

BUDGET ANALYSIS 2018

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Chartered Accountants

Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Consultancy Services



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The Budget 2018 has been a budget of social change with varied proposals being related to growth in agriculture sector, rural sectors and health sector with some tax incentives for individuals and corporate.

The government after disruptive changes of Demonetization and Goods and service tax has kept this budget as a balancing act and has tried to cater to common citizens in a very subtle manner.

The IMF has projected that India is forecasted to grow at 7.4% in FY19 against 6.7% this year, gaining pace to 7.8% in FY20. The growth in the past has been achieved in a milieu of lower inflation, improved current account balance and notable reduction in the fiscal deficit to GDP ratio making it all the more creditable. The growth in agriculture, industry and services is estimated at 2.1 per cent, 4.4 per cent and 8.3 per cent respectively in 2017-18, as compared to 4.9 per cent, 5.6 per cent and 7.7 per cent in 2016-17. Growth rate of industry sector declined in 2017-18, mainly on account of moderate growth in manufacturing sector. It was the services sector that contributed to more than half of the overall GVA growth rate of 6.1 per cent in 2017-18. From the demand side, Consumption expenditure has been the major driver, accounting for nearly sixty per cent of the total GDP growth between 2012-13 and 2015-16. This contribution increased to over 95 per cent in 2016-17, which is attributed to higher growth of both Private Final Consumption Expenditure (PFCE) and Government Final Consumption Expenditure (GFCE).

On direct tax, the budget has brought in few major changes one being bringing in long term capital gain on listed securities under tax net, which will add significantly to government's revenue, others being bringing down the corporate tax rate for SME corporate to 25%, giving legal backup to income tax computation standards, bringing in certain stringent anti avoidance measures such as making non filing of corporate tax return as basis for prosecution, measures for discouraging cash transactions for non-profit organizations etc; expanding the scope business connection as significant economic presence. Few tax incentives to individuals in form of new standard deductions and additional exemptions to income of senior citizens have also been introduced. There have been certain rationalizations for tax incentives for start ups and certain positive changes in deductions related to new employment generation.

On Indirect taxes the budget has also carefully carved major changes in Indian custom law for ease of doing business and hiked major custom duties in order to promote inward looking policy of make in India for manufacturing.

Good and service tax has not been touched by the budget, as there is already a mechanism of such changes through regular meetings of GST council.

There have been many proposals of positive changes in this budget in terms of spending of government for social empowerment and certain Tax rationalization; achieving a balanced vision for economy. We can expect that the new fiscal year 2018-2019 will be a year of positive growth and prosperity for all sections of Indian economy.

Please Note:

- This budget has been prepared as a knowledge document and does constitute an advertisement of any manner.
- Contribution of J P Chawla & Co. LLP's team members: Mrs. Richa Juneja Chawla, Mr. Vipin Sachdeva, Ms. Sanchita Bansal, Mr. Deepak Bisht, Mr. Anchit Varshney, Mr. Harshit Varshney, Mr. Ashish Gupta, Mr. Abhinav Jaiswal and Mr. Anas Kamil for preparation of this comprehensive budget document is highly appreciated and acknowledged with thanks.

Hope you enjoy reading our analysis of Budget 2018.

Happy reading!!

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ECONOMIC OUTLOOK



Overview

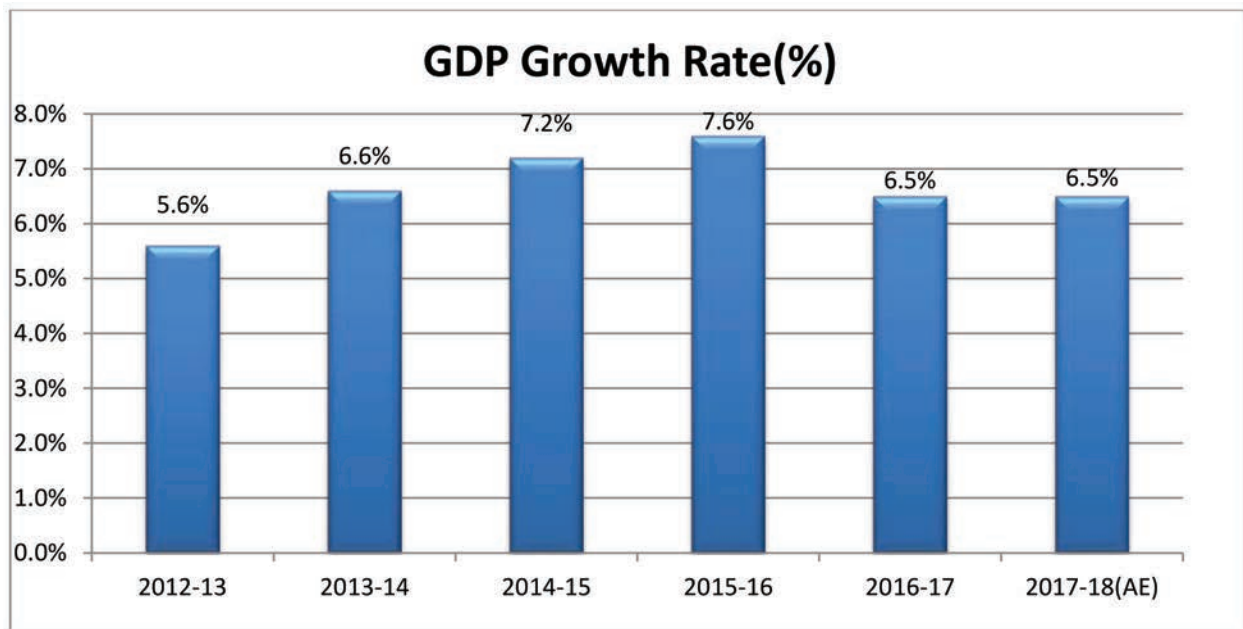
The year 2017-18 was marked with strong macro-economic fundamentals. However, the growth of gross domestic product (GDP) moderated in 2017- 18 vis-à-vis 2016-17. There was an improvement in export growth, fiscal trends remained attuned to the consolidation plans and inflation remained within the limits. The year also witnessed an increase in global confidence in Indian economy as well as improvement in ease of doing business ranking.

Various economic and fiscal reforms were undertaken in the year which includes: implementation of the Goods and Service Tax, announcement of bank recapitalization, push to infrastructure development by giving infrastructure status to affordable housing, higher allocation of funds for highway construction and greater focus on coastal connectivity. Further initiatives include: lower income tax for companies with annual turnover up to 50 crore; allowing carry-forward of MAT credit up to a period of 15 years instead of 10 years at present; further measures to improve the ease of doing business; and, major push to digital economy.

Other sectoral initiatives undertaken include: measures to revive the construction sector and promotion of exports in textile and apparel industry. Apart from these, the measures that were taken by the Government in the previous years to boost manufacturing, employment generation, improving ease of doing business and transparency via schemes such as Make-in-India, Skill India, direct benefit transfer and measures for financial inclusion were also taken forward in 2017-18.

GDP Growth rate

After registering GDP growth of over 7 per cent for the third year in succession in 2016-17, the Indian economy is headed for somewhat slower growth, estimated to be 6.5 per cent in 2017- 18, as per first Advance Estimates released by CSO. Even with this lower growth for 2017-18, GDP growth has averaged 7.3 per cent for the period from 2014-15 to 2017-18, which is the highest among the major economies of the world. This growth has been achieved in a milieu of lower inflation, improved current account balance and notable reduction in the fiscal deficit to GDP ratio makes it all the more creditable. The growth in agriculture, industry and services is estimated at 2.1 per cent, 4.4 per cent and 8.3 per cent respectively in 2017-18, as compared to 4.9 per cent, 5.6 per cent and 7.7 per cent in 2016-17. Growth rate of industry sector declined in 2017-18, mainly on account of moderate growth in manufacturing sector. It was the services sector that contributed to more than half of the overall GVA growth rate of 6.1 per cent in 2017-18. From the demand side, Consumption expenditure has been the major driver, accounting for nearly sixty per cent of the total GDP growth between 2012-13 and 2015-16. This contribution increased to over 95 per cent in 2016-17, which is attributed to higher growth of both Private Final Consumption Expenditure (PFCE) and Government Final Consumption Expenditure (GFCE), particularly the latter. Growth of GFCE was nearly 21 per cent in 2016-17, against an average growth of 3.5 per cent during 2012-13 to 2015-16. This owed mainly to the payment of higher wages and salaries to the government staff that followed the implementation of the recommendations of the Seventh Pay Commission.



Inflation

Consumer Price Index (Combined) inflation (Base 2012=100) for 2016-17 declined to 4.5 per cent from 4.9 per cent in 2015-16. It averaged 3.3 per cent in April-December 2017 and stood at 5.2 per cent in December 2017. Food inflation based on Consumer Food Price Index (CFPI) declined to 4.2 per cent in 2016-17 from 4.9 per cent in 2015-16. It averaged 1.2 per cent in April-December 2017 and stood at 5.0 per cent in December 2017.

Inflation measured in terms of Wholesale Price Index (WPI), increased to 1.7 per cent in 2016-17 from (-)3.7 per cent in 2015-16 and 1.2 per cent in 2014-15. It averaged 2.9 per cent in April-December 2017 and stood at 3.6 per cent in December 2017. A number of measures have been taken by the Government to control inflation and restore price stability. The steps taken, inter alia, include, (i) a scheme titled Price Stabilization Fund (PSF) is being implemented to control price volatility of agricultural commodities like pulses, onions, etc.; (ii) a dynamic buffer stock of pulses of upto 20 lakh tonnes has been built under the PSF Scheme, through both domestic procurement as well as imports; (iii) announced higher Minimum Support Prices so as to incentivize production; (iv) States/ UTs have been advised to impose stock limit on onions. States

were requested to indicate their requirement of onions so that import of requisite quantity may be undertaken to improve availability and help moderate the prevailing high prices; (v) Government imposed 20 per cent duty on export of sugar for promoting domestic availability and moderating price rise; and (vi) Export of edible oils was allowed only in branded consumer packs of up to 5 kg. with a minimum export price of USD 900 per MT. With a view to incentivizing domestic production, this restriction has been removed on edible oils except for palm oil, mustard oil and sunflower oil.

Agriculture and allied sectors

As per the Fourth Advance Estimates released by Department of Agriculture, the country achieved a record production of food grains estimated at 275.7 million tonnes in 2016-17, which is higher by 10.7 million tonnes than the previous record production of food grains achieved in 2013-14. The production of rice is estimated at 110.2 million tonnes during 2016-17 which is also a new record. Similarly, the production of wheat, estimated at 98.4 million tonnes is higher by 2.6 per cent than the previous record production achieved during 2013-14. Another

significant achievement is the production of pulses, which is estimated at 23.0 million tonnes during 2016-17, higher by 3.7 million tonnes than the previous record production achieved during 2013-14. The production of oilseeds and cotton registered a growth of 27 per cent and 10.3 per cent respectively in 2016-17.

As per the First Advance Estimates released on 22nd September 2017, food grains production during kharif season 2017-18 is estimated at 134.7 million tonnes as against the production of 138.5 million tonnes during 2016-17. The total production of rice during kharif season of 2017-18 is estimated at 96.4 million tonnes vis-à-vis 96.4 million tonnes in 2016-17. The production of pulses during kharif season 2017-18 is estimated at 8.7 million tonnes, sugarcane at 337.7 million tonnes, oilseeds at 20.7 million tonnes and cotton at 32.3 million bales of 170 kgs each.

Agricultural credit in India has been growing consistently at above 17 percent annually during the last decade. During 2017-18, banks have disbursed `5.88 lakh crore against the annual agriculture credit target of `10 lakh crore for 2017-18.

Industry and Services

The performance of the industrial sectors based on the Index of Industrial Production (IIP) comprising mining, manufacturing and electricity reveals the industrial sector registered a growth of 3.2 per cent during April-November 2017, as compared to 5.5 per cent during the corresponding period of previous year. Among the use-based categories, primary goods, capital goods, intermediate goods, infrastructure/construction goods, consumer non-durables goods attained positive growth during April-November 2017.

In 2016-17, the eight core industries grew by 4.8 per cent as compared to 3 per cent in 2015-16. The production of Coal, Refinery Products, Fertilizers, Steel and Electricity

registered positive growth, with Steel registering a robust growth of 10.7 per cent. On the other hand, Crude Oil, Natural Gas and Cement production registered negative growth. During the current financial year, for the period, April-November, 2017-18, the index has registered growth of 3.9 per cent. The production of Coal, Natural Gas, Refinery Products, Steel, Cement and Electricity have registered positive growth during this period.

External sector

India's external sector continued to be resilient and strong in 2017-18 so far, with the Balance of Payments situation continuing to be comfortable with the Current Account Deficit at 1.8 percent of GDP in the first half (H1) of 2017-18, merchandise exports picking up with a growth of 12.1 percent in April-December 2017, net services receipts increasing by 14.6 percent, and net foreign investment growing by 17.4 percent in H1 of 2017-18 and the external debt indicators improving. Supportive measures in the budget, mid term review of the Foreign Trade Policy and suitable policy changes related to GST helped in overcoming the teething challenges while implementing these major reforms.

India's balance of payments situation, which has been benign and comfortable since 2013-14, continued to be so in the first half of 2017-18, despite some rise in current account deficit (CAD) in the first quarter, with a relatively lower CAD in the second quarter. India's CAD stood at US\$ 7.2 billion (1.2 per cent of GDP) in Q2 of 2017-18, narrowing sharply from US\$ 15.0 billion (2.5 per cent of GDP) in the preceding quarter.

The widening of the CAD was primarily on account of a higher trade deficit (US\$ 74.8 billion) brought about by a larger increase in merchandise imports relative to exports. This, coupled with the rise in crude oil prices (Indian basket) resulting in increase in oil import bill which led to the increase in imports.

In 2016-17 (April-December), the average monthly exchange rate of rupee (RBI's reference rate) was `64.51 per US dollar in April 2017 and it was `64.24 per US dollar in December 2017. The rupee had appreciated by 2.5 per cent from `65.88 per US dollar in March 2017 to `64.24 per US dollar in December 2017.

Prospects

The reforms measure undertaken in 2017-18 can be expected to strengthen and reinforce growth momentum. The prospects for Indian economy for the year 2018-19 need to be assessed in the light of emerging global and domestic developments. Indications are that global

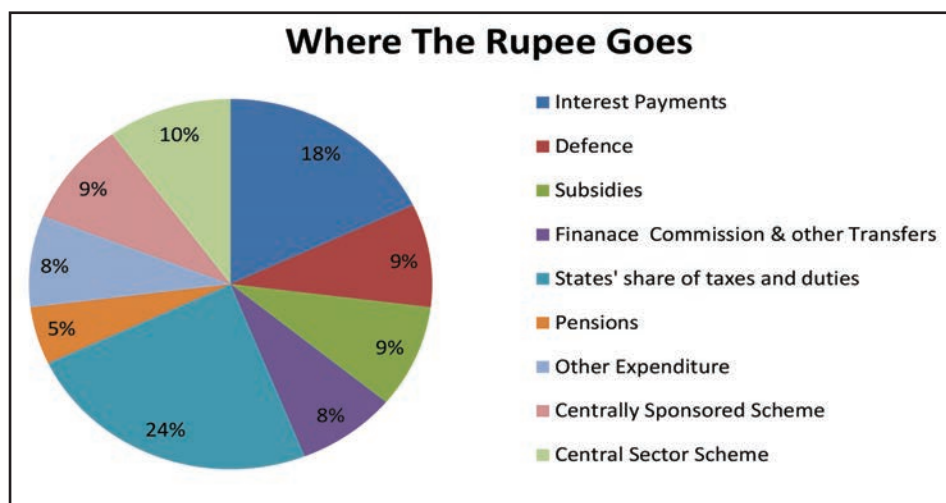
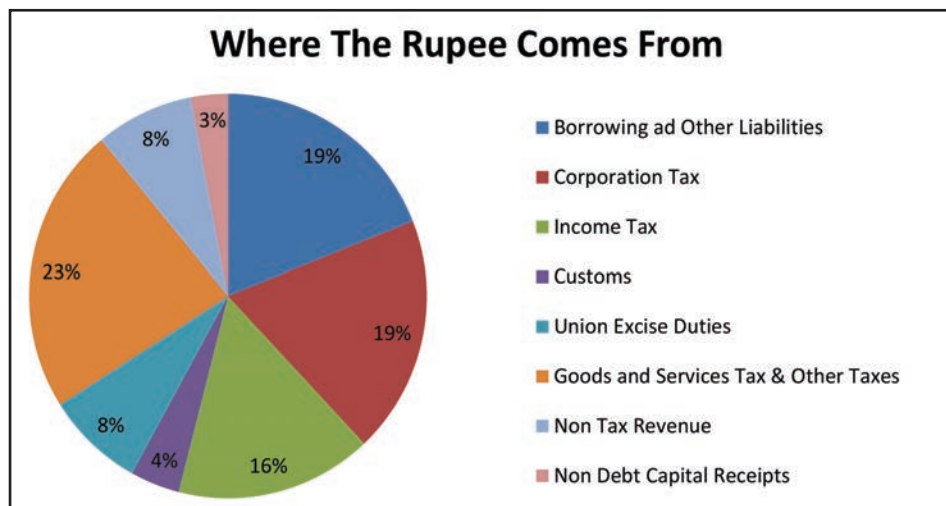
economic growth is expected to pick up slightly. This can be expected to provide further boost to India's exports, which have already shown acceleration in the current financial year. On the other hand, the increasing global prices of oil and other key commodities may exert an upward pressure on the value of imports. There are signs of revival of investment activity in the economy and the recent pick up in the growth of fixed investment can be expected to maintain momentum in the coming year. 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 11.5 per cent in the financial year 2018-19.

Budget 2018-19 reflects the Government's firm commitment to substantially boost investment in Agriculture, Social Sector, Digital Payments, Infrastructure and Employment Generation on the one hand and simultaneously stick to the path of fiscal rectitude by aiming for a reduction of FD by 0.2% of GDP over RE 2017-18. This is substantiated by increase in expenditure of INR 2,24,463 crores over RE (2017-18) while simultaneously keeping the fiscal deficit at 3.3% of GDP.

In RE 2017-18, the total expenditure has been kept at INR 22,17,750 crore and is more than BE 2017-18 by INR 71,015 crore. The increase in total expenditure is mainly due to the outgo on account of GST Compensation to

States, increased outlays on some (ii) important schemes and also to meet the recommendation of 7th CPC with respect to allowances and pensions.

The devolution of States' share in taxes witnessed a major jump after the implementation of XIV Finance Commission from 2015-2016 onwards. Continuing with this trend, the total resources going to States including the devolution of State's share in taxes, Grants/Loans, and releases under Centrally Sponsored Schemes in BE (2018-19) is INR 12,69,435 crore, with a jump of INR 1,53,558 crore over RE (2017-18) and INR 2,83,760 crore more than the Actuals (2016-17).



Budget at a Glance

(Amount in INR Crores)

S.No	Particulars	2016-17 Actuals	2017-18 Budget Estimates	2017-18 Revised Estimates	2018-2019 Budget Estimates
1	Revenue Receipts	1,374,203	1,515,771	1,505,428	1,725,738
2	Tax revenue(Net to centre)	1,101,372	1,227,014	1,269,454	1,480,649
3	Non-Tax Revenue	272,831	288,757	235,974	245,089
4	Capital Receipts	600,991	630,964	712,322	716,475
5	Recovery of Loans	17,630	11,933	17,473	12,199
6	Other Receipts	47,743	72,500	100,000	80,000
7	Borrowings and Other Liabilities	535,618	546,531	594,849	624,276
8	Total Receipts (1+4)	1,975,194	2,146,735	2,217,750	2,442,213
9	Total Expenditure (10+13)	1,975,194	2,146,735	2,217,750	2,442,213
10	On Revenue Account of which	1,690,584	1,836,934	1,944,305	2,141,772
11	Interest Payments	480,714	523,078	530,843	575,795
12	Grants in Aid for creation of capital assets	165,733	195,350	189,245	195,345
13	On Capital Account	284,610	309,801	273,445	300,441
14	Revenue Deficit (10-1)	316,381	321,163	438,877	416,034
		(2.1)	(1.9)	(2.6)	(2.2)
15	Effective Revenue Deficit (14-12)	150,648	125,813	249,632	220,689
		(1.0)	(0.7)	(1.5)	(1.2)
16	Fiscal Deficit [9-(1+5+6)]	535,618	546,531	594,849	624,276
		(3.5)	(3.2)	(3.5)	(3.3)
17	Primary Deficit (16-11)	54,904	23,453	64,006	48,481
		(0.4)	(0.1)	(0.4)	(0.3)

DIRECT TAX PROPOSALS

VA5614	MI5632	SK8019	03-	DEPARTED
AKARTA	SQ858	VA5624	03-	GATE CLOSED
ANILA	SQ910	NZ3436	03-	GATE CLOSED
OH	FY3542	MH5468	08-	GATE CLOSED
NGKOK-BKK	SQ972	LX4154	03-	GATE CLOSED
VA5571	NZ3448	SK8019	03-	
BRANG	MI102	GA9450	04-	GATE CLOSED
	SQ5102	VA5872	04-	
HI MINH	SQ178	NZ3456	03-	GATE CLOSING
	VA5478		03-	
LUMPUR	MH604	FY7322	02-	GATE CLOSING
	MI5704	S05604	02-	
LUMPUR	TR2454		11-	GATE CLOSING

Budget 2018 has proposed no changes in the income tax rates and slabs. However, a standard deduction of Rs 40,000, few benefits for senior citizen has been introduced and a cess has been increased to 4% from the current 3% across the board for the taxpayers.

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

Income (in INR)	Rates of tax FY 2018-19 (AY 2019-20)
Upto INR 250,000	Nil
2,50,001-5,00,000	5%
5,00,001-10,00,000	20%
10,00,001 and above	30%

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

Income (in INR)	Rates of tax FY 2018-19 (AY 2019-20)
Upto INR 3,00,000	Nil
3,00,001-5,00,000	5%
5,00,001-10,00,000	20%
10,00,001 and above	30%

Tax rates in the case of every individual, being a resident in India, who is of the age of eighty years or more at anytime during the previous year,

Income (in INR)	Rates of tax FY 2018-19 (AY 2019-20)
Upto INR 5,00,000	Nil
5,00,001-10,00,000	20%
10,00,001 and above	30%

Note:

Surcharge of 10% of income tax if total income is between INR 50,00,000/- to INR 1,00,00,000/- subject to Marginal Relief. Surcharge of 15% of income tax if total income exceeds INR 1,00,00,000/- subject to Marginal Relief.

- **Health & Education Cess:**

Education Cess of 2% and Secondary and Higher Education Cess of 1% is proposed to be replaced by a new cess, Health and Education Cess at the rate of 4% to be levied on tax and applicable surcharge.

The rebate under section 87A is available to a resident individual if his total income does not exceed Rs. 3,50,000. The amount of rebate shall be 100% of income-tax or Rs. 2,500, whichever is less.

- **New Deduction in respect of interest income to senior citizen: [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [80TTA, 80TTB & 194A]:**

Keeping in view the fixed and restricted sources of income for senior citizens, a new section 80TTB is proposed to be inserted. This provision allows deduction of up to Rs. 50,000 to the senior citizen who has earned interest income from deposits with banks and post office.

However, no deduction of INR 10,000 under section 80TTA shall be allowed in these cases.

Accordingly, limit for TDS u/s 194A on such interest income also to be increased to INR 50,000 from INR 10,000 per annum.

- **Enhanced deduction to senior citizens for medical treatment of specified diseases:** [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec.80D]:

Currently, Section 80D, provides that a deduction up to Rs 30,000/- shall be allowed to an assessee, being an individual or a Hindu undivided family, in respect of payments towards annual premium on health insurance policy, or preventive health check-up, of a senior citizen, or medical expenditure in respect of very senior citizen.

It is proposed to amend section 80D so as to raise this monetary limit of deduction from Rs 30,000/- to Rs 50,000/-.

- **Standard deduction on salary income:** [Applicable from Financial Year 2018-19 Assessment Year 2019-20] [Sec.16, 17]:

Currently, section 16 provides a deduction of Rs. 19,200 from salary income in respect to transport allowance and Rs. 15,000 for the medical reimbursement.

Now it is proposed to allow a standard deduction up to INR 40,000 per annum from salary income. Consequently the present exemption in respect of transport Allowance (except in case of differently abled persons) and reimbursement of medical expenses is proposed to be withdrawn.

This standard deduction would result in an extended benefit to pensioner employees who are not getting benefit of deduction in respect of travelling allowance and medical reimbursement

- **Extending the benefit of tax-free withdrawal from National Pension Scheme (NPS) to non-employee subscribers:** [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec.10(12A)]:

Under the existing provisions of the clause (12A) of section 10 of the Act, an employee contributing to the NPS is allowed an exemption in respect of 40% of the total amount payable to him on closure of his account or on his opting out. This exemption is not available to non-employee subscribers.

In order to provide a level playing field with salaries assessee, exemption of up to 40% on withdrawal of NPS to be extended to non-salaried assesseees.

- **Deduction limit under section 80DDB is enhanced.** [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec.80DDB]:

Currently, Section 80DDB of the Act, provide that a deduction is available to an individual and Hindu undivided family with regard to amount paid for medical treatment of specified diseases in respect of very senior citizen up to Rs 80,000/- and in case of senior citizens up to Rs 60,000/- subject to specified conditions.

It is proposed to amend the provisions of section 80DDB of the Act so as to raise this monetary limit of deduction to Rs 1,00,000/- for both senior citizens and very senior citizens.

- **Taxability of compensation in connection to business or employment:** [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec.2(24),28,56]:

Currently a large segment of compensation receipts in connection with business and employment is out of the purview of taxation leading to base erosion and revenue loss.

Therefore, it is proposed to amend section 28 of the Act to provide that any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income. It is further proposed that any compensation received or receivable, whether in the nature of revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to its employment shall be taxable under section 56 of the Act.

Tax Rates

Companies

Particulars	Rates of tax F.Y 2018-19 (AY 2019-20)
Domestic Company whose total turnover or gross receipts for Previous year 2016-17 does not exceed INR 250 Crores (INR 2,500 Million)	25%
Domestic Company whose total turnover or gross receipts for Previous year 2016-17 exceed INR 250 Crores (INR 2,500 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.

Firms & LLP's

Flat Rate of 30%, Surcharge @ 12% of income tax 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

Particulars	Rate of tax F.Y. 2018-19 (AY 2019-20)
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	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 shall be levied over and above the above taxes.

Other Corporate Tax changes

- **Application of Dividend Distribution Tax to Deemed Dividend:** [Transactions undertaken on or after April 1, 2018] [Sec.115-O]:

At present dividend distributed by a domestic company is subject to dividend distribution tax payable by such company.

However, deemed dividend under sub-clause (e) of clause (22) of section 2 of the Act is taxed in the hands of the recipient at the applicable marginal tax rate. The taxability of deemed dividend in the hands of recipient has posed serious problem of collection of the tax liability and has also been the subject matter of extensive litigation.

With a view to bringing clarity and certainty in the taxation it is proposed to bring deemed dividends also under the scope of dividend distribution tax. Therefore, companies are now liable to pay DDT on the deemed dividend at the rate of 30 per cent. (without grossing up)

- **Relief from liability of Minimum Alternate Tax for the companies who have applied for insolvency:** [Applicable from Financial Year 2017-18, Assessment Year 2018-19] [Sec.115JB]:

Currently lower of brought forward loss and unabsorbed depreciation, is allowed as deduction while calculating book profit for payment of MAT under Section 115JB. The amount of deduction becomes nil if either brought forward loss or unabsorbed depreciation is nil. This non-deduction is a barrier to rehabilitating companies seeking insolvency resolution.

In order to end the hardship, it is proposed that where the company's application for corporate insolvency resolution process has been admitted by the Adjudicating Authority, the aggregate amount of unabsorbed depreciation and brought forward loss (excluding unabsorbed depreciation) to be reduced from book profit for determination of MAT.

- **Widening of scope of Accumulated profits for the purposes of Deemed Dividend:** [Applicable from

Financial Year 2017-18, Assessment Year 2018-19] [Sec.2 (22)(d)]:

Currently, company is liable to pay Dividend Distribution Tax on any distribution of accumulated profits (whether capitalized or not) to the shareholders. Companies with large accumulated profits used to adopt the amalgamation route to reduce accumulated profits so as to bypass the provisions of deemed dividend under Section 2(22)(d).

With a view to prevent such abusive arrangements and in order to widen the scope of Accumulated profit for the purpose of deemed dividend it will include the accumulated profits or losses of the amalgamating company on the date of amalgamation.

- **Incentive for employment generation:** [Applicable from Financial Year 2018-19 Assessment Year 2019-20] [Sec.80JJAA]:

At present, under section 80-JJAA of the Act, a deduction of 30% is allowed in addition to normal deduction of 100% in respect of emoluments paid to eligible new employees who have been employed for a minimum period of 240 days during the year and 150 days in the case of apparel industry.

In order to encourage creation of new employment, it is proposed to extend this relaxation to footwear and leather industry.

Further, it is also proposed to rationalize this deduction of 30% by allowing the benefit for a new employee who is employed for less than the minimum period during the first year but continues to remain employed for the minimum period in subsequent year.

- **Relaxation in provisions of carry forward and set off of losses for companies applied for Insolvency.** [Applicable from Financial Year 2017-18, Assessment Year 2018-19] [Sec.79]

Section 79 of Act provides that carry forward and set off of losses in a closely held company shall be allowed only if there is a continuity in the beneficial owner of the shares

carrying not less than 51% of the voting power, on the last day of the year or years in which the loss was incurred.

This provision is a big hurdle for restructuring and rehabilitating the companies who have applied for insolvency and who have witnessed change in the beneficial ownership.

In order to address this problem, it is proposed that the rigors of section 79 shall be relaxed in case of those companies whose resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016.

- **Tax neutral transfers. [Applicable from 1st April,2018] [Sec.56]:**

Section 47 of the Income Tax Act provides for certain tax neutral transfers. Section 56 also excludes income arising out of certain tax neutral transfers from its ambit. However, the transfers referred to in clause (iv) and clause (v) of section 47 have not been excluded from the scope of section 56.

In order to further facilitate the transaction of money or property between a wholly owned subsidiary company and its holding Company, it is proposed to amend the section 56 so as to exclude such transfer from its scope.

- **Slight variation of sales consideration from stamp value is acceptable: [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec.43CA, 50C & 56(2)(x)]:**

As per the current provisions, if an assessee claims that the sales consideration received by him from transfer of an immovable property is less than the value adopted by the Stamp authorities, then the stamp value is deemed as the actual sales consideration which result in higher amount of capital gains even if the seller has not gained anything due to such higher stamp valuation. Further, such difference in the stamp value and the actual consideration disclosed by the parties is also taxed in the hands of the buyer.

In order to minimize hardship in case of genuine transactions no adjustments shall be made in a case where the variation between stamp duty value and the sale consideration is not more than 5% of the sale consideration.

- **Presumptive income under section 44AE in case of goods carriage: [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec.44AE]**

Section 44AE, provides that, the profits and gains shall be deemed to be an amount equal to INR 7500 per month or part of a month for each goods carriage or the amount claimed to be actually earned by the assessee, whichever is higher. The current presumptive income scheme is applicable uniformly to all classes of goods carriages irrespective of their tonnage capacity. The only condition which needs to be fulfilled is that the assessee should not have owned more than 10 goods carriages at any time during the previous year. Accordingly, the transporters who owns (less than 10) large capacity/ size goods carriages are also availing the benefit of section 44AE.

It is necessary to mention here that the legislative intent of introducing this provision was to give benefit to small transporters in order to reduce their compliance burden. Even though the profit margins of large capacity goods carriages are higher than small capacity goods carriages, the tax consequences are similar which is against the principle of tax equity.

In view of the above, it is proposed to amend the section 44AE of the Act to provide that, in the case of heavy goods vehicle (more than 12MT gross vehicle weight), the income would deemed to be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of a month for each goods vehicle or the amount claimed to be actually earned by the assessee, whichever is higher.

The vehicles other than heavy goods vehicle will continue to be taxed as per the existing rates.

- **Dividend distribution tax on dividend payouts to unit holders in an equity oriented fund [Applicable from 1st April,2018] [Section 115R, 115T]:**

In respect of any income distributed to a unit holder of equity oriented funds is currently not chargeable to Dividend Distribution Tax.

As per section 115R of the Act, it is proposed that any income is distributed by a Mutual Fund being, an equity oriented fund, the mutual fund shall be liable to pay additional income tax at the rate of 10 per cent on income so distributed.

- **Mandatory to obtain the Permanent Account Number: [Applicable from 1st April,2018]**

In order to use PAN as Unique Entity Number (UEN) for non-individual entities, It is proposed that PAN to be obtained by all entities other than individual in case aggregate of the financial transactions in a financial year is INR 2,50,000/- or more.

Further to link the financial transactions with the natural persons it is also proposed that managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer and or any person competent to act on behalf of such entities shall also apply for the PAN.

Clarity on the scope of financial transactions is still awaited.

- **Tax deduction at source and manner of payment in respect of charitable or religious trusts or institutions. [Applicable from Financial Year 2018-19, Assessment Year 2019-20) [Sec.10(23C),11]:**

At present, there are no restrictions on payments made in cash by charitable or religious trusts or institutions. There are also no checks on whether such trusts or institutions follow the provisions of deduction of tax at source under Chapter XVII-B of the Act. This has led to lack of an audit trail for verification of application of income.

In order to encourage a less cash economy and to reduce the generation and circulation of black money, Charitable trust and other institutions not complying with TDS obligations to face disallowance and no deduction shall be allowed in respect of any transaction undertaken in cash for an amount exceeding INR10,000 per person per day.

In nutshell, in case of a charitable trust, the following expenditures are proposed not to be recognized as an Application of Income.

- Expenditure above 10,000 made in cash
- 30% of expenditure on which tax is omitted to be deducted at source.

- **Prosecution for failure to furnish return in case of company :[Applicable from 1st April,2018] [Sec.276CC]:**

Section 276CC of the Act provides that if a person willfully fails to furnish the return of income which he is required to furnish within the due date specified u/s 139(1) or by notice u/s 142(1) or section 148, he shall be punishable with imprisonment for a term, as specified therein, with fine. However exemption is provided from prosecution under section 276CC, if the return is furnished till end of assessment year or if the tax payable is up to Rs. 3,000.

In order to prevent the abuse of exemption provided on the basis of amount of tax payable, all companies including shell companies and companies holding ‘benami’ properties to be liable for prosecution for willful failure to furnish a return of income irrespective of tax payable limit of INR 3000.

- **New scheme for scrutiny assessment: (Applicable from 1st April, 2018) [Sec.143(3), 143(3A), 143(3B), 143(3C)]:**

In order to make the assessments with greater transparency and accountability, by eliminating the interface between the Assessing Officer and the assessee, optimal utilization of the resources, and introduction of team-based assessment, Government proposes to notify, a new scheme where the assessment will be done in an electronic mode. The directions in this regard need to be issued on or before March 31, 2020.

- **Penalty for failure to furnish statement of financial transaction or reportable account: [Applicable from 1st April,2018] [Sec.271FA]:**

In order to ensure compliance of the reporting obligations under section 285BA, if a person who is required to furnish the statement of financial transaction or reportable accounts, fails to furnish such statement within the prescribed time, he shall be liable to pay penalty which has been increased from INR 100 to INR 500/- for every day of default.

However if he fails to furnish the statement of financial transaction or reportable account within the period specified in the notice issued, he shall be liable to pay penalty which has been increased from INR 500 to INR 1000/- for every day of default.

- **No deduction of expenses even if unexplained income is determined by Assessing Officer: (Applicable retrospectively from Financial Year 2016-17 Assessment Year 2017-18) [Sec.115BBE]:**

Any sum found credited in the books of the taxpayer, for which the taxpayer offers no explanation about the nature and source thereof or the Assessing Officer (AO) is not satisfied by the explanation offered by the taxpayer, is termed as unexplained income. Such incomes are taxed at the flat rate of 60% under section 115BBE. It also provides that no deduction in respect of any expenditure shall be allowed to taxpayers from such unexplained income. However, the provision was silent whether taxpayer would get any deduction if tax officer has made additions in the total income of taxpayers which is deemed as unexplained income.

The Finance Bill, 2018 proposed that no deduction in respect of any expenditure or allowance and no set off of any loss shall be allowed to the assessee under any provision of this Act in computing any unexplained cash credit, money and investments, etc. determined by the assessing officer as well.

- **Taxation of long-term capital gains in the case of Foreign Institutional Investor: [Applicable from Financial Year 2018-19 Assessment Year 2019-20]**

The existing provisions of section 115AD of the Act provide that where the total income of a Foreign Institutional Investor (FII) includes income by way of long-term capital gains arising from the transfer of certain securities, such capital gains shall be chargeable to tax at the rate of ten per cent. However, long term capital gains arising from transfer of long term capital asset being equity shares of a company or a unit of equity oriented fund or a unit of business trusts, is exempt from income-tax under clause (38) of section 10 of the Act.

Consequent to the proposal for withdrawal of exemption under clause (38) of section 10 of the Act, long term capital gain arising from transfer of long term capital asset being equity shares of a company or a unit of equity oriented fund or a unit of business trusts will become taxable in the hands of FIIs also only in respect of amount of such gains exceeding one lakh rupees. As in the case of domestic investors, the FIIs will also be liable to tax on such long term capital gain @ 10%. Therefore, the provisions of section 115AD are proposed to be amended accordingly.

- **Aligning the scope of “business connection” with modified PE Rule as per Multilateral Instrument (MLI). [Applicable from Financial Year 2018-19 Assessment Year 2019-20]:**

As per the current provisions of Explanation 2 to clause (i) of sub-section (1) of section 9, “business connection” includes business activities carried on by non-resident through dependent agents. The scope of “business connection” under the Act is similar to the provisions relating to Dependent Agent Permanent Establishment (DAPE) in India’s Double Taxation Avoidance Agreements (DTAAs).

In terms of the DAPE rules in tax treaties, if any person acting on behalf of the non-resident, is habitually authorised to conclude contracts for the non-resident, then such agent would constitute a PE in the source country. However, in many cases, with a view to avoid establishing a permanent establishment (hereafter referred to as ‘PE’) under Article 5(5) of the DTAA, the person acting on the behalf of the non-resident, negotiates the contract but does not conclude the contract.

Further, under paragraph 4 of Article 5 of the DTAA, a PE is deemed not to exist when a place of business is engaged solely in certain activities such as maintenance of stocks of goods for storage, display, delivery or processing, purchasing of goods or merchandise, collection of information. This exclusion applies only when these activities are preparatory or auxiliary in relation to the business as a whole.

The OECD under BEPS Action Plan 7 reviewed the definition of ‘PE’ with a view to preventing avoidance of payment of tax by circumventing the existing PE definition by way of commissionaire arrangements or fragmentation of business activities. In order to tackle such tax avoidance scheme, the BEPS Action plan 7 recommended modifications to paragraph (5) of Article 5 to provide that an agent would include not only a person who habitually concludes contracts on behalf of the non-resident, but also a person who habitually plays a principal role leading to the conclusion of contracts. Similarly Action Plan 7 also recommends the introduction of an anti fragmentation rule as per paragraph 4.1 of Article 5 of OECD Model tax conventions, 2017 so as to prevent the tax payer from resorting to fragmentation of functions which are otherwise a whole activity in order to avail the benefit of exemption under paragraph 4 of Article 5 of DTAA.

Further, with a view to preventing base erosion and profit shifting, the recommendations under BEPS Action Plan 7 have now been included in Article 12 of Multilateral Convention to Implement Tax Treaty Related Measures (herein referred to as 'MLI'), to which India is also a signatory.

Consequently, these provisions will automatically modify India's bilateral tax treaties covered by MLI, where treaty partner has also opted for Article 12. As a result, the DAPE provisions in Article 5(5) of India's tax treaties, as modified by MLI, shall become wider in scope than the current provisions in Explanation 2 to section 9(1)(i). Similarly, the antifragmentation rule introduced as per paragraph 4.1 of Article 5 of the OECD Model Tax Conventions, 2017 has narrowed the scope of the exception under Article 5(4), thereby expanding the scope of PE in DTAA vis-a-vis domestic provisions contained in Explanation 2 to section 9(1)(i). In effect, the relevant provisions in the DTAA are wider in scope than the domestic law. However, sub-section (2) of section 90 of the Act provides that the provisions of the domestic law would prevail over corresponding provisions in the DTAA, to the extent they are beneficial. Since, in the instant situations, the provisions of the domestic law being narrower in scope are more beneficial than the provisions in the DTAA, as modified by MLI, such wider provisions in the DTAA are ineffective.

Therefore, in view of the above the ambit of 'business connection' for business activities carried on in India by a non-resident through dependent agents who habitually conclude contracts on their behalf has been expanded to include the activity of habitually playing a principal role leading to conclusion of contracts by the non resident.

The contracts covered are:

- in the name of the non-resident; or
- for transfer of ownership or for granting of rights to

use property owned by that non resident or property that the non-resident has the right to use; or

- for the provision of services by the non- resident.

Also, to align with OECD(BEPS Action Plan -1), it is proposed to amend clause (i) subsection (1) of section 9 of the Act, to provide that 'business connection' has been further expanded to include 'significant economic presence' in India as under:

- any transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India if the aggregate of payments arising from such transaction or transactions during the previous year exceeds the amount as may be prescribed; or
- Systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.

It is further proposed to provide that only so much of income as is attributable to such transactions or activities shall be deemed to accrue or arise in India.

Further it is also proposed to provide that the transactions or activities shall constitute significant economic presence in India, whether or not the non-resident has a residence or place of business in India or renders services in India.

The proposed amendment in the domestic law will enable India to negotiate for inclusion of the new nexus rule in the form of 'significant economic presence' in the Double Taxation Avoidance Agreements.

It may be clarified that the aforesaid conditions stated above are mutually exclusive. The threshold of "revenue" and the "users" in India will be decided after consultation with the stakeholders. Further, it is also clarified that unless corresponding modifications to PE rules are made

in the DTAA's, the cross border business profits will continue to be taxed as per the existing treaty rules.

- **Measures to promote International Financial Services Centre (IFSC): [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec.47]**

In order to promote the development of world class financial infrastructure in India, transactions in the following assets, by a non-resident on a recognized stock exchange located in any International Financial Services Centre shall not be regarded as transfer, if the consideration is paid or payable in foreign currency:—

- i) Bond or Global Depository Receipt, as referred to in sub-section (1) of section 115AC; or
- ii) Rupee denominated bond of an Indian company; or
- iii) Derivative.

- **AMT chargeable at the rate of 9% instead of 18% [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec.115JC]:**

Section 115JC of the Act provides for alternate minimum tax at the rate of 18.50% of adjusted total income in the case of a non-corporate person.

In order to promote the development of world class financial infrastructure in India, unit located in an International Financial Service Centre, the alternate minimum tax under section 115JC (AMT) shall be charged at the rate of 9%.

- **Exemption of income of Foreign Company from sale of leftover stock of crude oil on termination of agreement or arrangement: [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec.10(48B)]:**

Exemption under section 10(48B) is available to a foreign company on account of sale of leftover stock of crude oil after the expiry of the agreement or arrangement subject to such conditions as may be notified by the Central Government.

The benefit of exemption is presently not available on sale out of the leftover stock of crude in case of termination of the said agreement.

In order to give the strategic nature of the project benefitting India to augment its strategic petroleum reserves, it is proposed to amend clause (48B) of section 10 to provide that income of a foreign company from sale of leftover stock of crude oil on termination of agreement or arrangement shall be exempt from tax.

- **Royalty and FTS payment by NTRO to a non-resident to be tax-exempt: [Financial Year 2017-18, Assessment Year 2018-19]:**

Section 195 requires a person to deduct tax at the time of payment or credit to a non-resident.

In order to give the business exigencies of the National Technical Research Organisation (NTRO), it is proposed to amend section 10, stating that royalty/FTS earned by non-residents from rendering services in/outside India to National Technical Research Organisation to be tax exempt.

- **Non applicability of MAT in case Foreign Companies opt for presumptive taxation: (Applicable retrospectively from Financial Year 2000-01 Assessment Year 2001-2002)[Sec.115JB]**

MAT provisions shall not apply to foreign companies whose total income comprises solely of profits and gains from specified businesses such as shipping, exploration of mineral oils, operation of aircraft, and civil construction in certain turnkey power projects provided such income has been offered to tax at the specified rates.

- **Amendment to Section 286 for Furnishing of report in respect of International Group [Applicable from Financial Year 2016-17, Assessment Year 2017-18] [Sec. 286]**

Section 286 of the Act contains provisions relating to specific reporting regime in the form of Country-by-Country Report (CbCR) in respect of an international group. Based on model legislation of Action Plan 13 of Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD) and others, following amendments are proposed to be made so as to improve the effectiveness and reduce the compliance burden of such reporting: –

- (i) the time allowed for furnishing the Country-by-Country Report (CbCR), in the case of parent entity or Alternative Reporting Entity (ARE), resident in India, is proposed to be extended to twelve months from the end of reporting accounting year;
- (ii) constituent entity resident in India, having a non-resident parent, shall also furnish CbCR in case its parent entity outside India has no obligation to file the report of the nature referred to in sub-section (2) in the latter's country or territory;
- (iii) the time allowed for furnishing the CbCR, in the case of constituent entity resident in India, having a non-resident parent, shall be twelve months from the end of reporting accounting year;
- (iv) the due date for furnishing of CbCR by the the Alternate Reporting Entity of an international group, the parent entity of which is outside India, with the tax authority of the country or territory of which it is resident, will be the due date specified by that country or territory;
- (v) Agreement would mean an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A, and also an agreement for exchange of the report referred to in sub-section (2) and sub-section (4) as may be notified by the Central Government;
- (vi) "reporting accounting year" has been defined to mean the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-section (2) and sub-section (4).

- **TDS on Interest other than Interest on Securities: [Applicable from Financial Year 2018-19, Assessment Year 2019-20] [Sec. 194A]**

Section 194A deals with deduction of TDS on interest other than interest on securities like Interest on Fixed Deposits, Interest on Loans and Advances other than banks if the amount of such interest paid or credited OR is likely to be paid or credited in a financial year, exceed INR 10,000 where the payer is Banking company, Co-operative society, and Post Office. INR 5,000 in any other case.

Finance bill 2018 proposed to amend section 194A so as to raise the threshold for deduction of tax at source on interest income for senior citizens from Rs 10,000/- to Rs 50,000/-.

- **Tax deduction at source on 7.75% GOI Savings (Taxable) Bonds, 2018: (Applicable from 1st April, 2018) [Sec.193]**

Government of India introduced 8% Savings (Taxable) Bonds, 2003 in 2003. Under the existing law, the interest received by the investor is taxable. Further the payer is liable to deduct tax at source under section 193 of the Act at the time of payment or credit of such interest in excess of rupees ten thousand to a resident.

Government has now decided to discontinue the existing 8% Savings (Taxable) Bonds, 2003 with a new 7.75% GOI Savings (Taxable) Bonds, 2018. The interest received under the new bonds will continue to be taxed as in the case of the earlier once. The provisions of section 193 are proposed to be amended to allow for deduction of tax at source at the time of making payment of interest on such bonds to residents. However, no TDS will be deducted if the amount of interest is less than or equal to INR 10,000 (INR 0.01 millions) during the financial year.

- **TDS on Income by way of Long Term Capital Gains : [Applicable from Financial Year 2018-19, Assessment Year 2019-20]**

Tax at the rate of 10 per cent will be deducted from payment of long-term capital gains to a non-resident tax payer (other than a Foreign Institutional Investor).

- **New regime for taxation of long-term capital gains on sale of equity shares etc. [Applicable from Financial Year 2018-19 Assessment Year 2019-20] [Section 10(38), 112A]:**

Currently, long term capital gains arising on transfer of listed equity shares or units of equity oriented fund or units of business trusts, are exempt from income-tax under Section 10(38) of the Act.

In order to minimize economic distortions and curb erosion of tax base a new section 112A in the Act is inserted and proposed that Long term capital gains exceeding INR1 lakh arising from transfer of equity shares in a company or units of an equity oriented mutual fund or units of a business trust to be taxed at the rate of 10 per cent without indexation benefit. The cost of acquisitions in respect of the long term capital asset acquired by the assessee before the 1st day of February, 2018, shall be deemed to be the higher of –

- a. the actual cost of acquisition of such asset; and
- b. the lower of –
 - i. the fair market value of such asset; and
 - ii. full value of consideration received or accruing as a result of the transfer of the capital asset.

The rate of 10 per cent is applicable only where STT has been paid on acquisition and transfer of equity shares and on the transaction for transfer of units of equity oriented mutual fund or of a business trust.

The Central Board of Direct Taxes (CBDT) has issued 24 frequently asked questions (FAQs) on long term capital gains (LTCG) taxation on equity shares proposed in the Union Budget.2018.

The new tax regime will be applicable to transfer made on or after 1st April, 2018, the transfer made between 1st February, 2018 and 31st March, 2018 will be eligible for exemption under clause (38) of section 10 of the Act

Q 1. What is the meaning of long term capital gains under the new tax regime for long term capital gains?

Ans 1. Long term capital gains mean gains arising from the transfer of long-term capital asset. The Finance Bill, 2018 proposes to provide for a new long-term capital gains tax regime for the following assets–

- i. Equity Shares in a company listed on a recognised stock exchange;
- ii. Unit of an equity oriented fund; and
- iii. Unit of a business trust.

The proposed regime applies to the above assets, if–

- a. the assets are held for a minimum period of twelve months from the date of acquisition; and
- b. the Securities Transaction Tax (STT) is paid at the time of transfer. However, in the case of equity shares acquired after 1.10.2004, STT is required to be paid even at the time of acquisition (subject to notified exemptions).

Q 2. What are the modes of acquisition of equity shares which are proposed to be exempted from the condition of payment of STT?

Ans 2. The Central Government had exempted certain modes of acquisition of equity shares for the purposes of clause (38) of section 10 of the Act vide notification no. 43/2017 dated 5th of June, 2017. This notification is proposed to be reiterated for the purposes of clause 31 of the Finance Bill, 2018 after its enactment.

Q 3. What is the point of chargeability of the tax?

Ans 3. The tax will be levied only upon transfer of the long-term capital asset on or after 1st April, 2018, as defined in clause (47) of section 2 of the Act.

Q 4. What is the method for calculation of long-term capital gains?

Ans 4. The long-term capital gains will be computed by deducting the cost of acquisition from the full value of consideration on transfer of the long-term capital asset.

Q 5. How do we determine the cost of acquisition for assets acquired on or before 31st January, 2018?

Ans 5. The cost of acquisition for the long-term capital asset acquired on or before 31st of January, 2018 will be the actual cost. However, if the actual cost is less than the fair market value of such asset as on 31st of January, 2018, the fair market value will be deemed to be the cost of acquisition. Further, if the full value of consideration on transfer is less than the fair market value, then such full value of consideration or the actual cost, whichever is higher, will be deemed to be the cost of acquisition.

Q 6. How will the fair market value be determined?

Ans 6. In case of a **listed equity share or unit**, the fair market value means the highest price of such share or unit quoted on a recognized stock exchange on 31st of January, 2018. However, if there is no trading on 31st January, 2018, the fair market value will be the highest price quoted on a date immediately preceding 31st of January, 2018, on which it has been traded.

In the case of **unlisted unit**, the net asset value of such unit on 31st of January, 2018 will be the fair market value.

Q 7. Please provide illustrations for computing long-term capital gains in different scenarios, in the light of answers to questions 5 and 6.

Ans 7. The computation of long-term capital gains in different scenarios is illustrated as under –

Scenario 1 – An equity share is acquired on 1st of January, 2017 at Rs. 100, its fair market value is Rs. 200 on 31st of January, 2018 and it is sold on 1st of April, 2018 at Rs. 250. As the actual cost of acquisition is less than the fair market value as on 31st of January, 2018, the fair market value of Rs. 200 will be taken as the cost of acquisition and the **long-term capital gain will be Rs. 50** (Rs. 250 – Rs. 200).

Scenario 2 – An equity share is acquired on 1st of January, 2017 at Rs. 100, its fair market value is Rs. 200 on 31st of January, 2018 and it is sold on 1st of April, 2018 at Rs. 150. In this case, the actual cost of acquisition is less than the fair market value as on 31st of January, 2018. However, the sale value is also less than the fair market value as on 31st of January, 2018. Accordingly, the sale value of Rs. 150 will be taken as the cost of acquisition and the **long-term capital gain will be NIL** (Rs. 150 – Rs. 150).

Scenario 3 – An equity share is acquired on 1st of January, 2017 at Rs. 100, its fair market value is Rs. 50 on 31st of January, 2018 and it is sold on 1st of April, 2018 at Rs. 150. In this case, the fair market value as on 31st of January, 2018 is less than the actual cost of acquisition, and therefore, the actual cost of Rs. 100 will be taken as actual cost of acquisition and the **long-term capital gain will be Rs. 50** (Rs. 150 – Rs. 100).

Scenario 4 – An equity share is acquired on 1st of January, 2017 at Rs. 100, its fair market value is Rs. 200 on 31st of January, 2018 and it is sold on 1st of April, 2018 at Rs. 50. In this case, the actual cost of acquisition is less than the fair market value as on 31st January, 2018. The sale value is less than the fair market value as on 31st of January, 2018 and also the actual cost of acquisition. Therefore, the actual cost of Rs. 100 will be taken as the cost of acquisition in this case. Hence, the **long-term capital loss will be Rs. 50** (Rs. 50 – Rs. 100) in this case.

Q 8. Whether the cost of acquisition will be inflation indexed?

Ans 8. Sub-clause (5) of clause 31 of the Finance Bill, 2018, inter alia, provides that the long-term capital gain will be computed without giving effect to the provisions of the second proviso of section 48. Accordingly, it is clarified that the benefit of inflation indexation of the cost of acquisition would not be available for computing long-term capital gains under the new tax regime.

Q 9. What is the date of commencement of the proposed new tax regime?

Ans 9. The proposed new tax regime will apply to transfer made on or after 1st April, 2018. The existing regime providing exemption under clause (38) of section 10 of the Act will continue to be available for transfer made on or before 31st March, 2018.

Q 10. What will be the tax treatment of accrued gains upto 31st January 2018?

Ans 10. As the fair market value on 31st January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans 7.), the gains accrued upto 31st January, 2018 will continue to be exempt.

Q 11. What will be the tax treatment of transfer of share or unit between 1 st February 2018 to 31st March 2018?

Ans 11. As replied in answer 9, the new tax regime will be applicable to transfer made on or after 1st April, 2018, the transfer made between 1st February, 2018 and 31st March, 2018 will be eligible for exemption under clause (38) of section 10 of the Act.

Q 12. What will be the tax treatment of transfer made on or after 1 st April 2018?

Ans 12. The long-term capital gains exceeding Rs. 1 Lakh arising from transfer of these asset made on after 1st

April, 2018 will be taxed at 10 per cent. However, there will be no tax on gains accrued upto 31st January, 2018 as explained in Ans 10.

Q 13. What is the date from which the holding period will be counted?

Ans 13. The holding period will be counted from the date of acquisition.

Q 14. Whether tax will be deducted at source in case of gains by resident tax payer?

Ans 14. No. There will be no deduction of tax at source from the payment of long-term capital gains to a resident tax payer.

Q 15. Whether tax will be deducted at source in case of payment of long-term capital gains by non-resident tax payer (other than a Foreign Institutional Investor)?

Ans 15. Ordinarily, under section 195 of the Act, tax is required to be deducted on payments made to non-residents, at the rates prescribed in Part-II of the First File No. 370149/20/2018-TPL Page 5 of 6 Schedule to the Finance Act. The rate of deduction in the case of capital gains is also provided therein. In terms of the said provisions, tax at the rate of 10 per cent will be deducted from payment of long-term capital gains to a non-resident tax payer (other than a Foreign Institutional Investor). The capital gains will be required to be computed in accordance with clause 31 of the Finance Bill, 2018.

Q 16. Whether tax will be deducted at source in case of payment of long-term capital gains by Foreign Institutional Investors (FIIs)?

Ans 16. No. There will be no deduction of tax at source from payment of long-term capital gains to a Foreign Institutional Investor in view of the provisions of sub-section (2) of section 196D of the Act.

Q 17. How will the gains in the case of FIIs be determined?

Ans 17. The long-term capital gains in case of FIIs will be determined in the same manner as explained in earlier answers in the case of resident tax payers.

Q 18. What will be the treatment of the gains accrued upto 31st January 2018 in the case of FIIs?

Ans 18. In case of FIIs also, there will be no tax on gains accrued upto 31st January, 2018 as explained in Ans 10.

Q 19. What will be the tax treatment of transfer of share or unit between 1st February 2018 to 31st March 2018 in the case of FIIs?

Ans 19. As explained in Ans 11, in case of FIIs also, the transfer made between 1st February, 2018 and 31st March, 2018 will be eligible for exemption under clause (38) of section 10 of the Act.

Q 20. What will be the tax treatment of transfer made on or after 1st April 2018 in case of FIIs?

Ans 20. As explained in Ans 12, in case of FIIs also, the long-term capital gains exceeding Rs. 1 Lakh arising from transfer of these asset made on after 1st April, 2018 will be taxed at 10 per cent. However, there will be no tax on gains accrued upto 31st January, 2018 as explained in Ans 10.

Q 21. What will be the cost of acquisition in the case of bonus shares acquired before 1st February 2018?

Ans21. The cost of acquisition of bonus shares acquired before 31st January, 2018 will be determined as per sub-clause (6) of clause 31 of the Finance Bill, 2018. Therefore, the fair market value of the bonus shares as on 31st January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans 7), and hence, the gains accrued upto 31st January, 2018 will continue to be exempt.

Q 22. What will be the cost of acquisition in the case of right share acquired before 1st February 2018?

Ans 22. The cost of acquisition of right share acquired before 31st January, 2018 will be determined as per sub-clause (6) of clause 31 of the Finance Bill, 2018. Therefore, the fair market value of right share as on 31st January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans 7), and hence, the gains accrued upto 31st January, 2018 will continue to be exempt.

Q 23. What will be the treatment of long-term capital loss arising from transfer made between 1st February, 2018 and 31st March, 2018?

Ans 23. As the exemption from long-term capital gains under clause (38) of section 10 will be available for transfer made between 1st February, 2018 and 31st March, 2018, the long-term capital loss arising during this period will not be allowed to be setoff or carried forward.

Q 24. What will be the treatment of long-term capital loss arising from transfer made on or after 1st April, 2018?

Ans 24. Long-term capital loss arising from transfer made on or after 1st April, 2018 will be allowed to be set-off and carried forward in accordance with existing provisions of the Act. Therefore, it can be set-off against any other long-term capital gains and unabsorbed loss can be carried forward to subsequent eight years for set-off against long-term capital gains.

• **Measures to promote start-ups: (Applicable from Financial Year 2017-18, Assessment Year 2018-19) [Sec.80IAC]:**

In order to improve the effectiveness of the scheme for promoting start ups in India, it is proposed to make following changes in the taxation regime for the start ups: –

- i. The sunset date for incorporation for eligible start-

ups to be extended from 1st day of April, 2019 to 31st day of March, 2021,

- ii. The requirement of the turnover not exceeding Rs 25 Crore would apply to seven previous years commencing from the date of incorporation;
- iii. The definition of eligible business has been expanded to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation.

- **Tax treatment of transactions in respect of trading in agricultural commodity derivatives: [Applicable from Financial Year 2018-19, Assessment Year 2019-20][Sec.43(5)]**

As per current provision of Sec. 43(5)(e), trading in commodity derivatives carried out through a recognised stock exchange shall be treated as non-speculative transaction, if the same is chargeable to commodity transaction tax.

In order to encourage participation in trading of agricultural commodity derivatives, trading in agricultural commodity derivatives on a recognised stock exchange or registered association, not to be considered as speculative even when not subject to commodities transaction tax.

- **Rationalisation of prima-facie adjustments during processing of return of income: [Applicable from 1st April, 2018] [Sec.143(1)]:**

Section 143(1)(a)(vi) provides that while processing the return of income, the total income or loss shall be computed after making addition for the difference in income appearing in Form 26AS or Form 16A or Form 16 and income shown in the ITR. Generally, salaried taxpayers are mostly aggrieved by this adjustment.

In order to restrict the scope of adjustments in processing of the return of income under section 139, in response

to a notice under sub-section (1) of section 142, no adjustment shall be made in respect of addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return.

- **Deductions in respect of certain incomes not to be allowed unless return is filed by the due date: [Applicable from Financial Year 2017-18, Assessment Year 2018-19] [Sec.80-AC]**

The existing provisions contained in the section 80AC of the Act provide that no deduction would be admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE, unless the return of income by the assessee is furnished on or before the due date specified under sub-section (1) of section 139 of the Act. This burden is not cast upon assesses claiming deductions under several other similar provisions.

In view of the above, it is proposed to extend the scope of section 80AC to provide that the benefit of deduction under the entire class of deductions under the heading "C. – Deductions in respect of certain incomes" in Chapter VIA (sections 80H to 80RRB) shall not be allowed unless the return of income is filed by the due date.

- **Tax on conversion of inventory into capital asset or its treatment: [Applicable from Financial Year 2018-19 Assessment Year 2019-20] [Sec.2(24), 2(42A), 28, 49]:**

Section 45 of the Act, provides that capital gains arising from a conversion of capital asset into stock-in-trade shall be chargeable to tax. However, in cases where the stock in trade is converted into, or treated as, capital asset, the existing law does not provide for its taxability.

In order to provide symmetrical treatment and discourage the practice of deferring the tax payment by converting the inventory into capital asset it is proposed to provide that any profit or gains arising from conversion of inventory into capital asset or its treatment as capital asset shall be charged to tax as business income. It is also provided that the fair market value of the inventory on the

date of conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of such conversion or treatment.

Accordingly clause (24) of section 2 is amended so as to include such fair market value in the definition of income.

Further for the purpose of computation of capital gains arising on transfer of such capital assets, the fair market value on the date of conversion shall be the cost of acquisition and period of holding of such capital asset shall be reckoned from the date of conversion or treatment.

- **Restricted the exemption of section 54EC to immovable property only. [Applicable from Financial Year 2018-19 Assessment Year 2019-20] [Sec.54EC]:**

Section 54EC of the Act provides the exemptions up to Rs. 50 lakhs if any long-term capital gain arising from long term capital asset, is invested in the specified bonds of NHAI and RECL within a period of six months after the date of such transfer for a lock-in period of 3 years.

However, it is proposed to restrict the scope of section only to capital gains arising from long term capital assets being, land or building or both only, to be eligible for exemption upon investment in eligible bonds to be issued by NHAI or RECL or any other bond notified by the Government for LTCG exemption. Also, the duration of bonds purchased U/s 54EC is proposed to be increased to 5 years instead of 3 years

- **Appeal against penalty imposed by Commissioner (Appeals) under section 271J: [Applicable from 1st April,2018] [Sec.253]:**

A tax officer is authorized to levy a penalty on accountant/ merchant banker/ registered valuer, in case incorrect information is found in any report or certificate furnished by them in the course of any proceedings under Income-tax Act. By purview of Section 271J the penalty amount would be Rs. 10,000 for each such report or certificate.

These penalty orders under section 271J are currently not appealable to ITAT.

It is proposed to amend clause (a) of the said sub-section so as to also make an order passed by a Commissioner (Appeals) under section 271J appealable before the Appellate Tribunal.

- **Deduction in respect of income of Farm Producer Companies: [Applicable from Financial Year 2018-19,Assessment Year 2019-20] [Sec.80PA]**

Benefit of deduction u/s 80P for 100% profit available for a co-operative society, to be extended to farmer producer companies (FPC) having turnover upto INR 100 crore (INR 1000 millions) and gross total income includes any income from-

- the marketing of agricultural produce grown by its members, or
- the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or
- the processing of the agricultural produce of its members.

The benefit shall be available for a period of five years from the financial year 2018-19.

- **Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015**

The following amendments will take effect from 01st April, 2018 (Assessment year 2018-19).

Section 46 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 provides for the procedure for imposing penalty.

In the current regime, an order imposing a penalty shall be made with the approval of the Joint Commissioner, in the circumstances specified therein. The Assistant Director or the Deputy Director, investigating a case of undisclosed foreign income or asset, can also be assigned

the concurrent jurisdiction of the Assessing Officer and, therefore, can also initiate penalty. However, the said authorities shall require approval of the superior officers of the rank of Joint Director or Additional Director for imposition of penalty.

Accordingly, it is proposed to amend the said sub-section so as to provide that the Joint Director shall also be vested with the power to approve an order imposing a penalty.

Section 55 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 provides for institution of proceedings for an offence under that Act.

In the current regime, a person shall not be proceeded against for an offence except with the sanction of the Principal Commissioner or Commissioner or the Commissioner (Appeals). The section also provides that the Principal Chief Commissioner or the Chief Commissioner may issue such instructions, or directions, to the tax authorities as he may think fit for the institution of proceedings

It is proposed to amend the said section so as to empower the Principal Director General or the Director General also to issue instructions or directions to the tax authorities under the said section.

In order to bring certainty in the wake of recent judicial pronouncements on the issue of applicability of ICDS, amendments in relation to notified Income Computation and Disclosure Standards are as under: (Applicable from Financial Year 2016-17, Assessment year 2017-18) [Sec. 36, 40A, 43AA, 43CB, 145A, 145B]:

- **Marked to market loss:**

As per ICDS – I marked to market loss or expected loss shall not be allowed while computing income under the head “profits and gains of business or profession” unless such loss is recognized in accordance with the provisions of any other ICDSs.

However as per new section 36(1)(xviii), inserted by The Finance Bill, 2018 any marked to market loss or other expected loss as computed in accordance with the ICDS shall be allowed as deduction. Corresponding amendment is proposed to section 40A which specified that no deduction or allowance is allowed in respect of any marked to market loss or other expected loss, except as allowable under section 36(1)(xviii).

- **Foreign currency gain or loss:**

ICDS –VI provides for giving effect to the changes in foreign exchange rates on the closing date and recognize the loss or gain irrespective of whether such change is on the loan taken for capital purposes.

Finance bill inserts a new section 43AA in the Act to provide that, subject to the provisions of section 43A, any gain or loss arising on account of effects of changes in foreign exchange rates in respect of specified foreign currency transactions shall be treated as income or loss, which shall be computed in the manner provided in ICDS.

- **Construction contracts:**

ICDS – III deals with taxation of construction contracts and provides for taxing the retention money which is contrary to judicial decision.

Finance bill inserts a new section 43CB in the Act to provide that, profits arising from construction contracts or service contracts to be computed only on the basis of percentage completion method in accordance with ICDS except for certain service contracts. Contract revenue to include retention money and contract costs not to be reduced by any incidental interest, dividend or capital gains.

- **Valuation of Inventory:**

For the purpose of determining the income chargeable under the head “Profits and gains of business or profession,-

- i. The valuation of inventory to be at lower of cost or NRV (as prescribed in ICDS).
- ii. the valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation.
- iii. Valuation of inventory being securities not listed on a recognised stock exchange or listed but not quoted on a recognised stock exchange, to be at actual cost initially recognised in the manner provided in ICDS.
- iv. Valuation of securities being listed, to be at lower of cost or NRV in the manner provided in ICDS and the comparison of securities to be done category-wise.

- **Revenue Recognition:**

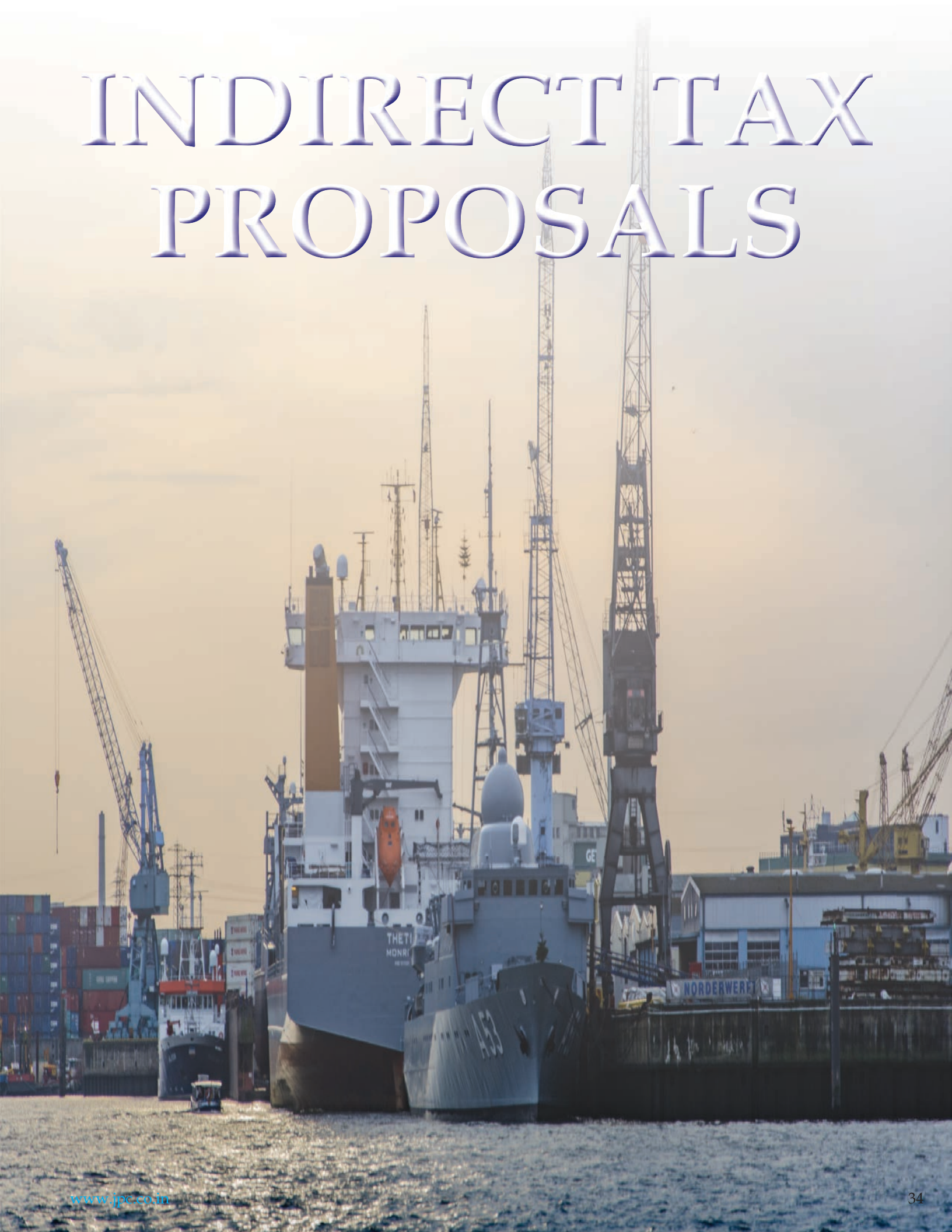
ICDS-IV dealing with revenue recognition provides for taxing export incentives when the ultimate collection is reasonably certain. This is contrary to the apex court decision in the case of CIT v. Excel Industries Ltd.

Finance bill inserts a new section 145B in the Act to provide that, claim for escalation of price in a contract or

export incentive to be regarded as income in the year in which reasonable certainty of its realisation is achieved.

Further it is proposed by the Finance Bill to provide that the subsidy/ grants/cash incentives/duty drawback etc. as defined in section 2(24)(xviii) is taxable in the year of receipt, if not charged to tax in any of the earlier previous years.

INDIRECT TAX PROPOSALS



The analysis of the changes being made in the area of Indirect Tax is discussed below.

A. Legislative changes

1. **Amendment in section 2(16):** "In the Central Goods and Services Tax Act, 2017, in section 2, in clause (16), for the words "Central Board of Excise and Customs", the words "Central Board of Indirect Taxes and Customs" shall be substituted.

This change shall be applicable w.e.f. the date of receipt of assent of the President.

As it is evident that the GST council is proposing continuous changes in the form of notifications, circulars and explanations, since the enactment of The Goods & Service Tax Act, accordingly no changes have been proposed in the Finance Bill, 2018

Finance Bill, 2018 has proposed to make certain changes to the Customs Act, 1962, to further improve ease of doing business in cross-border trade, and to align certain provisions with the commitments under the Trade Facilitation Agreements, to smoothen dispute resolution processes and reduce litigation, provide for pre-notice consultation, definite timelines for adjudication and deemed closure of cases if those timelines are not adhered to.

The amendments carried out through the Finance Bill, 2018 shall come into effect on the date of its enactment, unless otherwise specified.

A. The Customs Act, 1962

1) Substitution of certain expressions by certain other expressions:

The words “import manifest” and “export manifest”, wherever they occur, shall be substituted with the words “arrival manifest or import manifest” and “departure manifest or export manifest” respectively.

2) Amendment of Section 1

In sub-section (2), after the word “India”, the words “and, save as otherwise provided in this Act, it applies also to any offence or contravention there under committed outside India by any person” shall be inserted.

3) Amendment of Section 2

a) Under sub clause (2) of section 2 the definition of has been substituted, namely-

“Assessment” means determination of the dutiability of any goods and the amount of

duty, tax, cess or any other sum so payable, if any under this act or under the Custom Tariff Act, 1975 or under any law for the time being in force and includes provisional assessment, self-assessment, re-assessment and assessment in which the duty assessed is nil.

b) Under sub clause (6) of section 2 Central Board of Excise and Customs”, the words “Central Board of Indirect Taxes and Customs” shall be substituted;

c) Under sub clause (28) of section 2 to extend the limit of ‘Indian Customs Waters’ into the sea from the existing ‘Contiguous zone of India’ to the ‘Exclusive Economic Zone (EEZ)’ of India.

d) A new clause (30AA) shall be inserted after the clause (30A), which has been reproduced below:

“Notification” means notification published in the Official Gazette and the expression “notify” with its cognate meaning and grammatical variation shall be construed accordingly.

4) Amendment of Section 11

A new sub section (3) has been inserted under Section 11, namely:-

Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification thereunder shall be executed only if such prohibition or restriction or obligation is notified under the provisions of Customs Act subject to such exceptions, modifications or adaptations as the Central Government may deem fit.

5) Amendment of Section 17

- a) In sub section (2) the words “the self-assessment of such goods” shall be substituted by the words “the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub section (1)” this will expand the scope of verification beyond self-assessment.
- b) Insert a new sub-section (2A) namely - “Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria”
- c) In sub section (3) the words “Verification of self-assessment” shall be substituted by the words the purposes of verification
- d) In sub section (5) extend the scope of re-assessment by omitting specific reference to valuation, classification and exemption or concessions of duty availed consequent to any notification issued therefore under this Act
- e) Sub-section (6) shall be omitted, in view of the new dedicated Chapter for Audit.

6) Amendment of Section 18

- a) In sub section (1) the words “and section 50” shall be inserted after the word and figures “section 46” to cover export consignments under provisional assessment of duty.
- b) Insert a new sub-section (1A) to empower the proper officer for providing time-limit for the importer or exporter to submit the documents and information, if required, for finalization of provisional assessments under sub section (1).
- c) In sub section (3) substitute the reference to section 28AB with the reference to section 28AA retrospectively w.e.f 8th April 2011

7) Insertion of new section 25A as to empower the Central Government to exempt goods imported for repair, further processing or manufacture [‘Inward Processing of Goods’] from payment of whole or any part of duty of customs, leviable thereon subject to certain conditions. namely:--

- a) the goods shall be re-exported after such repair, further processing or manufacture, as the case may be, within a period of one year from the date on which the order for clearance of the imported goods is made;
- b) the imported goods are identifiable in the export goods; and
- c) Such other conditions as may be specified in that notification.

8) Insertion of new section 25B as to empower Central Government to exempt goods re-imported after export for repair, further processing or manufacture [‘Outward Processing of Goods’] from payment of whole or any part of duty of customs, leviable thereon subject to certain conditions.

- a) the goods shall be re-exported after such repair, further processing or manufacture, as the case may be, within a period of one year from the date on which the order for clearance of the imported goods is made;
- b) the imported goods are identifiable in the export goods; and
- c) Such other conditions as may be specified in that notification.

9) Amendment of Section 28

- a) Insert of proviso in clause (a) of sub-section (1) namely- “Provided that before issuing notice, the proper officer shall hold pre-notice consultation

with the person chargeable with duty or interest in such manner as may be prescribed “

- b) Insert a new sub-section (7A) to provide for issuance of supplementary show cause notice in circumstances and in such manner as may be prescribed through regulations within the existing time period.
- c) In sub-section (9) the words “where it is possible to do so” at both the places where they occur shall be omitted.

The new Proviso has been inserted namely- “Provided that where the proper officer fails to so determine within the specified period, any officer senior in rank to the proper officer may, having regard to the circumstances under which the proper officer was prevented from determining the amount of duty or interest under sub-section (8), extend the period specified in clause (a) to a further period of six months and the period specified in clause (b) to a further period of one year “

Provide that if the demand notice is not adjudicated even within the extended period, it would be deemed as if no demand had been issued.

- d) Insert a new sub-section (9A) to provide the certain grounds on account of which the time limit of six months or one year shall remain suspended and that the proper officer shall inform the person concerned the reasons for non-determination of duty or interest under sub-section (8) and in such cases the time specified in sub-section (9) shall apply not from the date of notice, but from the date when such reasons cease to exist.

- e) Insert a new sub-section (10A) namely - “Notwithstanding anything contained in this Act, where an order for refund under sub-section (2) of section 27 is modified in any appeal and the amount of refund so determined is less than the amount refunded under said sub-section, the excess amount so refunded shall be recovered along with interest thereon at the rate fixed by the Central Government under section 28AA, from the date of refund up to the date of recovery, as a sum due to the Government”
- f) Insert a new sub-section (10B) namely - “A notice issued under sub-section (4) shall be deemed to have been issued under subsection (1), if such notice demanding duty is held not sustainable in any proceeding under this Act, including at any stage of appeal, for the reason that the charges of collusion or any willful mis-statement or suppression of facts to evade duty has not been established against the person to whom such notice was issued and the amount of duty and the interest thereon shall be computed accordingly.”
- g) Insert a new Explanation 4- that a notice issued for non-levy, non-payment, short-levy or short payment of duty or erroneous refund after 14th May, 2015 but before the date on which the Finance Bill, 2018 receives the assent of the President, shall continue to be governed by the provisions of section 28 as it stood immediately before the date on which such assent is received.

10) Amendment of Section 28

- a) Clause (a) shall be omitted defining ‘activity’ as it is no longer relevant.
- b) For clause (b) substitute the existing definition of advance ruling so as to cover subjects beyond mere determination of duty

- c) Inserted the definition of 'appellate authority' means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961.
- d) For clause (c) the clause has been substituted namely, "applicant" means any person
 - i) holding a valid Importer-exporter Code Number granted under section 7 of the Foreign Trade (Development and Regulation) Act, 1992; or
 - ii) exporting any goods to India; or
 - iii) with a justifiable cause to the satisfaction of the Authority,
- e) define 'authority' as Customs Authority for Advance Ruling as referred to in section 28EA;
- f) In clause (f) and (g) "Appellate Authority" shall be substitute in place of "authority".

11) Insertion of new section 28EA which has been reproduced below

"The Board may, for the purposes of giving advance rulings under this Act, by notification, appoint an officer of the rank of Principal Commissioner of Customs or Commissioner of Customs to function as a Customs Authority for Advance Rulings:

Provided that till the date of appointment of the Customs Authority for Advance Rulings, the existing Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall continue to be the Authority for giving advance rulings for the purposes of this Act.

The offices of the Authority may be established in New Delhi and at such other places, as the Board may deem fit.

Subject to the provisions of this Act, the Authority shall exercise the powers and authority conferred on it by or under this Act."

12) Amendment of Section 28F

- a) The words "the Authority for giving advance rulings for the purposes of this Act and the said Authority", shall be substituted with the words "the Appellate Authority for deciding appeal under this Chapter and the said Appellate Authority"
- b) In the proviso the word "Authority" substituted with the words "Appellate Authority".
- c) Insert a new sub-section (3) namely- "on and from the date of appointment of the Customs Authority for Advance Rulings, every application and proceeding pending before the erstwhile Authority for Advance Rulings shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such appointment."

13) Amendment of Section 28H

- a) Amended clause (d) of sub-section (2) to include the word "tax" in addition to "duty" mentioned therein;
- b) Insert a new clause (f) of sub-section (2) to enable Central Government to notify any other matter on which advance ruling can be sought by an applicant
- c) Insert a new sub-section (3) namely-"the applicant may be represented by any person resident in India who is authorised in this behalf".

Explanation - For the purposes of this sub-section "resident" shall have the same meaning as assigned to it in clause (42) of section 2 of the Income-tax Act, 1961.

14) Amendment of Section 28I

In sub section (6) the words “three month” shall be substituted with the words “six month”

15) Amendment of Section 28K

- a) Amendment in sub-section (1)- omit the expression ‘after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section’
- b) Insert a proviso to sub section (1) namely –“Provided that in computing the period of two years referred to in clause (a) of sub-section (1) of section 28, or five years referred to in sub-section (4) thereof, for service of notice for recovery of any duty not levied, short-levied, not paid or short-paid on account of the advance ruling, the period beginning with the date of such advance ruling and ending with the date of the order under this sub-section shall be excluded.”

16) Insertion of new Section 28KA

A new section 28KA [relating to Appeal provisions in respect of Advance Ruling] is being inserted so as to

- a) Provide for appeal by an officer duly authorized by Board by notification, or by an applicant against the ruling or an order passed by Customs Authority for Advance Rulings to the Appellate Authority constituted under Section 245-O of the Income Tax Act;
- b) Provide that the sections 28I and 28J shall apply mutatis mutandis to appeal proceedings.
- c) Provide that this section shall come into force only when customs authority for advance ruling is appointed under section 28EA

17) Insertion of new Section 28L

Section 28L is being amended so as to substitute the word “Authority” with the words “Authority or Appellate Authority”

18) Amendment of Section 28M

Section 28M is being substituted so as to,

- a) provide that the procedure to be followed by the Authority shall be as prescribed
- b) provide that Appellate Authority shall, subject to provisions of this chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this act

19) Amendment of Section 30

Under sub-section (1) of section (30) following word shall be substituted,

- a) After the words “import goods” the word “or export goods” shall be inserted;
- b) For the words “the prescribed form”, the words “such form and manner as may be prescribed” shall be substituted.

20) Amendment of Section 41

Section 41 has been amended to insert the following words under sub-section (1), namely:

- a) After the words “export goods” the words “or imported goods” shall be inserted;
- b) For the words “the prescribed form” shall be substituted with;

“Such form and manner as may be prescribed and in case, the person in charge fails to deliver the departure manifest or the export report or any part thereof within such time, and the proper officer shall

satisfied that there is no sufficient cause for such delay, such person shall be liable to pay penalty not exceeding fifty thousand.

21) Amendment of Section 45

Under sub-section (2) in clause (b), after the word “the proper officer” the word “or in such manner as may be prescribed” shall be inserted.

22) Amendment of Section 46

Following words and provision inserted under section (46),

- a) As amended to sub-section (1), after the words “electronically” the words “customs automated system” shall be inserted;
- b) For the words “in the prescribed form” the words “in such form and manner as may be prescribed” shall be substituted;
- c) The word “ at any time not exceeding thirty days prior to” shall be substituted for prior presentation of bill of entry by the words “within thirty days” under sub section (3);
- d) The word “relating to the imported goods” the words “such other documents relating to the imported goods as may be prescribed shall be substituted in sub-section (4)”;
- e) A new sub-section (4A) shall be inserted:

As per new sub section (4A), the importer who presents a bill of entry shall ensure that

- (i) accuracy and completeness of the information given therein,
- (ii) the authenticity and validity of any document supporting it, and

- (iii) Compliance with the restriction or prohibition, if any relating to the goods under this act or under any other law for the time being in force.

23) Amendment of Section 47

In sub -section (1) the words “provided that” shall be substituted by the words,

“Provided that such order may also be made electronically through customs automated system on the basis of risk evaluation through appropriate selection criteria.

24) Amendment of Section 50

As per sub-section (1) of section 50 following word shall be inserted;

- a) After the word “electronically” at both the places where it occur the words “on the custom automated system shall be inserted”
- b) The word “in the prescribed form” shall be substituted with the word “ in such form manner as may be prescribed”;

As per new sub-section (3), the exporter who presents a shipping bill or bill of export under this section shall ensure that the accuracy and completeness of the information given therein. The authenticity and validity of any document supporting it and compliance with the restriction or prohibition.

25) Amendment of Section 51

As per sub-section (1) of section 51 where any clearance of goods for exportation, under provision the word “provided that” shall be substituted;

Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria:

26) Insertion of new Chapter VIIIA

This Chapter shall be inserted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:-

PAYMENTS THROUGH ELECTRONIC CASH LEDGER

Payment of duty, interest, penalty, etc.

- a) Every deposit made towards duty, interest, penalty, fee or any other sum payable by a person under the provisions of this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force or the rules and regulations made thereunder, using authorised mode of payment shall, subject to such conditions and restrictions, be credited to the electronic cash ledger of such person, to be maintained in such manner, as may be prescribed
- b) The amount available in the electronic cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum payable under the provisions of this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force or the rules and regulations made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- c) The balance in the electronic cash ledger, after payment of duty, interest, penalty, fee or any other amount payable, may be refunded in such manner as may be prescribed.
- d) Notwithstanding anything contained in this section, if the Board is satisfied that it is necessary or expedient so to do, it may, by notification, exempt the deposits made by such class of person or with respect to such categories of goods, as

may be specified in the notification, from all or any of the provisions of this section.

27) Amendment of Section 54

For sub-section (1) the words “the prescribed form”, the words “such form and manner as may be prescribed” shall be substituted

In the proviso, for the words “the prescribed form”, the words “such form and manner as may be prescribed” shall be substituted.

28) Amendment of Section 60

In sub section (1) the following proviso shall be inserted, namely:-

“Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria”.

29) Amendment of Section 68

- a) in the first proviso, for the words “Provided that”, the following shall be substituted, namely:-
“Provided that the order referred to in clause (c) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria”
- b) In the second proviso, the words “Provided further that”, the words “Provided also that” shall be substituted.

30) Amendment of Section 69

In sub-section (1), the proviso shall be inserted, namely – “Provided that the order referred to in clause (c) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria”.

31) Amendment of Section 74

In sub-section (1) clause (iii), the reference of "section 82" has been substituted with" clause (a) of section 84"

32) Amendment of Section 75

In sub-section (1), the reference of "section 82" has been substituted with" clause (a) of section 84"

33) Amendment of Chapter heading

Nomenclature of Chapter XI is being amended so as to include reference to courier.

In the Customs Act, in Chapter XI, in the heading, for the word "POST", the words "POST,COURIER" shall be substituted.

34) Amendment of section 83

Section 83 is being amended so as to include reference to goods imported or exported by courier through the authorized courier. The extant provisions in the section relate to goods imported or exported by post only.

In the Customs Act, in section 83,-

- a) for the word "post", wherever it occurs, the words "post or courier" shall be substituted;
- b) for the words "postal authorities" at both the places where they occur, the words "postal authorities or the authorised courier" shall be substituted.

35) Amendment of section 84

Section 84 is being amended so as to include a reference to goods imported or exported by courier and to empower the Board to make regulations in this regard. The extant provisions in the section relate to goods imported or exported by post only

In the Customs Act, in section 84, for the word "post", wherever it occurs, the words "post or courier" shall be substituted.

36) Insertion of new chapter XIII

A new Chapter XIII and section 99A there under, is being inserted relating to Audit. The manner of conducting audit shall be provided in regulations.

Section 99A, The proper officer may carry out the audit of assessment of imported goods or export goods or of an auditee under this Act either in his office or in the premises of the auditee in such manner as may be prescribed.

Explanation: For the purposes of this section, "auditee" means a person who is subject to an audit under this section and includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods.'

37) Insertion of Section 109A

In the Customs Act, after section 109, the following section shall be inserted, namely:-

Section 109A, Notwithstanding anything contained in this Act, the proper officer or any other officer authorised by him in this behalf, may undertake controlled delivery of any consignment of such goods and in such manner as may be prescribed, to-

- a) any destination in India; or
- b) A foreign country, in consultation with the competent authority of such country to which such consignment is destined.

Explanation:- For the purposes of this section "controlled delivery" means the procedure of

allowing consignment of such goods to pass out of, or into, the territory of India with the knowledge and under the supervision of proper officer for identifying the persons involved in the commission of an offence or contravention under this Act.’

38) Amendment of section 110

In section 110, in sub-section (2), for the proviso, the following provisos shall be substituted, namely:-

“Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified:

Provided further that where any order for provisional release of the seized goods has been passed under section 110A, the specified period of six months shall not apply”.

39) Amendment of section 122

Section 122 is being amended so as to substitute the existing clauses (b) and (c) to empower the Board to fix monetary limits for adjudication of cases by officers below the rank of Joint Commissioner by way of notification.

40) Amendment of section 124

In section 124, after the proviso, the following proviso shall be inserted, namely:-

“Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed”

41) Amendment of section 125

Section 125 of the Customs Act is being amended so as to:

- a) Insert a proviso to sub-section (1) to provide that where the demand proceedings against a noticee / co-noticees have been closed on grounds of having paid the dues mentioned in section 28, then the provisions of this section shall not be applicable if the goods are not prohibited or restricted;
- b) Insert sub-section (3) to provide that where redemption fine has not been paid within a period of one hundred and twenty days from the date of option given under subsection (1), then such option shall become void, except in cases where any appeal against such order is pending.
- c) Insert an explanation that for an order passed under sub-section (1) before the date on which the Finance Bill, 2018 receives the assent of the President, and no appeal against such order is pending, such option may be exercised within one hundred and twenty days from the date on which such assent is received.

42) Amendment of section 128A

Section 128A is being amended to allow Commissioner (Appeals) to remand back the matters to original adjudicating authority in specified categories of cases.

In section 128A, in sub-section (3), for the words “just and proper, confirming, modifying or annulling the decision or order appealed against”, the following shall be substituted, namely:-

“Just and proper,-

- a) confirming, modifying or annulling the decision or order appealed against; or
- b) referring the matter back to the adjudicating authority with directions for fresh adjudication

or decision, as the case may be, in the following cases, namely:-

- (i) where an order or decision has been passed without following the principles of natural justice; or
- (ii) where no order or decision has been passed after re-assessment under section 17; or
- (iii) where an order of refund under section 27 has been issued by crediting the amount to Fund without recording any finding on the evidence produced by the applicant.”

43) Insertion of new section 143AA

A new section 143AA is being inserted to empower the Board to prescribe through regulations trade facilitation measures or separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods for:

- a) Maintenance of transparency in import and export documentation and procedure; or
- b) Expeditious clearance or release of goods entered for import or export; or
- c) Reduction in the transaction cost of clearance of importing or exporting goods; or
- d) Maintenance of balance between customs control and facilitation of legitimate trade;

44) Insertion of new section 151B

A new section 151B on reciprocal arrangement for exchange of information is being inserted:

Sub section (1), The Central Government may enter into an agreement or any other arrangement with the Government of any country outside India or

with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of this Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention, combating and investigation of offences under the provisions of this Act or under the corresponding laws in force in that country.

Sub section (2), The Central Government may, by notification, direct that the provisions of this section shall apply to the contracting State with which reciprocal agreement or arrangements have been made, subject to such conditions, exceptions or qualifications as may be specified in that notification.

Sub section (3), Subject to the provisions of sub-section (2), the information received under sub-section (1) may also be used as evidence in investigations and proceedings under this Act.

Sub section (4), Where the Central Government has entered into a multilateral agreement for exchange of information or documents for the purpose of verification of compliance in identified cases, the Board shall specify the procedure for such exchange, the conditions subject to which such exchange shall be made and designation of the person through whom such information shall be exchanged.

Sub section (5), Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3), anything done or any action taken or purported to have been done or taken, in pursuance to any agreement entered into or any other arrangement made by the Central Government prior to the date on which the Finance Bill, 2018 receives the assent of the President, shall be deemed to have been done or taken under the provisions of this section.

45) Amendment of section 153

Section 153 is being substituted so as to align it with the provisions of the section 169 of the CGST Act to include Speed Post, Courier, and registered email as valid modes of delivery.

Section 153, sub section (1), An order, decision, summons, notice or any other communication under this Act or the rules made there under may be served in any of the following modes, namely:-

- a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;
- b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;
- c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;
- d) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or
- e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

Sub section (2), every order, decision, summons, notice or any communication shall be deemed to

have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1).

Sub section (3), when such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.”

46) Amendment of Section 157

Section 157 is being amended so as to empower the Board to make regulations relating to:

- a) Manner to deliver or present, a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export report, bill of transshipment, declaration for transshipment, boat note and bill of coastal goods;
- b) Time and manner of finalization of provisional assessment;
- c) Manner of conducting pre-notice consultation;
- d) Circumstances under which, and the manner of issuing supplementary notice;
- e) Form and manner in which an application for advance ruling or appeal shall be made, and the procedure for the authority, under Chapter VB;
- f) Manner of clearance or removal of imported or export goods;
- g) Documents to be furnished in relation to imported goods;
- h) Conditions, restrictions and the manner for deposits in electronic cash ledgers, the utilization and refund there from and the manner of maintaining such ledger;

- i) Manner of conducting audit;
- j) Goods for controlled delivery and the manner thereof;
- k) Measures and the simplified or different procedures or documentation for a class of importers or exporters or categories of goods or on the basis of the modes of transport of goods.

47) Amendment of Notification

Amendment of notification issued under sub-section (1) of section 25 of Customs Act and sub-section (12) of section 3 of Customs Tariff Act, retrospectively.

B. The Customs Tariff Act, 1975

The Custom Tariff Act is an act to consolidate the law relating to Custom Duties. The Finance Bill, 2018 has proposed certain amendments to the Customs Tariff Act in pursuance of calculation of tax and cess for the purpose of Goods & Service Tax Act. Duties have been increased to promote make in India

Further, rate of duty on certain commodities is also proposed to be amended through the Finance Bill, 2018.

1. Amendment of Section 3:

- (i) In sub-section (7), the newly inserted sub section (8A) is also referred along with sub section (8).
- (ii) after sub-section (8), the following sub-section shall be inserted, namely :-

Sub section (8A) Where the goods deposited in a warehouse under the provisions of the Customs Act, 1962 are sold to any person before clearance for home consumption or export under the said Act, the value of such goods for the purpose of calculating the integrated tax under sub-section (7) shall be,-

- (a) where the whole of the goods are sold, the value determined under sub-section (8) or the transaction value of such goods, whichever is higher; or
- (b) where any part of the goods is sold, the proportionate value of such goods as determined under sub-section (8) or the transaction value of such goods, whichever is higher :

Provided that where the whole of the warehoused goods or any part thereof are sold more than once before such clearance for home consumption or export, the transaction value of the last such transaction shall be the transaction value for the purposes of clause (a) or clause (b)

Provided further that in respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of sub-section (8).

Explanation- For the purposes of this sub-section, the expression “transaction value”, in relation to warehoused goods, means the amount paid or payable as consideration for the sale of such goods.’

- (iii) In sub-section (9), the newly inserted sub section (10A) is also referred along with sub section (10).
- (iv) after sub-section (10), the following sub-section shall be inserted, namely :-

Sub section (10A) Where the goods deposited in a warehouse under the provisions of the Customs Act, 1962 are sold to any person before clearance for home consumption or export under

the said Act, the value of such goods for the purpose of calculating the goods and services tax compensation cess under sub-section (9) shall be,-

- (a) where the whole of the goods are sold, the value determined under sub-section (10) or the transaction value of such goods, whichever is higher; or
- (b) where any part of the goods is sold, the proportionate value of such goods as determined under sub-section (10) or the transaction value of such goods, whichever is higher:

Provided that where the whole of the warehoused goods or any part thereof are

sold more than once before such clearance for home consumption or export, the transaction value of the last of such transaction shall be the transaction value for the purposes of clause (a) or clause (b):

Provided further that in respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of sub-section (10).

Explanation - For the purposes of this sub-section, the expression “transaction value”, in relation to warehoused goods, means the amount paid or payable as consideration for the sale of such goods.’

2. Amendment of first Schedule

Amendment					
A	Amendments affecting rates of BCD [to be effective from 02.02.2018]* [Clause 101(a) of the Finance Bill, 2018]			Rate of Duty	
S. No.	Heading, sub-heading tariff item	Commodity	From	To	
Food Processing					
1	2009 21 00 to 2009 90 00	Fruit juices and vegetable juices including cranberry juice	30%	50%	
Perfumes and toiletry preparations					
2	3303	Perfumes and toilet waters	10%	20%	
3	3304	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or suntan preparations; manicure or pedicure preparations	10%	20%	
4	3305	Preparations for use on the hair	10%	20%	
5	3306	Preparations for oral or dental hygiene, including denture fixative pastes and powders; yarn used to clean between the teeth (dental floss), in individual retail packages	10%	20%	

6	3307	Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included, prepared room deodorizers, whether or not perfumed or having disinfectant properties	10%	20%
Automobile parts				
7	4011 20 10	Truck and Bus radial tyres	10%	15%
8	8407, 8408, 8409, 8483 10 91, 8483 10 92, 8511, 8708, 8714 10	Specified parts/accessories of motor vehicles, motor cars, motor cycles	7.5% / 10%	15%
Footwear				
9	6401, 6402, 6403, 6404, 6405	Footwear	10%	20%
10	6406	Parts of footwear	10%	15%
Jewellery				
11	7117	Imitation Jewellery	15%	20%
Electronics / Hardware				
12	8517 12	Cellular mobile phones	15%	20%
13	3919 90 90, 3920 99 99, 3926 90 91, 3926 90 99, 4016 99 90, 7318 15 00, 7326 90 99, 8504, 8506, 8507, 8517 70 90, 8518, 8538 90 00, 8544 19, 8544 42, 8544 49	Specified parts and accessories including lithium ion battery of cellular mobile phones	7.5% / 10%	15%
14	8517 62 90	Smart watches / wearable devices	10%	20%
15	8529 10 99 8529 90 90	LCD/LED/OLED panels and other parts of LCD/LED/OLED TVs	7.5% / 10%	15%
Furniture				
16	9401	Seats and parts of seats [other than aircraft seats and their parts]	10%	20%
17	9403	Other furniture and parts	10%	20%
18	9404	Mattresses supports; articles of bedding and similar furnishing	10%	20%
19	9405	Lamps and lighting fitting, illuminated signs, illuminated name plates and the like [except solar lanterns or solar lamps]	10%	20%

Watches and Clocks				
20	9101, 9102	Wrist watches, pocket watches and other watches, including stop watches	10%	20%
21	9103	Clocks with watch movements	10%	20%
22	9105	Other clocks, including alarm clocks	10%	20%
Toys and Games				
23	9503	Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; puzzles of all kinds	10%	20%
24	9504	Video game consoles and machines, articles for funfair, table or parlor games and automatic bowling alley equipment	10%	20%
25	9505	Festive, carnival or other entertainment articles	10%	20%
26	9506 [except 9506 91]	Articles and equipment for sports or outdoor games, swimming pools and paddling pools [other than articles and equipment for general physical exercise, gymnastics or athletics]	10%	20%
27	9507	Fishing rods, fishing-hooks and other line fishing tackle; fish landing nets, butter fly nets and similar nets; decoy birds and similar hunting or shooting requisites	10%	20%
28	9508	Roundabouts, swings, shooting galleries and other fairground amusements; travelling circuses, traveling menageries and travelling theatres	10%	20%
Miscellaneous items				
29	3406	Candles, tapers and the like	10%	25%
30	4823 90 90	Kites	10%	20%
31	9004 10	Sunglasses	10%	20%
32	9611	Date, sealing or numbering stamps, and the like	10%	20%
33	9613	Cigarette lighters and other lighters, whether or not mechanical or electrical, and parts thereof other than flints and wicks.	10%	20%
34	9616	Scent sprays and similar toilet sprays, and mounts and heads therefore; powder-puffs and pads for the application of cosmetic or toilet preparations.	10%	20%
B.	Amendments not affecting rates of duty [to be effective from 02.02.2018]* [Clause 101(a) of the Finance Bill, 2018]			
1	8507 60 00	Tariff rate of BCD on Lithium-ion batteries [The effective rate of import duty on Lithium-ion batteries [except those for cellular mobile phones will, however, remain unchanged at 10%.]	10%	20%
2	9018, 9019, 9020, 9021 9022	Tariff rate of BCD on medical devices [The effective rates of BCD on such medical devices will, however, remain unchanged.]	7.5%	10%

C. Technical amendment not affecting rates of duty [Clause 101(b) of the Finance Bill, 2018]				
1		Bifurcate the tariff item 0713 31 00 to create separate tariff items each for Moong Dal and Urad Dal.		
2		Omit tariff item 0904 22 12 and entries relating thereto and create new tariff item 1209 91 70, in relation to chilly seed of genus capsicum.		
3		Amend the tariff item 2917 39 20 to specify the isomers it covers.		

3. Amendment of Second Schedule

(a) After Note 3, the following note shall be inserted :

In respect of all other goods which are not covered under column (2) of this Schedule, the rate of duty shall be 'Nil.'

(b) Amendment in Second Schedule:

Amendment			
A	Amendments not affecting rates of Export duty	Rate of Duty	
S. No.		From	To
1.	To insert a new Note to specify Nil rate of duty in respect of all other goods which are not covered under column (2) of the Schedule. [Clause 102 (a) of the Finance Bill, 2018]	--	--
2	Electrodes of a kind used for furnaces [Clause 102 (b) of the Finance Bill, 2018]* [Introduction of 20% Tariff rate of Export Duty on Electrodes of a kind used for furnaces (8545 11 00). The effective rate of Export duty on such electrodes will, however, remain Nil]	--	20%

Other Basic Custom Duty Changes

1. Other proposals involving changes in Basic Customs Duty rates

S. No.	Heading, sub-heading tariff item	Commodity	From	To
Food processing				
1	0801 31 00	Cashew nuts in shell [Raw cashew]	5%	2.5%
2	2009 11 00 2009 12 00 2009 19 00	Orange fruit juice	30%	35%
3	2009 81 00, 2009 90 00	Cranberry Juice	10%	50%
4	2106 90	Miscellaneous Food preparations (other than soya protein)	30%	50%
Textiles				
5	5007	Silk Fabrics	10%	20%

Capital goods and Electronics				
6	8504 90 90/ 3926 90 99	Printed Circuit Board Assembly (PCBA) of charger/adapter and moulded plastics of charger/adapter of cellular mobile phones	Nil	10%
7	Any Chapter	Inputs or parts for manufacture of: a) PCBA, or b) moulded plastics of charger/adapter of cellular mobile phones of cellular mobile phones	Applicable Rate	Nil
8	8483 40 00, 8466 93 90, 8537 10 00	Ball screws, linear motion guides, CNC systems for manufacture of all types of CNC machine tools falling under headings 8456 to 8463	7.5%	2.5%
9	70	Solar tempered glass or solar tempered [anti-reflective coated] glass for manufacture of solar cells / panels/ modules	5%	Nil
10	70	Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables	Nil	5%
11	8529/4016	12 specified parts for manufacture of LCD/LED TV panels	Nil	10%
Automobile and automobile parts				
12	8702,8703, 8704, 8711	CKD imports of motor vehicles, motor cars, motor cycles	10%	15%
13	8702, 8704	CBU imports of motor vehicles	20%	25%
Diamonds and Precious stones				
14	71	Cut and polished colored gemstones;	2.5%	5%
15	71	Diamonds including lab grown diamonds-semi processed, half-cut or broken; non-industrial diamonds including lab-grown diamonds (other than rough diamonds), including cut and polished diamonds	2.5%	5%
Medical Devices				
16	Any Chapter	Raw materials, parts or accessories for the manufacture of Cochlear Implants	2.5%	Nil
RATIONALIZATION IN CUSTOMS DUTY RATES				
Edible oils of vegetable origin				
17	1508, 1509,	Crude edible vegetable oils like Ground nut oil, Olive oil, Cotton seed	12.5%	30%
	1510,1512,	oil, Safflower seed oil, Saffola oil, Coconut oil, Palm Kernel/Babassu oil,		
	1513, 1515	Linseed oil, Maize corn oil, Castor oil, Sesame oil, other fixed vegetable fats and oils.		
18	1508, 1509, 1510,1512, 1513, 1515, 1516 20, 1517 10 21, 1517 90 10, 1518 00 11, 1518 00 21, 1518 00 31	Refined edible vegetable oils, like Ground nut oil, Olive oil, Cotton seed oil, Safflower seed oil, Saffola oil, Coconut oil, Palm Kernel/ Babassu oil, Linseed oil, Maize corn oil, Castor oil, Sesame oil, other fixed vegetable fats and oils, edible margarine of vegetable origin, Sal fat; specified goods of heading 1518	20%	35%

Refractory Items				
19	6815 91 00	Other articles of stone containing magnesite, dolomite or chromite	10%	7.5%
20	6901	Bricks, blocks, tiles and other ceramic goods of siliceous fossil meals or of similar siliceous earths	10%	7.5%
21	6902	Refractory bricks, blocks, tiles and similar refractory ceramic constructional goods, other than those of siliceous fossil meals or similar siliceous earths	5%	7.5%
22	6903	Other refractory ceramic goods	5%	7.5%

2. Levy of Social Welfare Surcharge, as a duty of Customs on imported goods [Clause 108 of the Finance Bill, 2018]:

S. No.	Heading, sub-heading tariff item	Commodity	From	To
1	Any chapter	Levy of Social Welfare Surcharge on imported goods to finance education, housing and social security [clause 108 of Finance Bill, 2018]	--	10% of aggregate duties of customs
2	Any chapter	Abolition of Education Cess and Secondary and Higher Education Cess on imported goods [clause 106 of Finance Bill, 2018]	3% of aggregate duties of customs [2% + 1%]	Nil
3	2710	Motor spirit commonly known as petrol and high speed diesel oil	--	3% of aggregate duties of customs
4	7106	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured form, or in powder form	--	3% of aggregate duties of customs
5	7108	Gold (including gold plated with platinum), unwrought or in semi-manufactured form, or in powder form	--	3% of aggregate duties of customs
6	Any Chapter	Specified goods hitherto exempt from Education Cess and Secondary and Higher Education Cess on imported goods	--	Nil

3. Levy of the Road and Infrastructure Cess [Clause 109 of the Finance Bill, 2018]

S. No.	Heading, sub-heading tariff item	Commodity	From	To
1	2710	Levy of Road and Infrastructure Cess on imported motor spirit commonly known as petrol and high speed diesel oil [clause 109 of Finance Bill, 2018]	--	Rs. 8 per Litre

2	2710	Exemption from additional duty of customs leviable under section 3(1) of the Customs Tariff Act, 1975 in lieu of the proposed Road and Infrastructure cess on domestically produced motor spirit commonly known as petrol and high speed diesel oil	--	Nil
3	2710	Abolition of Additional Duty of Customs [Road Cess] on imported motor spirit commonly known as petrol and high speed diesel oil [Clause 106 of Finance Bill, 2018]	Rs. 6 per litre	Nil
4	Additional duty of customs under sections 3(1) of the Customs Tariff Act, 1975 in lieu of basic excise duty			
	2710	(i) Motor spirit commonly known as petrol	Rs. 6.48 per litre	Rs. 4.48 per Litre
	2710	(ii) High speed diesel oil	Rs. 8.33 per litre	Rs. 6.33 per Litre

Since the enactment of the Goods & Service Tax Act, Petroleum Products, i.e., petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and Alcoholic Liquor for Human Consumption are the only products covered in the purview of Excise Duty. Through the Finance Bill, 2018, the basic excise duty on branded and unbranded petrol & Diesel have been reduced by Rs. 2 per litre and Additional Duty of Excise (Road Cess) leviable on Petrol and High Speed Diesel has been abolished.

Note: “Basic Excise Duty” means the excise duty set forth in the Fourth Schedule to the Central Excise Act, 1944.

PROPOSALS INVOLVING CHANGE IN EXCISE DUTY RATES:

Commodity		Rate of Duty	
		From	To
I	Motor spirit commonly known as petrol and high speed diesel oil		
1.	Levy of Road and Infrastructure Cess on motor spirit commonly known as petrol and high speed diesel oil [clause 110 of Finance Bill, 2018]	--	Rs. 8 per litre
2.	Abolition of Additional Duty of Excise [Road Cess] on motor spirit commonly known as petrol and high speed diesel oil [clause 106 of Finance Bill, 2018]	Rs. 6 per litre	Nil
3.	Basic excise duty on:		
	(i) Unbranded Petrol	Rs. 6.48 per litre	Rs. 4.48 per litre
	(ii) Branded petrol	Rs. 7.66 per litre	Rs. 5.66 per litre
	(iii) Unbranded diesel	Rs. 8.33 per litre	Rs. 6.33 per litre
	(iv) Branded diesel	Rs. 10.69 per litre	Rs. 8.69 per litre
4.	Road and Infrastructure Cess on (i) 5% ethanol blended petrol, (ii) 10% ethanol blended petrol and (iii) bio-diesel, up to 20% by volume, subject to the condition that appropriate excise duties have been paid on petrol or diesel and appropriate GST has been paid on ethanol or bio-diesel used for making such blends	--	Nil
5.	Road and Infrastructure Cess on petrol and diesel manufactured in and cleared from 4 specified refineries located in the North-East	--	Rs. 4 per litre

AOP	Association of Persons	GVA	Gross Value Added
AY	Assessment Year	HUF	Hindu Undivided Family
AO	Assessing Officer	INR	Indian Rupee
BCD	Basic Custom Duty	OECD	The Organisation for Economic Co-operation and Development
BEPS	base erosion and profit shifting	MSME	Medium small scale enterprises
BOI	Body of Individuals	NBFC	Non Banking Finance Company
CAD	Current Account Deficit	PE	Permanent Establishment
CBDT	Central Board of Direct Taxes	PFCE	Private Final Consumption Expenditure
CBEC	Central Board of Excise & Customs	R&D	Research & Development
CPI	Consumer Price Index	RBI	Reserve Bank of India
Crore	One Crore INR is equivalent to INR 10 Million / 0.15 Million US dollars	SAD	Special Additional Duty
CSO	Central Statistics Organisation	SEBI	Security Exchange Board of India
CVD	Countervailing Duty	SEZ	Special Economic Zone
DDT	Dividend Distribution Tax	SHE	Secondary Higher Education Cess
EC	Education Cess	TDS	Tax deducted at source
FIPB	Foreign Investment Promotion Board	TRU	Tax Research Unit
FDI	Foreign Direct Investment	TPO	Transfer Pricing Officer
GDP	Gross Domestic Product	UTs	Union Territories
GFCE	Government Final Consumption Expenditure	WHT	Withholding Taxes
GST	Goods & Service Tax	WPI	Whole sale Price Index

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

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