



Budget 2021-22



6 Pillars of the Budget



Projected GDP Growth - V shaped recovery



The Economic Survey 2020-21 → 'V-shaped' economic recovery for the country after the pandemic ravaged all key sectors of growth and disrupted demand.

The Indian economy is cruising towards a much quicker growth recovery after the 'once-in-a-century' Covid-19 crisis.

Capital Expenditure Budget Estimates for FY 2021-22 stands at INR 5.54 lakh Crores which is 34.5% higher than the budget estimates of FY 2020-21

Key Policy Highlights (1/2)

- It is proposed to set up 17 new Public Health Units and strengthening of 33 existing Public Health Units i.e at 32 Airports, 11 Seaports and 7 land crossings
- The government has committed nearly INR 1.97 lakh Crores under the Production Linked Scheme over the period of 5 years starting FY 2021-22
- A scheme of Mega Investment Textiles Parks (MITRA) will be launched in addition to the PLI scheme wherein 7 Textile Parks will be established over 3 years
- It is proposed to setup a professionally managed Development Financial Institution which will act as a provider, enabler and catalyst for infrastructure financing
- It is proposed to introduce 'MetroLite' and 'MetroNeo' to provide metro rail systems at much lesser cost with same experience, convenience and safety in Tier-2 cities and peripheral areas of Tier-1 cities
- It is proposed to consolidate the provisions of SEBI Act, 1992, Depositories Act, 1996, Securities Contracts (Regulation) Act, 1956 and Government Securities Act, 2007 into a rationalized single Securities Markets Code

Key Policy Highlights (2/2)

- It is proposed to increase the permissible FDI Limit from 49% to 74% in the Insurance sector
- Increase in the Deposit Insurance cover from INR 1 lakh to INR 5 lakhs for bank customers
- Proposal for decriminalization of the Limited Liability Partnership (LLP) Act 2008
- Increase in thresholds for the Small Companies under Companies Act, 2013
- No restriction on conversion of the One person Company (OPC) to any other type of Company at any time and allowing the NRIs to incorporate OPCs in India
- It is proposed to launch data analytics, artificial intelligence, machine learning driven MCA21 Version 3.0
- Proposal to set up a Conciliation Mechanism and mandate its use for quick resolution of contractual disputes

Index of key Abbreviations

Abbreviation	Explanation
AY	Assessment Year
BCD	Basic Customs Duty
CGST Act	Central Goods and Services Tax Act, 2017
Customs Act	Customs Act, 1962
EOU	Export Oriented Unit
FEMA Act	Foreign Exchange and Management Act, 1999
FY	Financial Year
GST	Goods and Services Tax
IGST Act	Integrated Goods and Services Tax Act, 2017
INR	Indian Rupee
ISD	Input Service Distributor
IT Act	Income Tax Act, 1961
mn	Million
SEZ	Special Economic Zone
w.e.f.	With effect from
CG	Central Government
AO	Assessing Officer



Corporate Taxation

Major Clarifications on Equalization Levy (1/2)

- Initially, EL was introduced in Finance Act, 2016 by way of withholding on the consideration for online advertisement services. Scope of EL was significantly expanded vide Finance Act 2020 by way of levy @ 2% on the consideration received for e-commerce supply or services made or facilitated by an e-commerce operator
- There were multiple ambiguities in the provisions and representations were made by the Industry seeking clarifications from the government in this regard
- In view of the above, it is proposed that the term 'online sale of goods' and 'online provision of services' shall include any of the following **online** activities:-
 - Acceptance of offer for sale;
 - Placing the purchase order;
 - Acceptance of the Purchase order;
 - Payment of consideration; or
 - Supply of goods or provision of services, partly or wholly



Major Clarifications on Equalization Levy (2/2)

- Further, it is also clarified that the consideration which are taxable as royalty or fees for technical services under the IT Act read with DTAA will not be liable for EL provisions (both 6% and 2%). Consequently, such consideration is not proposed to be exempt under section 10(50) of the IT Act
- Consideration received or receivable by an e-commerce operator from e-commerce supply or services shall include:-
 - consideration for sale of goods irrespective of whether the e-commerce operator owns the goods;
 - consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator.
- Furthermore, the anomaly of applicability of exemption under section 10(50) of the IT Act on the new EL from FY 2021-22 has been removed and made applicable from FY 2020-21 itself.
- All these amendments are retrospective in nature and apply from 01 April 2020

Constitution of the Board for Advance Ruling (1/2)

- Presently under the IT Act, Authority for Advance Rulings (AAR) consists of the different benches consisting of Chairman and Vice-Chairman, revenue members and law members. However, the AAR has been non-functional for a significant period of time in the past on account of the vacancy of the posts in the benches particularly Chairman and Vice-Chairman which leads to a large number of pendency since last many years
- It is now proposed to constitute one or more Boards for Advance Ruling (BAR) in place of AAR. Central Government (CG) will notify the date from which the BAR comes into operation and AAR ceases to operate
- BAR shall consist of two members not below the rank of Chief Commissioner of Income Tax
- Rulings of BAR (pronounced on or after the date notified by CG) will not be binding on the tax department and the applicant unlike AAR regime
- Appeal can be filed against the ruling of BAR before the High Court within 60 days from the date of receipt of order. Extension of 30 days can be granted by the High Court for reasonable cause
- All the applications which are pending with the AAR and not admitted by the AAR till the date of the notification by the CG will be transferred to BAR for disposal alongwith the entire record

Constitution of the Board for Advance Ruling (2/2)

- CG may notify a scheme for eliminating the interface in the proceedings before the BAR and the applicant to bring in a system of dynamic jurisdiction for transparency and economies of scale
- BAR shall have the same powers of the AAR and all provisions of AAR regime will mutatis mutandis apply to BAR regime
- Following applicants are removed from the definition of Applicants:-
 - clause (c) of the section 28E of the Customs Act, 1962
 - clause (c) of the section 23A of the Central Excise Act, 1944
 - clause (b) of section 96A of the Finance Act, 1994
- These amendments are proposed to be applicable w.e.f 1 April 2021

Discontinuation of Income Tax Settlement Commission

- It is proposed to discontinue the Income-tax Settlement Commission (ITSC) and to constitute one or more Interim Board of settlement for pending cases w.e.f. 01 February 2021
- Key proposals in this regard are as under:-
 - No new application shall be made on or after 01 February 2021
 - Interim Board shall consist of 3 members each being an officer of the rank of Chief Commissioner
 - An applicant has an option to withdraw the pending application within 3 months of enactment of Finance Act, 2021 and intimate the Assessing Officer in the manner to be prescribed. The AO cannot use the material produced by the taxpayer before the ITSC for the proceedings before the AO
 - All the valid applications on which the final order is not issued till 31 January 2021 will be treated as pending
 - Majority of the provisions of ITSC will mutatis mutandis apply to the Interim Board
 - CG may notify a scheme for eliminating the interface in the proceedings before the Interim Board and the applicant to bring in a system of dynamic jurisdiction for transparency and economies of scale

Dispute Resolution Committee for small taxpayers

- New Section 245MA is proposed to insert to setup a Dispute Resolution Committee ('DRC') for small and medium tax payers
- **Purpose:** To reduce the disputes and provide tax certainty with greater efficiency, transparency and accountability
- **Key Features:**
 - Central Government shall constitute one or more DRC as may be necessary,
 - DRC shall resolve the disputes of such person or class of person which shall be specified,
 - DRC shall have the powers to reduce or waive penalty or prosecution
 - Only those disputes where returned taxable income is INR 5 mn or less and income in dispute is upto INR 1 mn
 - **Non-eligible tax payer:** if there is a detention, prosecution or conviction of a taxpayer in specified statutes
 - **Cases not eligible:** Search cases u/s 132, or 132A or survey u/s 133 or information received under an agreement referred to in section 90 or 90A.

New procedure for income escaping assessment (1/2)

The erstwhile section 147 has been replaced by a new section with significant changes proposed in the Budget. Some of the key changes are as under:

- Requirement of formation of 'Reason to believe' on the part of the Assessing Officer (AO) is absent in the new provision
- The notice under section 148 can be issued only if the AO has the information which suggests that income has escaped assessment and the AO has obtained prior approval of the Specified authority
- Meaning of Information: information which has been flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by CBDT or a final objection raised by the CAG that the original assessment not made in accordance with the provisions of the IT Act
- A new Section 148A is proposed to be introduced to place additional restrictions on the power of AO wherein before issuance of notice, the AO shall conduct necessary enquiries, if required, and provide an opportunity of being heard to the assessee to show cause why the notice u/s 148 is not issued in the case of the Assessee
- After considering his reply and the material available, the AO shall pass an order, whether it is a fit case for issuance of notice and serve a copy of such order along with such notice on the assessee with prior approval

New procedure of income escaping assessment (2/2)

- Time period of 6 years in normal cases of income escapement has been reduced to 3 years from the end of the relevant assessment year – A BIG RELIEF
- Notice beyond 3 years but upto 10 years can be issued only in the cases where the AO has in his possession supporting / evidence which reveal that the income taxable and represented in the form of asset has escaped assessment and amounts to or is likely to amount to INR 5 mn or more for that year
- For the purposes of computing the period of limitation for issuance of notice under section 148, the time period allowed to the assessee in providing opportunity of being heard under section 148A or the period during which such proceedings are stayed by an order or injunction of any court shall be excluded
- If after excluding such period, time available to the AO for passing order under section 148A is less than 7 days, the remaining time shall be extended to seven days
- Approval required from Principal CIT / DIT or CIT / DIT : case where notice is issued within 3 years
- Approval required from Principal CCIT / DGIT or CCIT / DGIT : case where notice is issued beyond 3 years
- Lesser restrictions placed on the AO in the cases of search and survey

Restrictions on exemptions to Corpus donations of Charitable or Religious Institutions (1/2)

- Under the current provisions, Corpus donations are exempt from taxation in case of Charitable or Religious trusts, funds or institutions provided there is a specific direction that such amount shall form part of the Corpus of the said entity. Further, these entities are mandatorily required to apply 85% of their other income every year
- However, it has been noticed that these entities are claiming exemptions twice for the above Corpus donations once at the time of receipt and secondly at the time of application made out of such contributions
- Furthermore, it was noticed that these entities are claiming the exemptions twice for the loans and borrowings taken once at the time of making expenses for charitable or religious purposes out of the said proceeds and again at the time of repayment of such loans and borrowings

Restrictions on exemptions to Corpus donations of Charitable or Religious Institutions (2/2)

- In view of the above and to make the Corpus intact in relation to such contributions, it is proposed to make the following amendments:-
 - Such specific Corpus related contributions shall be exempt provided the said proceeds are invested or deposited in one or more of the modes specified under section 11(5) of the IT Act
 - Any application out of such Corpus contributions shall not be considered as application of income for charitable or religious purposes and treated as exempt in the year when the amount applied is deposited / invested back to the modes prescribed above
 - Any application from loans and borrowings shall be considered as application for charitable or religious purposes not at the time of such application but on repayment of such loans and borrowings
 - No set off or deduction or allowance of any excess application for any preceding previous year shall be allowed going forward
- These amendments are proposed to be applicable w.e.f AY 2022-23

No Depreciation on Goodwill

- The Hon'ble Supreme Court in the case of Smifs Securities limited has held that Goodwill of a business or profession is a depreciable asset
- It is now proposed that Goodwill of a business or profession will not be considered as a depreciable asset and no depreciation will be allowed on the same in any situation (corporate structuring or purchase)
- Block of assets shall not include Goodwill for depreciation purposes
- If Goodwill is forming part of block of asset as on AY beginning on 1st of April 2020 and depreciation has been claimed on the same - WDV and short term capital gain to be computed in the manner as may be prescribed
- If Goodwill is purchased, such purchase price would be the cost of acquisition. However, depreciation obtained prior to AY 2021-22 shall be reduced from the said purchase price.

Rationalisation of MAT provisions → Book profits include APA income/secondary adjustment

- Computation of book profit under section 115JB of the IT Act does not provide for any adjustment on additional income of past year(s) on account of secondary adjustment or income due to terms agreed in an APA
- Such prior year's income (if included in the revenue and profit in the financial statements) would be considered a base for computation of book profits under MAT. Even though these profits have already been included in tax computation under normal provisions under the modified tax return particularly in APA cases, these profits cannot be deductible in the absence of any specific provision under Section 115JB of the IT Act
- This results in the taxpayer paying additional tax on the current income, which also includes prior period income that has already been subjected to tax under normal provisions
- In view of the above, it is proposed to amend section 115JB wherein basis the application filed by the Taxpayer, the Assessing officer shall recompute the book profit of the past year (s) and tax payable of the current year in the manner to be prescribed and The time limit of 4 years as provided in section 154 of the IT Act, will be counted from the end of the financial year in which the application is filed by the Taxpayer in this case

Withdrawal of exemption on income from Unit Linked Insurance Policy (ULIP) in certain cases

- Presently under section 10(10D), exemption is provided on the sum received from a life insurance policy where premium payable during the term of that policy does not exceed 10% of the capital sum assured
- There is no such cap on payment of the premium in case of ULIP (which is a mix of both investment and insurance and linked to specified Units). As a result, the high net worth individuals are claiming this exemption by investing huge sums in ULIP's while the intent is to grant exemption on life insurance policies of small cases
- In view of the above, it is proposed to not provide such exemption where the aggregate premium payable for any of the year during the tenure of ULIP exceeds INR 2.50 lakhs in respect of one or more ULIP's
- Such ULIP's (not exempt above), shall be treated as Capital Asset and amount received under such ULIPs will be taxable under the head of Capital Gains
- Such ULIP's will be treated similar to equity oriented funds and accordingly taxable under section 111A and 112A of the IT Act and consequential amendment made to make STT applicable on maturity or partial withdrawal of such ULIP's
- The above is applicable on ULIP issued on or after 01 February 2021

Higher Rate of TDS and TCS to penalise non-filers of Income Tax Return (1/2)

- Presently, section 206AA of the IT Act provides for higher rate of TDS for non-furnishing of PAN by the payer
- There is however no provision under the IT Act to ensure filing of return of income by those persons who suffered a reasonable amount of TDS
- Now, it is proposed to insert a new section 206AB (with a non-obstante clause on the lines of section 206AA) to provide that where a person is making payment to a person who has not filed his ROI for both the previous 2 years (and the timeline for filing of original ROI is expired) preceding the concerned year and the amount of the TDS collected exceeds INR 50,000 in each of such last 2 years, then the person making the payment shall deduct the TDS at higher of the following rates:-
 - twice the rate specified in the relevant section of the TDS; or
 - twice the rate in force; or
 - 5%
- Further, it is proposed to insert a similar section i.e 206CCA for the persons collecting the TCS

Higher Rate of TDS and TCS to penalise non-filers of Income Tax Return (2/2)

- Section 206AB will not be applicable on the payments where TDS is required to be deducted sections 192, 192A, 194B, 194BB, 194LBC or 194N of the IT Act
- In case where both section 206AA and 206AB is applicable, then highest of the rate provided under both the sections will apply
- The above sections shall not be applicable to a non-resident payee having no PE in India
- Both the sections are applicable from 01 July 2021



Relaxation of TDS on dividends

- Section 194 of the IT Act provides for deduction of TDS on payment of dividends to a resident
- Second proviso of section 194 provides that the provisions of this section shall not apply to such income credited or paid to certain insurance companies or insurers
- It is now proposed to extend such exemption under section 194 on the amounts payable to a business trust (InvIT or ReIT) by a specified special purpose vehicle or payment of dividend to any other person as may be notified by the CG
- All these amendments are retrospective in nature and apply from 01 April 2020



New provision of TDS on purchase of goods

- Presently, section 206C(1H) of the IT Act provides for the collection of TCS at the rate of 0.1% from the buyer if the sale to that person in aggregate exceeds INR 5 mn during the FY
- Now, with the view to expand the provisions of deduction of tax at source it is proposed to provide for deduction of TDS @ 0.1% by the person responsible for paying any sum to any resident for purchase of goods u/s 194Q
- TDS is required to be deducted by the buyer only if buyer's gross receipts or turnover during the immediately preceding financial year exceeds INR 100 mn
- No TDS shall be deducted under this section if TDS is already required to be deducted under other provisions or TCS is required to be collected on such transaction
- If TCS is required to be applied as per section 206C(1H) on the transaction, then TDS under this section will apply
- TDS @ 5% will apply if the seller does not provide PAN to the buyer
- The section is applicable from 01 July 2021

TDS on payments made to FIIs

- Presently, section 196D of the IT Act provides for deduction of TDS @ 20% on payments made to FIIs being in the nature of income on securities
- Considering the expression “rates in force” is not mentioned in this section and a rate is expressly specified in section 196D of the IT Act, the benefit of lower rate under the DTAA cannot be given at the time of TDS and this position has also been affirmed by Courts
- Now, it is proposed to amend the provisions of this section to provide that where the FII payee furnishes Tax Residency Certificate of its home country, tax shall be deducted @ 20% or the rate as per DTAA, whichever is lower
- The section is applicable from 01 April 2021



Relaxations for Start Up's

- Presently, the eligible start-ups under section 80-IAC can claim deduction of 100% of the profits for any 3 consecutive years out of the 10 years from the year of incorporation
- However, such startup must be incorporated on or before 01 April 2021
- **Now, it is proposed to extend the relief for the startups incorporated on or before 01 April 2022**
- It is also proposed to extend the time period for claiming exemption of capital gains for investing the consideration arising from the transfer of a residential property which is utilised in subscription of equity shares of an eligible start up
- The time period for claiming such exemption under section 54GB of the IT Act is extended till 31 March 2022



Tax Incentives for units located in IFSC (1/3)

- Section 9A deals with certain activities that do not constitute business connection in India. It is proposed that the CG may specify that any one or more of the conditions that deals with eligible investment fund and which deals with eligible fund manager shall not apply or apply with modifications, if the fund manager is located in IFSC and has commenced operations on or before 31 March 2024
- Exemption of any income accrued or arisen or received by the investment division of an offshore banking unit to the extent attributable to it and computed in the prescribed manner
- The definition of specified fund is amended to include the investment division of offshore banking unit having AIF Category III registration and satisfying the prescribed conditions along with maintaining separate books of investment division
- Income accrued or arisen or received by NR from transfer of non-deliverable forward contracts entered into with an offshore banking unit of IFSC will be exempt provided it starts operation on or before 31 March 2024
- Exemption of income earned by NR by way of royalty on account of lease of an aircraft paid by a unit of IFSC, if the unit is eligible for deduction under section 80LA and commenced operation on or before 31 March 2024

Tax Incentives for units located in IFSC (2/3)

- Exemption of income in the nature of Capital Gains arising to NR, which is through transfer of share of company resident in India by resultant fund and such shares were transferred from original to resultant fund in relocation, if capital gains on such shares were not chargeable to tax if such relocation not took place
- Original Fund is defined as fund established or incorporated or registered outside India which collects funds from members and invest for its members benefits and fulfills certain conditions i.e. the fund is not a resident in India, fund is a resident of country with which India has DTAA, the funds activities are subject to investor protection regulations of the country in which incorporated or such other conditions prescribed
- Resultant Fund is defined as fund established or incorporated in India in the form of trust or company or LLP having certificate of Category I,II or III AIF and is regulated by SEBI and is located in IFSC
- Any transfer in relocation of a capital asset by the original fund to the resultant fund shall not be considered as transfer. Also, transfer by a shareholder or unit holder, in relocation, of a capital asset being a share or unit held by him in original fund in consideration of share or unit in resultant fund shall not be regarded as transfer

Tax Incentives for units located in IFSC (3/3)

- To amend section 115AD to make it applicable to investment division of an offshore banking unit in the same manner it applies to the fund
- These proposals are applicable w.e.f AY 2022-23



Relaxations to Sovereign Wealth / Pension Funds (1/2)

- Exemption provisions introduced by Finance Act, 2020 under section 10(23FE) of the IT Act for SWFs and PFs in respect of dividend, interest and LTCG in respect of specified investments expanded to include the following entities where the investment is made:

Specified Investments	Conditions
Category I/ II AIFs	Category I/ II AIFs to have not less than 50% (earlier it was 100%) investments in eligible infrastructure companies & InvITs
Investment through domestic companies set-up on or after 01 April 2021	Companies have at least 75% investments in one or more infrastructure companies
Investment through NBFC registered as Infrastructure Debt Fund (IDF) / Infrastructure Finance Companies (IFC)	The IDF / IFC to have at least 90% lending to one or more infrastructure companies

Relaxations to Sovereign Wealth / Pension Funds (2/2)

- Additional relaxations for SWFs/PFs to avail exemptions:

Existing condition	Relaxation provided
SWF/PF to not undertake any commercial activity whether within or outside India	SWF/PF to not participate in day to day operations of the investee entity, however, appointing director or executive director for monitoring the investment not to be regarded as participation in day to day operations
PF not liable to tax in the country of residence	Even if PF is liable to tax but exempted from taxation of all the income in the country of residence to be regarded as eligible

- No exemption to an SWF / PF if it has Loans or borrowings by SWF/PF for the purpose of making investments in India. However, benefit passed on to a creator or depositor for loan taken or borrowing other than for the purpose of making investment in India, not to be regarded as benefit available to a private person
- CG may prescribe the manner of computation of thresholds of 50%, 75% and 90%

Rationalization of provisions for transfer of capital asset to a partner on dissolution or otherwise

- Section 45(4) of the IT Act provides that the profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise shall be chargeable to tax as the income of such firm or other association of persons or body of individuals of the previous year in which the said transfer takes place
- The FMV of the asset on the date of such transfer shall be deemed to be the full value of the consideration whereas capital balance in the partners account is taken as cost of acquisition
- However, it has been noticed that the firms has taken the impact of revaluations or self-generated assets in the partner's account
- Now, its is proposed to provide that the balance in the capital account of the partners will be taken into consideration without taking into account any increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset

Other Key Budget Proposals (1/4)

- **Affordable Housing under section 80EEA:-** It is proposed to extend the time period for claiming the deduction for interest on loan taken for certain house properties, provided the loan is sanctioned by the financial institution between 1 April 2019 to 31 March 2022
- **Timeline for Belated / Revised returns reduced further:-** It is proposed to decrease the time line for filing the belated and revised return under the IT Act from the end of the assessment year to 3 months prior to the AY i.e. 31 December
- **Timeline for issuance of intimation for ROI processing reduced:-** It is proposed to reduce the timeline for processing of ROI and sending an intimation in this regard to 9 months from the end of FY in which ROI is filed as against the current 12 months
- **Timeline for issuance of scrutiny notices reduced:-** To expedite the process, it is proposed to reduce the timeline for issuance of notice 143(2) to 3 months from the end of FY in which ROI is filed from the current 6 months

Other Key Budget Proposals (2/4)

- **Scope of processing of ROI under section 143(1) expanded:-** It is proposed to expand the scope for adjustments while processing the ROI (a) adjustment for 'increase in the income indicated in audit report' (b) disallowance of deduction u/s 10AA or specified deductions under Chapter VI-A where ROI is filed with delay
- **Timeline for completion of assessment proceedings reduced further:-** It is proposed to reduce the time limit for completion of assessment proceedings to 9 months from 12 months w.e.f AY 2021-22
- **Slump sale / exchange:-** Currently, there is an ambiguity under the provisions of Slump sale wherein few Courts have taken a view that it includes only sale and not other methods such as Slump exchange under the IT Act. Hence, it is proposed to clarify that the said provisions cover all kind of transfers as defined under section 2(47) of the IT Act of business undertakings
- **Threshold for Tax Audit enhanced:-** The tax audit limit has been increased from INR 50 mn to INR 100 mn, if aggregate amounts from business activities received or paid in cash does not exceed 5% of total

Other Key Budget Proposals (3/4)

- **Provisional attachment of property in case of fake invoices:-** Finance Act 2020 introduced section 271AAD to provide for levy of penalty on taxpayer making false entry or any other person who causes such taxpayer to make the false entry. To avoid revenue leakage, it is now proposed to amend section 281B of the IT Act to provide powers to the Income Tax Department to provisionally attach the property of taxpayers in such cases where the total amount of penalty likely to be imposed exceeds INR 20 mn
- **Faceless proceedings under ITAT:-** In order to make the tax proceedings more transparent and effective and furthermore to reduce the cost of compliance, the government has already notified various Faceless Schemes i.e. Faceless Assessment Scheme, Faceless Appeal Scheme and Faceless Penalty Scheme. It is now proposed to launch a Faceless scheme for the proceedings before Tribunal and detailed notifications will be issued
- **The term 'liable to tax' is defined:-** IT Act uses the term 'liable to tax' in various provisions but same is not been defined in any provisions. It is now proposed to define the same in relation to a person to mean that there is a liability of tax on that person under the law of any country and shall include a case where subsequent to imposition of such tax liability, an exemption has been provided

Other Key Budget Proposals (4/4)

- **LLP is not eligible for Presumptive taxation under Section 44ADA:-** The section deals with presumptive income in case of profession. Earlier there was an ambiguity on the applicability of this section on LLP as the word partnership was included, hence, it is now proposed to clarify that the said provisions do not apply to an LLP
- **Safe harbor on stamp duty value under Section 43CA:-** Increase in Safe Harbor Limit of 10% for home buyers on first time allotment of residential units by real estate developers. This is to boost the demand in real estate sector and help them to liquidate the unsold inventory at lower value. Hence, the threshold is increased from 10% to 20% if the transfer is between the period from 12 November 2020 to 30 June 2021 and the consideration received does not exceed INR 20 mn. A consequential amendment has also been made in section 56(2)(x)
- **No interest under Section 234C on dividend income for the pre declaration period:-** Currently, interest for default in quarterly payment of advance tax is not charged on specified income, where accurate determination of tax liability is not possible. The scope is now extended to cover dividend income as well (except for deemed dividend income)

A close-up photograph of a person's hands working at a desk. The left hand holds a silver pen, and the right hand is positioned over a calculator. The scene is overlaid with a semi-transparent red band containing white text. The background shows a desk with papers and a pair of glasses.

Taxation of individuals and other taxpayers

Relief to senior citizens from filing of the ROI

- Section 139 of the Act provides for filing of return of income under the IT Act by every individual having total income that exceeds the maximum amount not chargeable to tax
- In order to ease of compliance burden in case of senior citizens who are of the age of 75 years or above, a new section 194P is proposed to be inserted to exempt filing of ROI in such cases if such senior citizen has:-
 - only pension income or pension income with interest income from the same bank where he is receiving the pension income
 - furnished a declaration to the specified bank in the manner to be prescribed
- Such specified bank has deducted the TDS on the income after considering the deductions under chapter VI-A and section 87A of the IT Act



Other Key Budget Proposals (1/2)

- **Removal of Double taxation in case of Specified accounts:-** There is a difficulty in cases where NRI's opened specified retirement benefits accounts in foreign countries where income from such accounts get taxed in India on accrual basis and foreign county on receipt basis. Hence, it is proposed to provide a mechanism to remove such double taxation through section 89A
- **Delayed deposit of Employee's PF contribution:-**
 - Under the IT Act, share of employee's contribution to labour funds such as EPF, ESIC etc. is first added to the taxable income of the employer and post that the employer is allowed deduction provided such amount is deposited by the due dates prescribed under the respective statute. Various High Courts have taken a liberal view that the said employee contribution are also allowable as per section 43B if the same are deposited by the due date of filing the ROI by the employer.
 - The Government is not agreeing with the above view as the employees lose interest on such delayed contributions, hence, it is proposed to clarify that section 43B does not apply to the employee's share of contribution and hence, it may result in a permanent addition in the hands of employer in case of any delays

Other Key Budget Proposals (2/2)

- **Interest from Provident Fund:-** As per section 10(11) and (12), payment received from a provident fund to which provident fund act applies are exempt. It is now proposed to insert a restriction which provides that any interest income accrued in the said funds on the principal exceeding INR 2.5 lakhs shall be taxable
- **Exemption for Leave Travel Concession Cash Scheme:-** It is proposed to insert legislative amendment for giving effect to the recently introduced LTC cash scheme which is allowed subject to certain conditions:
 - Purchase of goods/ services between 12 October 2020 to 31 March 2021 which are liable to GST at 12% or above
 - Amount of exemption shall not exceed INR 36,000 per person or one-third of the specified expenditure, whichever is less
- **Prefilled returns to be available:-** As per the announcements made by the Hon'ble FM, pre-filled returns would be available going forward with much more details such as Capital gains from listed securities, interest income from banks, Dividend income etc. for ease of compliance burden on taxpayers



Goods and Services Tax

Availment of input tax credit on invoice and debit note made subject to GSTR-2A

- Section 16(2) of the CGST Act is proposed to be amended by inserting a new clause (aa) as an additional condition for availing input tax credit
- As per the newly inserted section 16(2)(aa) of the CGST Act, input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note have been furnished by the supplier in the GSTR-1 and such details have been communicated to the recipient GSTR-2A
- Prior to the amendment there were disputes surrounding the legal sanctity on matching input tax credit with GSTR-2A. It will be critical to keep a watch on whether the amendment would can be interpreted to imply that matching of input tax credit was not required prior to the amendment. The validity of matching input tax credit is already sub-judice before the High Court of Rajasthan and High Court of Delhi

Self-certification of GST Annual Returns

- Section 44 of the CGST Act has been proposed to be substituted to provide that every tax payer (other than an ISD, a person paying tax under section 51 or section 52, casual taxable person and non-resident taxable person) shall furnish an annual return which may include a self-certified reconciliation statement (reconciling the value of supplies declared in the return furnished for the FY with the audited annual financial statement) for every FY electronically
- Section 35(5) of the CGST Act which provides for submission of audited financials and the reconciliation statement certified by specified professional has been proposed to be omitted

Zero-rated Supplies only against LUT

- Section 16 of the IGST Act has been proposed to be amended to provide that supply of goods or services only for *authorised operations* to SEZ Unit or SEZ Developer will qualify as zero-rated supplies
- Zero-rated supply on payment of tax will only be allowed to notified taxpayers or notified goods / services
- Section 16(4) is proposed to be inserted which provides that a taxpayer will be liable to deposit the amount of input tax credit received as refund in case of failure to realise the sale proceeds for zero-rate supply of goods within the 30 days from the date of expiry of time limit prescribed under FEMA Act
- The Budget of 2020-21 had inserted a condition vide rule 96B for grant of refund subject to realisation of export proceeds within the time limit prescribed under FEMA Act. The condition was only prescribed under Rules however, there were no enabling provisions in the Act.

Services provided to members

- Section 7(1)(aa) of the CGST Act has been proposed to be inserted to provide that activities or transactions, by a person (other than an individual), to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration has been deemed as supply. Consequentially, para 7 of schedule 2 has been proposed to be removed from the CGST Act
- An explanation has also been proposed to be inserted which provides that the section will have effect notwithstanding that any rulings of the court which are contrary to the proposed section
- The amendment intends to overrule various advance authority rulings (*refer Lions Club Of Poona Kothrud, Rotary Club of Mumbai Nariman Point etc.*) which have held that membership to the extent that it pertains to administrative expenses is not a supply under GST
- The amendment is proposed to be retrospective w.e.f. 01 July 2017

Power of provisional attachment expanded

- Section 83 of the CGST Act has been proposed to be amended to provide that power of provisional attachment shall remain valid for the entire period starting from the initiation of any proceeding upto 1 year from the date of order
- The proposed section empowers provisional attachment from initiation of proceedings from earlier pendency of proceedings
- The coverage of provisional attachment has been expanded to cover all proceedings of Assessment; Inspection, Search, Seizure and Arrest; and Demands and Recovery [*earlier it was restricted proceedings under non-filers assessment, Unregistered Dealer assessment, summary assessment or section 73 or section 74*]

Seizure Proceedings

- Section 129(1) of CGST Act is proposed to be amended to increase penalty from
 - 100% to 200% of tax amount where owner of goods comes forward
 - “50% of value of goods reduced by amount of tax or 100% of tax amount, whichever is higher” to “50% of value of goods or 200% of tax amount, whichever is higher” where owner of goods does not come forward
- Section 129(3) is proposed to be substituted to provide that a notice shall be served within 7 days of detention and order shall be passed within 7 days from date of service [*earlier no time limit was prescribed for issuance of notice or issuance of order*]
- Section 129(6) is proposed to be amended to provide for sale or disposal of goods or conveyance in case of failure to pay penalty within 15 days
- Pre-deposit for appeal to Appellate Authority against order passed under section 129(3) of the CGST has been proposed to be increased from 10% to 25% of the penalty amount

Confiscation Proceedings

- Section 130 of the CGST Act is proposed to be amended to remove “*Notwithstanding anything in this Act*”
- Section 130(2) of the CGST Act is proposed to be amended to provide for penalty equal to 100% of the tax payable on such goods
- Section 130(3) of the CGST Act is proposed to be omitted
- Explanation to section 74 of the CGST Act is proposed to be amended to provide that proceedings to be concluded under section 73(5) of the CGST Act / section 74(5) of the CGST Act will not include proceedings under section 129 and section 130 [*earlier voluntary payment would also result in conclusion of detention, seizure and confiscation proceedings*]

Other changes

- Proviso to section 50(1) of the CGST Act has been proposed to be substituted w.e.f. 01 July 2017. The amendment will codify the intent of the legislature as explained in Circular no. CBEC- 20/01/08/2019-GST dated 18 September 2020
- Explanation to section 75(12) of the CGST Act has been proposed to be inserted to expand the scope of "*self-assessed tax*" to include the tax payable in respect of details of outward supplies furnished in GSTR-1 but not included in the return furnished under GSTR-3B
- Section 151 of the CGST Act has been proposed to be amended to empower the Commissioner to call for information from any person relating to any matter dealt with in connection with the CGST Act. Section 152 of the CGST Act has been proposed to be amended to provide opportunity of being heard before using the information collected under section 150 or section 151 of the CGST Act.



Customs Law

Agriculture Infrastructure and Development Cess

- Levy and collection of Agriculture Infrastructure and Development Cess (AIDC) on imported goods for the purposes of financing the agriculture infrastructure and other development expenditure
- Value shall be calculated in the same manner as calculated for customs duty under section 14 of Customs Act
- The BCD rates have been simultaneously lowered on items on which cess is being imposed (refer next slides for change in rates)
- Social Welfare Surcharge (SWS) would be levied on AIDC. Exemption from SWS on AIDC has been given to gold and silver.
- The AIDC shall also be levied and collected on goods manufactured or produced
 - INR 2.50 per litre for Motor spirit commonly known as petrol and INR 4.00 per litre for High speed diesel
 - Special Additional Excise Duty and Excise Duty reduced to counter the imposition of AIDC

Agriculture Infrastructure and Development Cess

S. no.	HSN	Commodity	BCD	AIDC
1	0808 10 00	Apples	15% / 35%*	35%
2	1511 10 00	Crude Palm Oil	15%	17.50%
3	1507 10 00	Crude Soya-bean oil	15%	20%
4	1512 11 10	Crude Sunflower seed oil	15%	20%
5	0713 10	Peas (Pisum sativum)	10%	40%
6	0713 20 10	Kabuli Chana	10%	30%
7	0713 20 20	Bengal Gram (desichana)	10%	50%
8	0713 20 90	Chick Peas (garbanzos)	10%	50%
9	0713 40 00	Lentils (Mosur)	10% / 30%*	20%
10	2204	All goods (Wine)	50%	100%
11	2205	Vermouth and other wine of fresh grapes, flavoured	50%	100%

Agriculture Infrastructure and Development Cess

S. no.	HSN	Commodity	BCD	AIDC
12	2206	Other fermented beverages for example, Cider, Perry, Mead, sake, mixture of fermented beverages or fermented beverages and non-alcoholic beverages	50%	100%
13	2208	All goods (Brandy, Bourbon whiskey, Scotch etc.)	50%	100%
14	2701	Various types of coal	1%	1.50%
15	2702	Lignite, whether or not agglomerated	1%	1.50%
16	2703	Peat, whether or not agglomerated	1%	1.50%
17	3102 10 00	Urea	Nil	5%
18	3102 30 00	Ammonium nitrate	2.50%	5%
19	31	Muriate of potash, for use as manure or for the production of complex fertilisers	Nil	5%
20	3105 30 00	Diammonium phosphate, for use as manure or for the production of complex fertilisers	Nil	5%

Agriculture Infrastructure and Development Cess

S. no.	HSN	Commodity	BCD	AIDC
21	5201	Cotton (not carded or combed)	5%	5%
22	7106	Silver (including imports by eligible passengers)	7.50%	2.50%
23	7106	Silver Dore	6.10%	2.50%
24	7108	Gold (including imports by eligible passengers)	7.50%	2.50%
25	7108	Gold Dore	6.90%	2.50%

**goods originating from USA*

Common Customs Electronic Portal

- Section 154C is proposed to be inserted for notification of a common portal. The portal is for facilitating registration, filing of bills of entry, shipping bills, any other document / form, payment of duty and for carrying out other functions as may be specified.
- Section 2(7B) has been proposed to be inserted to provide that Common Customs Electronic Portal shall be common portal for Customs under section 154C
- Third Proviso to section 149 has been proposed to be inserted to allow amendment of documents by importer or exporter on the Common Portal
- Section 153(1)(ca) is proposed to be inserted in the Customs Act to enable service of order, summons, notice, etc. by making it available on the common portal

Exemption notifications to be valid for 2 years

- Section 25(4A) is proposed to be inserted to provide that any conditional exemption (unless otherwise specified or varied or rescinded) shall only be effective be valid upto 31st day of March falling immediately after 2 years from the date of such grant or variation
- It is also proposed that any exemption notifications which are in force as on date of assent of this Finance Bill 2021, the said period of 2 years shall be counted from 01 February 2021

Time limit for completion of investigation

- Section 28BB is proposed to be inserted which provides a time limit of 2 years for issuance of notice under section 28(1) or section 28(4) from the date of initiation of audit, search, seizure or summons
- The time limit can be extended for a period of 1 year for sufficient cause and reasons to be recorded in writing by the Principal Commissioner or Commissioner
- Period during which the stay was granted or time taken for seeking information from overseas authority through legal process shall be excluded
- The time limit will not apply to proceedings initiated prior to the date on which the Finance Bill, 2021 receives assent of the President

Strengthening of penalty provisions

- Section 113 is proposed to be amended to insert clause (ja) which provides for confiscation of goods exported under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of any law in force
- Section 114AC is proposed to be inserted to provide for imposition of penalty not exceeding 5 times the refund claim in cases where the input tax credit utilised for discharge of duty is availed on invoices obtained by fraud, collusion, wilful misstatement. Input tax credit has been defined as provided under GST Act.

Customs (ICGR) Rules, 2017

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

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

Other changes

- Section 46 of Customs Act is proposed to be amended to revise the time limit of presenting bill of entry from *end of next day following* the day of arrival of vessel to atleast *one day prior* to the day of arrival of vessel
- Section 110(1D) has been proposed to be inserted to provide that where any goods seized is gold in any form, the Proper Officer shall make an application to the Commissioner (Appeal) instead of Magistrate for certifying the correctness, taking photographs and drawing samples.
- Anti-abuse measures strengthened to allow provisional assessment in cases of anti-circumvention investigation and to provide that final findings are to be issued by the Designated Authority, in review cases, at least 3 months prior to expiry of duty [w.e.f. 01 July 2021]

Tariff & Rate changes

- BCD increased to 15% from 12.5% on compressors for refrigerator equipment and air-conditioning equipment
- BCD increased to 15% from 10% on parts of automobiles including safety glass
- BCD increased to 5% from 2.5% on denatured ethyl alcohol (ethanol) for use in manufacture of excisable goods
- BCD increased to 15% on all goods under chapter 23 (*cover residues and waste from the food industries; prepared animal fodder*) except dog and cat food and shrimp larvae feed
- BCD increased to 5% from 2.5% on copper scrap
- BCD increased to 7.5% and 2.5% from NIL on Tunnel boring machines and Parts and components for manufacture of tunnel boring machines with actual-user condition respectively
- BCD increase to 2.5% from NIL on inputs or parts for manufacture of cellular mobile phone [w.e.f. 01 April 2021]
- BCD increased to 10% / 15% from NIL on parts of charger of cellular mobile phones [w.e.f. 01 April 2021]

Tariff & Rate changes

- BCD increased to 2.5% from NIL on inputs or raw materials of Lithium-ion battery or battery pack [w.e.f. 01 April 2021]
- BCD increased to 10% from 5% on inputs and parts of LED lights or fixtures including LED Lamps
- BCD increased to 20% and 15% from 5% on solar lanterns or solar lamps and solar inverters respectively
- BCD increased to 15% from 5% on parts of electronic toys for manufacture of electronic toys
- BCD reduced to NIL from 2.5% on iron and steel scrap, including stainless steel scrap [upto 31 March 2022]
- High Speed Rail Projects is included in Project Imports Scheme

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Thank you