutual fund, the Bill proposes to insert a new proviso to Section 196A of IT Act which provides that a lower rate of TDS can be applied in cases where the tax treaty benefits are available and it suggests a lower TDS rate.
- The proposed amendment would be effective from April 1, 2023.

## Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns

- Section 206AB & Section 206CCA of the IT Act deal with the special provision for higher TDS/TCS rate for non-filers of income-tax returns. These non-filers are referred to as "specified person".
- Specified person includes person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted or collected.
- In order to provide relief to those persons who are not required to furnish their return of income, Bill proposes to amend the definition of the "specified person" to exclude such person who is not required to furnish the return of income for the assessment year.
- The proposed amendment would be effective from April 1, 2023.

## Increase in rate of TCS for certain remittances under Section 206C(1G) of the IT Act

- Bills proposes to increase TCS rate for certain services covered under Section 206C(1G) of the IT Act which deals with foreign remittance through the Liberalized Remittance Scheme and on sale of overseas tour package. The current and proposed rates are as follows:



# INCOME TAX ACT

Sr. No.	Type of remittance	Proposed Rates
1	For the purpose of education, if the amount being remitted out is a loan obtained from any financial institution as defined in Section 80E	0.5% of the amount or the aggregate of the amounts in excess of INR 7,00,000
2	For the purpose of education, other than 1 above or for the purpose of medical treatment	5% of the amount or the aggregate of the amounts in excess of INR 7,00, 000
3	Overseas tour package	Proposed to increase from 5% to 20% without any threshold limit
4	Any other case	Proposed to increase from 5% to 20% without any threshold limit

- The proposed amendment would be effective from April 1, 2023.

## Introduction of the Authority of Joint Commissioner (Appeals)

- Presently, Commissioner (Appeals) are currently overburdened due to the huge number of appeals and the pendency being carried forward every year. In order to clear this bottleneck, a new authority for appeals is being proposed to be created at Joint Commissioner/ Additional Commissioner level.
- Accordingly, the Bill proposes that any assessee aggrieved by any of the orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals).
- Bill further proposes that where any filed appeal is pending before the Commissioner (Appeals), the Board or an income-tax authority so authorised by the Board in this regard, may transfer such appeal and any matter arising out of or connected with such appeal to the Joint Commissioner (Appeals) who may proceed with such appeal or matter, from the stage at which it was before it was so transferred.
- The Central Government may, notify a Scheme to dispose appeals in an expedient manner with transparency and accountability by eliminating the interface between the Joint Commissioner (Appeals) and the appellant to the extent technologically feasible.
- The proposed amendment would be effective from April 1, 2023.

## Amendment in Definition of Strategic Disinvestment

- In order to facilitate the strategic disinvestment, bill proposes to amend definition of strategic disinvestment in Section 72A(1) of the IT Act. Strategic Disinvestment shall have the following meaning:  
*“sale of shareholding by the Central Government, the State Government or Public Sector Company in public sector company or a company which results in*
  - ◇ *reduction of its shareholding below fifty-one per cent, and*
  - ◇ *transfer of control to the buyer”*
- Bill also provides that, first condition shall apply in case the shareholding was above fifty-one percent before such sale of shareholding.

# INCOME TAX ACT

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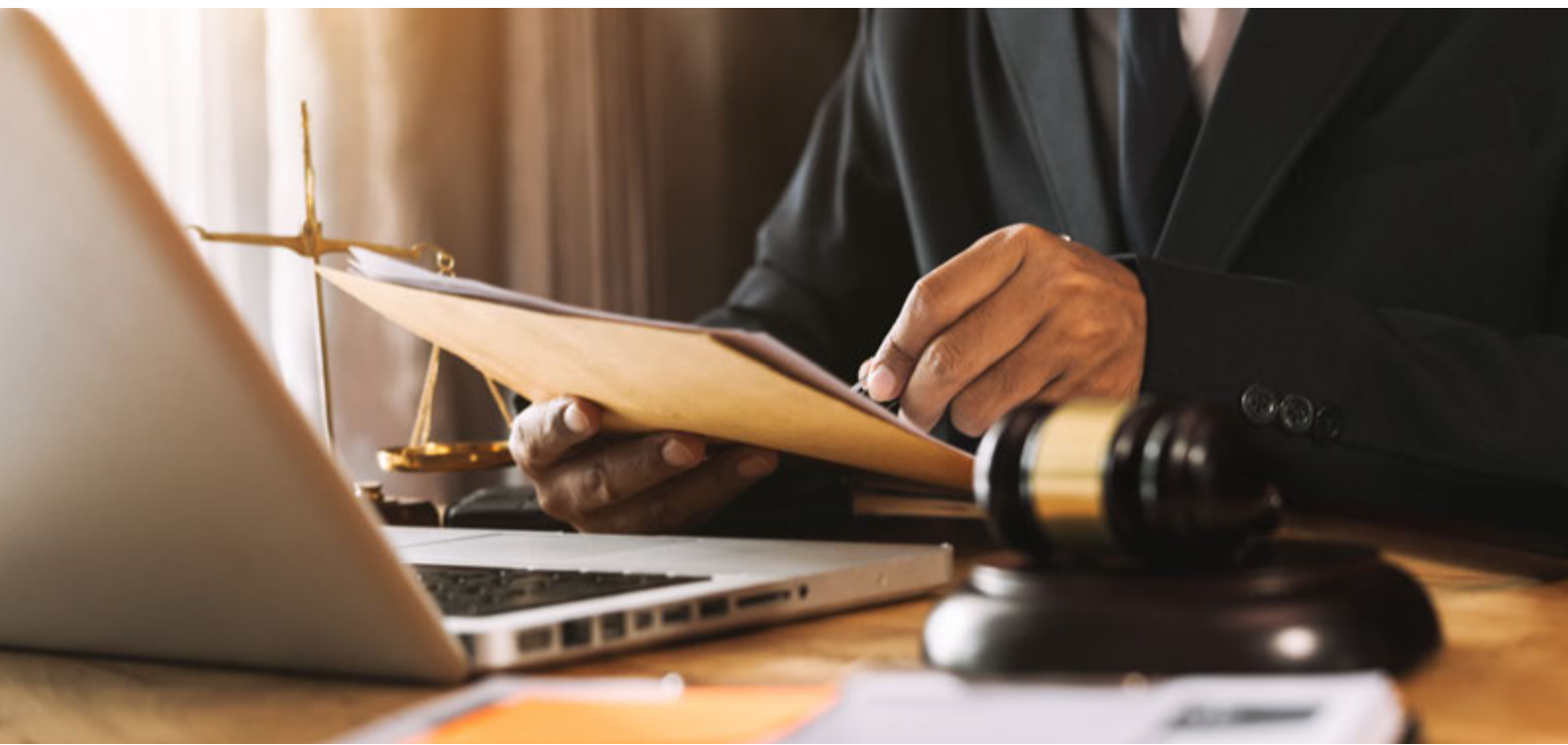
- Bill further provides that, requirement of transfer of control may be carried out by either the Central Government or State Government or Public Sector Company (or any two of them or all of them).
- The proposed amendment would be effective from the April 1, 2023.

## Amendment in respect to start-ups business U/s 80-IAC

- **Extension of date of incorporation:** Provisions of the section 80-IAC of the IT Act, *inter alia*, provides for a deduction of an amount equal to 100 percent of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years, beginning from the year of incorporation, at the option of the assesses subject to the condition that, (i) the total turnover of its business does not exceed one hundred crore rupees, (ii) it is holding a certificate of eligible business from the Inter-Ministerial Board of Certification, and (iii) it is incorporated on or after 1st day of April, 2016 but before 1st day of April 2023. Bill in order to promote the development of start-ups in India and to provide them with a competitive platform propose to extend the period of incorporation of eligible start-ups to April 01, 2024.
- **Relief in carrying forward and setting off of losses:** Section 79 of the IT Act restricts carrying forward and setting off of losses in cases of companies, other than the companies in which the public is substantially interested. There is an additional condition that the loss is allowed to be set off, under this relaxation, only if it has been incurred during the period of seven years beginning from the year in which such company is incorporated.
- In order to align this period of seven years with the period of ten years contained in Section 80-IAC(2) of the IT Act, the time period for loss of eligible start-ups to be considered for relaxation is proposed to be increased from seven years to ten years from the date of incorporation.
- The proposed amendment would be effective from the April 1, 2023.

## Reduction in time period for furnishing Transfer Pricing Report

- Section 92D of the IT Act, *inter-alia*, provides that every person who has entered into an international transaction or a specified domestic transaction shall keep and maintain the information and documents





# INCOME TAX ACT

as provided under Rule 10D of the IT Rules.

- Bill proposes to amend Section 92D(3) to reduce period of thirty days to ten days for furnishing of any information or document by person referred to under Section 92D(1)(i) of the IT Act i.e., who has entered into an international transaction or specified domestic transaction. Also, the AO or the Commissioner (Appeals) may, on an application made by such person extend the period of ten days by a further period not exceeding thirty days.
- The proposed amendment would be effective from April 1, 2023.

## TDS and taxability on net winnings from online games

- Bill proposes to insert Section 194BA to provide that in a case where the net winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings.
- To insert a new section 115BBJ in the IT Act with regard to tax on winnings from online games to provide that where the total income of an assessee includes any income by way of winnings from any online game, the income-tax payable shall be the aggregate of :
  - ◇ the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the prescribed manner, at the rate of 30%; and
  - ◇ the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to above
- Proposed Section 194BA of the IT Act will take effect from July 1, 2023. The proposed Section 115BBJ in the IT Act will take effect from April 1, 2024.

## Author's Note:

*It is witnessed that deductors are deducting tax under Section 194B and 194BB of the IT Act by applying the threshold of INR 10,000/- per transaction and avoiding tax deduction by splitting a winning into multiple transactions each below INR 10,000/-. This is against the intention of legislature. It is also seen that in recent times, there has been a rise in the users of online games. In this backdrop, there was indeed a need to bring in specific provisions regarding TDS and taxability of online games due to its different nature, being easily accessible vide the Internet and computer resources with a variety of playing options and payment options.*

## Requisition of services of other officers for assistance to income tax authority during search and seizure proceedings

- Section 132 relates to provisions for powers of income-tax authority during the search and seizure proceedings, procedure to be followed, requisition of services of other officers for assistance, examination of books of account or other documents, procedure for custody of evidence, provisional attachment etc. Due to increased use of technology and digitalisation, there was an increasing trend of undisclosed income being held in assets or investments.
- It is proposed to amend that an income tax authority may now take the help of any person or entity, as

# INCOME TAX ACT

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approved by the Principal Chief Commissioner or the Chief Commissioner, the Principal Director General or the Director General. Similarly, the authorised officer may require help of any person or entity or any valuer registered by or under any law who shall estimate the fair market value of the property in the manner prescribed and submit a report of the estimate to the authorised officer or the Assessing Officer within sixty days from the receipt of such reference.

- This amendment shall take effect retrospectively from April 1, 2022.
- Prior to the enactment of the Finance Act, 2021, the procedure for conducting such assessment in search cases was laid out in Section 153A and the time limit for their completion was laid out in Section 153B. Consequent to the changes in 2021, the assessment or reassessment in consequence to search is now performed under Section 147 of the IT Act and provisions of Sections 153A and 153B are no longer applicable. This amendment shall take effect retrospectively from April 1, 2022.

## Extending the scope for deduction of tax at source to lower or nil rate

- Section 197 of the IT Act which provides for the deduction of tax at source at lower or nil rate upon issuance of lower deduction certification by the AO in specific cases. Bill proposes to widen the scope of this Section to include Section 194LBA (Interest income of non-resident unit holders). Hence non-resident unit holders may also apply for lower deduction certificates.
- The proposed amendment would be effective from April 1, 2023.

## Clarification on mode of Benefit or Perquisite under Section 194R

- Section 194R of the IT Act inserted by the Finance Act, 2022 which provides for deduction of tax on benefit or perquisite provided to a resident arising from business or exercise of a profession at the rate of 10% of the value or aggregate of value of such benefit or perquisite.
- Accordingly, Bill proposes to clarify by way of insertion of an Explanation to above said Section to provide that TDS provisions will be applicable irrespective of whether benefit or perquisite is in cash or in kind or partly in cash and partly in kind.
- The proposed amendment would be effective from April 1, 2023.

## Clarification for sub-section (4) of Section 140B relating to Advance Tax

- Section 140B (4) of the IT Act provides for the computation of interest under Section 234B of the IT Act on the tax on updated return. The said sub-section (4) provides that interest payable IT Act shall be computed on an amount equal to the assessed tax or the amount by which the advance tax paid falls short of the assessed tax. This implied that interest was payable only on the difference of the assessed tax and advance tax. Further, the sub-clause (i) of the clause (a) of the said sub- section also provides advance tax which has been claimed in earlier return of income shall be taken into account for computing the amount on which the interest was to be paid.
- Therefore, in order to clarify the provisions of the Section 140B (4) of the IT Act, an amendment has been proposed in the said sub-section that interest payable under Section 234B shall be computed on an amount equal to the assessed tax as reduced by the amount of advance tax, the credit for which has been claimed in the earlier return, if any.

# INCOME TAX ACT

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- This amendment would take effect retrospectively from April 1, 2022.

## Preventing permanent deferral of taxes through undervaluation of inventory

- In order to ensure that the inventory is valued in accordance with various provisions of law, it is proposed to amend Section 142 of the IT Act relating to inquiry before assessment to ensure the following:
  - ◇ To enable the AO to direct the assessee to get the inventory valued by a Cost Accountant, nominated by the Designated Authority. Assessee is then required to furnish the report of inventory valuation in the prescribed form duly signed and verified by such cost accountant and setting forth such particulars as may be prescribed and such other particulars as the Assessing Officer may require.
  - ◇ To provide that the expenses of, and incidental to, such inventory valuation (including remuneration of the Cost Accountant) shall be determined by the Designated Authority in accordance with the prescribed guidelines and that the expenses so determined shall be paid by the Central Government.
  - ◇ To provide that except where the assessment is made under Section 144 of the IT Act, the assessee will be given an opportunity of being heard in respect of any material gathered on the basis of such inventory valuation which is proposed to be utilized for assessment.
  - ◇ To define "cost accountant" to mean a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act.

## Provision relating to Reassessment Proceedings

### • Amendment to Section 148

- ◇ Time limit to furnish return in response to Notice u/s 148 is three months from the end of the month in which such notice is issued, or such further period as may be allowed by the AO.
- ◇ Further, a third proviso in the said section is proposed to be inserted to provide that any return furnished beyond the time limit allowed u/s 148 shall not be considered as a return u/s 139 of the IT Act.
- ◇ The proposed amendment would be effective from April 1, 2023.

### • Amendment to Section 149

- ◇ The requisition provided u/s 132A of the IT Act shall be deemed to be requirements provided u/s 149 and no further proceedings shall be conducted u/s 148A for not providing documents separately.
- ◇ A new proviso is proposed to be inserted in Section 149 of the IT Act to provide that in cases where the information is deemed to be with the AO from documents collected during survey on or before 31st March of financial year, a search initiated u/s 132 or requisition made u/s 132A after 15th March of such financial year, the notice u/s 148 and show cause notice issued under clause (b) of Section 148A shall be deemed to be issued on 31st March of such financial year.
- ◇ The proposed amendment would be effective from April 1, 2023.

### • Amendment to Section 151

- ◇ The specified authorities to grant approval for purposes u/s 148 and 148A of the IT Act shall be Designated Authority. The proposed amendment would be effective from April 1, 2023.





# GOODS & SERVICES TAX

## Composition scheme allowed where taxpayer engaged in supply of goods through an ECO [Section 10]

Section 10 of the CGST Act has been amended to remove the restriction imposed on registered person that he shall not be eligible from opting to pay tax under the composition levy in case of supply of goods through an ECO. However, the restrictions pertaining to composition scheme shall continue in case of supply of services.

### AUTHOR'S NOTE

*The Digital payments continued to find wide acceptance in Indian markets with 76% and 91% increase in transactions and value respectively in FY 2022. Though the restriction for opting for composition scheme continues as far as service providers are concerned but, allowing the said facility to supplier of goods is a welcome move given the stupendous growth in ecommerce sector powered by digital payments in the*

## Mechanism to reverse ITC provided, the recipient fails to make payment to supplier within 180 days from the date of issuance of invoice [Section 16(2)]

Proviso to Section 16 (2) of the CGST Act has been amended to align with Rule 37 of the CGST Rules, which provides for reversal of ITC in case of non-payment/late payment of consideration. The taxpayer shall now be required to reverse ITC along with interest, where the recipient fails to make payment to his supplier within 180 days from the issuance of invoice. Vide the instant amendment, the requirement to add aforesaid ITC availed on such supplies in the output tax liability has been done away with.

### AUTHOR'S NOTE

*It has long been a contentious issue across the industry wherein the ITC was disallowed to the recipient even when the corresponding tax is paid by the supplier and the returns is duly filed, but there is a default in contracting terms related to payments. Further, there was no mechanism to add the same to outward liability in the absence of implementation of originally contemplated / proposed GSTR-2 and GSTR-3 returns. While the principal issue remains to be addressed, the instant proposal intends to take care of the procedural aspect by aligning the said provision with amendments in Rule 37 of the CGST Rules. The taxpayers will now have to reverse ITC with interest in case of non-payment to vendors beyond 180 days from the date of invoice. Having all said and done, the prospective nature of instant amendment leaves a possible scope of demands by the Revenue authority for the past periods where reversal have not be done owing to technical and procedural challenges.*

*Further, there are legit cases, when the payment itself shall become due post 180 days e.g. in case of retention money. Many taxpayers provide longer credit periods and factor in interest cost due to delay in receipt on payments in their product or service pricing. In such cases, reversal of ITC due to late or non-payment to suppliers seems unwarranted and disrupts the ITC chain. This concern has also not been addressed in this Budget amendment.*

### Highlights

Amendment in Section 16 in line with recently amended Rule 37

Mechanism to reverse ITC now provided

Does not address cases where payment delay due to contractual obligations

Reversal required even if vendor pays tax and files his returns

# GOODS & SERVICES TAX

## Restriction of ITC on warehoused goods cleared for home consumption [Section 17(3)]

Section 17(3) currently restricts ITC in respect of sale of land and sale of building post receipt of completion certificate.

The said section is now proposed to be amended to include the value of transactions referred to in Para 8(a) of the Schedule III of the CGST Act i.e. the value of warehoused goods to any person before clearance for home consumption in the value of exempt supply. Consequently ITC shall have to be reversed to the extent it is attributable to the value of such goods

### AUTHOR'S NOTE

*It should be noted that Bombay High Court in the case of **Sandeep Patil vs. UOI [2019 (31) GSTL 398]** and Kerala High Court in case of **CIAL Duty Free & Retail Services Limited [2020 (42) GSTL 481]**, had upheld the availment of ITC pertaining to supply of warehoused goods before clearance for home consumption even if no GST is paid on such supplies. The said amendment proposes to negate the judgments passed by these High Courts.*

## Restriction imposed on ITC pertaining to CSR expenses [Section 17(5)]

Clause (f) of Section 17(5) has been proposed to be amended to restrict ITC in respect of goods or services or both, which are used for activities relating to his obligations under CSR referred to in Section 135 of the Companies Act.

### AUTHOR'S NOTE

*Admissibility of ITC on inputs and input services incurred in connection with CSR expenditure has always been a contentious issue with conflicting AAR decisions. The Kerala AAR in RE: **Polycab Wires Private Limited [2019 (24) G.S.T.L. 103 (A.A.R. - GST)]**, had categorically denied the ITC on CSR expenditure on the premises that distribution of necessities to calamity affected people under CSR expenses would be treated as if they are given on free of charge basis and without collecting any money.*

*Contrary to the above decision, in RE: **Dwarikesh Sugar Industries Limited [2021 (53) G.S.T.L. 482 (A.A.R. - GST - U.P.)]**, the UP AAR had held that a company is mandatorily required to undertake CSR activities and consequently, forms an essential part of its business process as whole. Accordingly, the CSR activities are to be treated as incurred in the furtherance of business and as its consequence, the ITC was allowed. The UP AAR had placed reliance on the decision of Mumbai Tribunal in the case of **Essel Propack Limited [2018 (362) E.L.T. 833 (Tri. - Mumbai)]**, which allowed the CENVAT credit on CSR expenses*

*However, the instant budget proposal has categorically disallowed the ITC on CSR expenses. Further, as a respite to the taxpayers who have already availed / utilized the ITC on CSR expenditures, the amendment has been proposed to be prospective in effect and ITC availed for the period prior to instant amendment may not be contested by the department.*

# GOODS & SERVICES TAX

## The provisions exempting taxpayers from obtaining GST registration to override provisions of Section 22 and 24 of the CGST Act [Section 23]

The persons engaged exclusively in supply of exempted goods/services and an agriculturist would not be required to obtain registration under the CGST Act, irrespective of whether their turnover exceeds the limit of INR 20 Lakhs u/s. 22(1) of the CGST Act, and even if they are classifiable as taxpayers u/s. 24 of the CGST Act.

### AUTHOR'S NOTE

*It appears to be a welcome move, as those engaged exclusively in provision of exempt supplies were required to be registered if they were covered under one or other clauses of Section 24 such as receiving supplies taxable under reverse charge or making inter-state supplies. Taking cognizance of the said ambiguity, the government has provided a much needed relief to persons exclusively engaged in providing exempt supplies.*

## Maximum time limit prescribed for filing GST returns GST [Section 37, 39, 44 and 52]

The Government has prescribed a maximum time limit of three years to file the returns in Forms GSTR 1, GSTR 3B, GSTR 9 and GSTR 8 respectively, from the due date of furnishing the said returns for the relevant period.



## GST Refund on account of zero-rated supplies not to include provisional ITC [Section 54(6)]

The provision relating to refund in case of zero-rated supplies, which provides for 90% provisional refund of claim amount, excluding the amount of ITC provisionally accepted, is proposed to be amended to remove the reference of provisionally accepted ITC, so as to align the same with Section 41 of the CGST Act.

### AUTHOR'S NOTE

*In the previous Union Budget 22, Section 41 of the CGST Act had been amended so as to provide that every registered person shall be entitled to avail the credit on a self-assessment basis in his return and the amount shall be credited to his electronic credit ledger, replacing the erstwhile provisional credit system. Vide the instant amendment, the refund provisions are aligned with the changes already made in the GST return filing system.*

## Interest on delayed refunds to be computed from the period beyond 60 days of submission of application [Section 56]

Interest on delayed refund to be computed for the period of delay beyond sixty days from the date of receipt of such application till the date when such refund of tax is allowed in the prescribed manner.





# GOODS & SERVICES TAX

## Rationalization of penal provisions [Section 122, 132 and 138]

- Sub-clause (1B) to be inserted to Section 122 of the CGST Act, providing a penalty to E-Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers amounting to INR 10,000/- or amount of tax involved, whichever is higher.
- The following offences, liable to punishment u/s. 132 of the CGST Act, have now been omitted;
  - ◊ Obstructing or preventing any officer in the discharge of his duties;
  - ◊ Tampering or destructing material evidence;
  - ◊ Failure to supply any information.
- The quantum of penalty u/s. 138 of the CGST Act for compounding offences to be minimum 25% of the tax involved and maximum amount being 100% of the tax involved.

## AUTHOR'S NOTE

*The Government in the previous GST Council Meeting had also recommended to decriminalize certain offences under GST and extending the threshold limit for launching of prosecutions. These proposals would be welcome by the Trade and Industry, as it establishes the trust of the taxpayers in the true self-assessment regime of taxation.*

## Sharing of information between Government portals [Section 158A]

- A new provision to be inserted into the CGST Act, prescribing the manner in which the information furnished and details reported by a taxpayer on the common GSTN portal, will be shared with other Government portals. The provision also provides that the information may be shared with other systems subject to the consent of the supplier and the recipient.
- It has also been provided that no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared and there shall be no impact on the liability to pay tax on the relevant supply.

## AUTHOR'S NOTE

*While the procedure for sharing of the information furnished on the common GSTN portal is yet to be prescribed, it would certainly be interesting to see how this provision pans out. While the provision allows the sharing of the information with the consent of the supplier and recipient, it also provides total immunity to the Government from any liability.*

## Retrospective effect to certain activities not treated as supplies [Schedule III]

The following entries under Schedule III of the CGST Act to be given retrospective effect w.e.f. July 01, 2017:

- Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India; and
- Supply of warehoused goods to any person before clearance for home consumption.



# GOODS & SERVICES TAX

It has further been clarified that where the tax has already been paid in respect of supply of goods from non-taxable territory to non-taxable territory during the period from July 01, 2017 to January 31, 2019, no refund of such tax paid shall be available.

## AUTHOR'S NOTE

*The retrospective amendment under Schedule III clarifies that supply of goods from non-taxable territory to non-taxable territory was never exigible to tax. Accordingly, any amount paid by a taxpayer in form of 'applicable tax' virtually amounts to deposits with the Government. In our considered view, if such amount never assumed the character of tax, the same should be refunded to the taxpayer. Article 265 of the Constitution of India, provides that taxes are not to be imposed save by authority of law. A view may be taken that such a clarification under Schedule III may amount to violation of the said Article, resulting in further litigations.*

## Scope of taxability of OIDAR expanded by amending its definition



The definition of the NTOR u/s. 2(16) of the IGST Act has been amended, wherein the non-taxable online recipient to exclude the condition of receipt of OIDAR for purposes other than commerce, industry or any other business or profession in taxable territory. Further it has been clarified that unregistered person will include persons who are solely registered for the purpose of tax deduction at source such as department or establishment of Central Government, State Government, Local Authority, Government agencies

Further, the definition of the OIDAR u/s. 2(17) of the IGST Act has been amended, to exclude the condition of “essentially automated and involving minimum human intervention”.

## AUTHOR'S NOTE

*Interpretation of the term essentially automated and involving minimum human intervention has been a matter of litigation under the service tax regime which was likely to be carried forward to GST. However, with the removal of this condition, it appears that all online services may get covered in the amended definition liable to GST in the hands of non-resident service provider.*

Further, the NTOR which is defined as “any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory”. The definition has also been contentious so to confirm the extent of liability of a non-resident service provider where the NTOR is availing OIDAR services for the purposes of business or commerce but is unregistered under GST. Though, going by the plain reading of the law, the non-resident service provider seems to be not liable in such cases, but the authorities have been demanding the duty to the extent the said services are used by the recipient of services for business purpose.

*Now with the present amendment, the scope of OIDAR Services seems to be enhanced so as to include the any service as covered in the definition, being liable to GST in the hands of non-resident service provider. The said taxability seems to be applied irrespective of the level of human intervention. Also, consequent to above amendment, the non-resident supplier will be liable to GST for all unregistered recipients, whether it is used for business or personal purposes.*

# GOODS & SERVICES TAX

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## **Clarity provided on place of supply of goods where transportation of goods is to place outside India**

Proviso to Sub-Section (8) of Section 12 of the IGST Act provided the place of supply to be destination of goods when the same are being transported to a place outside India. The same, now being omitted, will result in the location of the registered person receiving such transportation services being treated as the place of supply.



# CUSTOMS ACT



## Power to grant exemption from duty [Section 25]

A proviso is proposed to be inserted to exclude specified nature of transactions or arrangements specifically notified from the applicability of 'period of expiry'. The said notified arrangements / transactions inter alia relates to multilateral or bilateral trade agreements, obligations under international agreements, treaties, conventions including UN agencies, diplomats, international organizations, privileges of constitutional authorities, schemes under FTP, CG schemes having a validity of more than two years, re-imports, temporary imports, goods imported as gifts or personal baggage, any duty of customs under any law for the time being in force including integrated tax leviable under Sub-section(7) of Section 3 of the Customs Act, other than duty of customs leviable under Section 12.

### Highlights



Settlement Commission to dispose off the application within 9 months

## AUTHOR'S NOTE

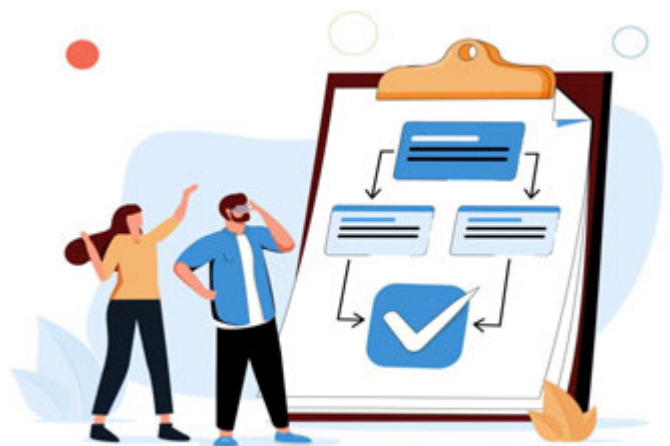
*'Period of expiry' in a notification that effectuates policy level benefit tends to create deviation from the policy, particularly where the benefit continues at policy level however, the notification falls short to extend it administratively after expiry of the period for which the Notification persists.*

*Such deviations have time and again been brought before Courts, disputing whether the substantial benefit in line with the Policy will prevail over the procedural restriction prescribed by a particular Notification, eventually resulting in chequered history.*

*The said rationale has been time and challenged before the judiciary in Re: **UOI vs. Dileep Kumar Singh [2015] 4 SCC 421**, **Greatship India Ltd. vs. UOI [2016-TIOL-1018-HC-DEL-CUS]** and **Renaissance Global Limited vs. UOI [2022-TIOL-1448-HC-MUM-CUS]** wherein it has been consistently held that if a cohesive reading of two provisions is not possible, it must be decided as to which is a leading provision and which is a subordinate provision, and finally, which one must take precedence over the other. Accordingly, a policy intended to extend a substantive benefit would prevail upon any subordinate legislation which defeats or restricts the said benefit. It is welcome move that the proposed amendment removes the said ambiguity and provides the clarification to this effect.*

## Procedure on receipt of application under section 127B [Section 127C]

Amendment is proposed that the settlement commission is now required to dispose-off the applications within 9 months from the date of its application.





# CUSTOMS TARIFF ACT

A.	Increase in Tariff rate (to be effective from February 02, 2023)		Rate of Duty	
S. No.	Heading, sub-heading or tariff item	Commodity	From	To
		<b>Chemicals</b>		
1	2902 50 00	Styrene	2%	2.5%
2	2903 21 00	Vinyl Chloride Monomer	2%	2.5%
		<b>Rubber</b>		
3	4005	Compounded Rubber	10%	25% or Rs. 30 per kg, whichever is lower
		<b>Gems and Jewellery Sector</b>		
4	7113, 7114	Articles of precious metals	20%	25%
5	7117	Imitation Jewellery	20% or Rs. 400 per kg., whichever is higher	25% or Rs. 600 per kg, whichever is higher
		<b>Electrical Goods</b>		
6	8414 60 00	Electric Kitchen Chimney	7.5%	15%
		<b>Automobiles and Toys</b>		
7	8712 00 10	Bicycles	30%	35%
8	9503	Toys and parts of toys (other than parts of electronic toys)	60%	70%

# CUSTOMS TARIFF ACT

<b>B. Tariff rate changes (without any changes to the effective rate of Customs Duty) needs to be read with appropriate changes in AIDC/SWS rates to be effective from the assent of the President</b>				
Sr. No.	Heading, sub-heading or tariff item	Product Description	Existing Rate	Proposed Rate
1	4011 30 00	New or retreaded pneumatic tyres, of rubber , of a kind used on aircraft of	3%	2.5%
2	7107 00 00	Base metals clad with silver, not further worked than semi- manufactured	12.5%	10%
3	7108	Gold (including gold plated with platinum) unwrought or in semi- manufactured forms, or in powder form	12.5%	10%
4	7109 00 00	Base metals or silver, clad with gold, not further worked than semi- manufactured	12.5%	10%
5	7110 11 10/7110 11 20/7110 19 00/7110 21 00/7110 29 00/7110 41 00/7110 49 00	Platinum, unwrought or in semi- manufactured form, or in powder form	12.5%	10%
6	7111 00 00	Base metals, silver or gold, clad with platinum, not further worked than semi - manufactured	12.5%	10%
7	7112	Waste and scrap of precious metal or of metal clad with precious metal; other waste and scrap containing precious metal or precious metal compounds, of a kind used principally for the recovery of precious metal other than goods of heading 8549	12.5%	10%
8	7118	Coin	12.5%	10%
9	8802 20 00/8802 30 00/8802 40 00	Aero planes and other aircrafts	3%	2.5%

# CUSTOMS TARIFF ACT

C	Tariff rate changes (with changes to the effective rate of Customs Duty) to be effective from the assent of the President			
Sr. No.	Heading, sub-heading or tariff item	Product Description	Existing Rate	Proposed Rate
1	7106	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form	12.5%	10%

# CUSTOMS TARIFF ACT

Changes in Basic Customs Duty (to be effective from February 02, 2023)				
Sr. No.	Heading, sub- heading or tariff	Product Description	Existing Rate	Proposed Rate
		<b>Agricultural Products and By Products</b>		
1	0802 99 00	Pecan nuts	100%	30%
2	1504 20	Fish lipid oil for use in manufacture of aquatic feed	30%	15%
3	1520 00 00	Crude glycerin for use in manufacture of Epichlorohydrin	7.5%	2.5%
4	2102 20 00	Algal Prime (flour) for use in manufacture of aquatic feed	30%	15%
5	2207 20 00	Denatured ethyl alcohol for use in manufacture of industrial chemicals	5%	Nil
6	2301 20	Fish meal for use in manufacture of aquatic feed	15%	5%
7	2301 20	Krill meal for use in manufacture of aquatic feed	15%	5%
8	2309 90 90	Mineral and Vitamin Premixes for use in manufacture of aquatic feed	15%	5%
		<b>Minerals</b>		
9	2529 22 00	Acid grade fluorspar (containing by weight more than 97% of calcium fluoride)	5%	2.5%
		<b>Petrochemicals</b>		
10	2710 12 21, 2710 12 22, 2710 12 29	Naphtha	1%	2.5%
		<b>Gems and Jewellery Sector</b>		
11	7102, 7104	Seeds for use in manufacturing of rough lab-grown diamonds	5%	Nil
12	7106	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form	7.5%	10%
13	7106	Silver Dore	6.10%	10%
		<b>IT, Electronics</b>		
14	25, 28, 32, 39, 40, 69, 73, 85	Specified chemicals/items for manufacture of Pre-calcined Ferrite Powder	7.5%	Nil



# CUSTOMS TARIFF ACT

Changes in Basic Customs Duty (to be effective from February 02, 2023)				
Sr. No.	Heading, sub- heading or tariff item	Product Description	Existing Rate	Proposed Rate
15	3824 99 00	Palladium Tetra Amine Sulphate for manufacture of parts of connectors	7.5%	Nil
16	Any Chapter	Camera lens and its inputs/parts for use in manufacture of camera module of cellular mobile phone	2.5%	Nil
17	8529	Specified parts for manufacture of open cell of TV panel	5%	2.5%
		<b>Electronic appliances</b>		
18	8516 80 00	Heat Coil for use in the manufacture of Electric Kitchen Chimneys	20%	15%
		<b>Automobiles</b>		
19	8703	Vehicle (including electric vehicles) in Semi-Knocked Down (SKD) form .	30%	35%
20	8703	Vehicle in Completely Built Unit (CBU) form , other than with CIF more than USD 40,000 or with engine capacity more than 3000 cc for petrol- run vehicle and more than 2500 cc for diesel-run vehicles, or with both	60%	70%
21	8703	Electrically operated Vehicle in Completely Built Unit (CBU) form, other than with CIF value more than USD 40,000	60%	70%
22	39,40,58,70,	Vehicles, specified automobile parts/ components, sub-systems and tyres when imported by notified testing agencies for the purpose of testing and/ or certification , subject to conditions	As applicable	Nil
	72			
	73,83,84,85,			
	87,90			
		<b>Capital goods</b>		
23	84, 85	Specific capital goods/machinery for manufacture of Lithium ion cell for use in battery of electrically operated vehicle (EVs)	As applicable	Nil

# CUSTOMS TARIFF ACT

**Changes in Basic Customs Duty (without any changes to the effective rate of Customs Duty) needs to be read with appropriate changes in AIDC/SWS to be effective from February 02, 2023**

Sr. No.	Heading, sub - heading or tariff item	Product Description	Existing Rate	Proposed Rate
1	2701, 2702, 2703	Coal, peat, lignite	1%	2.5%
2	7108	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	12.5%	10%
3	7108	Gold Dore	11.85%	10%
4	7110 11 10 7110 11 20 7110 19 00 7110 21 00 7110 29 00 7110 41 00 7110 49 00	Platinum, unwrought or in semi-manufactured form, or in powder form other than those used in manufacture of noble metal compounds, noble metal solutions and catalytic converters	12.5%	10%

# CUSTOMS TARIFF ACT

Change in end date of exemption (No change in effective rate of duty).				
Sr. No.	S. No in Notification no 50/2017-Customs	Product Description	Existing Rate	Proposed Rate
1	368	Ferrous waste and scrap	Nil	Nil (up to 31.03.2024)
3	527A	Lithium-ion cell for use in the manufacture of battery or battery pack of cellular mobile phone	5%	5 % (up to 31.03.2024)
5	168	Specified inputs and sub-parts for use in manufacture of telecommunication grade optical fibre or optical fibre cables	Nil	Nil (up to 31.03.2025)
6	341	Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables	5%	5 % (up to 31.03.2025)
7	341A	Inputs for manufacture of Preform of silica	Nil	Nil (up to 31.03.2025)
8	237	Specified inputs for use in the manufacture of EVA sheet or back sheets which are used in the manufacture of solar cell or modules	Nil	Nil (up to 31.03.2024)
9	340	Solar tempered glass for use in the manufacture of solar cell or solar module	Nil	Nil (up to 31.03.2024)
11	559	Raw material and parts (including Dredger) for use in the manufacture of ships/vessels	Nil	Nil (up to 31.03.2025)
12	166	Specified Drugs, medicines, diagnostics kits or equipment, bulk drugs used in manufacture of drugs or medicines	5%	5 % (up to 31.03.2025)
13	167	Lifesaving drugs/ medicines and diagnostic test kits, bulk drugs used in manufacture of life-saving drugs or medicines	Nil	Nil (up to 31.03.2025)

# CUSTOMS TARIFF ACT

BCD Exemption extended for a period of five years i.e upto March 31, 2028		
Sr. No.	Sr. No of Notification 50/2017/ or Notification No.	Subject
1	609	Used bonafide personal and household effects of a deceased person.
2	41/2017 -Customs	Exemption to import of cups, trophies to be awarded to winning teams in international tournament /world cup to be held in India.
3	33/2017 -Customs	Exemption to import of challenge cups and trophies won by a unit of Defence Force or its members.
4	146/94 -Customs	Exemption to imports by specified sports goods imported by National Sports Federation or by a Sports person of outstanding eminence for training.
5	90/2009 - Customs	Exemption to imports by specified sports goods imported by National Sports Federation or by a Sports person of outstanding eminence for training.

Other Notification Changes		
Sr. No.	Sr. No of Notification	Subject
1	Notification No. 22/2022-Customs, dated 30.04.2022	The India-UAE CEPA Tariff notification is being amended as a consequential change to rationalization of basic customs duty rate structure.
2	Notification No. 57/2000-Customs, dated 08.05.2000	This notification relating to jewellery export promotion is being amended consequent to changes in import duty structure on Gold and increase in duty rate of Silver.
3	Notification No. 146/94-Customs, dated 13.07.1994	Benefit of the existing exemption notification No. 146/94-Customs, dated 13.07.1994, is being extended w.e.f. 02.02.2023 to imports of 'Warm Blood horse' when imported by Sportsperson of eminence for training.



# CUSTOMS TARIFF ACT

Customs duty exemptions /concessions being discontinued		
Sr. No.	Sr. No of Notification	Subject
1	S. No. 16 of 50/2017- Customs	This exemption entry pertaining to 'Human Embryo' is being withdrawn as it is redundant on account of prohibition of import of Human Embryo under the Assisted Reproductive Technology (Regulation) Act, 2021 and The Surrogacy (Regulation) Act, 2021. [notification No. 22/2015-20 dated 20th July, 2022 of DGFT refers]
2	S. No. 325 of 50/2017- Customs	This exemption entry pertaining to 'Monofilament Yarn' is being withdrawn as tariff rate is also at 5% and hence redundant
3	48/2017- Customs	Exemption to catering cabin equipment, food and drinks on re- importation by aircrafts of the Indian Airlines Corporation from foreign flights is being withdrawn.

Change in AIDC rate (with changes to the effective rate of Customs Duty) effective from February 02, 2023				
Sr. No.	Heading	Product Description	Existing Rate	Proposed Rate
1	7106,98	Silver (including silver plated with gold or platinum), unwrought or in semi- manufactured forms, or in powder form	2.5%	5%
2	71	Silver Dore	2.5%	4.35%

# CUSTOMS TARIFF ACT

Changes to AIDC (without any change to the effective rate of Customs Duty)				
Sr. No.	Chapter, Heading, sub- heading, tar-	Product Description	Existing Rate	Proposed Rate
1	2701, 2702, 2703	Coal, peat, lignite	1.5%	5%
2	40113000	New pneumatic tyres, of rubber , of a kind used on aircraft as mentioned in Entry 280	Nil	0.5%
3	7108 or 98	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	2.5%	5%
4	71	Gold Dore	2.5%	4.35%
5	7110	Platinum other than rhodium and goods covered under S. Nos. 415(a) and 415A of the Table in notification No. 50/2017- Customs, dated the 30th June, 2017.	1.5%	5.4%
6	8802 20 00 8802 30 00 8802 40 00	Aero planes and other aircraft covered under S.No. 543A of Notification No. 50/2017-Cus	Nil	0.5%

# CUSTOMS TARIFF ACT

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## **Countervailing duty on subsidized articles [Section 9] and Anti-dumping duty on dumped articles [Section 9A]**

A retrospective amendment with effect from January 01, 1995, is proposed to remove the ambiguity. Amendments clarifies that 'determination and review for countervailing duty' refers to determination and review of countervailing duty in the manner prescribed by rules under the Act.

## **Appeal against the order of determination or review of Section 9A, 9AA and 9B [Section 9C]**

A retrospective amendment with effect from January 01, 1995, is proposed to remove the ambiguity and clarify that appeals under this Section lies against the determination or review as per Section 9A, 9AA and Section 9B in a manner as specified by rules.



# 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
CENVAT	Central Value Added Tax
CG	Central Government
CGST	Central Goods and Services Tax
CGST Act	Central Goods and Services Tax Act, 2017
CGST Rules	Central Goods and Services Tax Rules, 2017
CIT	Commissioners of Income Tax
CSR	Corporate Social Responsibility
CUS	Customs
Custom Act	Customs Act, 1962
CVD	Countervailing Duty
DDT	Dividend Distribution Tax
DEL	Delhi

Abbreviation	Meaning
DRC	Dispute Resolution Committee
DRI	Directorate of Revenue Intelligence
DTAA	Double Taxation Avoidance Agreement
ECO	Electronic Commerce Operators
Eg	Example
EGR	Electronic Gold Receipt
EPF	Employee Provident Fund
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
FY	Financial Year
G2B	Government to Business
GST	Goods and Services Tax
GSTN	Goods and Services Network
H&EC	Health and Education Cess
HC	High Court
HFC	Housing Finance Company
HNI	High Net Worth Individual
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code, 2016
IBS	Interim Boards For Settlement
IFSC	International Financial System Code
IFSCA	International Financial Services Centres Authority Act, 2019
IGST	Integrated Goods and Services Tax
IGST Act	Integrated Goods and Service Tax Act, 2017
IIM	Indian Institute of Management
IMC	Indian Medical Council Act, 1956
Ind AS	Indian Accounting Standards
INR	Indian National Rupee
InvITs	Infrastructure Investment Trusts
IT Act	The Income-tax Act, 1961
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit
ITO	Income-tax Officer
JDA	Joint Development Agreement
KYC	Know Your Customers
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
LTC	Long-Term Capital Gains
MAT	Minimum Alternate Tax



# GLOSSARY

Abbreviation	Meaning
MoF	Ministry of Finance
MSME	Micro Small and Medium Enterprises
MSMED Act	Micro, Small and Medium Enterprises Development Act, 2006
MUM	Mumbai
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
NFT	Non-Fungible Tokens
NHB	National Housing Bank
NPA	Non-Performing Assets
NPS	National Pension System
NRI	Non-Resident Indian
NTOR	Non-Taxable Online Recipient
NTPR	New Personal Tax Regime
OBU	Offshore Banking Unit
OEC	Organization for Economic Co-operation and Development
OIDAR	Online Information and Database access or retrieval services
OPC	One Person Company
PACs	Primary Agriculture Credit Societies
PAN	Permanent Account Number
PBPT	Prohibition of Benami Property Act, 1988
PCARD	Primary Co-Operative Agricultural and Rural Development Bank
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
SC	Supreme Court

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	Tax Deducted At Source
TIOL	Tax India Online
TPO	Transfer Pricing Officer
Tri	Tribunal
TSAAR	Telangana State Authority for Advance Ruling
u/s	Under Section
UCB	Urban Co-operative Bank
UK	United Kingdom
UN	United Nation
UOI	Union Of India
UP	Uttar Pradesh
USA	United States of America
UTGST	Union Territory Goods and Services Tax
VDA	Virtual Digital Asset
VsV	Vivad se Vishwas
VU	Verification Unit
WTO	World trade Organization

# FIRM INTRODUCTION



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



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

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