

BUDGET ANALYSIS 2021-22

J P Chawla & Co. LLP

Chartered Accountants

Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Business Intelligence Services



1. Foreword	<u>3</u>
2. Economic Outlook	<u>5</u>
3. Budget at Glance	<u>11</u>
4. Direct Tax Proposals	<u>14</u>
a. Personal Tax	<u>15</u>
b. Corporate Tax	<u>17</u>
c. Tax Incentives	<u>19</u>
d. Removing difficulties faced by tax payers	<u>22</u>
e. TDS/TCS	<u>40</u>
5. Indirect Tax - Goods and Service Tax, Custom and Excise changes	<u>43</u>
6. Regulatory Changes	<u>64</u>
7. Glossary	<u>66</u>

The Budget 2021-22 has come at a time where global and Indian businesses are recovering from the economic and psychological shock of Covid 19. The sentiments are slowly becoming positive and the Indian economy is showing healthy sign of recovery.

The Indian economy was negatively impacted by an unprecedented health crisis in 2020-21 with the highly contagious coronavirus (COVID-19) spreading across the country. In response to the pandemic, Government has taken several proactive preventive and mitigating measures starting with the progressive tightening of international travel, issue of advisories for the members of the public, setting up quarantine facilities, contact tracing of persons infected by the virus and various social distancing measures. Government imposed a strict 21 days nationwide lockdown from 25th March, 2020, under the Disaster Management Act, 2005, with subsequent extensions.

The fiscal deficit has been estimated to be 6.8 percent of GDP. The real Gross Domestic Product (GDP) growth is projected to contract by 7.7 percent in 2020-21 as compared to a growth of 4.2 percent in 2019-20. GDP growth, however, is expected to rebound strongly in 2021-22.

Budget presented this year, being referred to as the digital budget, will be the first of this new decade and impetus is complete digitization of the economy, with incentives being given to businesses being cashless. In the area of litigation, everything is also set on becoming digital with e-tribunals and e-courts being introduced in the area of income tax and company law.

In direct tax numerous changes to ease compliance and ensure tax collection have been introduced, various tax incentives have also been introduced. Certain rationalization measures have also been introduced, changes in TDS, increase in audit threshold, Startup eligibility extension etc. There are no changes in tax rates.

Further, In order to impart greater efficiency, transparency and accountability to the assessment process, appeal process and penalty process under Direct Tax a new faceless assessment scheme, faceless appeal scheme and faceless penalty scheme have already been introduced. Further, vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 the Central Government has been empowered to notify similar schemes in respect of many other processes under the Act that require a physical interface with the taxpayers. In order to ensure that the reforms initiated by the Department to reduce human interface from the system reaches the next level, a faceless scheme is to be launched for ITAT proceedings on the same line as faceless appeal scheme. This will not only reduce the cost of compliance for taxpayers, increase transparency in the disposal of appeals but will also help in achieving even work distribution in different benches resulting in the best utilisation of resources.

Certain changes have been brought in Indirect tax, such as in GST on the concept of mutuality, change in eligibility of Input tax credit, the abolition of GST audit, interest on net cash liability of GST, changes in zero-rated tax provision etc. In customs change in duty structure as well as the penalty for bogus bills have been introduced. Certain central excise rates have been rationalized.

The Government has come up with a few positive changes in the area of regulations, which include changes in companies act, the proposal of a single securities code.FDI limit increase in the insurance sector is being proposed, one person company limits are being rationalized and there is a change in the definition of small company enabling ease of doing business.

This final budget of 2021-22 has been released with a vision for economic recovery. In line with the projections for the strengthening of India's growth, inclusive development for all, and putting back India on growth path quickly post-Pandemic.

Please Note:

- This budget has been prepared as a knowledge document, does not constitute an advertisement of any manner and is for private circulation only.
- Contribution of J P Chawla & Co. LLP's team members: Mr. J.P. Chawla, Mrs. Richa Juneja Chawla, Mr. Ankit Vyas, Mr. Vipin Sharma and Mrs. Garishma Arora for the preparation of this comprehensive budget document is highly appreciated and acknowledged with thanks.

Hope you enjoy reading our analysis of Budget 2021-22.

Happy reading!!

Rajat Chawla
CEO & Managing Partner
J P Chawla & Co. LLP
E | rajatchawla@jpc.co.in

ECONOMIC OUTLOOK



Overview of the Economy

The Indian economy was negatively impacted by an unprecedented health crisis in 2020-21 with the highly contagious coronavirus (Covid-19) spreading across the country. In response to the pandemic, Government has taken several proactive preventive and mitigating measures starting with the progressive tightening of international travel, issue of advisories for the members of the public, setting up quarantine facilities, contact tracing of persons infected by the virus and various social distancing measures. Government imposed a strict 21 days nationwide lockdown from 25th March, 2020, under the Disaster Management Act, 2005, with subsequent extensions and relaxations, to contain the spread of COVID-19 while ramping up the health infrastructure in the country. The lockdown measures, imposed to contain the spread of Covid-19 pandemic in India, ubiquitously affected employment, business, trade, manufacturing, and services activities. The real Gross Domestic Product (GDP) growth is projected to contract by 7.7 percent in 2020-21 as compared to a growth of 4.2 percent in 2019-20. GDP growth, however, is expected to rebound strongly in 2021-22 owing to the reform measures undertaken by the Government.

Economic growth

As per the first Advance Estimates of annual national income released by the National Statistical Office (NSO), Real GDP is estimated to contract by 7.7 percent in 2020-21, as compared to a growth of 4.2 percent in 2019-20. This contraction in GDP growth is mainly attributed to the contraction in the industry and services sector. The growth of Gross Value Added (GVA) at constant (2011-12) basic prices is estimated to contract by 7.2 percent

in 2020-21, as compared to a growth of 3.9 percent achieved in 2019-20. Positive growth in real GVA in agriculture & allied sectors at 3.4 percent in 2020-21 against 4.0 percent in PE of 2019-20 indicates the resilience of rural economic activity to the COVID-19 pandemic.

From the demand side, private consumption expenditure is estimated to contract at 9.5 percent in 2020-21 as against a growth of 5.3 percent in 2019-20 and fixed investment is estimated to decline by 14.5 percent in 2020-21 as against 2.8 percent in 2019-20. Government consumption final expenditure is estimated to grow at 5.8 percent in 2020-21 as against 11.8 percent in 2019-20. Exports and imports of goods and services are estimated to contract at 8.3 percent and 20.5 percent (at constant prices) respectively in 2020-21.

Prices

Inflation based on Consumer Price Index-Combined (CPI-C) has moderated from 5.9 percent in 2014-15 to 3.4 percent in 2018-19 and 4.8 percent in 2019-20. It averaged 6.6 percent in 2020-21 (Apr-Dec) and stood at 4.6 percent in December 2020. Food inflation based on Consumer Food Price Index (CFPI) declined from 6.4 percent in 2014-15 to 0.1 percent in 2018-19 and recorded 6.7 percent in 2019-20. It averaged 9.1 percent in 2020-21 (Apr-Dec) and stood at 9.5 percent in November 2020 but drastically declined to 3.4 percent in December 2020. Inflation measured in terms of Wholesale Price Index (WPI) declined from 4.3 percent in 2018-19 to 1.7 percent in 2019-20. It averaged (-) 0.1 percent in 2020-21 (Apr-Dec) and stood at 1.2 percent in December 2020.

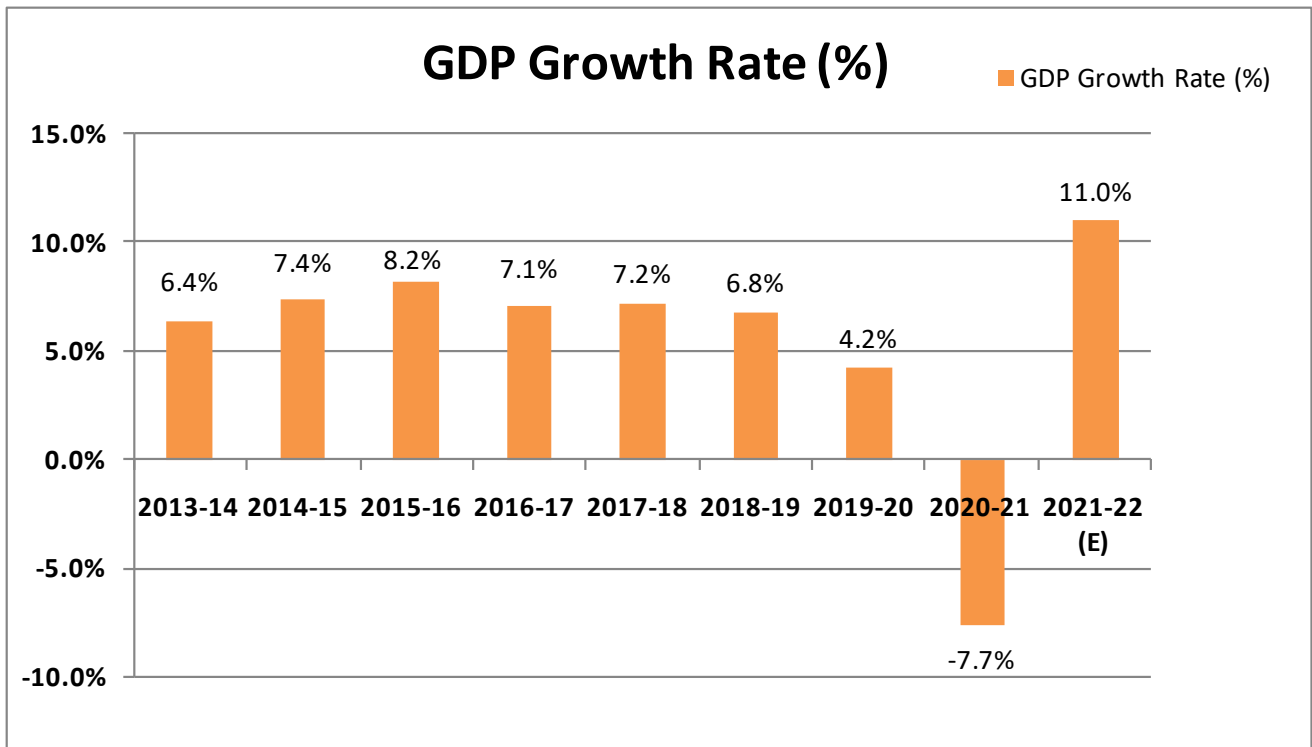
Central Government Finances

The fiscal deficit and revenue deficit for 2020-21 were budgeted at 3.5 percent of GDP and 2.7 percent of GDP respectively. The BE 2020-21 envisaged a tax to GDP ratio of 10.8 percent and a total expenditure to GDP ratio of 13.5 percent. The envisaged growth for Gross Tax Revenue was 12 percent over 2019-20 Revised Estimates (RE). The total expenditure in BE 2020-21 was estimated to increase by 12.7 percent over 2019-20 RE. However, the Covid-19 pandemic severely affected the Government revenues, while exerting pressure to increase Government Expenditure.

As per the data on Union Government Finances released by Controller General of Accounts for April-November 2020, the Gross Tax Revenue decreased by 12.6 percent over the corresponding period of the

previous year achieving 42.4 percent of the budget estimate.

During April- November 2020, the fiscal deficit reached 135.1 percent of the budgeted amount in 2020-21 higher relative to 114.8 percent of the budget estimate during the corresponding period of the previous year. The revenue deficit for April-November 2020 is 139.9 percent of the budget estimate and is higher than the corresponding figure of 128.4 percent in the previous year. The Revised Estimates place fiscal and revenue deficits at 9.5 percent of GDP and 7.5 percent of GDP respectively in 2020-21.



Monetary Management and Financial Intermediation

Monetary policy remained accommodative during 2020. The Monetary Policy Committee (MPC) of the Reserve Bank met five times since March 2020. In view of the Covid-19 pandemic, the MPC advanced its first two meetings of 2020-21 from the first week of April to end March and from the first week of June to 20th May-22nd May. The repo rate has been cut by 115 bps since March 2020, with 75 bps cut in first MPC meeting in March 2020 and 40 bps cut in second meeting in May 2020. The policy rates were kept unchanged in further meetings, but the liquidity support was significantly enhanced.

During 2020-21, the growth of monetary aggregates witnessed higher growth as compared to the previous few years on account of higher liquidity in the economy. In 2020-21 so far, Reserve money (M0) recorded a Year on Year (YoY) growth of 15.1 percent as on January 1, 2021 as compared to 12.3 percent a year ago. Expansion in M0 during 2020-21 so far was driven by currency in circulation (CIC) from the component side. The growth of Broad Money (M3) stood at 12.4 percent as on December 18, 2020, as compared to 10.4 percent in the corresponding period a year ago. Aggregate deposits contributed the most in the growth of M3.

External Sector

Merchandise exports (customs basis) during 2020-21 (April-December), were US\$ 200.8 billion, which declined by 15.7 percent over the level of US\$ 238.3 billion in the corresponding period of the previous year. During 2020-21 (April-December), merchandise imports were US\$ 258.3 billion, registering a decline of 29.1 percent over the level of US\$ 364.2 billion in corresponding period of the previous year.

Oil imports declined from US\$ 96.7 billion in 2019-20 (April-December) to US\$ 53.7 billion in 2020-21 (April-December). Merchandise trade deficit improved from US\$ 125.9 billion in 2019-20 (April-December) to US\$ 57.5 billion in 2020-21 (April-December).

Amidst the uncertain and shaky global economic environment affected by Covid-19, India's external sector has emerged as a key cushion for resilience. In H1: FY 2020-21, steep contraction in merchandise imports and stable net service receipts led to a current account surplus of US\$ 34.7 billion (3.1 percent of GDP). Balance on the capital account, on the other hand, has been buttressed by robust FDI and FPI inflows. These developments have led to an accretion of foreign exchange reserves that rose to US\$ 580.8 billion as on December 25, 2020.

The net FDI inflows at US\$ 23.8 billion in H1 of 2020-21 were higher than US\$ 21.3 billion in corresponding period of the previous year, an endorsement of India's status as a preferred investment destination amongst global investors. After unprecedented sell-offs in March 2020 reflecting recessionary fears among global investors at the onset of the pandemic, foreign portfolio investment (FPI) witnessed a strong rebound and recorded a net inflow of US\$ 7.6 billion in H1 of 2020-21, more than the level recorded in H1: 2019-20.

The average monthly exchange rate of rupee (RBI's reference rate) was `74.66 per US dollar in 2020-21 (April-December), as compared to `70.11 per US dollar during 2019-20. As compared to end-March 2020, there was a decrease in external debt of US\$ 2.0 billion, which stands at US\$ 556.2 billion as at end-September, 2020. However, the external debt to GDP ratio stands at 21.6 percent as at end-Sept, 2020, as against 20.6

percent as at end-March, 2020.

Banking and Non-Banking Sector

Bank credit growth was 6.1 percent as on December 18, 2020 as compared to 7.1 percent in the corresponding period of the previous year. The non-food credit growth (YoY) was 5.6 percent in October 2020, as compared with a growth of 8.3 percent in October 2019. The moderation in credit growth in 2020-21 was witnessed in mostly all the sectors, barring services.

Gross Non-Performing Advances (GNPA) ratio (i.e. GNPA as a percentage of Gross Advances) of Scheduled Commercial Banks decreased from 8.2 percent at the end-March 2020 to 7.5 percent at end-September 2020. Restructured Standard Advances (RSA) ratio of Scheduled Commercial Banks (SCBs) increased from 0.36 percent to 0.41 percent during the same period. Overall, the Stressed Advances ratio of SCBs decreased from 8.6 percent at the end of March 2020 to 7.9 percent at end-September 2020. GNPA ratio of Public Sector Banks (PSBs) decreased from 10.25 percent at the end-March 2020 to 9.4 percent at the end-September 2020 and the Stressed Advances ratios decreased from 10.75 percent at end-March 2020 to 9.96 percent at end-September 2020. However, this has to be seen in conjunction with the asset classification relief provided to borrowers on account of COVID-19.

Agriculture

In 2019-20 (as per Fourth Advance Estimates), total food grain production in the country is estimated at 296.65 million tonnes which is higher by 11.44 million tonnes than the production of food grain of 285.21 million tonnes during 2018-19. Rice production

during 2019-20 is estimated at 118.4 million tonnes as compared to 116.5 million tonnes in 2018-19. Wheat production during 2019-20 is estimated at 107.6 million tonnes as compared to 103.6 million tonnes during 2018-19. Government has increased Minimum Support Prices (MSP) for all mandated kharif, rabi and other commercial crops. The enhanced MSP ensures a return of 1.5 times overall India weighted average cost of production for the season 2020-21.

Milk production in the country has increased from 146.3 million tonnes (2014-15) to 198.4 million tonnes (2019-20). The per capita availability of milk is at 412 grams per day in (2019-20). The egg production in the country also increased from 103318 million in 2018-19 to 114419 million in 2019-20. The fish production in India has reached an alltime high of 14.07 million metric tons during 2019-20. Overall, the Fisheries sector of India has sustained an impressive average annual growth rate of over 10 percent from 2014-15 to 2018-19. The agricultural credit flow target for the year 2019-20 was fixed at 13,50,000 crore and against this target the achievement was `13,92,469.81 crore. The agriculture credit flow target for 2020-21 has been fixed at `15,00,000 crore and till 21st October, 2020 against this target a sum of `6,95,360.82 crore has been disbursed.

Industry

The performance of the industrial sectors based on the Index of Industrial Production (IIP) comprising mining, manufacturing and electricity registered a growth of (-) 0.8 percent in 2019- 20 as compared to 3.8 percent in 2018-19. As per the sectoral classification, mining, manufacturing and electricity sectors registered 1.6 percent, (-) 1.4 percent and 1.0 percent growth during 2019-20 respectively. Among the use-based categories, primary goods, capital goods, intermediate goods,

infrastructure/construction goods, consumer durables goods and consumer non-durables goods have attained 0.7 percent, (-) 13.9 percent, 9.1 percent, (-) 3.6 percent, (-) 8.7 percent and (-) 0.1 percent growth respectively in 2019-20. The cumulative growth of IIP during April-November 2020-21 is (-) 15.5 percent as compared to 0.3 percent during April- November 2019-20.

The eight-core infrastructure supportive industries, viz. coal, crude oil, natural gas, refinery products, fertilizers, steel, cement and electricity that have a total weight of nearly 40 percent in the Index of Industrial Production (IIP) grew by 0.4 percent in 2019-20 as compared to 4.4 percent in 2018-19. The production of refinery products, fertilizers, steel and electricity increased by 0.2 percent, 2.7 percent, 3.4 percent and 0.9 percent respectively during 2019-20 while the production of coal, crude oil, natural gas and cement fell by 0.4 percent, 5.9 percent, 5.6 percent and 0.9 percent respectively during the same period. The cumulative growth of eight core industries during April-November 2020-21 is (-) 11.4 percent as compared to 0.3 percent during April- November 2019-20.

Non-Banking Financial Sector

Total assets of NBFCs had increased from `23.41 lakh crore in March 2018 to `29.23 lakh crore in March 2019, and further to `33.91 lakh crore in March 2020, resulting in an annual growth of 16.01 percent during 2019-20 as compared with 24.86 percent in 2018-19.

There is an observable shift in the sources of funding of NBFCs. Banks' total exposure to NBFCs increased from `7.01 lakh crores in March 2019 to `8.04 lakh crores in March 2020, and further to `8.17 lakh crores in June 2020.

Prospects

The stimulus measures and reforms initiated by the Government and liquidity measures by the RBI are expected to support industrial activity and demand. The movement of various high frequency indicators in recent months, points towards broad based resurgence of economic activity. The launch of Covid-19 vaccination programme in the country will further add momentum to the economic recovery. In line with the projections for strengthening of India's growth by multi-lateral institutions, the nominal growth of the economy is expected to be 14.4 percent in the financial year 2021-22.

Overview

The Budget 2021-22 has come at a time where global and Indian businesses are recovering from the economic and psychological shock of COVID-19. The sentiments are slowly becoming positive and the Indian economy is showing healthy signs of recovery. COVID-19 inflicted an unprecedented adverse shock to the economy in 2020-21. Along with the economy, the finances of the Government were in stress for the greater part of four months and was particularly severe in the first quarter of 2020-21. The economy still requires a major impetus from the government to sustain positive GDP growth.

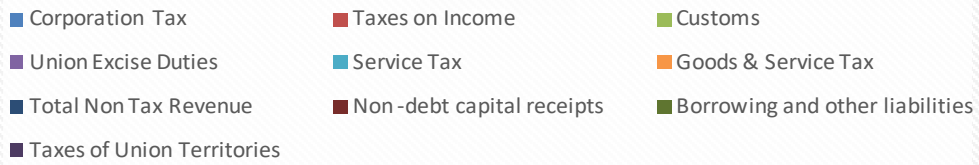
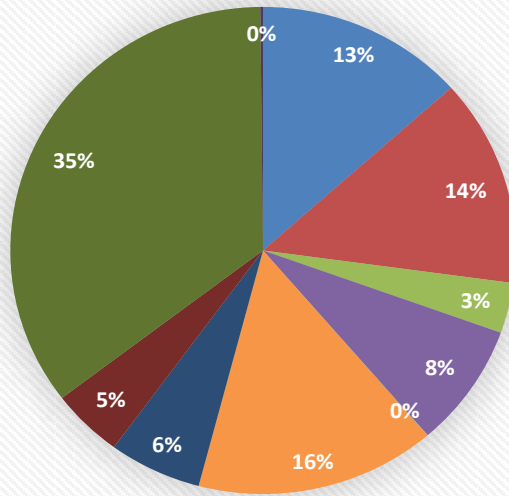
After China's aftermath with COVID-19, the world is closely watching India as a sustainable growth engine and India itself has set its eyes towards a manufacturing-driven economy.



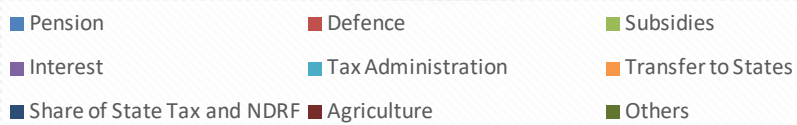
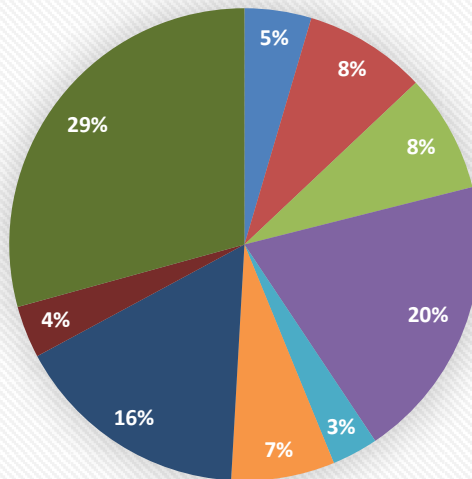
In BE 2021-22, the fiscal deficit has been estimated to be 6.8 percent of GDP. The simultaneous increase in expenditure by the Government on health, livelihood and economic stimulus and the reduction in receipts is the reason for the increase in the fiscal deficit.

The budget receipts are largely focused on growth in direct and indirect tax revenue with debt being the main source for this year and expenditure is focusing on Agriculture, Social Sector, Defense, subsidies, Interest, Education, Health and covid vaccination. This is substantiated by the increase in expenditure of ` INR 32,931 crores over RE (2020-21). The total share of resources going to States for State's share in taxes in BE (2021-22) is INR 671,663 crore.

WHERE THE RUPEE COMES FROM



WHERE THE RUPEE GOES



Budget at a Glance

Amount in INR Crores
(Ten Million)

S.No.	Particulars	2019-2020 Actuals	2020-2021 Budget Estimates	2020-2021 Revised Estimates	2021-2022 Budget Estimates
1.	Revenue Receipts	1,684,059	2,020,926	1,555,153	1,788,424
2.	Tax Revenue (Net to Centre)	1,356,902	1,635,909	1,344,501	1,545,396
3.	Non Tax Revenue	327,157	385,017	210,652	243,028
4.	Capital Receipts	1,002,271	1,021,304	1,895,152	1,694,812
5.	Recovery of Loans	18,316	14,967	14,497	13,000
6.	Other Receipts	50,304	210,000	32,000	175,000
7.	Borrowings and Other Liabilities	933,651	796,337	1,848,655	1,506,812
8.	Total Receipts (1+4)	2,686,330	3,042,230	3,450,305	3,483,236
9.	Total Expenditure (10+13)	2,686,330	3,042,230	3,450,305	3,483,236
10.	On Revenue Account of which	2,350,604	2,630,145	3,011,142	2,929,000
11.	Interest Payments	612,070	708,203	692,900	809,701
12.	Grants in Aid for creation of capital assests	185,641	206,500	230,376	219,112
13.	On Capital Account	335,726	412,085	439,163	554,236
14.	Revenue Deficit (10-1)	666,545	609,219	1,455,989	1,140,576
15.	Effective Revenue Deficit (14-12)	480,904	402,719	1,225,613	921,464
16.	Fiscal Deficit [9-(1+5+6)]	933,651	796,337	1,848,655	1,506,812
17.	Primary Deficit (16-11)	321,581	88,134	1,155,755	697,111

DIRECT TAX PROPOSALS

A close-up photograph showing a hand dropping a coin into a stack of coins held by another hand. The scene is set over a ledger with a grid pattern. The background is blurred, showing a person in a red shirt. The text 'DIRECT TAX PROPOSALS' is overlaid in large, white, bold letters at the top.

Direct Tax

In the backdrop of the economic survey, the Hon'ble Finance Minister presented the budget on 1st February 2021 to stimulate growth, simplify tax structure, bring ease of compliance and reduce litigations. Numerous changes have been incorporated in The Finance Bill, 2021. Changes introduced in the Finance Bill 2021 are highlighted as under:



Personal Tax

In respect of Individual, HUF assesses the tax rates that have either been specified in Section 115BAC or have been specified in Part I of First Schedule to the bill. There is no change proposed in tax rate either in Section 115 BAC or in Part I of First Schedule to the bill.

Tax rates for AY 2022-23 (Old taxation regime - Option 1)

Rates of tax for individuals, Hindu Undivided Family, or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person

Amount of Net Income	Tax Rates (A.Y. 2022-23)
Upto Rs 2,50,000	Nil
Rs 2,50,001 - 5,00,000	5%
Rs 5,00,001 – Rs 10,00,000	20%
Above Rs 10,00,000	30%

Tax rates in the case of every individual, being a resident in India, who is of the age of 60 years or more but less than 80 years at any time during the previous year.

Amount of Net Income	Rates of tax (AY 2022-23)
Upto 3,00,000	Nil
Rs. 3,00,001 - 5,00,000	5%
Rs. 5,00,001 - 10,00,000	20%
Above 10,00,000	30%

Tax rates in the case of every individual, being a resident in India, who is of the age of 80 years or more at any time during the previous year.

Amount of Net Income	Tax Rates (AY 2020-21)
Upto 5,00,000	Nil
Rs 5,00,010 – Rs 10,00,000	20%
Above Rs 10,00,000	30%

Surcharge/effective tax rate on Super Rich (other than capital gains on listed shares)

Amount of Net Income	Surcharge (AY 2022-23)	Effective tax rate
50,00,001 – 1,00,00,000	10%	34.32%
1,00,00,010– 2,00,00,000	15%	35.88%
2,00,00,001 – 5,00,00,000	25%	39%
Above 5,00,00,000	37%	42.74%

***Subject to Marginal Relief**

Surcharge/effective tax rate on short-term and long-term capital gains on listed shares covered u/s 111A and 112A, respectively.

Amount of Net Income	Surcharge (AY 2022-23)
50,00,010 – 1,00,00,000	10%
Above Rs 1,00,00,000– 2,00,00,000	15%

***Subject to Marginal Relief**

Health & Education Cess:

Health and Education Cess at the rate of 4% shall be levied on tax and applicable surcharge.

Tax rates for AY 2022-23 (New Regime -Option -2)

Rates for individuals(including senior citizen and super senior citizen), HUF, or every AOP or BOI, whether incorporated or not, or every artificial juridical person

Amount of Net Income	Tax Rates (A.Y. 2022-23)
Upto Rs 2,50,000	Nil
Rs 2,50,001 to Rs 5,00,000	5%
Rs 5,00,001 to Rs 7,50,000	10%
Rs 7,50,001 to Rs 10,00,000	15%
Rs 10,00,001 to Rs 12,50,000	20%
Rs 12,50,001 to Rs 15,00,000	25%
Above Rs 15,00,000	30%

- The aforesaid new option shall be exercised for every previous year where the individual or the HUF has no business income.
- Where any Individual or HUF has any business income this option once exercised for a previous year shall be valid for that previous year and all subsequent years.
- However, such option would be available only when an Individual or HUF satisfies certain conditions. In other words, Individual or HUF shall compute total income:-
 1. Without following exemptions/deductions
 - Leave travel concession;
 - House rent allowance;
 - Standard deduction (i.e. Rs 50,000)
 - Deduction of Entertainment allowance or professional tax.
 - Interest on housing loan u/s 24(b);
 - Additional depreciation;
 - Deductions under section 32AD, 33AB, 33ABA
 - Any deduction under chapter VI-A (viz, section 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc). [Deduction u/s 80CCD(2) can be claimed]
 2. Without set-off of unabsorbed business loss or depreciation if such loss or depreciation is attributable to any of the aforesaid deductions/exemptions.
 3. Without set-off of house property loss with any other head of income.
 4. by claiming the depreciation, if any, except additional depreciation determined in such manner as may be prescribed;
 5. without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.
- Such option shall become invalid if the Individual or HUF fails to satisfy aforesaid conditions in any PY. In such case, option/ tax slabs available under the old regime would be applicable.
- Where option II [taxation under new regime] is chosen by the Individual or HUF having business income, such option can be withdrawn only once in subsequent years and thereafter, the individual or HUF shall never be eligible to exercise option under this section, except where such individual or HUF ceases to have any business income.

Corporate Tax Changes

Tax Rates (old regime)

- **All companies having annual turnover upto Rs 400 crore in the previous year 2018-19 is in the tax bracket of 25%.**



Companies

Particulars	Rates of tax A.Y 2022-23
Domestic Company whose total turnover or gross receipts for PY 2018-19 does not exceed INR 400 Crores (INR 4,000 Million)	25%
Domestic Company whose total turnover or gross receipts for PY 2018-19 exceeds INR 400 Crores (INR 4,000 Million)	30%
In case of foreign Company	40%

Sucharge

In case of domestic company:

- 7% surcharge if the income is more than 1 crore (INR 10 Million) but less than 10 crore (INR 100 Million)
- 12% surcharge if the income is more than 10 Crores (INR 100 Million)

In case of foreign company:

- 2% surcharge if the income is more than 1 crore (INR 10 Million) but less than 10 crore (INR 100 Million)
- 5% surcharge if the income is more than 10crore. (INR 100 Million)

Note:

Health and Education Cess of 4% shall be levied over and above taxes.

Tax Rates (New Regime)

Particulars	Rates of tax A.Y 2022-23
Domestic Company covered u/s 115BAA(Other than Manufacturing)	22% (plus 10% surcharge and 4% cess)
New manufacturing companies* covered u/s 115BAB	15% (plus 10% surcharge and 4% cess)

*In case of new manufacturing companies u/s 115BAB, the tax rate would be different for the following type of incomes:-

- Short-term capital gains in case of non-depreciable asset would be taxable @ 22% instead of 15%.
- Any income neither derived from, nor incidental to manufacturing/ production of an article or a thing would be taxable @ 22% instead of 15%.

The Taxation Laws Amendment Act, inserted section 115BAA and section 115BAB in the Act to provide domestic companies an option to be taxed at concessional tax rates provided they do not avail specified deductions and incentives. Some of the deductions prohibited are deductions under any provisions of Chapter VI-A under the heading "C. Deduction in respect of certain incomes" other than the provisions of section 80JJAA (New Employees).

It is now proposed to amend the provisions of section 115BAA and section 115BAB to not allow deduction under any provisions of Chapter VI-A other than section 80JJAA or section 80M, in case of domestic companies opting for taxation under these sections.

Further, provisions of the Taxation Laws Amendment Act, provides that following, businesses shall not be considered as manufacturing or production of article or thing in order to avail concessional tax rate of 15% -

- Development of computer software,
- Mining,
- Conversion of marble blocks or similar items into slabs,
- Bottling of gas into cylinder,
- Printing of books or production of a cinematograph film or any other business as may be notified by the Central Government.

It has been proposed that manufacturing or production of an article or thing shall include generation of electricity. Thus, now companies engaged in electricity generations can also avail concessional tax rate of 15% subject to satisfaction of certain conditions.

Firms & LLP's

No changes were proposed in the tax rates for firms and LLPs.

Flat Rate of tax @ 30% shall be applicable on the firm. Surcharge @ 12% of income-tax shall be levied if net income exceeds INR 1 Crore.(INR 10 Million).

Health and Education Cess shall be levied @ 4% over and above taxes including surcharge.

Cooperative Societies

No changes were proposed in the tax rates for co-operative society.

Particulars	Rate of tax A.Y. 2022-23
Having total income of less than 10,001	10%
Having total income of more than 10,000 but less than 20,001	1,000 plus 20% of total income in excess of 10,000
Having total income of more than 20,000 to 1 crore	3,000 plus 30% of total income in excess of 20,000

Note:

Surcharge @ 12% of income tax if net income exceeds INR 1 Crore (INR 10 Million) and Health and Education Cess of 4% shall be levied over and above the above taxes.

However, from the assessment year 2021-22, resident co-operative societies have an option to opt for taxation @ 22% under newly proposed section 115BAD of the Act. Such new provision has been proposed on the lines of section 115BAA.

Tax Incentives

Exemption from Leave Travel Concession Cash Scheme [Applicable for AY 2021-22 only]

In view of the situation arising out of the outbreak of COVID pandemic, it is proposed to provide tax exemption to cash allowance in lieu of LTC, and it is proposed to insert a second proviso in clause 10(5), so as to provide that, for the assessment year beginning on the 1st day of April, 2021, the value in lieu of any travel concession or assistance received by, or due to, an individual shall also be exempt under this clause subject to fulfillment of conditions to be prescribed.

It is also proposed to clarify by way of an Explanation that where an individual claim and is allowed exemption under the second proviso in connection with prescribed expenditure, no exemption shall be allowed under this clause in respect of same prescribed expenditure to any other individual.

The conditions for this purpose shall be prescribed in the Income-tax Rules in due course, and shall, inter alia, be as under:

- The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21;
- "specified expenditure" means expenditure incurred by an individual or a member of his family during the specified period on goods or services which are liable to tax at an aggregate rate of twelve per cent or above under various GST laws and goods are purchased or services procured from GST registered vendors/service providers;
- "Specified period" means the period commencing from 12th day of October, 2020 and ending on 31st day of March, 2021;

- the amount of exemption shall not exceed thirty-six thousand rupees per person or one-third of specified expenditure, whichever is less;
- the payment to GST registered vendor/service provider is made by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as prescribed under Rule 6ABBA and tax invoice is obtained from such vendor/service provider;
- If the amount received by, or due to an individual as per the terms of his employment, from his employer in relation to himself and his family, for the LTC is more than what is allowable to such person under the above discussed provisions, the exemption under the proposed amendment would be available only to the extent of exemption admissible under above listed provisions.

Incentive for affordable rental housing [Applicable from AY 2022-23 and subsequent assessment years]

The existing provision of the section 80-IBA of the Act provides that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building affordable housing project, there shall, subject to certain conditions specified therein, be allowed a deduction of an amount equal to hundred per cent of the profits and gains derived from such business. One of the conditions is that the project is approved by the competent authority after the 1st day of June 2016 but on or before the 31st day of March 2021.

To help migrant labourers and to promote affordable rental, it is proposed to allowed education under

section 80-IBA of the Act also to such rental housing project which is notified by the Central Government in the Official Gazette and fulfils such conditions as specified in the said notification.

Further, it is also proposed that the outer time limit for 31st March 2021 in this section for getting the affordable housing project approved be extended to 31st March 2022 and same outer time limit be also provided for the proposed affordable rental housing project.

Facilitating strategic disinvestment of public sector company [Applicable from AY 2021-22]

Section 2 of the Act provides the definitions for the purposes of the Act. Clause(19AA) of the said section defines that “demerger”, in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the companies Act, 1956 (1 of 1956), by a demerged company of its one or more undertakings to any resulting company on the satisfaction of conditions prescribed in the said clause.

Section 72A of the Act provides provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc. Sub-section (1) of section 72A of the Act provides that the accumulated loss and unabsorbed depreciation of the amalgamating company or companies shall be deemed to be the accumulated losses and unabsorbed depreciation of the amalgamated company or companies in specified cases and subject to the conditions specified in the said section.

It is proposed to relax the provisions of these two sections for public sector companies in order, to facilitate strategic disinvestment by the Government.

Accordingly, it is proposed to carry out the following amendments-

(i) It is proposed to amend clause (19AA) of section 2 of the Act to insert Explanation 6 to clarify that the reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if:

- such reconstruction or splitting up has been made to transfer any asset of the demerged company to the resultant company; and
- the resultant company is a public sector company on the appointed date indicated in the scheme approved by the Government or any other body authorised under the provisions of the Companies Act, 2013 or any other Act governing such public sector companies in this behalf; and
- fulfils such other conditions as may be notified by the Central Government in the Official Gazette.

(ii) It is proposed to amend sub-section (1) of section 72A of the Act,

- a. to substitute clause (c) to provide that the provision of subsection(1) of section 72A shall also apply in case of amalgamation of one or more public sector company or companies with one or more public sector company or companies.
- b. to insert clause (d) to provide that the provision of sub-section (1) of section 72A shall also apply in case of amalgamation of an erstwhile public sector company with one or more company or companies, if
 - the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company; and
 - the amalgamation is carried out within five year

from the end of the previous year in which the restriction on amalgamation in the share purchase agreement ends.

(c) to insert a proviso to sub-section (1) to provide that the accumulated loss and the unabsorbed depreciation of the amalgamating company, in case of an amalgamation referred to in clause (d), which is deemed to be loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company shall not be more than the accumulated loss and unabsorbed depreciation of the public sector company as on the date on which the public sector company ceases to be a public sector company as a result of strategic disinvestment;

(d) to insert an Explanation to sub-section (1) to define the followings: -

- “Control” shall have the same meaning as assigned to in clause (27) of Section 2 of the Companies Act, 2013;
- “Erstwhile public sector company” means a company which was a public sector company in earlier previous years and ceases to be a public sector company by way of strategic disinvestment by the government.
- “Strategic disinvestment” shall mean sale of shareholding by the Central Government or any State Government in a public sector company which results in reduction of its shareholding to below 51%, along with transfer of control to the buyer.

Extension of date of incorporation for eligible start-up for exemption and for investment in eligible start-up [Applicable from April 1, 2021]

The existing provisions of the section 80-IAC of the Act, inter alia, provides for a deduction of an amount equal to hundred percent of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years at the option of the assessee. This is subject to the condition that the total turnover of its business does not exceed one hundred crore rupees. The eligible start-up is required to be incorporated on or after 1st day of April, 2016 but before 1st day of April 2021.

The existing provisions of section 54GB of the Act, inter alia, provide for exemption of capital gain which arises from the transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee. The assessee is required to utilise the net consideration for subscription in the equity shares of an eligible start-up, before the due date of furnishing of return of income under sub-section (1) of section 139 of the Act.

The eligible start-up is required to utilise this amount for purchase of new asset within one year from the date of subscription in equity shares by the assessee. Further, it has been provided that benefit is available only when the residential property is transferred on or before 31st March, 2021.

In order to help such eligible start-up and help investment in them-

- it is proposed to amend the provisions of section 80-IAC of the Act to extend the outer date of incorporation to before 1st April, 2022; and
- it is proposed to amend the provisions of section 54GB of the Act to extend the outer date of transfer of residential property from 31st March 2021 to 31st March 2022.

Removing difficulties faced by taxpayers

Increase in safe harbour limit of 10% for home buyers and real estate developers selling such residential units [Section 43CA] [Applicable from AY 2021-22 and subsequent years]

As per Section 43CA of Income Tax Act, 1961 if the value of sales consideration for sale of land and building received by seller is less than the “Stamp Duty Valuation of the Property”, then the Stamp Duty Value is considered as the sales consideration. The above provisions will not be applicable if the difference in sales value and stamp duty value is upto 10% of the sales consideration.

Consequently, the difference between purchase consideration paid by the buyer and Stamp Duty Value is taxable as Income from Other Sources under Section 56(2)(x) of Income Tax Act if the difference exceeds higher of the following INR 50,000 or 10% of the purchase consideration.

In order to boost the demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a lower rate to home buyers, it is proposed to increase the safe harbour threshold from existing 10% to 20% under section 43CA of the Act, if the following conditions are satisfied:-

- The transfer of residential unit takes place during the period from 12th November 2020 to 30th June, 2021.
- The transfer is by way of first-time allotment of the residential unit to any person.
- The consideration received or accruing as a result of such transfer does not exceed two crore rupee.

Further it is proposed to provide the consequential relief to buyers of these residential units by way of amendment in Section 56(2)(x) of the Act by increasing the safe harbour from 10% to 20%. Accordingly, for these transactions, circle rate/stamp duty shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%.

Relaxation for certain Senior Citizens from filing return of Income tax [Section 139] [Applicable from April 1, 2021]

It is proposed to provide Senior relief to senior citizens who are of the age of 75 year or above from filing of Income Tax Return, it is proposed to insert a new section (Section 194P) to provide a relaxation from filing the return of income if the following conditions are satisfied:-

1. The senior citizen is resident in India and of the age of 75 or more during the previous year.
2. He has pension income and interest income from the same bank in which he is receiving his pension income.
3. This bank is a specified bank. The Government will be notifying a few banks, which are banking company, to be the specified bank.
4. He shall be required to furnish a declaration to the specified bank. The declaration shall be containing such particulars, in such form and verified in such manner, as may be prescribed.

Once the declaration is furnished, the specified bank would be required to compute the income of such senior citizen after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A of the Act, for the relevant assessment year and deduct income tax on the basis of rates in force. Once this is done, there will not be any requirement

of furnishing return of income by such senior citizen for this assessment year.

Rationalization of provisions related to Sovereign Wealth Fund (SWF) and Pension Fund (PF)[Applicable from AY 2021-22 and subsequent years]

Section 10(23FC) of the Act provides exemption to Sovereign Wealth Fund (SWF) and Pension Fund (PF) notified by Government from the income in the nature of dividend, interest or long-term capital gain arising from an investment made by it in India.

In order to rationalise the provisions of Section 10(23FC) and to remove the difficulties in meeting some of the conditions, the followings amendments are proposed in the Bill:

- Allowing Alternate Investment Fund (AIF) Category – I and Category -III to invest up to 50% in Infrastructure Investment Trust (InvIT).
- Exemption under Section 10(23FC) shall be calculated proportionately, in case if aggregate investment of AIF in infrastructure company or companies or in InvIT is less than 100%.
- **Allowing Investment through holding company.**
 - a. Holding company should be a domestic company.
 - b. It should be set up and registered on or after 1st April 2021.
 - c. It should have minimum 75% investments in one or more infrastructure companies.
 - d. Exemption under this clause shall be calculated proportionately, in case if aggregate investment of holding company in infrastructure company or companies is less than 100%.

- **Investment in NBFC- IDF/IFC (non- banking finance company-infrastructuredebt fund/Infrastructure finance company):**

The Government has proposed the following conditions for investment in NBFC – IDF/IFC

1. NBFC-IDF/IFC should have minimum 90% lending to one or more infrastructure entities.
2. Exemption under this clause shall be calculated proportionately, in case if aggregate lending of NBFC-IDF or NBFC-IFC in infrastructure company or companies is less than 100%.

- **Loan or borrowings by SWF/Pension Fund:**

The Government proposed to allow borrowings to SWF/PF by prescribing the condition that no benefit should enure to private person. It is proposed to provide that there should not be any loan or borrowing for the purpose of making investment in India.

- **Commercial activity:**

The Government has proposed to remove or replace the No Commercial Activity with a condition that SWF/PFs shall not participate in day to day operation of investee. However, appointing director and executive director for monitoring the investment wouldn't amount to participation in day-to-day operation.

- **Liable to Tax:**

Some PFs are liable to tax in their country though given exemption subsequently. It is proposed to amend this sub-clause to provide that if pension fund is liable to tax but exemption from taxation for all its income has been provided by the foreign country under whose laws it is created or established, then such pension fund shall also be eligible.

- **Rules to prescribe the method of calculation:**

It is also proposed to provide that the Central Government may prescribe the method of calculation of 50% or 75% or 90% referred above.

Addressing mismatch in taxation of income from notified overseas retirement fund [Applicable from April 1, 2022]

Section 89A is inserted to provide relief to Individuals who have opened account in notified country for

retirement purposes when they were nonresident in India. Section 89A provides that income from the account shall be taxable at the time of withdrawal or redemption.

Rationalisation of provisions of Minimum Alternate Tax (MAT)[Sec. 115JB][Applicable from AY 2021-22 and subsequent years]

The Government has amended the MAT calculation to provide adjustment to the following:

- In case past year income is included in books of account during the year on account of an APA or a secondary adjustment, the assessing Officer shall on an application made to him by the assessee, recompute the book profit of the past year(s) and tax payable, if any, during the previous year, in the prescribed manner. Further, the provision of section 154 of the Act shall apply so far as possible and the period of four years specified in sub-section (7) of section 154 shall be reckoned from the end of the financial year in which the said application is received by the Assessing Officer.
- As dividend is now taxable and no exemption is available, Section 115JB is amended to provide similar treatment to dividend as already there for capital gains on transfer of securities, interest, royalty and Fee for Technical Services (FTS).The specified dividend income and the expense claimed in respect thereof are reduced and added back, while computing book profit in case of foreign companies where such income is taxed at lower than MAT rate due to DTAA.

Exemption from Tax deducted at source (TDS) on payment of dividend to business trust in whose hand dividend is exempt [Sec.194]:

Section 194 has been amended to provide that the provisions of this section shall also not apply to such income credited or paid to a **Business trust by a special purpose vehicle** or payment of dividend to any other person as may be notified.

This amendment will take effect retrospectively from April 1, 2020.

Rationalisation of provision concerning withholding on payment made to Foreign Institutional Investors(FIIs) [Applicable from April 1, 2021]

It is proposed to insert a proviso to Section 196D (1) of the Act to provide that in case of a payee provisions of DTAA/agreement referred in Section 90 or 90A applies and such person has furnished the tax residency certificate referred Section 90(4) or Section 90A(4) of the Act, then the tax shall be deducted at the rate of twenty per cent or rates of income-tax provided in such DTAA/ agreement for such income, whichever is lower.

Rationalisation of provisions relating to tax audit in certain cases [Sec. 44AB] [Applicable from AY 2021-22 and subsequent years]

The Government has proposed to increase threshold limit for Tax Audit u/s 44AB from INR 5 crores to INR 10 crores if:

- aggregate of all receipts in cash during the previous year does not exceed five per cent of such receipt; and
- aggregate of all payments in cash during the previous year does not exceed five per cent of such payment.

Advance tax instalment for dividend income [Sec. 234C] [Applicable from AY 2021-22]

Dividend income is now taxable and will be part of total income. Advance tax is required to be calculated on dividend income as well. However, the dividend income is taxable on receipt basis and for computing advance tax, dividend income is to be considered in the instalment when the amount is received.

Raising of prescribed limit of exemption under sub clause (iiiad) and (iiiie) of clause (23C) of section 10 of the Act [Applicable from AY 2022-23]

The Government has proposed to increase the limit of aggregate receipts from INR 1 crore to INR 5 crore received by the following assessee:

1. the university or universities or educational institution or institutions as referred to in sub-clause (iiiad)
2. Hospital or hospitals or institution or institutions as referred to in sub-clause (iiiie).

Extending due date of filing return of income in some cases, reducing time to file belated return and to revise original return and also to remove difficulty in cases of defective returns[Applicable from AY 2021-22]

Section 5A provides that the income of spouses are apportioned between them. In case when a spouse is a partner of the firm whose books are audited, then the due date for filing of spouse who is partner is 31st October. It is proposed to extend date for non-partner spouse to 31st October as to provide relief as the income of Spouse partner is to be apportioned between them.

Further, it is proposed to extend the due date for partners of firm, who is required to obtain a report from accountant for international transactions u/s 92E. Therefore, the new date for ITR of partners of firm will be 30th November.

It is proposed to amend Section 139(4) and 139(5) to reduce that the last date for filing of belated or revised returns of income reduced by three months. Hence, the belated return or revised return could now be filed three months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

It is proposed to amend Section 139(9) for empowering the Board to specify the conditions for allowing to file defective return.

Rationalisation of various provisions

Payment by employer of employee contribution to a fund on or before due date [Applicable from AY 2021-22]

It is proposed to amend Section 36 and 43B that any contribution received from employee regarding Provident Fund, ESI etc. shall be considered as income if the said amount is paid after due date of the respective act (Provident Fund Act. Employee State Insurance Act).

Constitution of Dispute Resolution Committee for small and medium taxpayers [Applicable from April 1, 2021]

The new scheme is proposed to be incorporated in a new section 245MA in order to provide early tax certainty to small and medium taxpayers, preventing new disputes and settling the issue at the initial stage.

Constituting of Board for Advance Ruling [Applicable from April 1, 2021]

It is proposed to constitute a Board of Advance Ruling and to make the amendments in the existing provisions of AAR and the Authority of Advance Ruling will cease to exist after notification of Board of Advance Ruling.

Income escaping assessment and search assessments [Applicable from April 1, 2021]

The Government proposes a completely new procedure of assessment of Income escaping assessment and search cases. It is expected that the new system would result in less litigation and would provide ease of doing business to taxpayers as there is a reduction in time limit by which a notice for assessment or reassessment or re-computation can be issued.

1. The provisions of section 153A and section 153C, of the Act are proposed to be made applicable to only search initiated under section 132 of the Act or books of accounts, other documents or any assets requisitioned under section 132A of the Act, on or before 31st March 2021.
2. Assessments or reassessments or in re-computation in cases where search is initiated under section 132 or requisition is made under 132A, after 31st March 2021, shall be under the new procedure.
3. Section 147 proposes to allow the Assessing Officer to assess or reassessor re-compute any income escaping assessment for any assessment year (called relevant assessment year).
4. Before such assessment or reassessment or re-computation, a notice is required to be issued under section 148 of the Act, which can be issued only when there is information with the Assessing officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year. Prior approval of specified authority is also required to be obtained before issuance of such notice by the assessing officer.
5. It is proposed to provide that any information which has been flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board shall be considered as information which suggests that the income chargeable to tax has escaped assessment. The flagging would largely be done by

the computer based system.

6. Further, a final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been in accordance with the provisions of the Act shall also be considered as information which suggests that the income chargeable to tax has escaped assessment.

7. Further, in search, survey or requisition cases initiated or made or conducted, on or after 1st April, 2021, it shall be deemed that the Assessing officer has information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or requisition is made or any material is seized or requisitioned or survey is conducted.

8. New Section 148A of the Act proposes that before issuance of notice the assessing Officer shall conduct enquiries, if required, and provide an opportunity of being heard to the assessee. After considering his reply, the assessing Office shall decide, by passing an order, whether it is a fit case for issue of notice under section 148 and serve a copy of such order along with such notice on the assessee. The Assessing Officer shall before conducting any such enquiries or providing opportunity to the assessee or passing such order obtain the approval of specified authority. However, this procedure of enquiry, providing opportunity and passing order, before issuing notice under section 148 of the Act, shall not be applicable in search or requisition cases.

9. The time limitation for issuance of notice under section 148 of the Act is proposed to be provided in section 149 of the Act and is as below:

- in normal cases, no notice shall be issued if three years have elapsed from the end of the relevant assessment year. Notice beyond the period of three years from the end of the relevant assessment year can be taken only in a few specific cases.
- in specific cases where the Assessing Officer has in his possession evidence which reveal that the income escaping assessment, represented in the form of asset, amounts to or is likely to amount to fifty lakh rupees or more, notice can be issued beyond the period of three year but not beyond the period of ten years from the end of the relevant assessment year;
- Another restriction has been provided that the notice under section 148 of the Act cannot be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit prescribed under the provisions of clause (b), as they stood immediately before the proposed amendment.
- Since the assessment or reassessment or re-computation in search or requisition cases (where such search or requisition is initiated or made on or before 31st March 2021) are to be carried out as per the provision of section 153A, 153B, 153C and 153D of the Act, the aforesaid time limitation shall not apply to such cases.
- It is also proposed that for the purposes of computing the period of limitation for issue of section 148 notice, the time or extended time allowed to the assessee in providing the

opportunity of being heard or period during which such proceedings before issuance of notice under section 148 are stayed by an order or injunction of any court, shall be excluded. If after excluding such period, time available to the Assessing Officer for passing order, about fitness of a case for issue of 148 notice, is less than seven days, the remaining time shall be extended to seven days.

10. The specified authority for approving enquiries, providing opportunity, passing order under section 148A of the Act and for issuance of notice under section 148 of the Act are proposed to be —

- Principal Commissioner or Principal Director or Commissioner or director, if three years or less than three years have elapsed from the end of the relevant assessment year;
- Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director-General, if more than three years have elapsed from the end of the relevant assessment year.

11. Once assessment or reassessment or re-computation has started the assessing officer is proposed to be empowered (as at present) to assess or reassess the income in respect of any issue which has escaped assessment and which comes to his notice subsequently in the course of the proceeding under this procedure notwithstanding that the procedure prescribed in section 148A was not followed before issuing such notice for such income.

Allowing prescribed authority to issue notice under clause (i) of sub section (1) of Section 142 [Applicable from April 1, 2021]

Section 142 of the Act provides for the conduct of inquiry before assessment. This section gives the Assessing Officer the authority to issue notice to an assessee, who has not submitted a return of income, asking for submission of return. This is necessary to bring into the fold of taxation non-filers or stop filers who have transactions resulting in income. However, this power can be currently invoked only by the Assessing Officer.

The Central Government is following a conscious policy of making all the processes under the Act, where physical interface with the assessee is required, fully faceless by eliminating person to person interface between the taxpayer and the Department. In line with this policy, and in order to enable centralized issuance of notices etc. in an automated manner, it is proposed to amend the provisions of clause (i) of the sub-section (1) of the section 142 to empower the prescribed income-tax authority besides the Assessing Officer to issue a notice under the said clause.

Provision for Faceless Proceeding before the Income Tax Appellate Tribunal (ITAT) in jurisdiction less manned [Applicable from April 1, 2021]

In order to impart greater efficiency, transparency and accountability to the assessment process, appeal process and penalty process under the Act a new faceless assessment scheme, faceless appeal scheme and faceless penalty scheme have already been introduced. Further, vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 the Central Government has been empowered to notify similar schemes in respect of many other processes under the Act that require a physical interface with the taxpayers.

In order to ensure that the reforms initiated by the Department to reduce human interface from the system reaches the next level, it is imperative that a faceless scheme be launched for ITAT proceedings on the same line as faceless appeal scheme.

This will not only reduce cost of compliance for taxpayers, increase transparency in disposal of appeals but will also help in achieving even work distribution in different benches resulting in the best utilisation of resources.

Therefore, it is proposed to insert new sub-sections in the section 255 of the Act so as to provide that the Central Government may notify a scheme for the purposes of disposal of appeal by the ITAT so as to impart greater efficiency, transparency and accountability by:

1. Eliminating the interface between the ITAT and parties to the appeal in the course of proceedings to the extent technologically feasible;
2. Optimising utilisation of the resources through economies of scale and functional specialisation;
3. Introducing an appellate system with dynamic jurisdiction. It is also proposed to empower the Central Government, for the purpose of giving effect to the scheme made under the proposed sub-section, for issuing notification in the Official Gazette, to direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. Such directions are to be issued on or before 31st March, 2023. It is proposed that every notification issued shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Discontinuance of Income-tax Settlement Commission [Applicable from February 1, 2021]

It is proposed to discontinue Income-tax Settlement Commission (ITSC) and to constitute Interim Board of settlement for pending cases.

Reduction of time limit for completing assessment [Applicable from April 1, 2021]

Section 153 of the Act contains provisions in respect of time-limit for completion of assessment, reassessment and re-computation under the Act. This Section

provides that the time-limit for passing an assessment order under section 143 or 144 of the Act shall be 21 months from the end of the assessment year in which the income was first assessable. However, this time limit had earlier been curtailed in order to improve the efficacy and efficiency of the Department to give effect to computerization of processes under the Act. As a result, the time limit for completion of assessment proceedings under sections 143 or 144 of the Act was reduced to 18 months for A.Y. 2018-19 and 12 months for A.Y. 2019-20 and subsequent assessment years vide the Finance Act, 2017.

Since then, the assessment procedure has been completely overhauled by the introduction of the Faceless Assessment Scheme, 2019. The assessment procedure is now conducted in a completely faceless and jurisdiction-less way where all internal and external communication is made electronically and different aspects of the assessment procedure like verification, scrutiny of books of accounts etc. are carried on by different units. The person-to-person interface between the taxpayer and the Department has been eliminated. This team-based approach for assessment with a dynamic jurisdiction is technologically driven and very efficient. Thus, the time required for completion of assessment procedure needs to be further reduced.

The benefits of shorter time period for scrutiny proceedings are manifold. On the one hand, it reduces the compliance burden on the taxpayers who find it easier to explain matters pertaining to a recent previous year which also improve the ease of doing business. On the other hand, it enhances the ability of the Department to detect and bring to tax any leakages of revenue as the instances of tax evasion come to the notice of the Department within a shorter span of time.

Hence, it has been proposed that the time limit for completion of assessment proceedings may be reduced further by three months. Thus the time for completing of assessment is proposed to be nine months from the

end of the assessment year in which the income was first assessable, for the assessment year 2021-22 and subsequent assessment years.

Rationalization of the provision of Charitable Trust and Institutions to eliminate possibility of double deduction while calculating application or accumulation [Applicable from April 1, 2022]

Exemption to funds, institutions, trusts etc. carrying out religious or charitable activities is provided under clause (23C) of section 10 of the Act and sections 11 and 12 of the Act. Section 12A of the Act, inter alia, provides for procedure to make application for the registration of the trust or institution to claim exemption under section 11 and 12. Section 12AB is the new section which comes into effect from the 1st April, 2021.

Under the existing provisions of the Income-tax Act, 1961, corpus donations received by trusts, institutions, funds etc. are exempt as follows:

- Explanation to third proviso to clause (23C) of section 10 provides that income of the funds or trust or institution or any university or other educational institution or any hospital or other medical institution, shall not include income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus.
- Clause (d) of sub-section (1) of Section 11 provides that voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution shall not be included in the total income of the trust or institution.

These entities are not allowed to accumulate more than 15% of their income or accumulate for specific purpose up to 5 years, other than corpus donations referred above. Instances have come to the notice where these entities claim the corpus donations to be exempt and at the same time claim their application as part of the mandatory 85% application from income other

than such corpus. This results in a situation where the corpus income has been exempted and its application has been claimed as application against the mandatory 85% application of non-corpus income.

Instances have also come to the notice where these entities take loans or borrowings and make an application for charitable or religious purposes out of the proceeds of loans and borrowings. Such loans or borrowings when repaid, are again claimed as application. This results in an unintended double deduction.

Both these situations, at times, also result in paper loss which is claimed by the assessee as carry forward resulting in an unintended short application (less than 85%) in following years.

To ensure that there is no double counting while calculating application or accumulation, it has been proposed that:

1. Voluntary contributions made with a specific direction that it shall form part of the corpus shall be invested or deposited in one or more of the forms or modes specified in sub-section (5) of section 11 maintained specifically for such corpus.
2. Application out of corpus shall not be considered as application for charitable or religious purposes for the purposes of third proviso of clause (23C) and clauses (a) and (b) of section 11. However, when it is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) of section 11 maintained specifically for such corpus from the income of the previous year, such amount shall be allowed as application in the previous year in which it is deposited back to corpus to the extent of such deposit or investment.
3. Application from loans and borrowings shall not be considered as application for charitable or religious purposes for the purposes of third proviso of clause(23C) and clauses (a) and (b) of section 11

.However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.

4. Clarify in both clause (23C) of section 10 and section 11 that for the computation of income required to be applied or accumulated during the previous year, no set off or deduction or allowance of any excess application, of any of the year preceding the previous year, shall be allowed.

Taxation of proceeds of high premium unit linked insurance policy(ULIP) [Applicable from AY 2021-22]

Clause (10D) of section 10 of the Act provides for the exemption for the sum received under a life insurance policy, including the sum allocated by way of bonus on such policy in respect of which the premium payable for any of the years during the terms of the policy does not exceed ten percent of the actual capital sum assured.

Under the existing provisions of the Act, there is no cap on the amount of annual premium being paid by any person during the term of the policy. Instances have come to the notice where high net worth individuals are claiming exemption under this clause by investing in ULIP with huge premium. Allowing such exemption in policy/policies with huge premium defeats the legislative intent of this clause. The intention was to provide benefit to small and genuine cases of life insurance. Hence, it is proposed to provide for the followings:

1. Insert Explanation 3 to the clause (10D) of section 10 of the Act to define ULIP as a life insurance policy that has components of both investment and insurance and is linked to a unit as defined in clause (ee) of regulation (3) of the insurance Regulatory and Development Authority of India

(Unit Linked Insurance Products) Regulations, 2019 dated the 8th day of July, 2019.

2. insert fourth proviso to clause (10D) of section 10 of the Act to provide that the exemption under this clause shall not apply with respect to any ULIP issued on or after the 1st February, 2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds two lakh and fifty thousand rupees.
3. insert fifth proviso to this clause to provide that, if premium is payable by a person for more than one ULIPs, issued on or after the 1st February, 2021, exemption under this clause shall be available only with respect to such policies aggregate premium whereof does not exceed the amount of two lakh fifty thousand rupees, for any of the previous years during the term of any of the policy.
4. insert sixth proviso to this clause providing that the provisions of fourth and fifth provisos shall not apply to any sum received on the death of a person.
5. insert seventh proviso to this clause to enable CBDT to issue guidelines with the approval of Central Government for the purpose of removing the difficulty and to lay every guideline issued by the Board before each House of parliament and to make it binding on the income-tax authorities and the assessee.
6. provide that a ULIP [to which exemption under clause (10D) of section 10 of the Act does not apply on account of the applicability of the fourth and fifth proviso] is a capital asset under clause (14) of section 2 of the Act.
7. provide for the deemed taxation of profit and gains from the redemption of ULIP [to which exemption under clause (10D) of section 10 of the Act does not apply on account of the applicability of the fourth and fifth proviso] as capital gains by inserting new sub-section (1B) in section 45 and to take power to prescribe rules for calculation of such capital gains.

8. Include such ULIPs [to which exemption under clause (10D) of section 10 of the Act does not apply on account of the applicability of the fourth and fifth proviso] in the definition of equity-oriented fund in section 112A so as to provide them same treatment as unit of equity oriented fund. Thus provisions of section 111A and 112A would apply on sale/redemption of such ULIPs.

Consequential amendment has also been proposed in Finance (No 2) Act, 2021 to make security transaction tax applicable on maturity or partial withdrawal with respect to unit linked insurance policy issued by insurance company on or after the 1st February, 2021 [to which exemption under clause (10D) of section 10 of the Act does not apply on account of the applicability of the fourth and fifth proviso]. (Applicable from February 1, 2021).

Rationalisation of the provision of Slump Sale [Section 50B] [Applicable from AY 2021-22]

Section 50B of the Act contains special provision for computation of capital gains in case of slump sale. Section 2(42C) of the Act defines “slump sale” to mean the transfer of one or more undertakings as a result of sale for lump sum consideration without value being assigned to individual assets and liabilities in such cases. This has been interpreted by some courts that other means of transfer listed in sub-section (47) of section 2 of the Act, in relation to definition of the word “transfer” in relation to capital asset like exchange, relinquishment etc, are excluded.

While discussing transfer as a result of sale it needs to be kept in mind that it is the substance of transaction that is more important than the name given to it by the parties to the transaction. For example, a transaction of “sale” may be disguised as “exchange” by the parties to

the transaction, but such transactions may already be covered under the definition of slump sale as it exists today on the basis that it is transfer by way of sale and not by way of exchange. This principle was enunciated by Hon’ble Supreme Court in CIT vs. R.R. Ramakrishna Pillai [(1967) 66 ITR 725 SC]. Thus, if a transfer of an asset is in lieu of another asset (non-monetary) it can be said to be monetized in a situation where the consideration for the asset transferred is ascertained first and is then discharged by way of non-monetary assets. In this situation it would be a case of transfer by way of sale and would thus be covered within existing provisions of section 50C of the Act. Based on this principle, Hon’ble SC in the case of Artex Manufacturing Company [(1997), 227 ITR 260] held that the sale of business on a going concern for a lump-sum non-monetary consideration was transfer by way of sale on the ground that the slump price was determined by the value on the basis of itemized assets, though this price was not mentioned in the agreement. Similarly, Hon’ble SC in the case of Dhampur Sugar Mills [(2006) 147 STC 57] considered the case of a dealer who took a sugar mill on long term lease for an agreed amount of license fee and in satisfaction therefore, the dealer was required to give the entire quantity of molasses to the owner of the sugar mill. It was held that the said transaction “in effect and substance” involved passing of monetary consideration and was accordingly liable to sales tax.

Thus, a transfer which “in effect and substance” is by way of sale is also currently covered in the definition of slump sale under section 50C of the Act as interpreted by various courts. However, it is still seen that tax avoidance schemes are drawn to defeat the intent of this provision and Courts can always intervene to find the true substance of the transaction and purpose of section of 50C of the Act.

In order to make the intention clear, it is proposed to amend the scope of the definition of the term —slump sale by amending the provision of clause (42C) of

section 2 of the Act so that all types of —transfer as defined in clause (47) of section 2 of the Act are included within its scope.

Rationalisation of provision of transfer of capital asset to partner on dissolution or reconstitution [Section 45] [Applicable from April 1, 2021]

The existing provisions of section 45 of the Act inter alia, provides that any profits or gains arising from the transfer of a capital asset shall be chargeable to income-tax under the head Capital gains and shall be deemed to be the income of the previous year in which such transfer takes place. Further sub-section (4) of the said section, provides that the profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise, shall be chargeable to tax as the income of such firm or other association of persons or body of individuals of the previous year in which the said transfer takes place. Further, the fair market value of the asset on the date of such transfer shall be deemed to be the full value of the consideration for the purposes of section 48.

In this regard, it has been noticed that there is uncertainty regarding applicability of provisions of aforesaid sub-section to a situation where assets are revalued or self-generated assets are recorded in the books of accounts and payment is made to partner or member which is in excess of his capital contribution.

Hence, it is proposed to substitute the existing sub-section (4) of section 45 of the Act with a new sub-section (4) and also insert a new sub-section (4A) to this section.

New proposed sub-section (4) of section 45 of the Act applies in a case where a specified person who receives during the previous year any capital asset at the time

of dissolution or reconstitution of the specified entity. The capital asset represents the balance in the capital account of such specified person in the books of the specified entity at the time of its dissolution or reconstitution. In this situation, the profit and gains arising from the receipt of such capital asset by the specified person shall be chargeable to income-tax as income of the specified entity under the head “capital gains” and shall be deemed to be the income of such specified entity of the previous year in which the capital asset was received by the specified person. For the purposes of section 48 of the Act, the fair market value of the capital asset on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset. The balance in the capital account of the specified person in the books of account of the specified entity is to be calculated without taking into account increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.

New proposed section sub-section (4A) of section 45 of the Act applies in a case where a specified person receives during the previous year any money or other asset at the time of dissolution or reconstitution of the specified entity. The money or other asset is required to be in excess of the balance in the capital account of such specified person in the books of accounts of the specified entity at the time of its dissolution or reconstitution. In this situation, the profits or gains arising from the receipt of such money or other asset by the specified person shall be chargeable to income-tax as income of the specified entity under the head “Capital gains” and shall be deemed to be the income of such specified entity of the previous year in which the money or other asset was received by the specified person. For the purposes of section 48 of the Act,

- value of the money or the fair market value of other assets on the date of such receipt shall be deemed

deemed to be the full value of the consideration received accruing as a result of the transfer of the capital asset; and

- the balance in the capital account of the specified person in the books of accounts of the specified entity at the time of its dissolution or reconstitution shall be deemed to be the cost of acquisition.

The balance in the capital account of the specified person in the books of account of the specified entity is to be calculated without taking into account increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.

For the purposes of these two sub-sections,-

- “specified person” is proposed to be defined as a person who is partner of a firm or member of other association of persons or body of individuals (not being a company or a cooperative society), in any previous year.
- “specified entity” is proposed to be defined as a firm or other association of persons or body of individuals (not being a company or a cooperative society).
- “self-generated goodwill” and “self-generated assets” are proposed to be defined as goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

Consequential amendment is also proposed in section 48 of the Act to provide that in case of specified entity, the amount included in the total income of such specified entity under sub-section (4A) of section 45 which is attributable to the capital asset being transferred, shall be reduced from the full value of the consideration to compute income charged under the head “capital gains”. This is to be calculated in the manner to be

prescribed later. This is to mitigate the double taxation which may have happened but for this provision in a situation where an asset which was revalued and for which income under the proposed sub-section (4A) of section 45 of the Act was brought to tax is transferred subsequently by the specified entity.

Provision attachment in fake invoice cases [Section 281B] [Applicable from April 1, 2021]

Section 281B of the Act contains provisions that provide that in cases of assessment or reassessment the Assessing Officer may provisionally attach any property of the assessee, if necessary, in order to protect the interest of revenue. This can be done only with prior approval of Pr. Chief Commissioner or Pr Director General or Chief Commissioner or Director General or Principal Commissioner or Principal Director or Commissioner or Director, of Income-tax. Such provisional attachment is valid for a period of 6 months. Further, the said section allows the assessee to furnish a bank guarantee of the value of the property so attached for revocation of the provisional attachment. The above bank guarantee shall be invoked if the assessee fails to pay his tax demand on time. The powers under this section can only be exercised by the Assessing Officer.

Section 271AAD of the Act was inserted vide the Finance Act, 2020 to impose penalty on a person or a person who causes such person to make a false entry or omit an entry from his books of accounts. It is an anti-abuse provision. Upon initiation of such penalty proceedings, it is highly likely that the taxpayer may also evade the payment of such penalty, if imposed. Hence, in order to protect the interest of revenue, it is proposed to amend the provision of section 281B of the Act to enable the Assessing Officer to exercise the powers under this section during the pendency of proceedings for imposition of penalty under section 271AAD of the Act, if the amount or aggregate of amounts of penalty imposable is likely to exceed two crore rupees.

Rationalisation of provisions of Equalisation levy

Effective Retrospectively from April 1, 2020

Under section 165A of Finance Act, 2016, as inserted by section 153 of the Finance Act, 2020, Equalisation Levy is to be levied at the rate of two per cent. of the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated, by it-

- i. to a person resident in India; or
- ii. to a non-resident in the specified circumstances as referred to in sub-section(3); or
- iii. to a person who buys such goods or services or both, using internet protocol address located in India.

For this purpose, E-commerce supply or service is defined as to mean:-

- i. online sale of goods owned by the e-commerce operator
- ii. online provision of services provided by the e-commerce operator
- iii. online sale of goods or provision of services or both, facilitated by e-commerce operator or
- iv. any combination of activities listed in clause (i), (ii) or clause (iii)

Section 10(50) of the Act provides for the exemption for the income arising from any specified service provided on or after the date on which the provisions of chapter VIII of the Finance Act, 2016 comes into force or arising from any e-commerce supply or services made or provided or facilitated on or after the 1st day of April, 2021 and chargeable to equalisation levy under that Chapter.

It is seen that there is need for some clarification to correctly reflect the intention of various provisions concerning this levy. Hence, it is proposed to carry out the following amendments in the Finance Act, 2016:-

- Insert an Explanation to section 163 of the Finance Act, 2016, clarifying that consideration received or receivable for specified services and consideration received or receivable for e-commerce supply or services shall not include consideration which are taxable as royalty or fees for technical services in India under the Income-tax Act read with the agreement notified by the central Government under section 90 or section 90A of the Income-tax Act.
- Insert an Explanation to clause (cb) of section 164 of the Finance Act, 2016, providing that for the purposes of defining e-commerce supply or service, “online sale of goods” and “online provision of services” shall include one or more of the following activities taking place online:
 1. Acceptance of offer for sale
 2. Placing the purchase order
 3. Acceptance of the Purchase order
 4. Payment of consideration or
 5. Supply of goods or provision of services, partly or wholly
- Amend section 165A of the Finance Act, 2016, to provide that consideration received or receivable from e-commerce supply or services shall include:
 1. consideration for sale of goods irrespective of whether the e-commerce operator owns the goods and
 2. consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator.

Applicable from AY 2021-22 and subsequent assessment years

It is also proposed to amend section 10(50) of the Act to -

1. provide that section 10(50) will apply for the e-commerce supply or services made or provided or facilitated on or after 1st April, 2020.

2. clarify that exemption under section 10(50) will not royalty or fees for technical services which is taxable under the Act read with the agreement notified by the Central Government under section 90 or section 90A of the act.
3. define e-commerce supply or services under section 10(50) as the meaning assigned to it in clause (cb) of section 164 of Chapter VIII of the finance Act,2016.

Depreciation on Goodwill [Section 32] [Applicable from AY 2021-22 and subsequent assessment years]

Section 2 of the Act provides the definitions for the purposes of the Act. Clause (11) of the said section defines “block of assets” to mean a group of assets falling within a class of assets comprising, tangible assets, being buildings, machinery, plant or furniture and intangible assets, being know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, in respect of which the same percentage of depreciation is prescribed.

Section 32 of the Act relates to depreciation. Sub-section (1) of the said section provides for deduction on account of depreciation on tangible assets (Building, machinery, plant and furniture) and intangible assets (know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature) acquired on or after the 1st day of April, 1998 which are owned, wholly or partly by the assessee which are used wholly and exclusively for the purpose of business and profession while computing the income under the head “Profits and gains of business or profession”.

Further, Explanation 3 to sub-section (1) provides that for the purposes of this subsection, the expression “assets” shall mean to be tangible assets, being buildings, machinery, plant or furniture and intangible

assets, being know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature.

Section 50 of the Act provides for conditions for the applicability of provisions of section 48 and 49 for computation of capital gains in case of depreciable assets where the capital asset is an asset forming part of a block of asset in respect of which depreciation has been allowed under this Act.

Section 55 of the Act provides meaning of terms “adjusted”, “cost of improvement” and “cost of acquisition” for the purposes of sections 48 and 49 of the Act. In relation to a capital asset, being goodwill of a business or a trademark or brand name associated with a business or a right to manufacture, produce or process any article or thing or right to carry on any business or profession, tenancy rights, stage carriage permits or loom hours, it is defined to mean the purchase price if it is acquired by purchase. In other cases it is nil except when it is covered by sub-clauses (i) to (iv) of sub-section (1) of section 49.

It is seen that Good will of a business or a profession has not been specifically provided as an asset either in the definition under clause (11) of section 2 of the Act or in section 32 of the Act. The question whether goodwill of a business is an asset within the meaning of section 32 of the Act and whether depreciation on goodwill is allowable under the said section, is an issue which came up before Hon’ble Supreme Court in the case *Smiff Securities Limited* [(2012)348 ITR 302 (SC)]. Hon’ble Supreme Court answered the question in affirmative. Thus, as held by Hon’ble Supreme Court, Goodwill of a business or profession is a depreciable asset under section 32 of the Act.

However, there are other sections of the Act which are relevant for calculation of depreciation under section 32 of Act. These are as under:

- Sixth proviso the section 32 of the Act mandates that in a case of succession/amalgamation/demerger during the previous year, depreciation is to be calculated as if the succession or amalgamation or demerger has not taken place during the previous year and apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, or the demerged company and the resulting company, as the case may be, in the ratio of the number of days for which the assets were used by them.
- Explanation 2 of sub-section (1) of section 32 of the Act provides that the term “written down value of the block of assets” shall have the same meaning as in clause (c) of sub-section (6) of section 43 of the Act.
- Clause (c) of sub-section (6) of section 43 of the Act, with respect to block of assets, inter-alia, provides that the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year is to be increased by the actual cost of any asset falling within that block, acquired during the previous year.
- Sub-section (1) of section 43 of the Act which defines “Actual cost” as actual cost of the assets to the assessee. Explanation 7 to this section covers a situation where in a scheme of amalgamation, any capital asset is transferred by the amalgamating company to the amalgamated company and the amalgamated company is an Indian company. It clarifies that in this situation, the actual cost of the transferred capital asset to the amalgamated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purposes of its own business.
- Explanation 2 of clause (c) of sub-section (6) of section 43 of the Act so covers a situation where in a scheme of amalgamation, any capital asset is transferred by the amalgamating company to the amalgamated company and the amalgamated

company is an Indian company. It also clarifies that in this situation, the actual cost of the block of asset in the hand of the amalgamated company would be written down value of that block in the immediate preceding previous year in the case of amalgamating company as reduced by depreciation actually allowed in that preceding previous year.

Thus, while Hon’ble Supreme Court has held that the Goodwill of a business or profession is a depreciable asset, the actual calculation of depreciation on goodwill is required to be carried out in accordance with various other provisions of the Act, including the ones listed above. Once we apply these provisions, in some situations (like that of business reorganization) there could be no depreciation on account of actual cost being zero and the written down value of that assets in the hand of predecessor/amalgamating company being zero.

However, in some other cases (like that of acquisition of goodwill by purchase) there could be valid claim of depreciation on goodwill in accordance with the decision of hon’ble Supreme Court holding goodwill of a business or profession as a depreciable asset.

It is seen that Goodwill, in general, is not a depreciable asset and in fact depending upon how the business runs; goodwill may see appreciation or in the alternative no depreciation to its value. Therefore, there may not be a justification of depreciation on goodwill in the manner there is a need to provide for depreciation in case of other intangible assets or plant & machinery. Hence there appears to be little justification for depreciation on goodwill even in the category of cases referred to in the immediately preceding paragraph.

In view of above discussion, it has been decided to propose that goodwill of a business or profession will not be considered as a depreciable asset and there would not be any depreciation on goodwill of a business

or profession in any situation. In a case where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act subject to the condition that in case depreciation was obtained by the assessee in relation to such goodwill prior to the assessment year 2021-22, then the depreciation so obtained by the assessee shall be reduced from the amount of the purchase price of the goodwill.

Therefore, to give effect to the above decision, it has been proposed to,

1. amend clause (11) of section 2 of the Act to provide that “block of asset” shall not include goodwill of a business or profession
2. (amend clause (ii) of sub-section (1) of section 32 of the Act to provide that goodwill of a business or profession shall not be considered as an asset for the purpose of the said clause and therefore not eligible for depreciation. Further, it is also proposed to amend Explanation 3 to sub-section(1) of the said section to provide that goodwill of a business or profession shall not be considered as an asset for the said sub-section.
3. amend section 50 of the Act to provide that in a case where goodwill of a business or profession formed part of a block of asset for the assessment year beginning on the 1st April, 2020 and depreciation has been obtained by the assessee under the Act, the written down value of that block of asset and short term capital gain, if any, shall be determined in the manner as may be prescribed.
4. amend section 55 of the Act by substituting clause (a) of subsection(2) to provide that in relation to a capital asset, being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession,

or tenancy rights, or stage carriage permits, or loom hours,—

- in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price; and
- in the case falling under sub-clause (i) to (iv) of sub-section (1) of section 49 and where such asset was acquired by the previous owner (as defined in that section) by purchase, means the amount of the purchase price for such previous owner; and
- in any other case, shall be taken to be nil

6. provide that in case of goodwill of business or profession acquired by the assessee by way of purchase from a previous owner (either directly or through modes specified under sub-clause (i) to (iv) of sub-section (1) of section 49) and any deduction on account of depreciation under section 32 of the Act has been obtained by the assessee in any previous year preceding the previous year relevant to the assessment year commencing on or after the 1st April, 2021, then the cost of acquisition will be the purchase price as reduced by the depreciation so obtained by the assessee before the previous year relevant to assessment year commencing on 1st April, 2021.

Rationalisation of the provision relating to processing of returned income and issuance of notice [Section 143 (2)] [Applicable from April 1, 2021]

The existing provisions of clause (a) of sub-section (1) of section 143 of the Act provides that at the time of processing of return of income made under section 139, or in response to a notice under sub-section (1) of section 142, the total income or loss shall be computed after making the adjustments specified in clauses (i) to (vi) therein.

It is proposed to amend the following provisions of sub-section (1) of section 143 of the Act,-

- Amend sub-clause (iv) of clause (a) of sub-section (1) of the section 143 of the Act, to allow for the adjustment on account of increase in income indicated in the audit report but not taken into account in computing the total income.
- Amend sub-clause (v) of clause (a) of sub-section (1) of the section 143 of the Act so as to give consequential effect to amendment carried out in section 80 AC vide Finance Act, 2018.
- Amend the provisions of section 143 to reduce the time limit for sending intimation under sub-section (1) of section 143 of the Act from one year to nine months from the end of the financial year in which the return was furnished.

Consequently, it is also proposed to reduce the time limit for issue of notice under sub-section (2) of section 143 of the Act from six months to three months from the end of the financial year in which the return is furnished.

Rationalisation of the provision of presumptive taxation for professionals [Section 44ADA] [Applicable from AY 2021-22 and subsequent assessment years]

Section 44ADA of the Act relates to special provision for computing profits and gains of profession on presumptive basis.

Sub-section (1) of the said section provides that notwithstanding anything contained in sections 28 to 43C, in case of an assessee, being a resident in India engaged in a profession referred to in sub-section (1) of section 44AA and whose total gross receipts do not exceed fifty lakh rupees in a previous year, a sum equal to fifty percent of the total gross receipts of the assessee in the previous year on account of such profession, or as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the

assessee, shall be deemed to be the profits and gains of such profession chargeable to tax.

The provisions of section 44ADA of the Act were made applicable to individual, Hindu undivided family (HUF) and partnership firm but not a Limited Liability Partnership (LLP) as defined under clause (n) of sub-section (1) of section 2 of Limited Liability Partnership Act, 2008. This is for the reason that LLP are required to maintain books of accounts in any case under LLP Act.

It is proposed to make this position clear in the law. Hence it is proposed to amend sub-section (1) of section 44ADA of the Act to provide that the provision of this section shall apply to an assessee, being an individual, HUF or partnership firm, not being an LLP as defined under clause (n) of sub-section (1) of section 2 of Limited Liability Partnership Act, 2008. All other provisions like being a resident in India engaged in a profession referred to in sub-section (1) of section 44AA and whose total gross receipts do not exceed fifty lakh rupees in a previous year, shall remain same.

Clarification regarding the scope of Vivad se Vishwas Act, 2020 [Section 44ADA] [Applicable retrospectively from March 17, 2020]

With the objective of reducing pending income tax litigation, generating timely revenue for the Government and giving benefit to taxpayers by providing them peace of mind, certainty and savings on account of time and resources, the Direct Tax Vivad se Vishwas Act, 2020 (hereinafter referred to as VsV') was enacted on 17th March, 2020.

The settlement provisions under the Income-tax Act, 1961 (Income-tax Act) provide for an alternate mechanism to a taxpayer who chooses to exit the regular process of assessment which would have resulted into determination of tax liability and instead approached the Income Tax Settlement Commission

Commission (ITSC) for settlement of his case under Chapter XIX-A of the Income-tax Act. As the VsV was enacted for the resolution of disputed tax and not for the taxes covered by an order in pursuance to the settlement of a case under Chapter XIX-A of the Income-tax Act, such cases as are covered by Chapter XIX-A of the Income-tax Act (whether they have attained finality or not) have always been, therefore, intended to be outside the purview of VsV.

With a view to remove any ambiguity, it is proposed to amend the provisions of VsV to clarify the original legislative intent for which the definitions of “appellant” in section 2(1)(a), “disputed tax” in section 2(1)(j) and “tax arrears” in section 2(1)(o), of the VsV are proposed to be amended by way of removal of doubts by this Bill.

Definition of term “Liable to tax” [Section 2(29A)] [Applicable from AY 2021-22 and subsequent assessment years]

The Act currently does not define the term “liable to tax” though this term is used in section 6, in clause (23FE) of section 10 and various agreements entered into under section 90 or section 90A of the Act. Hence, it is proposed to insert clause (29A) to section 2 of the Act providing its definition. The term —liable to tax in relation to a person means that there is a liability of tax on that person under the law of any country and will include a case where subsequent to the imposition of such tax liability, an exemption has been provided.

Income Declaration Scheme [Applicable retrospectively from June 1, 2016]

The Income Declaration Scheme, 2016 (the Scheme) contained in Chapter-IX of the Finance Act, 2016 provided an opportunity to the persons who had not disclosed any income in the past to come clean and make payment of tax, surcharge and penalty as per the provisions of the Scheme. The Scheme commenced on

01.06.2016.

Section 187 of the Finance Act, 2016 inter alia, provides that the tax, surcharge and penalty payable under the Scheme shall be paid on or before the specified date and if the declarant failed to pay such amount, the declaration filed by the declarant shall be deemed invalid. Further, section 191 of the Finance Act, 2016, inter alia, provides that any amount of tax, surcharge and penalty paid in pursuance of a declaration made under the Scheme shall not be refundable. A proviso was inserted in section 191 of the Finance Act, 2016 vide Finance (No. 2) Act, 2019 empowering the Board to specify a class of persons to whom such tax paid in excess shall be refundable. It is now proposed to amend the proviso of section 191 of the Finance Act, 2016, so as to provide that the excess amount of tax, surcharge or penalty paid in pursuance of a declaration made under the Scheme shall be refundable to the specified class of persons without payment of any interest.

TDS/TCS

TDS on Purchase of Goods [Applicable from July 1, 2021]

Chapter XVIIIB of the Act relates to deduction of tax at source. The provisions of this chapter provide for TDS on various payments at rates contained therein. It is proposed to provide for TDS by person responsible for paying any sum to any resident for purchase of goods. The rate of TDS is kept very low at 0.1%. To ensure that compliance burden is only on those who can comply with it, it is proposed that the tax is only required to be deducted by those person (i.e. “buyer”) whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Central Government is proposed to be empowered by notification in the Official Gazette to exempt a person

from obligation under this section on fulfilment of conditions as may be specified in that notification. Tax is required to be deducted by such person, if the purchase of goods by him from the seller is of the value or aggregate of such value exceeding fifty lakh rupees in the previous year. It is also proposed to provide that the provisions of this section shall not apply to:

- a transaction on which tax is deductible under any provision of the Act; and
- a transaction, on which tax is collectible under the provisions of section 206C other than transaction to which sub-section (1H) of section 206C applies.

This means, if on a transaction a TDS or tax collection at source (TCS) is required to be carried out under any other provision, then it would not be subjected to TDS under this section. There is one exception to this general rule. If on a transaction TCS is required under sub-section (1H) of section 206C as well as TDS under this section, then on that transaction only TDS under this section shall be carried out.

Board with the approval of the Central Government has been empowered to issue guidelines for removing difficulty in giving effect to the provisions of this section.

Every guideline issued by the Board is required to be laid before each House of Parliament, and shall be binding on the income-tax authorities and the person liable to deduct tax.

It is also proposed to consequentially amend sub-section (1) of section 206AA of the Act and insert second proviso to further provide that where the tax is required to be deducted under section 194Q and Permanent Account Number (PAN) is not provided, the TDS shall be at the rate of five per cent.

TDS/TCS on non-filer at higher rates [Section 206AB & 206CCA] [Applicable from July 1, 2021]

Section 206AA of the Act provides for higher rate of TDS for non-furnishing of PAN. Similarly section 206CC of the Act provides for higher rate of TCS for non-furnishing of PAN. It is seen that while these provisions have served their purpose in ensuring obtaining and furnishing of PAN by various person, there is need to have similar provisions to ensure filing of return of income by those person who have suffered a reasonable amount of TDS/TCS.

Hence, it is proposed to insert a new section 206AB in the Act as a special provision providing for higher rate for TDS for the non-filers of income-tax return. Similarly it is proposed to insert a section 206CCA in the Act as a special provision for providing for higher rate of TCS for non-filers of income-tax return.

Proposed section 206AB of the Act would apply on any sum or income or amount paid, or payable or credited, by a person (herein referred to as deductee) to a specified person. This section shall not apply where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act. The proposed TDS rate in this section is higher of the followings rates:

- twice the rate specified in the relevant provision of the Act; or
- twice the rate or rates in force; or
- the rate of five per cent

If the provision of section 206AA of the Act is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA of the Act.

Proposed section 206CCA of the Act would apply on any sum or amount received by a person (herein referred to as collectee) from a specified person. The proposed TCS

rate in this section is higher of the following rates:

- twice the rate specified in the relevant provision of the Act; or
- the rate of five percent

If the provision of section 206CC of the Act is applicable to a specified person, in addition to the provision of this section, the tax shall be collected at higher of the two rates provided in this section and in section 206CC of the Act.

The specified person is a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years which are immediately before the previous year in which tax is required to be deducted or collected, as the case may be. Further, the time limit for filing tax return under sub-section (1) of section 139 of the Act has expired for both these assessment years. There is another condition that aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in each of these two previous years. Specified person shall not include a non-resident who does not have a permanent establishment in India. Consequential amendment is proposed in sub-section (4) of section 194-IB of the Act.

Taxability of Interest on various funds where income is exempt [Applicable from AY 2022-23 and subsequent assessment years]

Section 10(11) of the Act provides for exemption with respect to any payment from a provident fund to which the Provident Funds Act, 1925 (19 of 1925) applies or from any other provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette. Similarly, Clause (12) of this section provides for exemption with respect to the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth

Schedule.

Instances have come to the notice where some employees are contributing huge amounts to these funds and entire interest accrued/received on such contributions is exempt from tax under clause (11) and clause (12) of section 10 of the Act. This exemption without any threshold benefits only those who can contribute a large amount to these funds as their share. Accordingly, it is proposed to insert proviso to clause(11) and clause (12) of section 10 of the Act, providing that the provisions of these clauses shall not apply to the interest income accrued during the previous year in the account of the person to the extent it relates to the amount or the aggregate of amounts of contribution made by the person exceeding two lakh and fifty thousand rupees in a previous year in that fund, on or after 1st April, 2021, computed in such manner as may be prescribed.



INDIRECT TAX

**Goods and Service Tax,
Custom & Excise Changes**

Indirect Tax

Our Indirect tax analysis consist of analysis of Goods and Service tax, Customs and Excise.

Goods and Service Tax Amendments

Scope of Supply

Insertion in the definition of Supply - Sec 7

A clause has been inserted in definition of supply so as to ensure that tax shall be levied on all the transactions involving supply of goods and services by any person (other than an individual) to its members or constituents or vice-versa for cash, deferred payment or other valuable consideration.

Explanation has been inserted to clarify that the person or its member or constituents shall deemed to be considered as two separate person and transaction between then shall deemed to take place from one person to another.

Analysis

Earlier, there was no provision under the act which cover the transactions of supply of goods and services by club/societies to its members or vice-versa under the ambit of GST. In order to bring all such transaction under levy of GST this inclusion was made in the scope of Supply.

Input Tax Credit

Amendment in conditions for availing input tax /credit under section 16(2) “(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37”.

Analysis

Earlier there were four conditions which are required to be complied for before taking input tax credit. The four conditions are:

- a. Possession of Invoice
- b. Actual receipt of goods or services.
- c. Tax charged was paid to the government.
- d. Furnished return u/s 39 of the act.

Now one additional condition required to be complied for before taking input tax credit.

“The details of invoice or debit note has been furnished by the supplier in his GSTR-1 and such details have been communicated to the recipient of such invoice or debit note.”

This amendment was made to give legal effect to GSTR-2A and GSTR-2B. Now a taxpayer can avail input tax credit only if such input tax credit get reflected in GSTR-2A/2B.

GST Audit

Removal of mandatory condition of getting annual accounts audited – Sec 35(5)

Sec 35(5) of CGST Act 2017 is being omitted to remove the mandatory requirement of getting annual accounts audited by a specified professional.

Analysis

Earlier every registered person whose aggregate turnover exceed the prescribed limit was required to get their accounts audited from a chartered accountant. Amendment has been made in act so as to remove such mandatory requirement to get annual accounts audited and the reconciliation statement submitted by specific professionals.

Annual Return

Filing of Annual Returns on self-certification basis – Sec 44

“44. Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”.

Analysis

Amendment has been made in sec 44 of the act to remove the mandatory requirement of furnishing audited reconciliation statement by specified professionals and to provide filing of Annual Returns on self-certification basis.

Further power has been given to commissioner to exempt a class of taxpayer from filing Annual Return. Further this provision shall not be applicable on central government or state government or local authority, whose accounts are audited by Comptroller and Auditor General.

Interest

Interest on Net Cash Liability – Sec 50(1)

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.”

Analysis

Amendment is made in sec 50(1) of the act in order to provide the interest liability on the amount after adjustment of input tax credit. This amendment was effective from 1st July 2017. However, such benefit shall be available only in the case where the return was filed after the due date.

No relief shall be available in the cases where the liability was short paid/not paid and later on paid through available input tax credit.

Further the relief shall not be available in the case where the tax was not paid up to the initiation of proceedings u/s 73 and 74 of the act.

Liability declared in GSTR-1 shall be liable for recovery without SCN

Clarification on “Self-Assessed Tax” under sec 75(12)

‘Explanation—For the purposes of this sub-section, the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.’.

Analysis

Earlier the liability declared under GSTR-3B was to be considered as “self-assessed liability” but through this amendment it was made to clear that meaning of the self-assessed tax in sec 75(12) of the act shall be the tax liability which was declared in GSTR-1.

Schedule II

Deletion of Paragraph 7 in Schedule II of CGST Act 2017

Paragraph 7 of schedule II of the act shall stand omitted in order to comply with the amendment made in section 7 of the act.

Analysis

Earlier the supply of goods by an unincorporated association or body of person to the member thereof for cash, deferred payment or other valuable consideration shall be classified as supply of goods under schedule II. Now such transaction (either goods or services) shall be included in the scope of supply itself and hence deleted from this schedule.

Zero-rated supplies

Payment of tax in case of non-realization of sale proceeds in case of export of Goods

Section 16(3) substituted with “A registered person making zero rated supply shall be eligible to claim refund of un-utilized input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made there under, subject to such conditions, safeguards and procedure as maybe prescribed:

Provided that the registered person making zero rated supply of goods shall, in case of non-realization of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.

Analysis

Earlier a taxpayer was eligible to claim refund of input tax credit availed against the zero-rated supplies either made under Bond/Letter of undertaking without payment of integrated tax or zero-rated supplies made with payment of tax. Now under this amendment option of making zero-rated supplies with payment of tax shall stand omitted. This amendment will take away the benefit of utilizing the input tax credit against the zero-rated supplies with payment of tax and claiming refund of the same later on.

Earlier there was no mandatory condition realization of sale proceeds in convertible foreign exchange in case of export of goods but now the registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.

Zero Rated tax

Zero Rated supplies with payment of tax – Sec 16(4)

The Government may, on the recommendation of the council, and subject to such conditions, safeguards and procedures, by notification, specify—

- a class of persons who may make zero-rated supply on payment of integrated tax and claim a refund of the tax so paid.
- a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.

Analysis

This sub section was inserted to retain the power of issuance of notification to notify the class of person and class of goods and services who are eligible to make zero-rated supplies with payment of tax.

Provisional Attachment

Substitute sec 83(1) to enhance the scope of provisional attachment.

Where, after the initiation of any proceeding under chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.

Analysis

This amendment was made to provide that power of commissioner of provisional attachment of any property including bank account shall remain valid for the entire period starting from the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV till the expiry of a period of one year from the date of order made there under.

Appeals & Revision

Filing of Appeal only after payment of 25% of penalty in case of Detention or seizure of goods in transit.

Provisio of Sec 107(6)

Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.

Analysis

Earlier the provision of filling appeal against any order shall be filed only after payment of tax, interest, fine, fee and penalty arising from the impugned order and a sum equal to ten per cent of the remaining amount of tax in dispute however with this amendment the requirement of payment of tax as mentioned above shall be de link with the existing provision and requirement of payment of twenty five percent of penalty shall arises before filing of appeal against any order in respect of detention of goods.

Amendment in sec 129

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:–

“(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

(b) on payment of penalty equal to fifty per cent. Of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five

thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty.

(ii) sub-section (2) shall be omitted;

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).

iv) in sub-section (4), for the words “No tax, interest or penalty”, the words “No penalty” shall be substituted

(v) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):

Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with the passage of time, the said period of fifteen days may be reduced by the

by the proper officer.

Analysis

This amendment was made to make changes in the provision for collecting penalty amount only instead of collecting full tax amount which was required in earlier provision.

The penalty shall be levied as under:

Where owners pay the amount on his own motion:

- 200% of tax payable
- 2% of value of goods or Rs. 25,000 whichever is less

Where owner does not come forward for payment of a penalty

- 50% of Value of goods or 200% of tax payable on such goods whichever is higher
- 5% of value of goods or Rs. 25,000 whichever is less in case of exempted goods

Further provision allowing release of goods on furnishing of security in place of payment of such amount has been abolished. Thus, the amount for release shall now be required to be made by debiting electronic cash ledger (ITC cannot be used for payment of penalty).

Further amendment was made in section 130 to delink the provision of payment of penalty leviable under section 129.

Power to call for Information

151. The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein

In section 152 of the Central Goods and Services Tax Act,—

(a) in sub-section (1),—

- the words “of any individual return or part thereof” shall be omitted;
- after the words “any proceedings under this Act”, the words “without giving an opportunity of being heard to the person concerned” shall be inserted;

(b) sub-section (2) shall be omitted.

Analysis

Under this amendment more power has been given to the commissioner to call for the information from any person relating to any matter dealt with in connection with the Act.

Under this power the officer can call for any information from the taxpayer or from any third party like telephone authority, banks, Municipal authority, purchase transaction from any suppliers etc.

Custom Amendments

Fake Invoices Insertion of new section 114AC

‘114AC. Where any person has obtained any invoice by fraud, collusion, willful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed.

Explanation—For the purposes of this section, the expression “input tax credit” shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017.’

Analysis

This provision was inserted to penalize the persons who are intending to obtain refund on the basis of false/fake invoices.

Amendment in Sec 46(3)

Amend sub-section (3) of section 46 of the Customs Act so as to insert a new proviso therein to empower the Board to provide by regulations different time limits for presentation of the Bill of entry.

Amendment in Sec 9

amend section 9 of the Customs Tariff Act. The proposed sub-section (1B) seeks to empower the Central Government to provide by rules the circumstances in which absorption of countervailing duty have taken place.

Amend section 9A of the Customs Tariff Act. The proposed sub-section (1B) seeks to empower the Central Government to provide by rules the circumstances in which absorption of anti-dumping duty have taken place.

Insert Sec 25(4A)

Insert a new sub-section (4A) in section 25 of the customs Act so as to provide that the exemption to be granted subject to conditions under sub-section (1) shall, unless otherwise specified or varied or rescinded, be valid for a period up to the 31st March falling immediately after two years from the date of such grant or variation.

It further seeks to insert a proviso therein to provide that in respect of any such exemption in force as on the date on which the Finance Bill, 2021 receives the assent of the president, the said period of two years shall be reckoned from the 1st February, 2021.

Insert Sec 28BB

insert a new section 28BB in the Customs Act so as to provide time limit for completion of certain actions under this Act.

Amend Sec 110

Amend section 110 of the Customs Act and to insert a new sub-section (1D) so as to provide that where gold in any form has been seized by a proper officer under sub-section (1), he shall make the application referred to in sub-section(1B) to the Commissioner (Appeals) having jurisdiction, who shall, as soon as may be, allow the application and the proper officer shall thereafter dispose of the goods in such manner as the Central Government may determine.

Insert Sec 113(ja)

Insert a new clause (ja) in section 113 of the Customs Act so as to provide that any goods entered for exportation under claim of remission or refund of any duty or tax or levy, to make a wrongful claim in contravention of the Act or any other law for the time being in force shall be liable to confiscation.

Insert Sec 114AC

Insert a new section 114AC in the Customs Act so as to provide penalty for fraudulent utilisation of input tax credit for discharging any duty or taxon goods entered for exportation under claim of refund and such penalty shall be equivalent to five times the refund claimed.

Amend Sec 149

Amend section 149 of the Customs Act by inserting second and third provisos therein so as to provide that documents may be amended electronically through the customs automated system and also to enable certain

certain amendments to be done by the importer or exporter on common portal.

Amend Sec 153(1)

Amend sub-section (1) of section 153 of the Customs Act by inserting clause (ca) therein so as to enable service of order, summons, notice or anyother communication under the said Act by making it available on the common portal.

Insert Sec 154C

Insert a new section 154C in the Customs Act so as to empower the Board to notify a common portal to be called the Common Customs ElectronicPortal for facilitating registration, filing of bill of entry, shipping bill, other documents and forms, payment of duty and for such other purposes as may be specified by the Board.

Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 [IGCR Rules] are being amended to provide the following facilities:

1. to allow job-work of the materials (except gold and Jewelry and other precious metals) imported under concessional rate of duty
2. to allow 100% out-sourcing for manufacture of goods on job-work
3. to allow imported capital goods that have been used for the specified purpose to be cleared on payment of differential duty, along with interest, on the depreciated value. The depreciation norms would be the same as applied to EOUs, as perForeign Trade Policy.

Miscellaneous

- High Speed Rail Projects are being included in list of projects to which Project Imports Scheme is applicable.
- National High Speed Rail Corporation Ltd. is being nominated as the “Sponsoring Authority” under

Project Import Regulations, 1986 for approving the items required to be imported under the Project Imports Scheme for High-Speed Rail Projects.

Amendments in the first schedule to the customs tariff act, 1975

AMENDMENTS					
A.	Tariff rate changes for Basic Customs Duty [to be effective from 02.02.2021, unless otherwise specified] * [Clause [95 (i)] of the Finance Bill, 2021]			Rate of Duty	
S. No.	Heading, sub-heading tariff item	Commodity	From	To	
Chemicals					
1.	2803 00 10	Carbon Black	5%	7.5%	
Plastic items					
2.	3925	Builder's ware of Plastics	10%	15%	
Gems and Jewellery Sector					
3.	7104	Cut and Polished Synthetic stones, including Cut and Polished Cubic Zirconia	10%	15%	
Electrical and Electronics Sector					
4.	8414 30 00	Compressors of a kind used in air-conditioning equipment	12.5%	15%	
5.	8414 80 11	Compressors of a kind used in air-conditioning equipment	12.5%	15%	
6.	8504 90 90	Printed Circuit Board Assembly [PCBA] of charger or adapter (All goods under this tariff item, other than above, will continue to attract the existing effective rate of BCD at 10%)	10%	15%	
Parts of Automobiles					
7.	7007	Safety glass, consisting of toughened (tempered) or laminated glass. (All goods under this heading, other than those used with motor vehicles, will continue to attract the existing effective rate of BCD at 10%)	10%	15%	
8.	8512 90 00	Parts of Electrical lighting and signaling equipment, windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles.	10%	15%	
9.	8544 30 00	Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	10%	15%	

10.	9104 00 00	Instrument Panel Clocks and Clocks of a similar type for vehicles, Aircraft, Spacecraft or Vessels	10%	15%
B.	Tariff rate changes (without any change in the effective rates of Basic Customs Duty)		Rate of Duty	
S.	Heading, sub-heading tariff item	Commodity	From	To
No.				
1.	8414 40	Air compressors mounted on a wheeled chassis for towing	7.5%	15%
2	8414 80 (except 8414 80 11)	Gas Compressors (other than of a kind used in air-conditioning equipment), free-piston generators for gas turbine, turbo charger and other compressors	7.5%	15%
3	8501 10 to 8501 53	Electric Motors	10%	15%
4.	8536 41 00 and 8536 49 00	Relays	10%	15%
5.	8537	Boards, panels, consoles, etc. for electric control or distribution of electricity	10%	15%
6.	9031 80 00	Other instruments, appliances and machines	7.5%	15%
7.	9032 89	Electronic automatic regulators and other controlling instruments or apparatus	10%	15%
C.	New entries added to the First Schedule [Clause 95 (ii) and 95 (iii) of the Finance Bill, 2021]			
1	Harmonizing the Customs Tariff Act 1975 with the HSN 2022			
	<ul style="list-style-type: none"> Changes to the first schedule to the Customs Tariff Act are being proposed that are to come into effect from 01.01.2022. This is in accordance with HSN 2022, which proposes 351 amendments to the existing harmonized nomenclature, covering a wide range of goods moving across borders. The amendments are necessary to adapt to the current trade through the recognition of new product streams, the changing nature of commodities being traded, advent of new technologies and addressing the environmental and social issues of global concern- all with a prime focus on the larger goal of ease of doing business and trade facilitation. 			
2	New tariff lines under the heading 2709 in the Customs Tariff Act, 1975#:			
	2709 00 10 -- petroleum crude			
	2709 00 20 -- other			

Will come into effect on 1.4.2021.

* Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

Other proposals involving changes in basic customs duty rates in respective notifications [with effect from 2.2.2021, unless specified otherwise]

S. No	Chapter, Heading, sub-heading, tariff item	Commodity	From	To
Agricultural Products and By Products				
1.	2207 20 00	Denatured Ethyl Alcohol (ethanol) for use in manufacture of excisable goods	2.5%	5%
2.	23	All goods except dog and cat food and shrimp larvae feed	Nil/ 5%/ 10%/ 15%/ 20%/ 30%	15%
Minerals				
3.	2528	Natural borates and concentrates thereof	Nil/5%	2.5%
Fuels, Chemicals and Plastics				
3.	2710	Naphtha	4%	2.5%
5.	2907 23 00	Bis-phenol A	Nil	7.5%
6.	2910 30 00	Epichlorohydrin	2.5%	7.5%
7.	2933 71 00	Caprolactam	7.5%	5%
8.	3907 40 00	Polycarbonates	5%	7.5%
9.	3908	Nylon chips	7.5%	5%
10.	3920 99 99	Other plates, sheets, films, etc. of other plastics	10%	15%
Leather				
11	41	Wet blue chrome tanned leather, crust leather, finished leather of all kinds, including splits and sides of the aforesaid	Nil	10%
Textiles				
12.	5002	Raw Silk (not thrown)	10%	15%
13.	5004, 5005, 5006	Silk yarn, yarn spun from silk waste (whether or not put up for retail sale)	10%	15%

14.	5201	Raw Cotton	Nil	5% +
15.	5202	Cotton waste (including yarn waste or garneted stock)	Nil	10%
16.	5402, 5403, 5404, 5405 00 00,5406, 5501 to 5510	Nylon Fibre and Yarn	7.5%	5%
Gems and Jewellery Sector				
17.	7106	Silver	12.5%	7.5%+ 2.5% AIDC*
18.	7106	Silver Dore	11%	6.1% + 2.5% AIDC*
19.	7108	Gold	12.5%	7.5%+ 2.5% AIDC*
20.	7108	Gold Dore	11.85%	6.9%+ 2.5% AIDC*
21.	7107 00 00, 7109 00 00, 7111 00 00	Base metals or precious metals clad with precious metals	12.5%	10%
22.	7110	Other precious metals like Platinum, Palladium, etc.	12.5%	10%
23.	7112	Waste and scrap of precious metals or metals clad- with precious metals	12.5%	10%
24.	7112	Spent catalyst or ash containing precious metals	11.85%	9.17%
25.	7113	Gold or Silver Findings	20%	10%
26.	7118	Coin	12.5%	10%
Metals				
27.	7204	Iron and steel scrap, including stainless steel scrap [up to 31.03.2022]	2.5%	Nil
28.	7206 and 7207	Primary/Semi-finished products of non-alloy steel	10%	7.5%
29.	7208, 7209, 7210, 7211, 7212, 7225 (except 7225 11 00) and 7226 (except 7226 11 00)	Flat products of non-alloy and alloy steel	10% /12.5%	7.5%

30..	7213, 7214, 7215, 7216, 7217, 7221, 7222,7223, 7227 and 7228	Long product of non-alloy, stainless and alloy steel	10%	7.5%
31.	7225	Raw materials for use in manufacture of CRGO steel [up to 31.03.2023]	2.5%	Nil
32.	7404	Copper Scrap	5%	2.5%
33.	7318	Screw, bolts, nuts, etc. of iron and steel	10%	15%
Capital Goods				
34.	8430	Tunnel boring machines	Nil	7.5%
35.	8431	Parts and components for manufacture of tunnel boring machines with actual-user condition	Nil	2.5%
IT, Electronics and Renewable				
36.	8544 (other than 8544 70 and 854430 00)	Specified insulated wires and cables	7.5%	10%
	39, 74 and 85	Former, bases, bobbins, brackets; CP wires; P.B.T.; Phenol resin moulding powder; Lamination/ EI silicon steel strips for use in manufacture of transformers (entry at S.No. 198 of 25/1999- Customs)	Nil	Applicable rate
38.	Any Chapter	Inputs or parts for manufacture of Printed Circuit Board Assembly (PCBA) of cellular mobile phone (w.e.f.1.4.2021)	Nil	2.5%
39.	Any Chapter	Inputs or parts for manufacture of camera module of cellular mobile phone (w.e.f. 1.4.2021)	Nil	2.5%
40.	Any Chapter	Inputs or parts for manufacture of connectors of cellular mobile phone (w.e.f. 1.4.2021)	Nil	2.5%
41.	Any Chapter	Inputs or raw material (other than PCBA and moulded plastics) for manufacture of charger or adapter of cellular mobilephones	Nil	10%

43.	8504 90 90 or 3926 90 99	Moulded plastics for manufacture of charger or adapter	10%	15%
44.	Any Chapter	Inputs or parts of Printed Circuit Board Assembly of charger or adapter of cellular mobile phones	Nil	10%
45.	Any Chapter	Inputs or parts of Moulded Plastic of charger or adapter of cellular mobile phones	Nil	10%
46.	Any Chapter	Inputs or raw materials (other than Lithium-ion cell and PCBA) of Lithium-ion battery or battery pack (w.e.f. 1.4.2021)	Nil	2.5%
47.	Any Chapter	Parts or components of PCBA of Lithium-ion battery or battery pack (w.e.f. 1.4.2021)	Nil	2.5%
48.	Any Chapter	Inputs or raw materials of following goods: - (i) Other machines capable of connecting to an automatic data processing machine or to a network (8443 3290) (ii) Ink cartridges, with print head assembly (8443 99 51) (iii) Ink cartridges, without print head assembly (8443 99 52) (iv) Ink spray nozzle (8443 99 53) (w.e.f. 1.4.2021)	Nil	2.5%
49.	Any Chapter	Inputs and parts of LED lights or fixtures including LED Lamps	5%	10%
50.	Any Chapter	Inputs for use in the manufacture of LED driver or MCPCB (Metal Core Printed Circuit Board) for LED lights or fixtures including LED Lamps	5%	10%
51.	9405 50 40	Solar lanterns or solar lamps	5%	15%
52.	8504 40	Solar Inverters	5%	20%
53.	9503	Parts of Electronic Toys for manufacture of electronic toys	5%	15%
Aviation Sector				
54.	Any Chapter	Components or parts, including engines, for manufacture of aircrafts or parts of such aircrafts, by Public Sector Units under Ministry of Defence subject to condition specified.	2.5%	0%

Medical devices				
55.	9018-9022	Medical Devices imported by International Organization and Diplomatic Missions	Health Cess @ 5%	Health Cess @ Nil
Goods imported under Project Import Scheme				
56.	9801	High Speed Rail Projects being brought under project imports	Applicable Rate	5%
57.	8714 91 00, 8714 92, 8714 93, 8714 94 00, 8714 95, 8714 96 00, 8714 99	All goods other than Bicycle parts and components	10%	15%

* Agriculture Infrastructure and Development Cess

Pruning and review of customs duty concessions/exemptions:

Review of concessional rates of BCD prescribed in notification No. 50/2017 – customs dated 30.6.2017: The BCD exemption hitherto available on certain goods are being withdrawn by omitting following entries of notification No. 50/2017-Customs dated 30.6.2017.

S. No.	S. No. of Notification	Description/ CTH
1.	209	Diphenylmethane 4, 4-diisocyanate (MDI) for use in the manufacture of spandex yarn
2.	230	Ink cartridges, ribbon assembly, ribbon gear assembly, ribbon gear carriage, for use in printers for computers
3.	229 [w.e.f 1.4.2021]	71 items like wax items, wood polish materials, prints for photo frames, velvet fabric/paper, handles/blades for cutlery, jigat, wine tools etc.
4.	311 [w.e.f 1.4.2021]	35 items like fasteners, zippers, shoulder pads, buckles, rivets, Velcro tape, toggles, stud, elastic cloth and band, bobbin, hooks, anglets etc.
5.	312 [w.e.f 1.4.2021]	42 items like buckles, buttons, stamping foil, sewing thread, Loop rivets, Glove Liners, shoe laces, inlay cards etc.
6.	313 [w.e.f 1.4.2021]	18 items like lace, Velcro tape, curtain hooks, Tassel, Beads, Sequins, sewing threads, poly wadding materials, quilted wadding materials etc.

Prescribing the condition of observance of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR Rules, 2017) for certain conditional entries in notification No. 50/2017-Customs dated 30.06.2017, in lieu of certain exiting conditions. Besides certain other conditions for imports are being rationalized/simplified.

- Accordingly, the condition Nos. 22, 24, 30, 38, 51, 52, 53, 54, 60, 61 and 74, in the said customs notification have been amended to prescribe condition of GCR.
- In addition, it has been prescribed that the changed jurisdictional authority under IGCR Rules, 2017, shall also issue the end use certificate for the past period after due verification as per the rules.

Customs duty exemptions, including those which have been granted through certain other stand-alone notifications, have also been reviewed by rescinding the notification:

S.No.	Notification No.	Notification Subject
1	1/2011-Customs, dated the 6.1.2011	Exemption to all items of machinery, instruments, appliances, components or auxiliary equipment for initial setting up of solar power generation project or facility
2	Customs dated 30th June, 2017	This notification provided exemption to tags or labels (whether made of paper, cloth, or plastic), or printed bags (whether made of polyethene, polypropylene, PVC, high molecular or high density polyethene) imported for fixing on articles for export or for the packaging of such articles. Similar exemption exists at S. No.257 of notification No. 50/2017-Cus. These have been merged in the said S. No.257 and notification No 34/2017-Cus has been omitted.
3	75/2017- Customs dated 13th September, 2017	Exemption for goods imported for organizing FIFA Under-17 World Cup, 2017.

Imposition of agriculture infrastructure and development cess on import of certain items [to be effective from 02.02.2021] [clause [115] of the finance bill, 2021]

An Agriculture Infrastructure and Development Cess (AIDC) has been proposed on import of specified goods. To ensure that imposition of cess does not lead to additional burden in most of these items on the consumer, the BCD rates have been lowered. This cess shall be used to finance the improvement of agriculture infrastructure and other development expenditure. The list of items on which cess has been imposed and the applicable duty and AIDC on them would be as follows:

S. No	Heading, sub-heading tariff item	Commodity	Basic customs duty	AIDC
1.	0808 10 00	Apples	15%	35%
2.	1511 10 00	Crude Palm Oil	15%	17.5%
3.	1507 10 00	Crude Soya-bean oil	15%	20%
4.	1512 11 10	Crude Sunflower seed oil	15%	20%
5.	0713 10	Peas (Pisum sativum)	10%	40%
6.	0713 20 10	Kabuli Chana	10%	30%

7.	0713 20 20	Bengal Gram (desichana)	10%	50%
8.	0713 20 90	Chick Peas (garbanzos)	10%	50%
9.	0713 40 00	Lentils (Mosur)	10%	20%
10.	2204	All goods (Wine)	50%	100%
11.	2205	Vermouth and other wine of fresh grapes, flavoured	50%	100%
12.	2206	Other fermented beverages for example, Cider, Perry, Mead, sake, mixture of fermented beverages or fermented beverages and nonalcoholic beverages	50%	100%
13.	2208	All goods (Brandy, Bourbon whiskey, Scotch etc.)	50%	100%
14.	2701	Various types of coal	1%	1.5%
15.	2702	Lignite, whether or not agglomerated	1%	1.5%
16.	2703	Peat, whether or not agglomerated	1%	1.5%
17.	3102 10 00	Urea	Nil	5%
18.	3102 30 00	Ammonium nitrate	2.5%	5%
19.	31	Muriate of potash, for use as manure or for the production of complex fertilizers	Nil	5%
20.	3105 30 00	Diammonium phosphate, for use as manure or for the production of complex fertilisers	Nil	5%
21.	5201	Cotton (not carded or combed)	5%	5%
22.	7106	Silver (including imports by eligible passengers)	7.5%	2.5%
23.	7106	Silver Dore	6.1%	2.5%
24.	7108	Gold (including imports by eligible passengers)	7.5%	2.5%
25.	7108	Gold Dore	6.9%	2.5%

Other changes (including certain clarifications/ technical changes by amending notification no. 50/2017-customs dated 30.06.2017

S.No.	S.No. of Notfn	Description
1.	20	a) The HS [0713 20 00] was split into [0713 20 10], [0713 20 20] and [0713 20 90] vide notification 22/2018-Cus dated 20.03.2020. However, the transposition of the same has not been done for entry 20 of notification No.50/2017-Cus. b) It is proposed to specifically mention Kabuli Chana & Bengal gram (desichana) in the exclusions to this entry.
2.	21E	The entry is redundant (was valid only upto 31.12.2020 and is proposed to be omitted).
3.	44	The entry is redundant (was valid only upto 30.09.2017) and is proposed to be omitted.
4.	131	Acid grade fluorspar attracts 5% BCD vide serial numbers 120 and S.N. 131 of notification No. 50/2017-Customs dated 30.06.2017. Entry at S.No. being redundant is being omitted.
5.	175	“Any Chapter” mentioned in the Chapter/heading etc. of this entry is being replaced by the specific entry heading 2501.
6.	284	An explanation is being inserted in Sr. No. 284 of the notification no. 50/2017-Customs dated 30th June 2017 so as to clarify that the said exemption entry does not cover toy balloons made of natural rubber latex as such toy balloons are classified under customs heading 9503, so as to avoid misclassification.
7.	293A & 293B	The language of exemption entries providing concessional rates on newsprint & other uncoated paper conforming to the specifications of newsprint (other than its surface roughness) is being simplified so as to remove any doubts regarding the specification of uncoated papers used for printing of newspapers on which the concessional rates apply.
8.	First Proviso	Clauses (b), (c) and (e) are being omitted as they are redundant.

Review of levy of Social Welfare Surcharge on various items.

1. Notification No. 12/2018-Customs, dated 02.02.2018 prescribing effective rates of 3% on certain items, including gold and silver, is being rescinded.
2. SWS is also being rescinded on goods falling under heading 2515 11 and 251512.
3. SWS is being exempted on the value of AIDC imposed on gold and silver. Accordingly, these items would attract SWS, at normal rate, only on value plus basic customs duty.

Other Miscellaneous changes pertaining to Anti-Dumping Duty (ADD)/ Countervailing Duty (CVD)/Safeguard Measures

1	<p>Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 provide for manner and procedure for investigation into dumping of goods that cause injury to domestic industry. Changes are being made in the Rules, to provide that with effect from 01.07.2021, to provide that final findings are to be issued by the designated authority, in review cases, at least three months prior to expiry of the ADD under review. The ADD Rules are also being amended to provide for provisional assessment in cases of anti-circumvention investigation. Certain other changes are being made for bringing clarity in the scope of these rules.</p>
2	<p>Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 provide for manner and procedure for causing investigation into the cases of imports of subsidized goods that cause injury to domestic industry. Changes are being made in the Rules to provide that with effect from 01.07.2021, the final findings are to be issued by the designated authority, in review cases, at least three months prior to expiry of the CVD under review. The CVD Rules are also being amended to provide for provisional assessment in cases of anti-circumvention investigation. Certain other changes are being made for bringing clarity in the scope of these rules.</p>
3	<p>Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 (Safeguard Duty being changed to Safeguard Measures) provide for manner and procedure for causing investigation into the cases of imports in increased quantity that cause injury to domestic industry. Changes in the rules are being proposed to elaborate in detailed manner the modalities of implementation of safeguard measure, along with technical modifications consequent to the changes made earlier in section 8B of the Customs Tariff Act vide Finance Act, 2020.</p>
4	<p>Anti-Dumping duty is being temporarily revoked for the period commencing from 2.2.2021 till 30.09.2021, on imports of the following-</p> <ul style="list-style-type: none"> • Straight Length Bars and Rods of alloy-steel, originating in or exported from People's Republic of China, imposed vide notification No. 54/2018-Cus (ADD) dated 18.10.2018; • High Speed Steel of Non-Cobalt Grade, originating in or exported from Brazil, People's Republic of China and Germany, imposed vide notification No. 38/2019-Cus (ADD) dated 25.09.2019; • Flat rolled product of steel, plated or coated with alloy of Aluminum or Zinc, originating in or exported from People's Republic of China, Vietnam and Korea RP, imposed vide notification No. 16/2020-Cus (ADD) dated 23.06.2020.
5	<p>Countervailing duty is being temporarily revoked for the period commencing from 2.2.2021 till 30.09.2021, on imports of Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products, originating in or exported from People's Republic of China, imposed vide notification No. 1/2017-Cus (CVD) dated 07.09.2017.</p>

6.	Provisional Countervailing duty is being revoked on imports of Flat Products of Stainless Steel, originating in or exported from Indonesia, imposed vide notification No. 2/2020- Customs (CVD) dated 9.10.2020.
7.	In Sunset Review, anti-dumping duty on Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250 mm of non bonafide usage originating in or exported from People"s Republic of China, Korea RP, European Union, South Africa, Taiwan, Thailand and United States of America has been discontinued upon expiry of the anti-dumping duty hitherto leviable vide notifications no. 61/2015-Customs (ADD) dated 11th December, 2015 and 52/2017-Customs (ADD) dated 24th October, 2017.

Central Excise

Few Amendment have been brought in order to rationalize excise from excisable goods such as petroleum, cigarette and tobacco products:

I. Amendment in the fourth schedule

- Amendment in Fourth Schedule made by Notification No. 08/2019-CE (T) dated 31.12.2019 shall be made effective w.e.f. 01.01.2020, retrospectively.
- New tariff items [2404 11 00] and [2404 19 00] inserted in Chapter 24 in the fourth Schedule of the Central Excise Act, 1944 accordance with upcoming Harmonised System 2022 Nomenclature and to prescribe tariff rate of 81% on these tariff items with effect from 01.01.2022.

II. Retrospective amendment in Chapter 27 of the Fourth Schedule to the central Excise Act, 1944.

- It is proposed to specify correct IS "17076" against the tariff item 27101249 and made effective from 01.01.2020, retrospectively
- It is proposed that tariff rate of 14%+ Rs. 15.00 per litre against tariff item 2710 20 10 and 2710 20 20 may be prescribed and made effective from 01.01.2020, retrospectively.

III. Amendment in Chapter 27 of the Fourth Schedule to the Central Excise Act, 1944.

Tariff items 2709 10 00, 2709 20 00, and the entries are being substituted relating thereto as under: [to be made effective from 01.04.2021] [Clause [96(i)] of the Finance Bill,2021]			
Tariff Item	Description of goods	Unit	Rate of duty
2709	Petroleum oils and oils obtained from bituminous minerals, crude		
2709 00 10	petroleum crude	Kg.	Nil
2709 00 20	Other	Kg.

IV. Imposition of agriculture infrastructure and development Cess (AIDC) on petrol and diesel

An Agriculture Infrastructure and Development Cess (AIDC) as an additional duty of excise has been proposed on Petrol and High speed diesel vide Clause [116] of the Finance Bill, 2021. This cess shall be used to finance the improvement of agriculture infrastructure and other development expenditure. The details of the cess are as under:

S. No.	Commodity	Rate of AIDC [Clause [116] of the Finance Bill, 2021]*
1	Motor spirit commonly known as petrol	Rs. 2.5 per litre
2	High speed diesel	Rs. 4 per litre

*Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act,1931.

V. Change in effective rate of basic excise duty and special additional excise duty on petrol and diesel [to be effective from 02.02.2021]

Consequent to the imposition of AIDC, the Basic Excise Duty (BED) and Special Additional Excise Duty (SAED) on Petrol and High-speed diesel is being reduced so that consumer doesn't have to bear any additional burden on account of imposition of AIDC. The revised duty structure on petrol and HSD shall be as follows.

S.No.	Item	BED (Rs/Ltr)	SAED (Rs/Ltr)	AIDC (Rs/Ltr)
1	Petrol (unbranded)	1.4	11	2.5
2	Petrol (branded)	2.6	11	2.5
3	High speed diesel (unbranded)	1.8	8	4
4	High speed diesel (branded)	4.2	8	4

VI. Exemptions For M-15, E-20 And Other Blended Fuels

Exemptions from cesses and surcharges on the lines of other blended fuels (like E- 5 and E-10) if these blended fuels are made of duty paid inputs.

VII. Amendments in the Schedule VII of the Finance Act 2001 (NCCDSchedule)

New tariff items [2404 11 00] and [2404 19 00] inserted in accordance with upcoming HS 2022 Nomenclature and prescribe NCCD of 25% on these tariff items with effect from 01.01.2022.

REGULATORY CHANGES

LAW

Regulatory Changes

Budget presented this year, being referred to as the digital budget, will be first of this new decade. The Government has come up with a budget to facilitate economy's reset thereby providing every opportunity for the Indian economy to raise and capture the pace that it needs for sustainable growth.

Rationalized single securities markets code

It has been proposed to consolidate the provisions of SEBI Act, 1992, Depositories Act, 1996, Securities Contracts (Regulation) Act, 1956 and government Securities Act, 2007 into a rationalized single Securities Markets Code. This is a move towards streamlining various financial market laws, guidelines, regulations and facilitating ease of doing business in the country's financial markets.

It is also proposed to introduce an investor charter as a right for all investors in all financial products aiming at better investor protection.

Increasing FDI in insurance sector

It has been proposed to amend the Insurance Act, 1938 to increase the permissible FDI limit from 49% to 74% in Insurance Companies and allow foreign ownership and control with safeguards.

Under the new structure, the majority of Directors on the Board and key management persons would be resident Indians, with at least 50% of Directors being Independent Directors, and specified percentage of profits being retained as general reserve.

This move shall attract more overseas investments thereby bringing in needed capital and boosting insurance penetration in the country.

Company/LLP Matters

Below amendments have been proposed in Company/LLP Matters:

- Recording the completion of decriminalizing of the procedural and technical compoundable offences under the Companies Act, 2013, the government has now proposed to take up decriminalization of the Limited Liability Partnership (LLP) Act, 2008.
- It is also proposed to revise the definition under the Companies Act, 2013 for Small Companies by increasing their thresholds for Paid up capital from "not exceeding `50 Lakh" to "not exceeding `2 Crore" and turnover from "not exceeding `2 Crore" to "not exceeding `20 Crore".

This will benefit more than two lakh companies in easing their compliance requirements.

- For the benefit of Start-ups and Innovators, it is proposed to incentivize the incorporation of One Person Companies (OPCs) by the following:
 - » allowing OPCs to grow without any restrictions on paid up capital and turnover,
 - » allowing their conversion into any other type of company at any time,
 - » reducing the residency limit for an Indian citizen to set up an OPC from 182 days to 120 days
 - » allowing Non-Resident Indians (NRIs) to incorporate OPCs in India.
- To ensure faster resolution of cases, NCLT framework will be strengthened and e-Courts system shall be implemented.
- Alternate methods of debt resolution and special framework for MSMEs shall be introduced.
- Government will be launching data analytics, artificial intelligence machine learning-driven MCA21 Version 3.0. This Version 3.0 will have additional modules for e-scrutiny, e-Adjudication, e-Consultation and Compliance Management.

AOP	Association of Persons	MSME	Medium small scale enterprises
AY	Assessment Year	NBFC	Non Banking Finance Company
AO	Assessing Officer	PE	Permanent Establishment
BOI	Body of Individuals	R&D	Research & Development
BE	Budget Estimates	RBI	Reserve Bank of India
CAD	Current Account Deficit	SEBI	Security Exchange Board of India
CBDT	Central Board of Direct Taxes	SEZ	Special Economic Zone
CPI	Consumer Price Index	RE	Revised Estimates
CSO	Central Statistics Organisation	SHE	Secondary Higher Education Cess
DDT	Dividend Distribution Tax	TDS	Tax deducted at source
EC	Education Cess	UTs	Union Territories
FIPB	Foreign Investment Promotion Board	WHT	Withholding Taxes
FDI	Foreign Direct Investment	WPI	Wholesale Price Index
GDP	Gross Domestic Product	PFCE	Private Final Consumption Expenditure
GST	Goods & Service Tax	GFCE	Government Final Consumption Expenditure
HUF	Hindu Undivided Family		
GVA	Gross Value Added	Crore	One Crore INR is equivalent to INR 10 Million/0.15 Million US dollars
INR	Indian Rupee		

Dear Valuable Client / Colleague,

In case you require any further detailed analysis on above mentioned proposals, please do get back to us and we shall be happy to provide you the same.

With Best Regards,

Team JPC

About JPC.

JPC is a professional services firm based in Noida-National Capital Region and New Delhi, India. We were established in the year 1974 with the aim to create value for our clients by delivering quality, comprehensive, timely, practical and innovative services. We offer a comprehensive range of services, including taxation services, regulatory services, transaction advisory services, financial & management consultancy services, assurance & risk services, and outsourcing services. Over the past several decades, we have established significant competitive presence in the country. Our vast and diversified client base includes Multinational enterprises, domestic companies, high net worth individuals, government companies and institutions in all leading industry verticals. We are a team of distinguished Chartered Accountants, Management Accountants, Corporate Financial Advisors and Tax Consultants. Our team has the requisite skills and experience to provide complex business, financial, assurance, tax and regulatory services to our clients. Our strength lies in our timely performance-based, industry-tailored and technology-enabled services which are delivered by some of the most talented professionals in the country. For more information about JPC's service offerings, visit www.jpc.co.in

In this document, "JPC" refers to J P Chawla & Co. LLP Chartered Accountants (a limited liability partnership firm regulated by the Institute of Chartered Accountants of India, FRN : 001875N/ N500025), formerly known as J.P. Chawla & Company Chartered Accountants.

Disclaimer: *This budget analysis and its content are provided on the basis of secondary research and JPC does not make any representation or warranty of any kind with respect to its contents. JPC does not warrant or represent that this budget analysis or its content are timely, complete or accurate.*

J P Chawla & Co. LLP

Chartered Accountants

New Delhi office:

43 Darya Ganj,
New Delhi - 110002
INDIA

Noida office:

C-129, Sector 2,
Noida - 201 301 (U.P.), INDIA
Phone: +91-120-4573207, 4573208
General Email: info@jpc.co.in

Main Partners Hand Phone & Email

Rajat Chawla	+91-9871494499 rajatchawla@jpc.co.in
J.P. Chawla	+91-9811028918 jpchawla@jpc.co.in
Richa Chawla	+91-9990509709 richajuneja@jpc.co.in

For further information, please email your details to rajatchawla@jpc.co.in or call +91-9871494499.