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## INDIA Budget 2022

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Analysis of Tax Changes – Impact on Business



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## 1 FOREWORD

The Union Budget 2022 was presented by the Honorable Finance Minister in the backdrop of positive sentiments owing to running of the world's largest vaccination programme, mixed effects of the Omicron wave, success of the PLI Scheme in the 14 identified sectors and higher than expected revenue collections. The budget provisions point towards the fact that the Indian economy has now recovered and after gaining stability, the Government is now focused towards economic growth which was estimated to be 9.2 per cent for the next year, retaining the tag of the "fastest growing economy in the world" for India.

Against this backdrop, the budget outlined its strategy focused on high Capital expenditure for modern infrastructure development. Overall increase in capital expenditure is stated to be an increase of 35 per cent over last year. The budget speech also had many interesting fintech proposals including set up 75 Digital Banking Units (DBUs) in as many districts of the Country, linking of all the post offices to the mainstream banking system, further extension and incentives for the International Financial Services Centre ('IFSC') located at GIFT City and introduction of the digital rupee using blockchain technology by the Reserve Bank of India.

Other important announcements focused on important themes such as export promotion (Complete revamp of the SEZ Act), clean energy (Issue of Sovereign Green bonds, issue of Battery Swapping Policy and clarity on applicability of Customs duty on Electric Vehicles), ease of doing business (repeal of various laws and administrative simplifications), sustainable growth for MSME and agricultural Sector, digitalization (Customs IGCR Rules, land record management, faster corporate exits), health and education.

While the Government interacted with the trade and industry and several representations were made, the expected relaxations on the personal income tax front and exemption on trading of Indian bonds overseas were not announced. Further, expected clarifications on several topics such as roadmap towards implementation of Global Base Erosion and Profit Shifting (BEPS) 2.0 proposals in India, equalization levy and GST rate rationalization were also given a miss.

Major changes in the tax and regulatory laws include the following:

- On **regulatory** side, Government's initiatives to promote digital economy and giving a push to technology-enabled development will certainly lead to growth and create job opportunities. Digital Rupee, e-Passport, drones as a service, battery or energy as service, gives a digital thrust to Indian economy. Proposals like accelerated corporate exits, more efficient dispute resolution and cross-border insolvency resolution are going to improve ease of doing business. Strategic investment in infrastructure and logistics will bring transformative changes across all sectors. Green Bonds and push for indigenous Solar Panels reflects India's seriousness towards clean energy and climate change.
- On **direct tax** front, the biggest announcement relates to the scheme for taxation of 'Virtual Digital Assets', wherein a tax rate of 30 per cent is proposed to be levied on income from transfer of such assets. The other major change is to allow taxpayers to furnish an "Updated Return" upon payment of additional tax within two years from the end of the relevant assessment year. Apart from these, no significant changes have been brought about in tax rates and taxation provisions and most amendments revolve around rationalising existing provisions and reducing litigation.
- On the **indirect tax** side, the budget proposals aimed at rationalizing the Customs duty rates for promoting 'Make in India'. These proposals include introduction of Phased Manufacturing Programme for smart watches, wearable devices and smart electrical meters as well as phased withdrawal of concessional Customs duty rates on several capital goods. While the Customs law was amended retrospectively to legalize issue of notices by DRI officers, provisions relating to availment of input tax credit under the GST regulations were tightened further.

## 2 BUDGET HIGHLIGHTS

### 2.1 POLICY AND REGULATORY FRAMEWORK

- Proposal to accelerate corporate exits by reducing timelines. Digitalization and new processes will reduce corporate exit time to 6 months.
- Proposal to strengthen Insolvency and Bankruptcy Code for more efficient dispute resolution and enable cross-border insolvency resolution.
- Digital Rupee to be introduced by Reserve Bank of India.
- GIFT City gets additional impetus, to get arbitration centre for cross-border dispute resolution.
- Proposal to introduce litigation management policy to reduce resource wastage in tax cases.
- Emphasis on digital skill development, renovating the National Skill Qualification Framework and the need to align it with evolving industries.
- E-passports with embedded chip to be rolled out in Financial Year 2022-23.
- Proposal to launch national tele-mental health programme soon, focus to safeguarding mental health of the Indian workforce.
- Announcement for women-centric schemes, aims to provide integrated development of women and children.
- Focus on land record digitalization.
- Proposal to formulate battery swapping policy and inter-operability standards. Private sector is encouraged to explore Battery or Energy as service.
- Addressing concerns and challenges of climate change, Green Bonds and push for indigenous Solar Panels proposed.
- Focus on infrastructure and logistics with big investments and Gati Shakti Master Plan.
- Emphasis on Make-in-India in defence budget allocation.
- Proposal to set-up Expert Committee to oversee venture capital eco-system

### 2.2 INCOME TAX

#### 2.2.1 CHANGES IN TAX RATE

##### **For Individuals:**

- No changes proposed in the existing slabs and tax rates applicable to an individual.
- No changes in tax rates of “Optional Simplified” Income Tax Scheme for individuals.

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- Rates of Surcharge and Health and Education Cess remain unchanged, except for capping of surcharge to 15 per cent, in respect of dividend and certain types of capital gain income.

## **For Corporates:**

### **General**

- Tax rate for domestic companies, whose total turnover or gross receipts in the financial year 2019-20 do not exceed INR 4 billion, remains unchanged at 25 per cent. Other cases, the tax rate remains unchanged at 30 per cent.
- Tax rates for all other entities and foreign companies (including permanent establishments of non-resident entities in India) as well as Minimum Alternate Tax ("MAT") rate (15 per cent) remain unchanged.
- Rates of Surcharge and Health and Education Cess remain unchanged, except for capping of surcharge to 15 per cent, in respect of association of persons consisting of only companies as its members.

### **Optional tax rate scheme:**

Optional Concessional Tax Rate for companies –

- 22 per cent (all companies);
- 15 per cent (company set-up and registered on or after 1 October 2019 that commences manufacturing or production of an article or thing on or before 31 March 2024);
- Rates of Surcharge and Health and Education Cess remain unchanged at 10 per cent and 4 per cent respectively;
- MAT is not applicable to companies opting for concessional rate of tax.

## 2.2.2 TAX PROPOSALS

### **Personal Taxation:**

- Sum paid by employer in respect of any expenditure incurred by employee on medical treatment of self or family member in respect of Covid-19 illness not to be considered as a taxable perquisite, subject to notified conditions. This provision would apply retrospectively from Assessment Year 2020-21.
- Sum of money received by an individual, from any person, in respect of any expenditure incurred on medical treatment of self or family member, in respect of any illness related to Covid -19 not to be considered as Income from other sources, subject to notified conditions. This provision would apply retrospectively from Assessment Year 2020-21.
- Sum of money received by a family member of deceased person, from the employer of the deceased person where the cause of death is illness related to Covid-19, not to be considered as Income from other sources to the extent such sum is received within 12 months from the date of death of such person, subject to notified conditions. There is an aggregate limit of ten lakh rupees, in respect of such sums received from persons other than employer.
- Deduction in respect of employer contribution to National Pension System (NPS) for state government employees enhanced to 14 per cent of salary.

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- Deduction in respect of any amount paid under an approved insurance scheme for maintenance of a disabled dependant rationalized.

## **Domestic Taxation:**

- Last date for commencement of manufacturing or production for companies, set-up and registered on or after 1 October 2019, to avail concessional rate of 15 per cent proposed to be extended to 31 March 2024 from 31 March 2023.
- Last date of incorporation of eligible start-ups for availing deduction of 100 per cent profits proposed to be extended to 31 March 2023 from 31 March 2022.
- The term “tax” proposed to be clarified to include “education cess and surcharge”, to ensure no deduction is claimed in respect of these amounts in computing income from business or profession by taxpayers. This provision would apply retrospectively from Assessment Year 2005-06.
- Expenditure incurred by an assessee for any purpose which is an offence, or which is prohibited by law and hence, not deductible, clarified to include laws in and outside India as well as compounding under such laws. Further, expenditure incurred on provision of any benefits or perquisites to any person in violation of laws, rules, regulations or guidelines governing the conduct of such persons is also proposed to be not deductible.
- Deduction claimed by donors in respect of donations to research associations, universities, colleges, institutions or specified companies proposed to be granted, only if the statement of donations is filed by these entities.
- Conversion of Interest payable to specified financial institutions and banks into debenture or any instruments by which liability to pay is deferred to a future date, proposed to be deemed to have not been paid and hence, not allowed as deductible under Section 43B of the Act.
- Rigours under Section 68 regarding taxation of credits in books of accounts, not explained adequately, proposed to be extended to cases involving loan, borrowing other such transactions, where taxpayer is not able to provide satisfactory explanations for nature and source of funds in the hands of the creditors. Certain exclusions apply.
- No set off of brought forward loss or unabsorbed depreciation to apply against undisclosed income discovered consequent to search or surveys in computing total income for the year.
- Concessional rate of tax of 15 per cent on dividend income received by an Indian company from a foreign company withdrawn.
- Restrictions on carry forward and set off of loss pursuant to change in shareholding of public sector companies rationalised.

## **International Tax:**

- Mechanism proposed for payers to apply before the Assessing Officer for refund of withholding taxes on payments / credits to non-residents where tax was paid and borne by payers.

## **Withholding Tax:**

- Withholding tax on transfer of immovable property (other than agricultural land), shall now apply on amount paid or credited or stamp duty value of such property, whichever is higher at the rate of 1 per cent.

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- New Section introduced to withhold 10 per cent tax by person providing any benefit or perquisite, arising from carrying out business or profession, whether in cash or in kind.
- Rigors relating to higher tax deduction for non-filers amended to reduce the requirement of not filing of return from two years to one year.

## **Procedures:**

- New concept of updated Return of Income introduced, in case of omissions and mistakes in the earlier returns filed by taxpayer or in cases where no tax return filed earlier; additional tax to be levied at twenty-five per cent or fifty per cent of tax and interest due on additional income.
- Power of Central Board of Direct Taxes ("CBDT") enhanced to consider genuine cases of non-filing of Return of Income (ROI) within prescribed timelines for the purpose of relaxation from levy of fee for delayed filing of returns.
- Certain amendments introduced in Faceless Assessment procedure under section 144B of the Act.
- Provisions regarding coverage of transfer pricing, Dispute Resolution Panel, procedures of Income Tax Appellate Tribunal under Faceless Scheme extended till 31 March 2024.
- Liability of Directors of private companies for recovery of taxes clarified to be not restricted only in case of liquidation.
- Assessing Officer enabled to pass an order giving effect to the resolution of dispute by the Dispute Resolution Committee.
- Provisions relating to assessment and reassessment proceedings rationalised.
- Procedural amendments in relation to business reorganization proposed to be introduced for continuance of proceedings against the predecessor, filing of modified returns etc.
- Provisions introduced for deferment of filing of appeals by income tax department against order of lower authorities subject to identical issues pending before the jurisdictional High Court or Supreme Court (in any case).

## **Others:**

- New scheme for taxation of Virtual Digital Assets such as Cryptocurrencies and NFTs proposed; taxation of income from transfer of such assets proposed at 30 per cent.
- Rates of Alternative Minimum Tax brought down to 15 per cent for Co-operative societies



## 2.3 INDIRECT TAXES

### **Goods and Services Tax ('GST')**

- A new condition for availment on input tax credit under Section 16 is proposed to be introduced wherein the receiver of goods or services has to verify if the Input Tax Credit of the GST charged by vendor is fully or partially restricted under Section 38 of the CGST Act. Further, Section 38 has been amended to provide that the auto generated statement would provide the details of Input Tax Credit not available to the taxpayer on account of reasons such as default in tax payment, differences in GSTR forms etc.
- Section 37, 38, 39, 42, 43 and 43A are amended/ abolished to do away with two-way communication process in return filing system (GSTR 2, GSTR 3 and the online matching) introduced at the time of the inception of the GST Act and also to provide tax period-wise sequential filing of details of outward supplies.
- Section 41 of the CGST Act is proposed to be substituted wherein the eligibility of Input Tax Credit would be allowed only on self assessment basis. Hence, the concept of provisional claim of Input tax Credit is proposed to be removed. Further, Section 41 proposes to create a liability on the recipient of supply of goods or services for reversal of Input Tax Credit if the supplier has not paid such tax to the Government Exchequer.
- It is proposed to amend the time limit in following cases from the due date of filing the return for the month of September to 30<sup>th</sup> November:
  - Availing input tax credit in respect of an invoice/ debit note pertaining to the previous financial year;
  - Issue of Credit notes in relation to a supply in the previous financial year;
  - Amendment/rectification in FORM GSTR 1 pertaining to a previous financial year;
  - Amendment/rectification in FORM GSTR 8 pertaining to a previous financial year for e-commerce operators.
- Amendment is proposed under Section 47 of the CGST Act to empower levy of late fees in case of delay in filing of return for Tax Collected at Source.
- Section 49 of the CGST Act is proposed to be amended to enable transfer of any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger for:
  - Integrated tax, Central tax, State tax, Union territory tax or cess; or
  - Integrated tax or Central tax of a distinct person (that is, between the branches located in different states of the same legal entity).
- Further, a new sub-section 12 is proposed to be introduced under Section 49 of the CGST Act which would empower Government to prescribe the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.
- Section 50(3) of the CGST Act is proposed to be amended retrospectively vide relevant notifications under Integrated Tax, Central Tax and Union Territory Tax to notify interest rate on delayed payment of taxes as 18 per cent w.e.f. 1 July 2017 on Input Tax Credit wrongly availed and utilized.
- Amendment to Section 54 of the CGST Act proposes to clarify the relevant date for claiming refund in respect of the tax paid on supplies made to a SEZ unit/developer. It also delinks

the process of claiming refund of any amount in the electronic cash ledger with return filing process as well enhances the scope of withholding of/ recovery from GST refunds.

- Central Tax, Union Territory Tax and Integrated Tax on supply of unintended waste generated during the production of fish meal, except fish oil, is being exempted retrospectively, with effect from 1 July 2017.
- Service by way of grant of alcoholic liquor license, against consideration has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service retrospectively, with effect from 1 July 2017.

## **Customs and allied laws**

- Definition of 'proper officer' has been proposed to be amended to include the officers of DRI, Audit and Preventive formations in the class of officers of customs empowered to perform various functions under the Customs Act and the rules made thereunder. Further, actions taken by these officers prior to amendment proposed in this finance bill are ratified retrospectively. Accordingly, the judgment of the Supreme Court in the case of Canon India Private Limited has been overturned and the show cause notices issued by DRI, Audit and other field formations would be held as valid for the past as well as future periods.
- Section 14 of the Customs Act, 1962 has been amended empower Central Government to make rules specifying additional obligations of importers, in respect of imported goods whose value is not being declared correctly.
- Section 28H has been amended to provide that Advance rulings obtained from AAR authorities would be valid for a period of three years or until there is a change in law/facts, whichever is earlier. Existing advance rulings as on date when Finance Bill 2022 would receive assent of the president and would be valid for three years starting from the date of such assent.
- Section 110AA is proposed to be introduced which enables an audit or investigating officer to transfer the case with file notings to the adjudicating authorities.
- Section 135AA has been inserted in the Customs Act, 1962 to make unauthorized publication (electronic or otherwise) of import or export data, including classification, valuation, name of the parties etc, as a punishable offence.
- Amendments have been proposed under Customs (Import of Goods at Concessional Rate of Duty) Rules ('IGCR 2017'), to bring end-to-end automation in all the procedures, standardisation of forms for maintenance of data and to eliminate of transaction-based permissions for claiming exemption under the said rules.
- It has been clarified that Social Welfare Surcharge ('SWS') applicable on the amount of Basic Customs Duty ('BCD') would be nil, in all cases where the amount of BCD is zero.
- First Schedule to Customs Tariff is proposed to be amended with effect from 1 May 2022 to align with complementary amendments to changes under HSN 2022 prescribed as per WTO guidelines. Other changes in the Customs duty rates/ tariffs/ notifications include transfer of entries from Customs exemption notification to Customs Tariff, phasing out of Customs exemptions and concessions on Project imports and specified capital goods under Chapter 84, introduction of Phased Manufacturing Programme for smart watches, hearable devices and smart electric meters and changes in Customs duty rates on Textiles and steel.
- In order to make existing Special Economic Zones Act compatible with WTO guidelines, the said law is proposed to be replaced with an entirely new legislation covering existing and new industrial enclaves by 30<sup>th</sup> September 2022.

## 3 POLICY/REGULATORY CHANGES

### 3.1 ACCELERATION IN COMPANY CLOSURE PROCESS

In the recent years, various regulations and procedures have been introduced for registration of new companies that enables quick incorporation and also help such companies in obtaining various mandatory statutory registrations, along with initiating bank account opening, at the time of incorporation itself. This has enabled accelerated company formation and business commencement.

It is now proposed to set up a Centre for Processing Accelerated Corporate Exit (C-PACE) wherein procedures would be re-engineered for facilitating and speeding up voluntary winding-up of companies with a target to reduce the exit process period to less than 6 (six) months, which currently takes approximately 24 (twenty-four) months.

This would make the exit option and closure of companies in India easier. Further, this could also encourage the investors to choose “Limited company” form, in comparison with the other forms of the legal entities, without being worried about exit formalities and timelines.

### 3.2 FASTER RESOLUTION AND CROSS-BORDER INSOLVENCY

The main objective of Insolvency and Bankruptcy Code is resolving the corporate debtors in distress. The Code at present has no standard instrument to restructure the firms involving cross-border jurisdictions.

It is proposed to introduce amendments in the Code to enhance the efficiency of the insolvency resolution process and enable a robust cross-border insolvency resolution. A robust cross-border insolvency resolution process would further facilitate international investment and trade.

These amendments are likely to expedite the insolvency process and resolution process that would be helpful in preventing erosion in the value of stressed corporate entities.

### 3.3 INTRODUCTION OF CENTRAL BANK DIGITAL CURRENCY / DIGITAL RUPEE

In this budget, the road for Digital Currency has been opened. With an intend to give a big boost to Indian digital economy, it is proposed to introduce Central Bank Digital Currency (CBDC). CBDC is an electronic record or digital token of a country's official currency.

Under CBDC, it is proposed to introduce Digital Rupee by the Reserve Bank of India using blockchain and other technologies starting from financial year 2022-23.

Not much detail on this topic has been divulged. It is, however, clarified by Hon'ble Finance Minister during the Press Conference held after presenting the budget that:

- The Digital Rupee will be considered as different from regular cryptocurrencies, such as Bitcoin and Ether which are not regulated by the Central Bank.
- The Digital Rupee will be treated differently than digital assets and existing cryptocurrencies.

It is expected that CDDBC will lead to a more efficient and cheaper currency management system, however, the modalities of CBDC are yet to be established.

## 3.4 DEVELOPMENT OF INTERNATIONAL ARBITRATION CENTRE IN GIFT CITY

Gujarat International Finance Tec-City (GIFT City) is a planned business district of 886 acres in Gujarat, India. It is the new business destination offering competitive edge to financial services and technology related activities.

It was announced, an International Arbitration Centre will be set up in the GIFT City for timely settlement of disputes under international jurisprudence.

India in the recent years has witnessed tremendous growth in cross-border transactions and general international trade and commerce. The International Arbitration Centre will facilitate speedy resolution of issues through sophisticated dispute resolution mechanisms. This will further reduce the burden on the Indian Courts who are currently dealing with the enormous number of pending cases. Further, this will help parties in a dispute to avoid conventional litigation which is time consuming and expensive.

## 3.5 LITIGATION MANAGEMENT

It was observed that lot of time and resources are consumed in filing of appeals by the Tax Department which involve identical issues. The redundancy of issues has caused unnecessary pile up of unresolved cases.

To eliminate the redundancy in filing of appeals it was proposed that if a question of law in the case of an assessee is identical to a question of law which is pending in appeal before the jurisdictional High Court or the Supreme Court in any case, the filing of further appeal in the case of this assessee by the Department shall be deferred till such question of law is decided by the jurisdictional High Court or the Supreme Court.

This further benefits the assessee, who does not have to spend time and money to defend in the relevant Court of appeal until such question of law is decided by the jurisdictional High Court or the Supreme Court.

## 3.6 LABOUR AND EMPLOYMENT SECTOR

It has been proposed to introduce measures to revamp the National Skill Qualification Framework (NSQF) with an objective to align it with dynamic industry needs.

The Government of India had introduced the NSQF in the year 2013. It is a nationally integrated education and competency based skill framework to provide multiple pathways, horizontal as well as vertical, both within vocational education and vocational training, technical education to enable a person to acquire desired competency levels and transit to job markets across various sectors. It is proposed that the steps in this regard will be taken towards reorienting the skilling programmes and having tie ups with the industry to promote continuous skilling avenues, sustainability and employability. This is to further bridge the gap between the tertiary level vocational courses to that of practical experience and real knowledge of theory in a vocational field and set out to enhance job opportunities for the youth.

Further, it was announced that Digital Ecosystem for Skilling and Livelihood – the DESH-Stack Eportal – will be launched with an objective to empower citizens to skill, reskill or upskill through online training. It will provide application programming interface (API)-based trusted skill certifications, as well as payment to discover jobs and entrepreneurial opportunities.

To give a further boost to enhancing the skill development, it is proposed that the Startups will be promoted to facilitate ‘Drone Shakti’ through varied applications and for Drone-As-A-Service (Dramas). In selected industrial training institutes (ITIs), in all states across India, the required courses for skilling will be commenced.

It was also announced that a Digital University will be established to provide access to students across the country for world-class quality universal education with personalized learning experience at their doorsteps. This will be made available in different Indian languages and information and communications technology (ICT) formats. The University will be built on a networked hub-spoke model, with the hub building cutting edge ICT expertise. The best public universities and institutions in the country will collaborate as a network of hub-spokes. This initiative will further give impetus to Tech-Education industry.

It is proposed that for developing India specific knowledge in urban planning and design, and to deliver certified training in these areas, up to 5 (five) existing academic institutions in different regions will be designated as centres of excellence. These centres will be provided endowment funds of INR 2.5 billion each.

The animation, visual effects, gaming, and comic (AVGC) sector offers immense potential to employ youth and therefore an AVGC promotion task force with all stakeholders will be set-up to recommend ways to realize this and build domestic capacity for serving the Indian market as well as for meeting the global demand.

In order to bring employees of state government in uniformity with the central government employees in terms of social security benefits, it is proposed to increase tax deduction limit on employer's contribution to National Pension Scheme (NPS) account of state government employees of from 10 per cent to 14 per cent. In case of private sector, the tax benefit is currently capped at 10 per cent and remains unchanged.

### 3.7 ANNOUNCEMENT ON ISSUANCE E-PASSPORT

It was announced that e-passports will be issued which will be embedded with chip and futuristic technology and are expected to be rolled out in 2022-23. E-passports will enhance convenience for the citizens in their overseas travel.

It was earlier announced that these e-passports will come up with a secure biometric data and it will be in accordance with the standards of the International Civil Aviation

Organization (ICAO). These e-passports will serve the same purpose as traditional passports to ensure smooth process through immigration posts globally across.

### 3.8 LAUNCH OF MENTAL HELATH PROGRAMME

Recognising the importance of overall mental well-being of the individuals, it was announced that a national tele-mental health programme will be launched as pandemic accentuated mental problems in people of all ages. It will provide access to quality mental health counseling and care services. This will include a network of 23 tele-mental health centers of excellence with NIMHANS which is the nodal center and International Institute of Information Technology, IIT, Bangalore providing technology support.

### 3.9 INITIATIVES FOR WOMEN EMPOWERMENT - MISSION SHAKTI, MISSION VATSALYA, SAKSHAM ANGANWADI & POSHAN 2.0

Recognizing the importance of women empowerment (*Nari Shakti*), it was announced to further revamp the schemes of the Ministry of Women & Child Development. Accordingly, three schemes, namely, Mission Shakti, Mission Vatsalya, Saksham Anganwadi and Poshan 2.0 were launched to provide integrated benefits to women and children. Saksham Anganwadis are a new generation anganwadis (creche) that have better infrastructure and audio-visual aids, powered by clean energy and providing improved environment for early child development. 200,000 anganwadis will be upgraded under this scheme. This will further boost to meeting the legal requirement to provide creche facility provided under the Maternity Benefit Act, 1961.

## 3.10 FOCUS ON SUNRISE OPPORTUNITIES

It was further announced that Artificial Intelligence, Geospatial Systems and Drones, Semiconductor and its eco-system, Space Economy, Genomics and Pharmaceuticals, Green Energy, and Clean Mobility Systems are sunrise opportunities having immense potential to assist sustainable development at scale and modernize the country. They provide employment opportunities for youth and make Indian industry more efficient and competitive. The Government will announce supportive policies, light-touch regulations, facilitative actions to build domestic capacities, and promotion of research & development to give a further boost to these areas. For R&D in these sunrise opportunities, in addition to efforts of collaboration among academia, industry and public institutions, government contribution will be provided.

## 3.11 REFORMS IN LAND RECORDS MANAGEMENT

With the objective of rapidly progressing towards digitalisation, it is proposed that states will be encouraged to adopt Unique Land Parcel Identification Number (ULPIN) to enable digital management and tracking of records. An additional facility to be rolled out is translation of land records across Schedule VIII languages, thereby bridging the language barriers.

There would be increased focus on digitization of land records through the scheme Digital India Land Record Modernization Programme (DILRMP).

One-Nation One-Registration Software' as means to achieve "uniform process" and "anywhere registration" will be encouraged by linking to National Generic Document Registration System (NGDRS).

These measures are expected to facilitate ease of doing business, allow digital monitoring of transactions, provide a centralized database, keep a check on fraudulent transactions, reduce time for registration and ease in process, ensure that presentation of document is not limited to one place only, permit sharing of standardised data across departments, thereby facilitating overall effective integration and inter-operability.

## 3.12 IMPETUS TO EV INDUSTRY- BATTERY SWAPPING POLICY

A battery swapping policy and inter-operability standards will be brought in force to combat the issue of space constraint for setting up electronic vehicle charging stations. This is a step towards impetus to EV industry in the mobility sector. It remains to be seen on the specifics of the policy, but it can be expected that the policy would address issues such as range anxiety, will boost EV adoption in delivery space, where time criticality makes battery swapping feasible as compared to charging existing battery.

This step is also set to encourage and create new avenues for companies to venture into the business of battery swapping.

## 3.13 SOLAR POWER

To strengthen the commitment to PM Solar Panel Yojana, the goal would be to facilitate domestic manufacturing of 280 GW of installed solar capacity by 2030. Along with this, additional allocation of INR 195 billion to solar PV module manufacturing schedule under the Production Linked Incentive (PLI) Scheme has been announced.

This move is expected to facilitate indigenous manufacture of solar PV modules, ease supply constraints and encourage investments.

## 3.14 HARNESSING THE POWER OF CIRCULAR ECONOMY

Importance has been given to circular economy transition to ensure restorative and regenerative economy, helping in productivity enhancement as well as creating large opportunities for new businesses and jobs.

It was announced that the action plans for ten sectors such as electronic waste, end-of-life vehicles, used oil waste, and toxic and hazardous industrial waste are ready. The focus now will be on addressing important cross cutting issues of infrastructure, reverse logistics, technology upgradation and integration with informal sector.

It is expected that these action plans will be a paradigm shift towards industrial decarbonization and encourage innovation.

## 3.15 GREEN BONDS

It has been announced that as a part of the Government's overall market borrowings in 2022-23, sovereign Green Bonds will be issued for mobilizing resources for green infrastructure. The proceeds will be deployed in public sector projects which help in reducing the carbon intensity of the economy.

With this India will join a select group of countries that have issued such bonds. This will also reflect India's stand globally to address the concerns of climate change. Depending on the pricing of these green bonds, it may also encourage companies to direct their capital towards green investments, promote sustainable investing.

## 3.16 INFRASTRUCTURE DEVELOPMENT

### PM GatiShakti National Master Plan

As mentioned by the Hon'ble Finance Minister, the Budget continues to provide impetus for growth. One of the object is big public investment for modern infrastructure. This shall be guided by PM GatiShakti.

PM GatiShakti is a transformative approach for economic growth and sustainable development. The approach is driven by seven engines, namely, Roads, Railways, Airports, Ports, Mass Transport, Waterways, and Logistics Infrastructure. These engines are supported by the complementary roles of Energy Transmission, IT Communication, Bulk Water & Sewerage, and Social Infrastructure. This will create huge job and entrepreneurial opportunities for all, especially the youth.

Initiatives under PM GatiShakti National Master Plan are as follows:

#### **1. Road Transport**

The National Highways network will be expanded by 25,000 kilometres in 2022-23.

#### **2. Seamless Multimodal Movement of Goods and People**

The data exchange among all mode operators will be brought on Unified Logistics Interface Platform (ULIP), designed for Application Programming Interface (API). This will provide real time information to all stakeholders and improve international competitiveness.

### **3. Multimodal Logistics Parks**

Contracts for implementation of Multimodal Logistics Parks at four locations through PPP mode will be awarded in 2022-23.

### **4. Railways**

Railways will develop new products and efficient logistics services for small farmers and Small and Medium Enterprises. Four hundred new-generation Vande Bharat Trains with better energy efficiency and passenger riding experience will be developed and manufactured during the next three years. One hundred Cargo Terminals for multimodal logistics facilities will be developed during the next three years. This will facilitate seamless solutions for movement of people and parcels.

### **5. Mass Urban Transport including Connectivity to Railways**

Innovative ways of financing and faster implementation will be encouraged for building metro systems of appropriate type at scale. Multimodal connectivity between mass urban transport and railway stations will be facilitated on priority. Design of metro systems, including civil structures, will be re-oriented and standardized for Indian conditions and needs.

### **6. National Ropeways Development Programme**

As a preferred ecologically sustainable alternative to conventional roads in difficult hilly areas, National Ropeways Development Programme will be taken up on PPP mode. This will improve connectivity and convenience for commuters, besides promoting tourism. Contracts for 8 ropeway projects for a length of 60 km will be awarded in 2022-23.

### **7. River Linking Projects**

Draft DPRs of five river links, namely Damanganga-Pinjal, Par-Tapi- Narmada, Godavari Krishna, Krishna-Pennar and Pennar-Cauvery have been finalized. Once a consensus is reached among the beneficiary states, the Centre will provide support for implementation.

## **3.17 ATMANIRBHARTA IN DEFENCE**

The Government is focused to reduce imports and promoting AtmaNirbharta in equipment procurement for the Armed Forces.

Defence R&D will be opened up for industry, startups and academia with 25 per cent of defence R&D budget earmarked. Private Industry will be encouraged to take up design and development of military platforms and equipment in collaboration with DRDO and other organizations through SPV model.

This will encourage indigenous manufacture of defence equipment and encourage investments.

## **3.18 VENTURE CAPITAL AND PRIVATE EQUITY INVESTMENT**

Venture Capital and Private Equity invested more than INR 5,500,000 Million last year facilitating one of the largest start-up and growth ecosystem. This scaling up requires a holistic examination of regulatory and other frictions. An expert committee will be set up to examine and suggest appropriate measures to set-up regulatory and other frameworks.



## 4 INCOME TAX

### 4.1 CHANGES IN TAX RATES

#### Personal Tax Rates:

- No changes proposed in the existing slabs and tax rates, including Surcharge and Health and Education Cess applicable to individuals (Refer to Annexure A to this Document for details), except for capping of surcharge to 15 per cent, in respect of dividend and certain types of capital gain income.
- No changes in tax rates of "Optional Simplified" Income Tax Scheme for individuals including Surcharge and Health and Education Cess applicable to individuals (Refer to Annexure A to this Document for details).

#### Corporate Tax Rates:

##### *Option 1 – Regular Income Tax Rates*

Particulars	Taxable Income <= INR 10 million (per cent)	INR 10 Million < Taxable Income <= INR 100 Million (per cent)	Taxable Income > INR 100 million (per cent)
Foreign companies	41.60	42.43	43.68
Domestic companies set-up and registered on or after 1 March 2016 and engaged in manufacturing	26	27.82	29.12
Domestic Companies having Total Turnover / gross receipts not exceeding INR 4,000 Million in Financial Year 2019-20	26	27.82	29.12
Domestic Companies having Total Turnover/ gross receipts is or exceeds INR 4,000 Million in Financial Year 2019-20	31.20	33.38	34.94
Minimum Alternate Tax	15.60	16.69	17.47

##### *Option 2 – Concessional tax rate regime\**

Particulars	Section	Effective Tax rate (per cent)*
All domestic companies	115BAA	25.17
Companies set-up and registered on or after 1 October 2019 and engaged in manufacturing	115BAB	17.16

\*Subject to prescribed deductions and incentives forgone

(Details of the above provided for in Annexure A to this Document)

## 4.2 KEY PROPOSALS RELATING TO PERSONAL TAXATION

### **Amount received for medical treatment and on account of death due to Covid-19 excluded from income**

- It is proposed that any sum paid by the employer in respect of any expenditure incurred by the employee on own medical treatment or treatment of any member of family in respect of any illness relating to Covid-19 subject to such conditions, as may be notified by the Central Government, shall not be forming part of “perquisite”.
- Further, it is also proposed to amend provisions relating to amounts received without adequate consideration to exclude the following amounts from taxation as “Income from Other Sources”:
  - any sum of money received by an individual, from any person, in respect of any expenditure actually incurred on own medical treatment or treatment of any member of family, in respect of any illness related to Covid-19 subject to such conditions, as may be notified by the Central Government;
  - any sum of money received by a member of the family of a deceased person, from the employer of the deceased person (without limit), or from any other person or persons to the extent that such sum or aggregate of such sums does not exceed INR 1 Million, where the cause of death of such person is illness relating to Covid-19 and the payment is, received within twelve months from the date of death of such person, and subject to such other conditions, as may be notified by the Central Government in this behalf.

These amendments will take effect retrospectively from 1 April 2020 and will accordingly apply in relation to the Assessment Year 2020-21 and subsequent assessment years.

### **Deduction in respect of employer contribution to National Pension System (NPS) for state government employees**

- Under the existing provisions of the Act, deduction is allowed to taxpayers in respect of any contribution to NPS account, if it does not exceed 14 per cent of salary where such contribution is made by the Central Government. This limit is 10 per cent of salary, where such contribution is made by any other employer.
- It is proposed to increase the limit of deduction under section 80CCD of the Act from the existing 10 per cent to 14 per cent of salary in respect of contributions made by the State Government to the account of its employee.

This amendment will take effect retrospectively from 1 April 2020 and will accordingly apply in relation to the Assessment Year 2020-21 and subsequent assessment years.

### **Deduction in respect of maintenance, including medical treatment of a dependant with disability**

- The existing provisions of section 80DD provide for deduction to individuals or HUFs, who are residents in India, in respect of (a) expenditure for the medical treatment (including nursing), training and rehabilitation of a disabled dependant, or (b) amount paid to Life Insurance Corporation of India (“LIC”) or any other insurers in respect of scheme for maintenance of disabled dependant.
- One of the conditions for deductibility of amount paid to LIC or insurers in clause (b) above is that such scheme provides for payment of annuity or lump sum amount for the benefit of a disabled dependent, in the event of death of the individual or member of HUF, in whose name subscription to the scheme is made.

- It is proposed to relax the aforesaid condition regarding payment of benefit to the disabled dependent only in the event of death by allowing deduction under section 80DD of the Act also in case of the scheme providing for payment of annuity or lumpsum amount for the benefit of disabled dependent, during the lifetime of i.e. upon attaining age of sixty years or more by such individual or member of the HUF, in whose name subscription to the scheme has been made and where payment or deposit has been discontinued.

This amendment will take effect from 1 April 2023 and will apply in relation to the Assessment Year 2023-24 and subsequent assessment years.

## 4.3 KEY PROPOSALS RELATING TO DOMESTIC TAXATION

### **Extension of the last date for commencement of manufacturing or production under section 115BAB**

- New domestic manufacturing companies were provided an option to choose concessional tax rate of 15 per cent subject to the condition that they do not avail any specified incentives or deductions and fulfil prescribed conditions. One of conditions was that the new domestic manufacturing company was required to commence manufacturing or production of an article or thing on or before 31 March 2023.
- Recognising the challenges faced by COVID-19 pandemic, it is proposed to amend section 115BAB so as to extend the date of commencement of manufacturing or production from 31 March 2023 to 31 March 2024.

This amendment will take effect from 1 April 2022 and will accordingly apply in relation to the assessment year 2022-23 and subsequent assessment years.

### **Extension of date of incorporation for eligible start up for exemption**

The existing provisions of the Section 80-IAC of the Act, inter alia, provide for a deduction equal to 100 per cent of profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years at the option of the assessee. In order to avail the benefit, start-up is required to be incorporated on or after 1 April 2016 but before 1 April 2022.

In order to factor in delays on account of Covid-19 and promote eligible start-ups, it is proposed to extend the period of incorporation of eligible start-ups to 31 March 2023.

This amendment will take effect from 1 April 2022 and will accordingly apply in relation to the Assessment Year 2022-23 and subsequent assessment years.

### **Disallowance under section 14A in absence of any exempt income**

- Section 14A of the Act provides that no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to exempt income.
- There was a controversy over allowability of expenses when no corresponding exempt income is earned in a year, with some courts holding the expense to be deductible.
- In order to make the intention of the legislation clear, it is now proposed to insert an Explanation to section 14A of the Act to clarify that the disallowance under Section 14A of the Act shall apply in a case where exempt income has not been earned in an assessment year; however, expenditure has been incurred in relation to such exempt income not forming part of the total income.

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This amendment will take effect from 1 April 2022 and will apply in relation to the Assessment Year 2022-23 and subsequent assessment years.

## **Reduction of Goodwill from block of assets to be considered as “transfer”**

- Pursuant to the amendment of denial of depreciation on goodwill last year, a consequential amendment is proposed to clarify that reduction of the amount of goodwill of a business or profession, from the block of asset shall be deemed to be transfer.

The amendment will take effect retrospectively from 1 April 2021 and will apply in relation to the Assessment Year 2021-22 and subsequent assessment years

## **Clarification regarding treatment of cess and surcharge while computing income form business or profession**

- Basis some Courts expressing favourable view in some recent judgments, taxpayers were claiming deduction on account of “cess” on the basis that “cess” has not been specifically mentioned as being disallowed in computing the income chargeable under the head “Profits and Gains of Business or Profession” and, therefore, cess is an allowable expenditure.
- In order to make the intention of the legislation clear and to make it free from any misinterpretation, it is now proposed to include an Explanation **retrospectively** in the Act to clarify that, the term “tax” includes and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax. As such, the amount of cess on tax would not be deductible.

This amendment will take effect retrospectively from 1 April 2005 and will apply in relation to the Assessment Year 2005-06 and subsequent assessment years.

## **Clarifications on allowability of expenditure under section 37**

- Section 37 of the Act provides that, if any expenditure incurred by an assessee for any purpose which is an offence or prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.
- It is proposed to clarify that the expression “expenditure incurred by an assessee for any purpose, which is an offence or which is prohibited by law”, shall include and deemed to have included the expenditure incurred by an assessee:-
  - for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or
  - to provide any benefit or perquisite, to a person, and acceptance of such benefit or perquisite is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, governing the conduct of such person; or
  - to compound an offence under any law for the time being in force, in India or outside India.

This amendment will take effect from 1 April 2022 and will apply in relation to the Assessment Year 2022-23 and subsequent assessment years.

## **Deduction in respect of donations to research association, university, college or other institution rationalised**

- In order to correct the anomaly in the erstwhile Section, it is proposed to amend section 35(1A) of the Act which lays down conditions for research associations, universities,

colleges or institutions claiming deductions in respect of scientific research to provide that the deduction claimed by donors with respect to donations shall be disallowed unless such research association, university, college or other institution or company files the statement of donations.

This amendment will take effect retrospectively from 1 April 2021

## **Clarification regarding deduction on payment of interest only on actual payment**

- Section 43B of the Act provides for certain deductions to be allowed only on actual payment. Explanations to this section provide that a deduction of any sum, being interest payable on loan or borrowing from specified financial institution/NBFC/scheduled bank or a co-operative bank, shall be allowed, if such interest has been actually paid and any interest which has been converted into a loan or borrowing or advance shall not be deemed to have been actually paid.
- However, certain taxpayers are claiming deduction under section 43B on account of conversion of interest payable on an existing loan into a debenture on the ground that such conversion is a constructive discharge of interest liability and, therefore, amounted to actual payment which has been upheld by some Courts.
- It is now proposed that conversion of interest payable to specified financial institutions and banks under section 43B, into debenture or any other instrument by which liability to pay is deferred to a future date, shall not be deemed to have been actually paid.

This amendment will take effect from 1 April 2023 and will apply in relation to the Assessment Year 2023-24 and subsequent assessment years

## **Cash credits under section 68 of the Act**

- Section 68 of the Act provides that where any sum is found to be credited in the books of an taxpayer maintained for any previous year, and the taxpayer offers no explanation about the nature and source thereof or the explanation offered by him is not satisfactory, then, for the purpose of computation of tax liability, such sum is added to the total income of such taxpayer, though such sum may not be in the nature of sales, service or any other type of income; but may be in the nature of capital contribution or loan or any other form and may have repayment obligation. The onus of satisfactorily explaining such credits remains on the person, in whose books such sum is credited.
- Certain judicial decisions have held that only identity and creditworthiness of creditor and genuineness of transactions for explaining the credit in the books of account is sufficient, and the onus does not extend to explaining the source of funds in the hands of the creditor.
- It is now proposed to provide that the nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider. Exclusion from this rigor is provided, if the creditor is a regulated entity, i.e., Venture Capital Fund, Venture Capital Company registered with SEBI.

This amendment will take effect from 1 April 2023 and will apply in relation to the Assessment Year 2023-24 and subsequent assessment years.

## **Denial of Set off of loss in search cases**

- Currently there is no provision in the Act to deny the adjustment of undisclosed income detected as a result of search or requisition or survey against the loss or unabsorbed depreciation. However, such restrictions are present in respect of incomes in the nature of section 68 (unexplained cash credits), section 69 (unexplained investments), etc., assessed in scrutiny assessment.
- It is therefore proposed to insert a new section 79A in the Act to provide that where consequent to search or requisition or survey, the total income of any previous year of an assessee includes any undisclosed income, no set off, against such undisclosed income, of any loss, whether brought forward or otherwise, or unabsorbed depreciation shall be allowed to the taxpayer under any provision of this Act in computing his total income for year.
- Further, the term “undisclosed income” is also proposed to be defined for this purpose.

This amendment will take effect from 1 April 2022 and will apply in relation to the Assessment Year 2022-23 and subsequent assessment years.

## **Withdrawal of concessional rate of taxation on dividend income under section 115BBD**

- Section 115BBD of the Act provides for a concessional rate of tax of 15 per cent on the dividend income received by an Indian company from a foreign company in which the said Indian company holds 26 per cent or more in equity shares of the specified foreign company). This rate was aligned to the rate of tax provided under section 115-O of the Act.
- Finance Act, 2020 abolished the dividend distribution tax provided in section 115-O and inter-alia, provides that dividend shall be taxed in the hands of the shareholder at applicable rates plus surcharge and cess.
- In order to provide parity in the tax treatment in case of dividends received by Indian companies from specified foreign companies vis a vis dividend received from domestic companies, it is proposed to withdraw this concessional rate for assessment year beginning on or after 1 April 2023.

This amendment will take effect from 1 April 2023 and will apply in relation to the Assessment Year 2023-24 and subsequent assessment years.

## **Facilitating strategic disinvestment of public sector companies**

- Section 79(1) denies the carry forward and set off losses in case shares of the company carrying not less than 51 per cent of the voting power were beneficially held by persons who beneficially held shares on the last day of year or years in which the loss was incurred.
- In order to facilitate the strategic disinvestment of public sector companies, it is proposed that the provisions relating to restrictions on set off and carry forward of loss shall not apply to an erstwhile public sector company subject to the condition that the ultimate holding company of such erstwhile public sector company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least 51 per cent of the voting power of the erstwhile public sector company in aggregate.
- It is further proposed to provide that if the above condition is not complied with in any previous year after the completion of strategic disinvestment, the provisions denying carry forward and set off loss, shall apply for such previous year and subsequent previous years.

This amendment will take effect from 1 April 2022 and will apply in relation to the Assessment Year 2022-23 and subsequent assessment years.

## **Provisions pertaining to bonus stripping and dividend stripping to be made applicable to securities and units**

- Currently, section 94(8) of the Act pertaining to the prevention of tax evasion through bonus stripping does not apply to bonus stripping undertaken in case of securities or units of Infrastructure Investment Trust (InvIT) or Real Estate Investment Trust (REIT) or Alternative Investment Funds (AIFs).
- In view of the above, it is proposed to make the said provision applicable to securities as well. It is also proposed to include units of business trusts such as InvIT, REIT and AIF, within the definition of units, so as to make them subject to provisions of bonus stripping and dividend stripping.

This amendment will take effect from 1 April 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

## **4.4 KEY PROPOSALS RELATING TO INTERNATIONAL TAX**

### **Refund of withholding tax under section 195 of the Act where it was not deductible**

- Presently, to obtain a refund of withholding taxes in respect of transactions with non-resident where it was not deductible under section 195 of the Act, a taxpayer has no recourse to approach the Assessing Officer with such request but has to necessarily enter the appellate process by filing an appeal before the Commissioner (Appeals).
- It is proposed to insert a new section 239A in the Act to provide that a person may file an application for refund of tax deducted and paid by such person on any amount (other than interest) before the Assessing Officer within a period of 30 days of payment of such tax, if such tax is to be borne by such person making an application. Such person can, if he is not satisfied with the order of the Assessing Officer, appeal against such order before the Commissioner (Appeals).

These amendments will take effect from 1 April 2022.

## **4.5 KEY PROPOSALS RELATING TO WITHHOLDING TAX**

### **Tax Deduction at Source ("TDS") on sale of Immoveable Property**

- Section 194-IA of the Act provides for deduction of tax on payment on transfer
- of immovable property other than agricultural land. In case of such transaction, tax is to be deducted on the amount of consideration paid by the transferee to the transferor @ 1 per cent.
- However, this Section does not take into account the stamp duty value of the immovable property, whereas, as per provisions of Sections 43CA and 50C of the Act, for the computation of income under the head "Profits and gains from business or profession" and "capital gains" respectively, the stamp duty value is also to be considered. Thus, there is inconsistency in the provisions of Sections 194-IA and Sections 43CA and 50C of the Act.
- In order to remove this inconsistency, it is proposed to amend section 194-IA of the Act to provide that in case of transfer of an immovable property (other than agricultural land), tax is to be deducted at the rate of one per cent of such sum paid or credited or stamp duty value of such property, whichever is higher.

These amendments will take effect from 1 April 2022.

## **TDS on benefits or perquisites of business or profession**

- It is proposed to insert a new Section 194R to provide that the person responsible for providing to a resident, any benefit or perquisite, arising from carrying out business or profession, shall ensure that tax has been deducted in respect of such benefit or perquisite at the rate of ten per cent of the value or aggregate of value of such benefit or perquisite.
- For the purpose of this section, the expression “person responsible for providing” has been proposed to mean a person providing such benefit or perquisite or in case of a company, the company itself including the principal officer thereof.
- Further, in a case where the benefit or perquisite, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the TDS liability, the person responsible for providing such benefit of perquisite shall ensure that tax has been paid in respect of the benefit or perquisite.
- No tax is required to be deducted, if the aggregate value of the benefit or perquisite paid to a resident does not exceed INR Twenty thousand during the financial year.
- Further, the provisions of deducting tax at source under the said section shall not apply to an individual or a Hindu undivided family providing such benefit or perquisite, whose total sales, gross receipts or turnover does not exceed INR 10 Million in case of business or INR 5 Million in case of profession during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided.

This amendment will take effect from 1 July 2022.

## **Rationalization of provisions of Sections 206AB and 206CCA**

- Sections 206AB and 206CCA of the Act were introduced vide Finance Act, 2021 to provide for higher rates of deduction and collection of tax at source, in case of specified persons. In turn, “specified persons” were defined to mean persons who had not filed tax returns for both the assessment years relevant to the two previous years immediately preceding the financial year, in which tax was required to be deducted or collected and the aggregate of tax deducted at source and tax collected at source was INR 0.05 Million or more in each of these two previous years.
- It is proposed to reduce the requirement of two years to one year to provide that “specified persons” would include persons who have not filed tax return in the financial year immediately preceding the financial year, in which tax is required to be deducted or collected and the aggregate amount of tax collected and deducted at source is Rs. 50,000 or more in the said previous year, in case of such person by all payers.
- In order to reduce the compliance burden on Individual and Hindu Undivided Families (HUFs), provisions of section 206AB do not apply to transactions on which tax is required to be deducted under specific sections for whom simplified tax deduction system has been provided without requirement of Tax Deduction Account Number (“TAN”).
- It is proposed to include section 194-IA (TDS in respect of Payment on transfer of certain immovable property other than agricultural land) 194-IB (Payment of rent by certain individuals or Hindu undivided family and 194M (Payment of certain sums like commission or brokerage or professional fees etc. by certain individuals or Hindu undivided family) under such exclusion from applicability of higher TDS.

These amendments will take effect from 1 April 2022.



## 4.6 KEY PROPOSALS RELATING TO PROCEDURES

(Most amendments in this Section take effect from 1 April 2022, unless something is mentioned to the contrary and will apply from assessment year 2022-23 and subsequent years).

### **Provisions for filing of updated Return of Income (ROI)**

- To facilitate ease of compliance to the taxpayer in a litigation free environment, it is proposed that the taxpayers are given extended time to file particulars of their income for a previous year in the form of an updated return of income. The following is proposed in this regard:

#### **1. Updated Return of Income**

It is proposed to insert sub-section (8A) in section 139 of the Act to provide that:

- Any person, whether or not he has furnished a return of income may furnish an updated return for the financial year within twenty-four months from the end of the assessment year.
- The proposed provisions of updated return will not apply if it is a return of a loss or has the effect of decreasing the total tax liability determined on the basis of return furnished earlier, or results in refund or increases the refund for the relevant assessment year.
- A person shall not be eligible to furnish an updated return inter-alia if:
  - Search has been initiated under section 132 of the Act or
  - Books of account, other documents or any assets are requisitioned under section 132A of the Act or
  - Survey has been conducted under section 133A of the Act or
  - Notices are issued to the effect that books of accounts or documents, seized or requisitioned under section 132 or 132A in the case of any other person or any information contained therein relate to such person.

The above exclusion from furnishing updated return applies for the assessment year relevant to the financial year in which such search is initiated or survey is concluded, requisition is made and two assessment years preceding such assessment year.

#### **2. No updated return of income shall be furnished by any person for the relevant assessment year, where,**

- an updated return of income has been furnished for the relevant assessment year, or
- proceeding for assessment or reassessment is pending or has been completed for the relevant assessment year or
- the Assessing Officer has information in respect of such person under specified Acts and the same has been communicated to him, prior to the date of his filing updated return, or
- information has been received under the Double taxation Avoidance Agreement and other agreements and the same has been communicated to him, prior to the date of filing updated return, or
- prosecution proceedings have been initiated for the relevant assessment year in respect of such person, prior to filing updated return, or
- he is a person or belongs to a class of persons, as may be notified by the CBDT in this regard.

### 3. Payment of Additional Tax

- It is proposed to insert a new section 140B in the Act, to provide for the tax required to be paid for opting to file an updated return of income. It is proposed to provide that an updated return shall be considered defective, unless such return of income is accompanied by the proof of payment of such additional tax.
- In terms of proposed Section 140B, an amount equal to **twenty-five per cent or fifty per cent, as additional tax on the tax and interest due on the additional income furnished**, would be required to be paid as follows:
  - if such return of income is furnished after expiry of the time for furnishing belated or revised return of income, but before completion of twelve months from the end of the assessment year: additional tax payable at the time of furnishing the updated return, shall be twenty-five per cent of aggregate of tax and interest payable.
  - if such return of income is furnished after the expiry of twelve months from the end of the relevant assessment year but before completion of the period of twenty-four months from the end of the assessment year: additional tax payable shall be fifty per cent of aggregate of tax and interest payable.
  - The “additional income tax” shall include surcharge and cess, by whatever name called, on such tax.
  - In a case where return of income has been furnished by a taxpayer earlier, the tax due shall be reduced by the amount of tax paid / credit available under specified provisions of the Act, in the earlier return of income.

### 4. Interest

- Elaborate provisions have also been made for computation of interest in different scenarios, where return of income has been furnished earlier and where return of income has not been furnished earlier.

Consequential amendments have been made in sections related to best judgment assessment, time limits for completion of assessments and prosecution provisions in relation to failure to furnish returns of income

These amendments will take effect from 1 April 2022.

#### **Power of Central Board of Direct Taxes (“CBDT”) enhanced to consider genuine cases of non-filing of Return of Income (ROI) within prescribed timelines**

- Section 234F of the Act provides that in case a person fails to furnish ROI within the timelines prescribed under the relevant provisions of the Act, he shall be liable to pay a fee of INR five thousand.
- Considering the genuine hardships faced by certain classes of persons such as members of armed forces etc in filing ROI, it is proposed to enable CBDT to issue such orders or instructions, as deemed fit in respect of not imposing this levy.

This amendment will take effect from 1 April 2022.

## **Specification of Income-tax authorities for the purposes of section 133A of the Act**

- Section 133A of the Act enables an income-tax authority to enter any place of business or profession or charitable activity within his jurisdiction to verify the books of account or other documents, things etc which may be useful for or relevant to any proceeding under the Act. Explanation to section 133A provides the definition of an income tax authority for the purposes of this section.
- It is proposed to amend the Explanation to section 133A of the Act to provide that income tax authority shall be sub-ordinate to Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner of Income tax specified by the CBDT.

This amendment will take effect from 1 April 2022.

## **Litigation Management by the Revenue**

- Existing provisions of section 158AA of the Act provides that where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of a taxpayer is identical with a question of law arising in his case for another assessment year (other case) and is pending in appeal before the Supreme Court against an order of High Court which was in favour of assessee, he may direct the Assessing Officer to make an application to the Appellate Tribunal stating that an appeal on the question of law in the relevant case may be filed when the decision on the question of law becomes final in the other case, subject to the acceptance of the same by the assessee.
- With a view to reduce litigation, it is proposed to expand the scope of such provision, whereby filing of appeal by tax department on repetitive issues can be deferred. Accordingly, it is proposed to insert a new section 158AB in the Act, to provide that where the collegium is of the opinion that any question of law arising in the case of an assessee for any assessment year ("relevant case") is identical with a question of law already decided in favour of same or any other taxpayer, which is pending before the jurisdictional High Court or the Supreme Court in an appeal or in a special leave petition, the collegium may, decide and intimate the Commissioner or Principal Commissioner not to file any appeal, at this stage, to the Appellate Tribunal or to the High Court against the order of the Commissioner (appeals) or the Appellate Tribunal, as the case may be.
- Procedural provisions have been made to obtain concurrence of taxpayer for such deferral of appeal and filing of appeal at a later date, when decision on such question of law becomes final in other case.

This amendment will take effect from 1 April 2022.

## **Liability of Directors of private companies for recovery of taxes clarified**

- Section 179 of the Act contains provisions which enables Income tax authorities to recover tax due from a private company from its directors, under certain circumstances where such tax cannot be recovered from the company itself. Director of private companies are also made jointly and severally liable for the payment of tax with certain conditions. Currently, the title of the section refers to the liability of directors of private company in liquidation.
- However, the liability of directors of a private company under section 179 is clarified to be not conditional upon the company being in liquidation and the section makes no reference to liquidation. Therefore, to make the title of the section uniform with its provisions, it is proposed to amend the title of the section to "*Liability of directors of private company*".

- It is proposed to further amend the expression “tax due” in the section 179, to include “fees” in addition to penalty, interest or any other sum payable under the Act, as per Explanation to the section.

This amendment will take effect from 1 April 2022.

## **Amendments in relation to Dispute Resolution Committee (DRC)**

- Finance Act 2021 introduced section 245MA of the Act for constituting DRC for specified persons who may opt for dispute resolution under the said section and who fulfil specified conditions mentioned in the said section.
- Resolution of the dispute by DRC is followed by determination of assessed income, initiation of penalty proceedings, if any and issuance of demand notice under section 156 of the Act. However, the existing provisions of the said section do not contain any provision which enables the Assessing Officer to pass an order giving effect to the order or directions of the DRC under the said section.
- Therefore, it is proposed to insert a clause to enable the Assessing Officer to pass an order giving effect to the resolution of dispute by the DRC within a period of one month from the end of month in which order from DRC is received.

This amendment will take effect from 1 April 2022.

## **Amendment in the provisions of section 263 of the Act**

- Section 263 of the Act contains the provision for revision of order which is erroneous in so far as it is prejudicial to the interests of revenue. As per the existing provisions, it is not clear as to which authority has the power under section 263 of the Act to revise the order of the Transfer Pricing Officer passed under section 92CA of the Act.
- Therefore, it is proposed to provide that the prescribed authorities who are assigned the jurisdiction of transfer pricing may call for and examine the record of any proceeding, and if they consider that any order passed by the Transfer Pricing Officer, is erroneous in so far as it is prejudicial to the interests of revenue, he may pass an order directing revision of the order of Transfer Pricing Officer.
- Consequential amendments are proposed in provisions of section 153 of the Act, to give effect to the order of Transfer Pricing Officer consequent to the directions in the revision order.

These amendments will take effect from 1 April 2022.

## **Amendments in Faceless Assessment procedure under section 144B of the Act**

- Section 144B was inserted in the Act to provide for procedures for faceless assessment with effect from 1 April 2021 and the separately notified Faceless Assessment Scheme, 2019 ceased to operate from that date.
- Considering difficulties faced by the administration and taxpayers in the operation of the faceless assessment procedures, it is proposed to amend the existing provisions of section 144B of the Act to streamline the process of faceless assessment.
- While the existing scheme and procedures of faceless assessment prescribed under section 144B of the Act would continue as earlier, certain modifications proposed are as under:

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- (a) It is proposed to grant an opportunity of personal hearing to all taxpayers, who make such a request. Such hearing would be conducted through video conferencing.
- (b) Various units (such as Assessment Unit, Verification Unit, etc.) would be established under the scheme to represent 'Assessing Officers having powers so assigned by CBDT'.
- (c) The National Faceless Assessment Centre (NFAC) will act as a point of contact amongst various units under the scheme and/or with taxpayer to conduct proceedings in faceless manner. No other functions (such as processing of draft assessment order, etc.) will be undertaken by NFAC.
- (d) Assessment Units may make a request for determination of Arm's Length price, valuation of property and other specified matters and such request would be assigned by Technical Units through automated allocation systems by NFAC.
- (e) Regional Faceless Assessment Centres are abolished. NFAC will interact directly with various units under the scheme such as Assessment Units, Verification Units, etc. in electronic mode.
- (f) Specific provision declaring the assessment as void, if the faceless assessment procedure prescribed in the provision is not followed, is proposed to be omitted with retrospective effect from earlier date.

These amendments will take effect retrospectively from 1 April 2021.

## **Extension of date for issuing directions under the Faceless Scheme in respect of some specific provisions of the Act**

- Faceless assessment and appeal schemes have been Implemented by the government. Specified provisions were presently out of the faceless regime and dates of limitations for implementing faceless scheme to apply were notified as under:

Sr. No.	Section	Scheme	Date of Limitation
1.	92CA	Faceless determination of Arms" Length Price (Transfer Pricing proceedings)	31 March 2022
2.	144C	Faceless Dispute Resolution Panel (Transfer Pricing and International Tax)	31 March 2022
3.	253	Faceless appeal to Appellate Tribunal	31 March 2022
4.	255	Faceless procedure of Appellate Tribunal	31 March 2023

- Owing to challenges in implementation of faceless procedures at this stage, it is proposed to extend the dates in respect of the above sections for faceless scheme to be implemented apply until 31 March 2024.

These amendments will take effect from 1 April 2022.

## **Rationalization of provisions relating to assessment and reassessment proceedings**

- The Finance Act, 2021 amended the procedure for assessment or reassessment of income in the Act with effect from 1 April 2021.
- For further simplification of procedures under the Act, it is proposed that assessing officers would not be required to obtain prior approvals for proceeding with reassessment proceedings under Section 148 of the Act, if the assessing officer has already, on the basis of material available on record concluded on whether it is a fit case for reassessment with the prior approval of specified authority.

### ***It is proposed that:***

- Information which suggests that income has escaped assessment would include audit objection, information received from foreign jurisdiction, under a scheme notified faceless collection of information as per Section 135A of the Act.
- To provide that a notice under section 148 of the Act shall be issued only for the relevant assessment year after three years but prior to ten years from the end of the relevant assessment year where the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented,
  - (a) in the form of an asset;
  - (b) expenditure in respect of a transaction or in relation to an event or occasion; or
  - (c) an entry or entries in the books of account,

which has escaped assessment, amounts to or likely to amount to INR 5 Million or more.

- To provide that where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion, has escaped assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years, notice under section 148 of the Act shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be.
- To provide that the provisions of the section 148A of the Act shall not apply in cases where the Assessing Officer has received any information regarding the scheme notified under section 135A of the Act, pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee.
- Slew of amendments proposed to rectify certain inadvertent drafting errors in Section 148 in search and survey cases. It is inter-alia proposed that:
  - Reassessment orders framed in pursuance to the search proceedings will not be restricted to three years, as was mentioned earlier.
  - Exclusion provided for the period commencing from the date on which a search is initiated or requisition is made and ending on the date on which the books of account or other documents, are handed over to the Assessing Officer (not exceeding one hundred eighty days).

These amendments will take effect from 1 April 2022.

## **Validity of proceedings in a Business Reorganization**

- In reorganization or restructuring proceedings, there is often a time gap between initiation of such proceedings and approval granted by the relevant Court. During the pendency of the court proceedings, income tax proceedings and assessments could be carried on/completed on the predecessor entities. Courts have held such proceedings and consequent assessments illegal as the predecessor assessee ceases to exist from a prior date.
- With a view to clarify that such proceedings under the Act are valid, it is proposed to provide that any assessment or proceedings pending or completed on the predecessor in the event of a business reorganization, shall be deemed to have been made on the successor.
- It is further proposed to insert a new Section 170A to the Act, to enable entities going through business reorganization, to furnish modified returns for any financial year to which the order of reorganization applies to, within a period of six months from the end of the month in which the order was issued.

These amendments will take effect from 1 April 2022.

## **Rationalization of powers of Commissioner (Appeals) for levy of penalty**

- Sections 271AAB, 271AAC and 271AAD contain provisions which give powers to the Assessing Officer to levy penalty in cases involving undisclosed income in cases where search has been initiated or false entries are present in books of account.
- It is proposed to amend these Sections by enabling the Commissioner (Appeals) also to levy penalty under these sections in addition to the Assessing Officer.

These amendments will take effect from 1 April 2022.

## **Amendment in the provisions of section 272A of the Act relating to levy of penalty**

- Section 272A of the Act provides for penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections etc.
- It is proposed to increase the amount of penalty for the above failures to five hundred rupees, from the existing sum of one hundred rupees for every day during which the failure continues.

This amendment will take effect from 1 April 2022.

## **Rationalisation of provisions relating to Offences and Prosecutions**

- In addition to the specific prosecution provisions for failure to pay tax to the credit of Central Government under Chapter XVIIIB for tax deducted at source, additional prosecution provisions exist for punishment for second and subsequent offences. Further, it is also provided that prosecution provisions would not apply if it is proven that there was a reasonable cause for such failure. However, similar provisions do not exist with respect to failure to pay tax collected at source.
- Therefore, owing to the similar nature of offences, it is proposed to provide the following:
  - If a person is convicted of an offence for failure to pay tax collected at source is again convicted, he shall be punishable for the second and subsequent offence for a rigorous imprisonment of not less than six months but may extend to seven years.

- no person shall be punishable for any failure in paying the tax collected at source if he proves that there was reasonable cause for such failure.
- Sections in Chapter XXC dealing with restrictions on transfer of immoveable property have been made inapplicable with effect from 1 July 2002 vide Finance Act 2002 by introducing section 269UP of the Act. Consequently, prosecution provisions under section 276AB of the Act dealing with consequences of non-compliance with this Chapter are also not relevant. However, to ensure continuance of prosecution proceedings launched previously when the relevant provisions were in effect, it is proposed to clarify that no fresh prosecution proceeding shall be initiated under this section on or after 1 April 2022.

These amendments will take effect from 1 April 2022.

## **Computation of Interest in respect of failure to deduct/ collect or payment of tax**

Section 201 of the of the Act levies interest on persons who fail to deduct tax or after deducting, fail to deposit the same to the credit of the Government. Since the computation of interest in case of failure to deduct/ collect or pay is a subject matter of litigation, it is proposed to provide that interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard.

These amendments will take effect from 1 April 2022.

## 4.7 KEY PROPOSALS (OTHERS)

There are below amendments, which are very specific to a particular sector/ group and may not be relevant to a larger group and hence, have not been covered in detail:

### **Scheme of Taxation of Virtual Digital Assets**

A new scheme for taxation of Virtual Digital Assets (VDAs) is proposed. VDAs are defined by virtue of an insertion of a comprehensive definition in clause 47A in Section 2 of the Act.

Synopsis of the scheme are as under:

#### **A. Taxation Mechanism**

- It is proposed to introduce a new Section 115BBH to provide for taxation of income from transfer of VDAs. Income from transfer of VDA shall be taxed at the rate of 30 per cent.
- No deduction in respect of any expenditure (other than cost of acquisition) or set off of any loss shall be allowed to the assessee while computing income from transfer of such asset.
- No set off of loss arising from transfer of VDA shall be allowed against any other income and such loss shall not be allowed to be carried forward to subsequent assessment years.
- In order to tax gifting of VDAs, it is proposed to include VDA within the expression "property".

This amendment will take effect from 1 April 2023 and will apply in relation to assessment year 2023-24 and subsequent assessment years.



## **B. TDS in respect of transfer of VDA**

- It is proposed to insert section 194S to the Act to provide for TDS on payment for transfer of VDA to a resident at the rate of one per cent of such sum.
- *However, in case the payment for such transfer is :*
  - wholly in kind or in exchange of another VDA where there is no cash involved; or
  - partly in cash and partly in kind but the part in cash is not sufficient to meet applicable TDS on such transfer, the person before making payment shall ensure that tax has been paid in respect of such consideration.
- Certain specified persons will be excluded from the compliance provisions of section 203A dealing with obtaining a Tax Deduction and Collection Account Number ('TAN') and 206AB dealing with higher rates of TDS for non-filers of Returns.
- No TDS shall apply in case the payer is a specified person and the value or aggregate value of consideration to a resident is less than INR fifty thousand during the financial year. In any other case, the said limit is proposed to be INR ten thousand during the financial year.
- *Specified persons are defined to include the following persons:*
  - Individuals or HUFs, whose total sales, gross receipts or turnover from business does not exceed INR 10 Million in case of business or INR 5 Million in case of profession, during the financial year immediately preceding the financial year in which VDA is transferred.
  - Individual or HUFs not having income under the head 'Profits and gains of business or Profession'.
- Where TDS under Section 194S is applied, no TDS/ TCS shall apply in respect of the same transaction under any other provisions.
- In case of conflict between applicability of Section 194S vis-v-vis Section 194-O, it is clarified that Section 194-O would apply.
- Suitable guidelines would be issued by the CBDT with the prior approval of the Central Government to remove difficulties in implementation of the above provisions.

This amendment will take effect from 1 July 2022.

## **Tax Rates applicable to Co-operative societies**

Minimum Alternate Tax ("MAT") rate for companies was reduced to 15 per cent vide Taxation Laws (Amendment) Act, 2019. Therefore, in order to provide parity between co-operative societies and companies, it is proposed that co-operative societies would also be liable to pay Alternative Minimum Tax ("AMT") to 15 per cent. This amendment will take effect from 1 April 2023 and will apply to the assessment year 2023-24 and subsequent assessment years.

## **Tax Incentives to International Financial Services Centre (IFSC)**

- In order to further incentivise operations from IFSC, it is proposed to provide the following additional incentives to IFSCs:

- grant an exemption on income of a non-resident on transfer of offshore or over the counter derivative instruments entered with an Offshore Banking Unit (OBU) in the IFSC, subject to prescribed conditions.
- grant of an exemption on income of a non-resident from portfolio managed by a portfolio manager in IFSC, received in an account maintained with an OBU in IFSC, to the extent such income accrues/arises outside India.
- Incentives applicable to leasing activities of aircrafts in an IFSC are also extended to 'ships' (if the unit has commenced its operations on or before 31 March 2024).
- Interest and royalty income paid by a unit in IFSC to non-resident on account of lease is proposed to be exempt; and
- Income arising from the transfer of a ship leased by a unit in IFSC will be eligible for deduction under 80LA of the IT Act.

These amendments will take effect from 1 April 2023 and will apply in relation to the assessment year 2023-24 and subsequent assessment years.

## 5 INDIRECT TAXES

### 5.1 KEY PROPOSALS RELATING TO GOODS AND SERVICES TAX

#### **Amendment in provisions relating to availment of Input Tax Credit**

- New clause (ba) is proposed to be inserted under Section 16(2) of the Central Goods and Services Tax ("CGST") Act, 2017, which prescribes the eligibility and conditions for taking input Tax Credit. This section is proposed to be amended to provide that Input Tax Credit with respect to a supply can be availed only if such credit has not been restricted in details to be communicated to taxpayer under section 38. The form and manner of communication to the person availing Input Tax Credit has not been prescribed.
- Section 38 of the CGST Act is proposed to be substituted for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and Input Tax Credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing system (GSTR 2, GSTR 3 and the online matching) introduced at the time of the inception of the GST Act. The auto-generated statement would contain the following details:
  - a. details of inward supplies in respect of which Input Tax Credit may be available to recipient;
  - b. details of supplies in respect of which such Input Tax Credit cannot be availed, whether wholly or partly, by the recipient on account of following situations:
    - On supplies by a registered person within specified period of taking registration; or
    - Any registered person who has defaulted in payment of tax and such default continues for prescribed period; or
    - Where tax payable as declared by any registered person in Form GSTR-1 exceeds the tax paid by him in Form GSTR-3B by a prescribed limit; or

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- Where Input Tax Credit availed by any registered person exceeds eligible Input Tax Credit by such limit as may be prescribed; or
  - The registered person has defaulted in discharging his tax liability by utilising the credit balance in excess of a prescribed limit; or
  - Such other class of persons as may be prescribed.
- Section 41 of the CGST Act is also proposed to be substituted wherein the concept of “claim” of eligible input tax credit on a “provisional” basis is proposed to be abolished and availment of Input Tax Credit would be allowed on self assessed basis subject to such conditions and restrictions as may be prescribed. Further, the provisions also propose to empower the authorities to recover the amount of Input Tax Credit availed by the recipient along with applicable interest in case the supplier fails to discharge the applicable GST liability thereon. Moreover, it also provides the mechanism for reavailment of such input tax credit reversed in case the supplier pays the applicable GST liability.
- Section 50(3) of the CGST Act is proposed to be substituted retrospectively with effect from 1 July 2017 to levy interest on Input Tax Credit wrongly availed and utilized instead of only wrong availment. Further, the interest rate is proposed to be reduced from 24 per cent to 18 per cent retrospectively under Notification No. 13/2017 – Central Tax dated 28 June 2017 thereby bring parity in the interest rates.

## **Amendment to eliminate two-way communication process in return filing**

- The mechanism of return filing which was proposed at the time of introduction of GST in the year 2017 included GSTR 2 (inward supplies) and GSTR 3 for payment of final liability including a system of online matching of Input Tax Credit by the supplier and recipient. However, due to various issues, the said system was practically never implemented.
- Therefore, in order to rationalize the provisions of CGST Act which were not implemented, Section 37, 38, 39, 42, 43 and 43A are proposed to be amended / completely abolished to do away with the aforesaid mentioned system and returns.
- Further, consequential amendments are also proposed under Section 47, 48, 49 and 168 to remove the reference of aforesaid sections.

## **Amendment in provisions relating to furnishing of outward supply details in FORM GSTR 1**

- Section 37 of the CGST Act is proposed to be amended to prescribe conditions and restrictions for furnishing the details of outward supply.
- A new sub section (4) under Section 37 of the CGST Act is proposed to be inserted to provide tax period-wise sequential filing of details of outward supplies under Section 37(1) of the CGST Act. It should be noted that FORM GSTR 1 cannot be filed where the same is not filed for any previous tax periods.

## **Amendment to extend the time limits for various provisions**

- Availment of Input Tax Credit under Section 16(4) of the CGST Act in respect of any invoice/ debit note pertaining to the previous financial year upto 30 November of the succeeding financial year as against present time limit of availing the same upto due date of furnishing the return for the month of September of the subsequent financial year.
- Issue of Credit Notes under Section 34(2) of the CGST Act in relation to supply in the previous financial year upto 30 November of the succeeding financial year as against

present time limit of issuance upto the due date of furnishing the return for the month of September of the subsequent financial year.

- Carrying out amendment/rectification in the returns filed pertaining to the previous financial year under Section 39(9) of the CGST Act upto 30 November of the succeeding financial year as against the present time limit of allowing amendment/rectification upto the due date of furnishing the return for the month of September of the subsequent financial year.
- Carrying out amendment/rectification in FORM GSTR 8 pertaining to a previous financial year under Section 52(6) of the CGST Act upto 30 November of the succeeding financial year as against the present time limit of allowing amendment/rectification upto the due date of furnishing the return for the month of September of the subsequent financial year.

## **Provisions relating to cancellation of registration**

- It is proposed to amend Clause (b) of Section 29(2) of the CGST Act providing that registration of a person is liable for cancellation where a Composition dealer has not furnished the return for the financial year beyond three months from the due date of furnishing of the said return.
- It is proposed to amend Clause (c) of Section 29(2) of the CGST Act to empower the Government to prescribe the time limit for initiating the process for cancellation of GST registration as against present provisions which prescribe a continuous period of 6 months.

## **Amendments relating to payment of GST liability**

- Section 49 of the CGST Act is proposed to be amended to prescribe restrictions for utilising the amount available in the electronic credit ledger. Further, a registered person may transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger for:
  - Integrated tax, Central tax, State tax, Union territory tax or cess; or
  - integrated tax or Central tax of a distinct person (branches located in different states of the same legal person).

Further, such transfer shall not be allowed if the registered person has any unpaid liability in the electronic liability ledger.

- A new sub section (12) under Section 49 of the CGST Act is proposed to be inserted to empower the Government to prescribe maximum proportion of output tax liability which may be discharged through electronic credit ledger. This is an enabling provision for Rule 86B of the CGST Rules, 2017 which was introduced to prescribe the amount which is compulsorily required to be paid using electronic cash ledger.

## **Amendments in provisions in relation to GST refund**

- Section 54(1) of the CGST Act is proposed to be amended to provide explicitly that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed. This is to delink the process of claiming refund of any amount in the electronic cash ledger with the return filing process.
- Amendment in Section 54(2) of the CGST Act is proposed to increase the time limit for filing refund claim to 2 years from the last day of the quarter in which the said supply was received in respect of tax paid on inward supplies by specialised agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the

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United Nations (Privileges and Immunities) Act, 1947 and Consulate or Embassy of foreign countries.

- Section 54(10) of the CGST Act is proposed to be amended to allow withholding of refunds or adjustment of unpaid tax from refund due for all types of refund claims.
- A new sub clause (ba) in explanation to Section 54 of the CGST Act is proposed to be inserted which clarifies the relevant date for filing refund claim for tax paid in respect of supplies made to SEZ developer/unit or inputs or input services used in such supplies.

## **Other Changes**

- Section 39(5) of the CGST Act is proposed to amend due date of filing monthly returns by Non-resident taxable persons from 20<sup>th</sup> of the next month to 13<sup>th</sup> of the next month.
- Section 47 of the CGST Act is being amended to provide for levy of late fee for delayed filing of TCS returns.
- Notification No. 9/2018 - Central Tax, dated the 23 January 2018, is amended retrospectively with effect from 22 June 2017, to notify 'www.gst.gov.in' as the Common Goods and Services Tax Electronic Portal, for all functions provided under Central Goods and Services Tax Rules, 2017, other than for e-way bill and generation of e-invoices.
- GST on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, is being exempted during the period commencing from the 1 July 2017 and ending with the 30 September 2019 (both days inclusive), subject to the condition that if said tax has been collected, the same would not be eligible for refund.
- Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee by the State Governments, has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service. These notifications have been given retrospective effect from 1 July 2017 with a condition that no refund shall be allowed for tax which has already been collected.

All changes under the GST Act would be made effective from a date to be notified after enactment of the Finance Bill.

## **5.2 KEY PROPOSALS RELATING TO CUSTOMS DUTY**

### **Enhancement of powers of the Customs Officers**

- The Larger Bench of Hon'ble Supreme Court in the case of Canon India Limited [2021-TIOL-123-SC-CUS-LB] held that DRI had no authority under the Customs law to issue show cause notices, reassess imports and recover duty under the provisions of Section 28 of the Customs Act. This had led to nationwide filing of Writ petitions to quash the notices issued by DRI officers jeopardizing tax revenue. In order to overcome this, various amendments are proposed to validate the actions of DRI and other officers by way of amending the definition of "proper officer" under the Customs Act and validating the actions of Customs officers retrospectively. Consequential amendments have been carried out in various sections as below:
  - Section 2(34) is proposed to be amended to specifically state that the proper officer can be appointed by the Board or the Principal Commissioner of Customs or Commissioner of Customs in terms of powers conferred upon them under Section 5 of the Customs Act.

- Section 3 of the Customs Act, 1962 which provides for classes of officers is proposed to be amended retrospectively to specifically include officers of Directorate of Revenue Intelligence('DRI'), officers of Customs (Preventive) and audit officers in the class of Officers and designate them as "proper officers".
- Sub-Section (1A) and (1B) to Section 5 are proposed to be inserted to empower CBIC or the Principal Commissioner / Commissioner of Customs to assign functions to Custom officers and Sub-Section 4 is proposed to be inserted to list down criteria such as territory, class of persons, class of goods etc. which the CBIC may consider while assigning functions to the Customs officer. Further, Sub-Section 5 is proposed to be inserted to empower CBIC to confer concurrent exercise of power and functions on more than one Customs officer.
- Clause 96 of the Finance Bill proposes to retrospectively validate actions taken or functions performed by such officers before the enactment of the Bill where the action was in pursuance of their appointment and assigning of functions by the Central Government or the CBIC.
- A new section 110AA has been proposed to be introduced, to provide that the jurisdictional officer originally assigned the function, would have sole authority to exercise jurisdiction for any reassessment, adjudications etc. basis the observation from any other officers who may have conducted inquiry, investigation or audit in the matter. Thus, in case, any other officer of Customs who has initiated such proceedings, shall transfer the relevant documents, along with a report in writing to the proper officer having jurisdiction. This move will ensure seamless flow of proceedings for the officer as well as the assessee.

## **Amendment pertaining to valuation of goods**

- New clause (iv) is proposed to be inserted in second proviso to Section 14(1) of the Customs Act which would empower the Government to prescribe rules to impose additional obligations on the importer and checks to be exercised with respect to valuation of the imported goods, where the CBIC has a reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria.

## **Changes in advance rulings procedures**

- Presently an applicant who has made an application for advance ruling under Customs can withdraw such application only within 30 days from the date of such application. Section 28H of the Customs Act 1962, has been amended to provide flexibility to the applicant to withdraw their application any time before a ruling is pronounced.
- Section 28J(2) is being amended to provide that advance ruling is now valid for a period of three years from the date of pronouncement or till there is a change in law or facts, whichever is earlier.
- The proposed amendment would apply to all the existing Advance Rulings pronounced and they would be valid for three years from date of presidential assent on the Finance Bill, 2022.

## **Safeguard against unlawful publication of data of importers and exporters**

- In order to ensure protection of import/export data of taxpayers, Section 135AA has been introduced to provide that publishing of information (whether electronic or otherwise) relating to the value, classification, quantity of goods entered for export from India, or import into India, or the details of the exporter or importer of such goods, unless required so to do under any law for the time being in force, shall be considered as an offence and

would be punishable with imprisonment for a term of six months maximum, or with fine which may extend to Rs. 50,000/- or both.

- Further, Section 137(1) of the Customs Act is proposed to be amended to provide that no court shall take cognizance of any offence under Section 135AA except with the previous sanction of the Principal Commissioner of Customs. This is a welcome move for importers/exporters in general as the said provisions would regulate unauthorised circulation of confidential data belonging to such companies, which was being widely done by various individuals and online websites.

## **Amendment in Customs (Import of Goods at Concessional Rate of Duty) Rules**

- Strengthening government's vision for digital economy, the IGCR Rules, 2017, (applicable in cases where the benefit of concessional rate of Customs duty is availed), have been revamped to provide end-to-end automation and standardisation of processes.
- Following are some of major amendments proposed:
  - Importer will be required to submit one time information containing all the necessary details as prescribed in electronic form IGCR-1 on the electronic portal referred under Section 154 of the Customs Act. Based on the said information, Import of Goods at Concessional Rate Identification Number ('IIN') shall be generated.
  - Such IIN would be required to be mentioned on the continuity bond submitted and the bill of entries filed availing the benefit of concessional rate notifications.
  - A standard electronic form IGCR-2 has been notified on the electronic portal, for maintenance of records as prescribed under the rules.
  - For effective monitoring of the use of goods for the intended purposes, a Monthly Statement is being proposed which is to be submitted by the importer on the Common Portal.
  - An option for voluntary payment of the necessary duties and interest, through the Common Portal is being provided to the importer
- The above rules have been amended vide Notification 07/2022- Customs (N.T.) effective from 2 February 2022.

## **Clarification on applicability of Social Welfare Surcharge ("SWS") when Customs Duty is NIL**

- It has been clarified that the SWS payable would be 'Nil' in cases where the aggregate of Customs Duties (base amount for computation of SWS) is zero, even in cases where SWS has not been specifically exempted through any separate notification.
- The said amendment is favourable for taxpayers, as it will set aside all disputes in relation to levy & discharge of SWS.

## **Amendments in Customs Tariff**

- First Schedule to Customs Tariff is proposed to be amended with effect from 1 May 2022 to align with complementary amendments to changes under HSN 2022 prescribed as per WTO guidelines. Other changes in the Customs duty rates/ tariffs/notifications include:
  - Transfer of unconditional entries in Customs exemption notification to Customs Tariff without any change to govern the duty rates directly from Customs Tariff.

- Removal of several items from List 4 of Entry 167 of notification which provides for exemption on lifesaving drugs/medicines including their salts and esters and diagnostic test kits.
- List of specified goods where concessional rate of BCD under Notification No 50/2017 would be discontinued with effect from 1<sup>st</sup> April, 2023 and 1<sup>st</sup> April 2024 notified.
- Phasing out of Customs duty concessions on Project Imports.
- Phasing out of Customs duty exemptions and concessions on various Capital Goods under Chapter 84 of First Schedule of Customs Tariff.
- Introduction of Phased Manufacturing Programme (PMP) for smart watches, hearable devices (like headphones, earphones) and smart electrical meters giving exemptions to parts imported for manufacture while putting higher BCD rate on finished goods.
- Rationalization of Customs duty rates on Textiles, removal of anti-dumping duties on steel and clarification on import of parts of Electric Vehicles (EVs)

## SEZ Act

- In order to make existing Special Economic Zones Act WTO compatible, the said law is proposed to be replaced with a new legislation, which will also enable the states to become partners in '**Development of Enterprise and Service Hubs**'. The new law will cover all large existing and new industrial enclaves to optimally utilise available infrastructure and enhance competitiveness of exports and is proposed to be implemented by 30 September 2022. This new law would also be important in the context of the new Foreign Trade Policy which is due to be announced before 31 March 2022 for the next 5 years wherein, several existing schemes are under dispute at the WTO level.

## 5.3 KEY PROPOSALS RELATING TO EXCISE DUTY

- In order to encourage blending of Motor Spirit (commonly known as Petrol) with ethanol/methanol and blending of High-Speed Diesel with biodiesel, an additional Basic Excise Duty of Rs. 2 per litre on Petrol and Diesel, intended to be sold to retail consumers without blending with effect from the 1 October 2022 *vide* Notification No. 01/2022- Central Excise dated 1 February 2022.



## 6 ANNEXURES

### 6.1 ANNEXURE A: RATES OF INCOME TAX

#### Personal Income Tax rates

#### Option 1 - Regular Income Tax Slabs (all deductions, incentives and other allowances to be availed)

(i) Resident individuals\* (other than those mentioned in (i) and (ii) below)

Existing Income Tax rates	
Income Slab (INR)	Tax Rate (per cent)
0-250,000	Nil
250,001-500,000	5
500,001-1,000,000	20
Above 1,000,000	30

(ii) Resident individuals\* of the age of 60 years or more but less than 80 years of age.

Existing Income Tax rates	
Income Slab (INR)	Tax Rate (per cent)
0-300,000	Nil
300,001-500,000	5
500,001-1,000,000	20
Above 1,000,000	30

(iii) Resident individuals\* of the age of 80 years.

Existing Income Tax rates	
Income Slab (INR)	Tax Rate (per cent)
0-500,000	Nil
500,001-1,000,000	20
Above 1,000,000	30

\*A resident individual, whose taxable income does not exceed INR 0.5 million, can claim a tax rebate under Section 87A. The amount of rebate shall be lower of 100 per cent of income-tax or INR 12,500.

#### Option 2 - Simplified Income Tax Slabs (prescribed deductions, incentives and other allowances not to be availed)

Income Slab (INR)	New rates proposed (per cent) (optional)
0-250,000	Nil
250,001-500,000	5
500,001-750,000	10
750,001-1,000,000	15
1,000,001-1,250,000	20
1,250,001-1,500,000	25
Above 1,500,000	30

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## Surcharge

- The rate of Surcharge at 10 per cent is to be levied on income-tax in case total income exceeds INR 5 million and is up to INR 10 million;
- The rate of Surcharge at 15 per cent is to be levied on income-tax in case the total income exceeds INR 10 million and is up to INR 20 million.
- The rate of Surcharge at 25 per cent is to be levied on income-tax in case the total income exceeds INR 20 million and is up to INR 50 million.
- The rate of Surcharge at 37 per cent is to be levied on income-tax in case the total income exceeds INR 50 million.
- The Health and Education Cess at the rate of 4 per cent shall be computed on aggregate of Income-Tax and Surcharge.

## Corporate Tax Rates

### Option 1: Regular Income Tax (all deductions, incentives, allowances availed)

Description	Tax rate (per cent)	Effective Tax Rate (including Surcharge and Cess) (per cent) (depending upon income levels)
Domestic companies whose total turnover or gross receipts in the previous year 2019-20 does not exceed INR 4000 Million	25	26 / 27.82 / 29.12
Companies engaged in manufacturing set-up and registered on or after one day of March 2016	25	26 / 27.82 / 29.12
Others	30	31.2/33.38/34.94
Minimum Alternate Tax	15	15.60/16.69/17.46
Foreign Company:		
Income Tax	40	41.6 / 42.43 / 43.68

### Option 2: Concessional Income Tax Rates (prescribed deductions, incentives, additional depreciation not to be availed)

Description	Tax Rate (per cent)	Effective Rate(per cent) (including Surcharge and Cess)
Companies engaged in manufacturing and set-up and registered on or after 1 October 2019	15	17.16
All companies	22	25.17

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## Foreign companies

Description	Tax rate (per cent)	Effective Tax Rate (including Surcharge and Cess) (per cent) (depending upon income levels)
Foreign Company:		
Income Tax	40	41.6 / 42.43 / 43.68

## 6.2 ANNEXURE B: IMPORTANT CHANGES IN CUSTOMS DUTIES

- A. Tariff rate changes for Basic Customs Duty (effective from 2 February 2022, unless otherwise specified Clause 97(a) of the Finance Bill, 2022)

Category	Item/ Product Description	Tariff Code	Existing Tariff Rate in percentage	Proposed Tariff Rate in percentage
<b>Edible Oils</b>	Microbial fats and oils and their fractions	1516 30 00	30	100
<b>MSME sector</b>	Umbrellas Gems and Jewellery Sector	6601	10	20
	Imitation Jewellery	7117	20	20 or 400/kg whichever is higher
<b>Electrical and electronic items</b>	Single or multiple loudspeakers, whether or not mounted in their enclosures Note: Effective BCD rate on these goods, other than hearable devices would continue to be '15 per cent'. BCD rates on hearable devices will be governed by the PMP as mentioned in Annexures below.	8518 21 , 8518 22 , 8518 29	15	20
	Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers Note: Effective BCD rate on these goods, other than hearable devices would continue to be '15 per cent'. BCD rates on hearable devices will be governed by the PMP as mentioned in Annexures below	8518 30	15	20
	Flat panel display modules of Liquid Crystals not	8524 11 00		15

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Item/ Product		Tariff Code	Existing Tariff Rate in percentage	Proposed Tariff Rate in percentage
Category	Description			
	incorporating touch sensitive screen			
	Smart Meters Note: Effective BCD rate on these goods would continue to be '15 per cent' till 31 March 2022	9028 30 10	15	25
	Printed Circuit Board Assembly of Smart Meters Note: Effective BCD rate on these goods would continue to be '7.5 per cent' till 31 March 2022	9028 90 10	10	20
<b>Solar Energy Sector</b>	Solar Cells not assembled with Solar Modules or made up into panels (other than those exclusively used with ITA-1 items) Note: Effective BCD rate on these goods would continue to be 'Nil' till 31 March 2022.	8541 42 00	20	25
	Solar Cells assembled with Solar Modules or made up into panels (other than those exclusively used with ITA-1 items) Note: Effective BCD rate on these goods would continue to be 'Nil' till 31 March 2022	8541 43 00	20	40
	Others (other than those exclusively used with ITA-1 items) Note: Effective BCD rate on these goods would continue to be 'Nil' till 31 March 2022.	8541 49 00	20	40

**B. Tariff rate changes for Basic Customs Duty without any change in effective rate of duty (effective from 01 May February 2022, unless otherwise specified- Clause 97(b) of the Finance Bill, 2022):**

The current applicable rate of Basic Customs Duty on these below products operates through respective exemption/concessional rate notifications issued. Such corresponding notifications would be omitted w.e.f. 1 May 2022 and the same would operate through Customs Tariff Act, 1975. This has been brought into effect to simplify the tariff structure and effective basic customs duty rate would remain unchanged till 30 April 2022. The important tariff updates are given in the table below:

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Item/ Product		Tariff Code	Existing	Proposed
Category	Description			
Plastic	Plastics in primary forms (except polymers of vinyl chloride, polyamides)	3901 to 3915 (except 3904, 3906 90 70, and 3908)	10	7.5
Rubber	Natural rubber in forms other than latex	4001 21, 4001 22, 4001 29	25	25% or INR. 30/- per kg, whichever is lower
Iron or steel including stainless steel	Scrap of iron or steel including stainless steel (exemption under 50/2017 is extended upto 31 March 2023, after that, BCD will be applicable as per the tariff change)	7201	15	5
Copper	Copper waste and scrap	7404	5	2.5
	Copper tubes and pipes, or fittings	7411 or 7412	10	7.5
Aluminium	Aluminium Scrap	7602	5	2.5
Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	Outboard motors	8407 21 00	15	5
	Specified non-electric instantaneous or storage water heaters	8419 19 20	10	7.5
	Air separators, purifiers, cleaners, etc.	8421 39 20, 8421 39 90	15	7.5
Electrical Machinery and parts	Specified electrical generating sets and rotary convertors	8502 (except 8502 11 00, 8502 20 10, 8502 40 00)	10	7.5
	Parts of electric motors or generators	8503 00 10, 8503 00 21 or 8503 00 29	10	7.5
	Ballasts for discharge lamps or tubes	8504 10 10, 8504 10 20 or 8504 10 90	10	7.5
Medical and surgical instruments	Specific instruments and appliances used in medical, surgical, dental or veterinary sciences like tonometer, tubular needles for medical sutures etc.	9018 32 30, 9018 50 20, 9018 90 21, 9018 90 24, 9018 90 43, 9018 90 95, 9018 90 96, 9018 90 97, 9018 90 98	10	5

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Item/ Product		Tariff Code	Existing	Proposed
Category	Description			
	Other medical equipment and medical related goods used in medical, surgical, dental or veterinary sciences like catheters, cannulae, defibrillator etc.	9018 (other than items mentioned in the above entry and 90189099)	10	7.5
	Mechano-therapy appliances such as massage apparatus, Psychological aptitude testing apparatus etc.	9019 (except 9019 1020)	10	7.5
	Breathing appliance other than protective masks not having replaceable filters or mechanical parts	9020	10	7.5
	Orthopedic appliances like crutches, surgical belts and trusses, splints, etc.	9021	10	7.5
	Multimeters with/without recording device	9030 3100, 9030 9010	10	7.5

**C. New entries added to the First Schedule (to be effective from 01-05-2022 unless otherwise specified) [Clause 97(b) of the Finance Bill, 2022]:**

Amendments have been proposed in the Finance Bill, 2022, to align the Indian Tariff with the Complementary Amendments to the HS-2022 published by WCO, as signatory to HS Convention. These complementary amendments include minor changes across chapters in the Tariff, all aimed at bringing greater clarity to the HS. Further, New Tariff entries are being introduced by accommodating the requests from different Ministries and Departments. These new entries will help :-

- ✓ to identify new categories of Fuels being introduced in the Country; ·
- ✓ to give a fillip to identification and exports of Handicrafts; ·
- ✓ to clarify the manner of determination of Fe content in iron ore being exported;
- ✓ to provide greater clarity on the goods being exempted through different notifications of the Government.

**D. Changes in textile sector (Chapter 50-63):**

- ✓ Hitherto, the effective BCD on textile items falling under Chapters 50-63 of Customs Tariff are prescribed vide the following notifications:
  - S. No. 305 to 329 of notification No. 50/2017-Customs dated 30 June, 2017;
  - Notification No. 82/2017-Customs dated 27 October 2017;
  - Notification No. 48/2006-Customs dated 26 May 2006; and
  - Notification No. 14/2006-Customs dated 1 March 2006
- ✓ Going forward, it is proposed to reduce the Tariff rate for all textile items to the present effective rate as prescribed vide aforementioned notifications. Accordingly, with this change, with effect from 1 May 2022, for goods falling under Chapter 50-63 of Customs Tariff, the Tariff rate shall be the applicable BCD (clause 97(b) of Finance Bill, 2022).
- ✓ Furthermore, notification No. 14/2006-Customs, dated 1 March, 2006, which prescribes the effective BCD on upholstery and other than upholstery fabrics of specified varieties of woven fabrics of Chapters 52, 54, 55 and 58 is being rescinded with effect from 2

February 2022 (S. No. 4 of notification No. 05/2022-Customs, dated 1 February, 2022). Effective BCD on upholstery and other than upholstery fabrics is being equalized and the new effective BCD on these items is being prescribed by amending notification No. 82/2017-Customs dated 27 October, 2017. This notification will remain in effect till 30 April 2021 (S. Nos. (i) to (liii) of notification No. 7/2022-Customs, dated 1 February 2022 refers), post which the Tariff rate shall be the applicable BCD on these items.

- ✓ Since there are certain changes in the effective rates for specified varieties of woven fabrics of Chapters 52, 54, 55 and 58, it is advisable to closely examine notification No. 82/2017-Customs dated 27th October, 2017 to identify the items on which effective rates have been equalized for upholstery and other than upholstery fabrics of Chapters 52, 54, 55 and 58.
- ✓ While applicable rate of textile items shall comprehensively operate through Tariff w.e.f. 1 May 2022. For the period for 2 February 2022 to 30 April 2022, the rate on most of textile item shall operate through notification No. 82/2017-Customs. Accordingly, the Notification No. 82/2017-Customs is being amended to incorporate effective BCD on textile items including those on which presently the rates are prescribed vide notification No. 48/2006-Customs dated 26 May 2006 (S. No. (i) of notification No. 7/2022-Customs, dated 1 February, 2022 refers). Notification No. 48/2006-Customs dated 26 May 2006 is being rescinded with effect from 2 February 2022 (S. No. 5 of notification No. 05/2022-Customs, dated 1 February 2022
- ✓ The effective BCD on certain textile tariff items falling under CTH 6001, 6101, 6102, 6103, 6104, 6201, 6202, 6203, 6204 are hitherto composite rates, with different rates of specific duty. On a number of these items, the combination of specific and ad-valorem rate is being replaced by ad-valorem rates only. For the period from 2 February 2022, to 30 April 2022, notification No. 82/2017-Customs dated 27 October, 2017 will be amended to incorporate effective BCD so prescribed (S. Nos. (liv) to (lxvi) of notification No. 7/2022-Customs, dated 1 February, 2022 ). 1 May 2022 onwards these items Tariff Rate on these items shall be the applicable BCD. Since composite tariff for these items have been replaced by ad-valorem tariff only, SWS exemption for these items is being withdrawn with effect from 2 February, 2022 (S. No. I (iv) to I (xix) of notification No. 03/2022-Customs dated 1 February 2022). Since there are certain changes in the effective rates, it is advisable to closely examine notification No. 82/2017-Customs dated 27 October, 2017 to identify the items on which composite rates have been replaced by ad-valorem rates. W.e.f. 1 May 2022 these rates shall operate through tariff.
- ✓ Notification No. 82/2017-Customs dated 27 October 2017 is being rescinded with effect from 1 May 2022 (S. No. 15 of notification No. 05/2022-Customs, dated 1 February 2022).

**E. Review of concessional rate of BCD prescribed for Capital Goods and Project imports vide Notification 50/2017- Customs dated 30 June 2017:**

- a. The BCD rate structure on capital goods and project imports has been reviewed and the exemptions will be phased out in a gradual manner. Further, certain exemptions would continue. Accordingly, certain entries are omitted in order to withdraw exemptions from the dates mentioned against each entry:

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Item/ Product		Serial Number of the Notification
Category	Description	
Textile Sector	<ul style="list-style-type: none"> <li>- Concessional BCD rate has been withdrawn for Spindles, Yarn guide, Ballon Control Rings and Travellers (w.e.f 1 April 2022)</li> <li>- Concessional BCD rate has been withdrawn for Machinery for continuous polymerization plant, Machinery for synthetic fibre plant etc. (w.e.f 1 April 2023)</li> </ul>	300
	Concessional BCD rate has been withdrawn for Machinery for garment sector, Machinery for manufacture of technical textiles, Woollen machinery items (w.e.f 1 April 2023)	400
	Concessional BCD rate has been withdrawn for Machinery or equipment for effluent treatment plant for handloom sector or handicraft sector (w.e.f 1 April 2022)	433
	Concessional BCD Rate has been withdrawn for Machinery use in the silk textile industry (w.e.f 1 April 2023)	434
Power Sector	<p>Goods specified in List 10 for use of high voltage power transmission project:</p> <ul style="list-style-type: none"> <li>- Concessional BCD rate has been withdrawn for 13 items (list 10 of the notification) including Transformers, Reactor, Circuit Breaker etc. (w.e.f 1 April 2022)</li> <li>- Concessional BCD rate has been withdrawn for High Voltage DC Divider and CT, High Voltage DC Reactor, High TRV Circuit Breaker for High Voltage DC application, (w.e.f 1 April 2023)</li> </ul>	397
	Permanent magnets for manufacture of PM synchronous generators above 500KW for use in wind operated electricity generators (w.e.f 1 April 2023)	406
	All goods, for renovation or modernization of a power generation plant (other than captive power generation plant) (w.e.f 1 April 2022)	413
	All goods imported by manufacturer -supplier for the manufacture and supply of a machinery and equipment to a power generation plant (other than captive power generation plant) (w.e.f 1 April 2022)	414
	Wind operated electricity generators, its parts and raw material thereof:	405
	<ul style="list-style-type: none"> <li>- Concessional BCD rate to be withdrawn for item No. (1) &amp; (3) of this entry that include wind operated</li> </ul>	



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Item/ Product		Serial Number of the Notification
Category	Description	
	<p>electricity generators (WOEG) upto 30 kW, wind operated battery chargers upto 30kW and blades for the rotors of WOEG (w.e.f 1 April 2022)</p> <p>- Concessional BCD rate to be withdrawn for the remaining items, such as parts of wind operated electricity generators including special bearings, gear box, yaw components, wind turbine controllers etc, and parts thereof and parts of blades, raw materials of blades etc. in this entry. (w.e.f 1 April 2023)</p>	
Petroleum Sector	Parts and raw materials for manufacture of goods to be supplied in connection with the purposes of off shore oil exploration or exploitation (w.e.f 1 April 2023)	403
	Kits and its parts required for the conversion of motor spirit or diesel driven vehicles into Compressed Natural Gas driven or Propane driven or Liquefied Petroleum (w.e.f 1 April 2022)	410
	<p>Goods specified in List 13 required for setting up crude petroleum refinery</p> <p>- Concessional BCD rate to be withdrawn for 11 items of List 13 that include utility systems, water treatment systems, air handling systems, boilers etc. (w.e.f 1 April 2022)</p> <p>- Concessional BCD rate to be withdrawn for the remaining items such as all types of Refinery Process Units, All types of Hydrogen Generation, Recovery and Purification Plants, All types of Process Subsystems, All types of Effluent Solids/Liquids/Gaseous Processing etc. in this S. No. (w.e.f 1 April 2023)</p>	409
Leather Sector	Machinery or equipment for effluent treatment plant for leather industry (w.e.f 1 April 2022)	396
	292 goods specified in List 27 designed for use in the leather industry or the footwear industry, like Air blast dust removing machine, Automatic Drying Machine (w.e.f 01 April 2023)	439
Food Packaging Sector	Machinery for filling, closing, sealing or labelling bottles, cans, boxes, bags or other containers (w.e.f 1 April 2023)	455
	Machinery for the industrial preparation or manufacture of food or drink, other than machinery for the extraction or preparation of animal or fixed vegetable fats or oils (w.e.f 1 April 2023)	458

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Item/ Product		Serial Number of the Notification
Category	Description	
Project Imports	<p>Concessional BCD rate has been withdrawn on the following items:</p> <ul style="list-style-type: none"> <li>(i) Power Projects, including Nuclear and Solar Power</li> <li>(ii) Coal Projects</li> <li>(iii) Gas Projects</li> <li>(iv) Iron Ore Projects</li> <li>(v) Water Supply Projects</li> <li>(vi) Mandi and Warehousing Projects for Food Grains</li> <li>(vii) Other Projects</li> </ul> <p>- 7.5 per cent BCD rate would be levy for all the newly project registered after 30 September 2022.</p> <p>- Existing projects registered till 30 September 2022 will attract old BCD rates till 30 September 2023 as applicable</p> <p>- All project registered After 30th September 2023, under project imports will attract 7.5 per cent BCD rate</p>	597 to 606

b. Certain clarificatory changes (full/partial) in important entries of 50/2017- Customs dated 30 June 2017:

Item/ Product		Serial Number of the Notification
Category	Description	
Chemicals, pharmaceutical products	<p>(A) Drugs, medicines, diagnostic kits or equipment specified in List 3</p> <p>(B) Bulk drugs used in the manufacture of drugs or medicines at (A)</p> <p><b>Note:</b> Chapter 38 has been included in this entry. Further, exemptions under List-3 ratioanlized. Items included under Items included in List 3 under S. No. 166 provides for a conditional concessional rate of 5% on the imports of drugs, medicines, diagnostic kits, etc. along with bulk drugs used in the manufacture of such drugs or medicines. The items in the said list has been reviewed. Accordingly, 35 items have been removed from the List and 1 item (influenza vaccine) in the List would be omitted after 18 months. For, further details, please refer to notification No. 02/2022- Customs dated the 1 February, 2022.</p>	166
	<p>(A) Lifesaving drugs/medicines including their salts and esters and diagnostic test kits specified in List 4.</p> <p>(B) Bulk drugs used in the manufacture of life saving drugs or medicines at (A).</p>	167

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Item/ Product		Serial Number of the Notification
Category	Description	
	<p><b>[Exemptions under List-4 is being rationalized in the manner as detailed in the Note at S. No. 63 above; Entry at S. No. 167 (C) has been omitted as a similar exemption is available under S. No. 607 (b) of Notification No. 50/2017 - Customs]</b></p> <p><b>Note:</b> Items included in List 4 under S. No. 167 provides for customs duty exemption on the imports of Lifesaving drugs/medicines, diagnostic kits, etc. along with bulk drugs used in the manufacture of such goods. The items in the said list has been reviewed. Accordingly, 3 items in List 4 [Diagnostic agent for detection of Hepatitis B antigen, Diagnostic kits for detection of HIV antibodies, Enzyme Linked Immuno absorbent Assay kits (ELISA kits)] have been transferred to List 3. 2 bulk drugs [bulk drug substance for poliomyelitis vaccine (inactivated and live) and Monocomponent Insulin] that are currently included in List 4 would be transferred to List 3 after 2-3 years, and 36 items from List 4 have been omitted. For further details, please refer to notification No. 02/2022 - Customs dated 1 February 2022</p>	
Any Chapter	<p>Parts or components for use in manufacture of populated printed circuit board of various telecom and electronics related products, and its sub-parts.</p> <p><b>[Exemption to continue for Digital Video Recorder(DVR)/Network Video Recorder(VR) falling under tariff item 8521 90 90; CCTV Camera/IP Camera falling under tariff item 8525 20 80; Reception apparatus for television but not designed to incorporate a video display till 31 March 2023]</b></p>	513
Electrically operated vehicles	<p><u>Tariff Code: 8702 or 8704</u></p> <p>Electrically operated vehicles, if imported,-</p> <p>(1) incomplete or unfinished, as a knocked down kit containing necessary components, parts or sub-assemblies for assembling a complete vehicle, including battery pack, motor, motor controller, charger, power control unit, energy monitor, contactor, brake system, electric compressor, whether or not individually pre-assembled, with, -</p> <p>(a) none of the above components, parts or sub-assemblies inter-connected with each other and not mounted on a chassis- <b>applicable rate is 15 percent</b></p> <p>(b) any of the above components, parts or sub-assemblies inter-connected with each other but not mounted on a chassis- <b>applicable rate is 25 percent</b></p>	525

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Item/ Product		Serial Number of the Notification
Category	Description	
	<p>(2) in a form other than (1) above,- <b>applicable rate is 40 percent</b></p> <p><i>Explanation. - For the removal of doubts, the exemption contained in the items (1)(a) and (1)(b) of this entry shall be available, even if one or more of the components, parts or sub-assemblies required for assembling a complete vehicle are not imported in the kit, provided that the kit as presented, is classifiable under the heading 8702 or 8704 of the Customs Tariff Act, 1975 as per the general rules of interpretation.”;</i></p>	
	<p><u>Tariff Code: 8703</u></p> <p>Electrically operated vehicles, if imported,-</p> <p>(1) incomplete or unfinished, as a knocked down kit containing necessary components, parts or sub-assemblies for assembling a complete vehicle, including battery pack, motor, motor controller, charger, power control unit, energy monitor, contactor, brake system, electric compressor, whether or not individually pre-assembled, with, -</p> <p>(a) none of the above components, parts or sub-assemblies inter-connected with each other and not mounted on a chassis - <b>applicable rate is 15 percent</b></p> <p>(b) any of the above components, parts or sub-assemblies inter-connected with each other but not mounted on a chassis - <b>applicable rate is 30 percent</b></p> <p>(2) in a form other than (1) above,-</p> <p>(a) with a CIF value more than US \$40,000 - <b>applicable rate is 100 percent</b></p> <p>(b) other than (a) above - <b>applicable rate is 60 percent</b></p> <p><i>Explanation. - For the removal of doubts, the exemption contained in items (1)(a) and (1)(b) of this entry shall be available, even if one or more of the components, parts or sub-assemblies required for assembling a complete vehicle are not imported in the kit, provided that the kit as presented, is classifiable under the heading 8703 of the Customs Tariff Act, 1975 as per the general rules of interpretation.”;</i></p>	526A
	<p><u>Tariff Code: 8711</u></p> <p>Electrically operated vehicles, if imported,-</p> <p>(1) incomplete or unfinished, as a knocked down kit containing necessary components, parts or sub-assemblies for assembling a complete vehicle, including battery pack, motor, motor controller,</p>	

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Item/ Product		Serial Number of the Notification
Category	Description	
	<p>charger, power control unit, energy monitor, brake system, whether or not individually pre-assembled, with, –</p> <p>(a) none of the above components, parts or sub-assemblies inter-connected with each other and not mounted on a chassis - <b>applicable rate is 15 percent</b></p> <p>(b) any of the above components, parts or sub-assemblies inter-connected with each other but not mounted on a chassis - <b>applicable rate is 25 percent</b></p> <p>(2) in a form other than (1) above- <b>applicable rate is 50 percent</b></p> <p><b>Explanation.</b> – For the removal of doubts, the exemption contained in the items (1)(a) and (1)(b) of this entry shall be available, even if one or more of the components, parts or sub-assemblies required for assembling a complete vehicle are not imported in the kit, provided that the kit as presented, is classifiable under the heading 8711 of the Customs Tariff Act, 1975 as per the general rules of interpretation.”;</p>	

## 6.3 ANNEXURE C: BCD RATES IN RESPECT OF PHASED MANUFACTURING PROGRAMME (PMP)

- A. Notification No: 11/2022-Customs dated 1 February 2022 seeks to implement a graded BCD structure for wearable devices and its parts, sub-parts and sub-assembly:

Sr. No	Item/ Product Description	Tariff Code	Rate in percentage (to)			
			2022-23	2023-24	2024-25	2025-26
Following parts [S. No. 1 to 7] for manufacture of wearable devices falling under tariff item 8517 62 90 of the Customs Tariff						
1	Printed Circuit Board Assembly	8517 79 10	NIL	10	15	15
2	Charging Cable	8544	NIL	5	10	15
3	Specified parts of wearable devices	39, 73, 85	NIL	5	10	15
4	Battery	8507 60 00/ 8507 80 00	NIL	5	10	15
5	Display Assembly	8517 79 90	NIL	NIL	5	10
6	Vibrator Motor	8501	10	10	10	10

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Sr. No	Item/ Product Description	Tariff Code	Rate in percentage (to)			
			2022-23	2023-24	2024-25	2025-26
7	Parts, sub-parts, and raw materials for use in the manufacture of the S. Nos 1 to 6	Any Chapter	NIL	NIL	NIL	NIL
<b>Note: IGCR conditions shall apply for the items in S. No. 1 to 7 above</b>						

- B. Notification No: 12/2022-Customs dated 1 February, 2022 Seeks to implement a graded BCD structure for hearable devices and its parts, sub-parts and sub-assembly.

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

- C. Notification No: 13/2022-Customs dated 1 February, 2022 Seeks to implement a graded BCD structure for smart meters and its parts, sub-parts and sub-assembly.

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Sr. No	Item/ Product Description	Tariff Code	Rate in percentage (to)			
			2022-23	2023-24	2024-25	2025-26
1	Assembled / Populated PCB for Smart Meters	9028 90 10	20	20	20	20
2	Communication Module	8517 69 90	NIL	NIL	5	10
3	Relay	8536 49 00	5	10	10	15
4	Antenna	8517 71 00	NIL	NIL	5	10
5	LCD & Backlight for LCD	8524 11 00/ 8524 91 00	NIL	5	10	10
6	Battery	8506 50 00	NIL	5	10	10
7	Parts, sub-parts, and raw materials for use in the manufacture of the S. Nos 1 to 6 above	Any Chapter	NIL	-	-	-
8	Smart Meters	9028 30 10	25	25	25	25
<b>Note: IGCR conditions shall apply for the items in S. No. 1 to 7 above</b>						

## 6.4 ANNEXURE D: OBSOLETE/EXPIRED NOTIFICATIONS RESCINDED AS PER BELOW DETAILS:

### (A) Notification Rescinded w.e.f. 2 February 2022

Sr. No	Notification No.	Description
1	190/1978-Customs dated 22 September 1978	These notification provides for additional duty of customs on import of transformer oil equivalent to such portion of the excise duty leviable on the raw material commonly known as transformer oil base stock or transformer oil feedstock.
2	191/1978-Customs dated 22 September 1978	
3	10/1995-Customs dated 07 March 1995	This notification prescribes concessional rate of customs duty on import inputs imported for manufacturing of Iron & Steel intermediates.
4	26/1999-Customs dated 28 February 1999	This notification prescribes concessional rate of basic customs duty on import of kerosene imported by a manufacturer of linear alkyl benzene for extracting N-Paraffin.
5	27/2004-Customs dated 23 January 2004	This notification prescribes concessional rate of customs duty on import of specified goods imported for use in manufacture of certain chemicals.
6	14/2006-Customs dated 01 March 2006	This notification prescribes concessional rate of customs duty on import of specified varieties of woven fabrics falling under Chapters 52, 54, 55 and 58.  The entries of this notification have been merged in Notification No. 82/2017-Customs.

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7	48/2006-Customs dated 26 May 2006	This notification prescribes concessional rate of customs duty on import of woven fabrics of carded/combed wool or fine animal hair.  The entries of this notification have been merged in Notification No.82/2017-Customs.
8	90/2007-Customs dated 26 July 2007	This notification prescribes concessional rate of additional duty of customs on import of items related to Electronics and Information Technology goods.
9	08/2011-Customs dated 14 February 2011	This notification prescribes exemption from the whole of the additional duty of customs, leviable thereon under sub-section (1) of section 3 of the said Customs Tariff Act, on jute products imported from Bangladesh or Nepal.  The notification has been rescinded as post introduction of GST, the jute products attract integrated tax on imports.
10	24/2011-Customs dated 01 March 2011	This notification exempts Basic Customs Duty on copper concentrate as is equivalent to the duty of customs leviable on the value of Gold and silver contained in such copper concentrate.
11	49/2013-Customs dated 29 November 2011	This notification prescribed concessional rate of customs duty on import of Anti-Tuberculosis Drugs, Diagnostics and Equipment and had lapsed on 1 April 2016.
12	23/2014-Customs dated 11 July 2014	This notification prescribed concessional rate of customs duty on import of Drugs & equipment imported for National AIDS Control Programme and had lapsed on 15 April 2015.
13	37/2015-Customs dated 10 June 2015	This notification prescribed concessional rate of customs duty on import of Anti-Retroviral Drugs (ARV Drugs) and had lapsed on 1 April 2016.
14	11/2016-Customs dated 01 March 2016	This notification prescribes concessional rate of customs duty on import of software recorded media.
15	20/2020-Customs dated 09 April 2020	This notification prescribes concessional rate of customs duty on import of Face Masks, Surgical Masks, Ventilators, Covid-19 Testing Kits, etc. and had lapsed on 30 September 2020.
16	40/2020-Customs dated 28 October 2020	This notification prescribes concessional rate of customs duty on import of Potatoes under Tariff Rate Quota (TRQ) and had lapsed on 31 January 2021.

(B) Notifications rescinded with effect from 1 May 2022



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Sr. No	Notification No.	Description
1	82/2017-Customs dated 27 October 2017	This notification prescribes effective rate of duty under chapters 50 to 63 on textile products.

## 6.5 ANNEXURE E: INCLUSION OF END DATE AS PER SECTION 25(4A) OF THE CUSTOMS ACT, 1962 IN CERTAIN STAND ALONE NOTIFICATIONS

***(All the entries in the notification, unless varied or rescinded, will have validity up to 31 March 2023)***

Sr. No	Notification No.	Description
1	146/94-Customs dated 13 July 1994	This notification prescribes concessional rate of customs duty on specified sports goods, equipment and requisites imported by National Sports Federation.
2	147/94-Customs dated 13 July 1994	This notification prescribes concessional rate of customs duty on exemption to Fire arms and ammunition for renowned shot.
3	39/96-Customs dated 23 July 1996	This notification exempts specified goods imported by Defence and internal security forces
4	50/96-Customs dated 23 July 1996	This notification prescribes concessional rate of customs duty on equipment, instrument, raw materials, components, pilot plants, computer software for R&D project.
5	30/2004-Customs dated 28 January 2004	This notification prescribes concessional rate of customs duty on import of second hand computers as donation.
6	81/2005-Customs dated 8 September 2005	This notification prescribes concessional rate of customs duty on machinery/components for initial setting up of power generation project.
7	5/2017-Customs dated 2 February 2017	This notification prescribes concessional rate of customs duty on machinery, equipment, apparatus, components and appliances for initial setting up of fuel cell based system for generation of power.
8	16/2017-Customs dated 20 April 2017	This notification prescribes concessional rate of customs duty on specified drugs and medicines supplied free of cost to patients.
9	Serial No. 2 of 32/2017-Customs dated 30 June 2017	This notification prescribes concessional rate of customs duty on art work created abroad by Indian artist and sculptures, antique books more than 100 year old.

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