K C Mehta & Co.

Chartered Accountants

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DIRECT TAX

INDIA BUDGET 2022

FROM FREEDOM TO SELF RELIANCE

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1 Tax Rates

Corporates

There has been no announcement for change in tax rates for Corporates. New manufacturing companies incorporated on or after October 1, 2019 continue to be eligible to a reduced tax rate of 15% with a relaxed requirement of commencing of manufacturing or production on or before 31 March 2024 as opposed to 31 March 2023 as was initially provided for in section 115BAB. This effectively would provide sufficient time for new companies whose plans to set up manufacturing facilities have been hit due to Covid-19 pandemic.

Foreign dividends

It is important to note that the concessional tax rate of 15% on foreign dividends is proposed to be abolished and thereby any dividend declared, distributed or paid on or after April 1, 2022 shall attract normal rate of tax. Further, in absence of any mechanism to provide for underlying tax credit, it may result in additional cost subject to benefit of section 80M provided such dividends are distributed further.

Individuals

On the personal tax front, no change is proposed to the slab rates and the graded surcharge mechanism (ranging from 0 to 37%) continues. However, an amendment has been provided to surcharge rates which are now capped at 15% in case of long-term capital gains. This move is in line with the surcharge rates for listed securities and dividend income.

Association of Persons

To streamline taxability of Association of Persons in line with that of companies, the rate of surcharge has now been capped at 15% where all members of the AOP are companies. This would be relevant for consortiums being taxed as AOP.

Co-operative Societies

Surcharge rates have also been rationalized for co-operative societies and now a rate of 7% is proposed as surcharge for co-operative societies with income of less than INR 10 crore. Further, the rate of Alternate Minimum Tax for co-operative societies is also brought down from 18.5% to 15% to keep it in line with the rate of MAT for companies.

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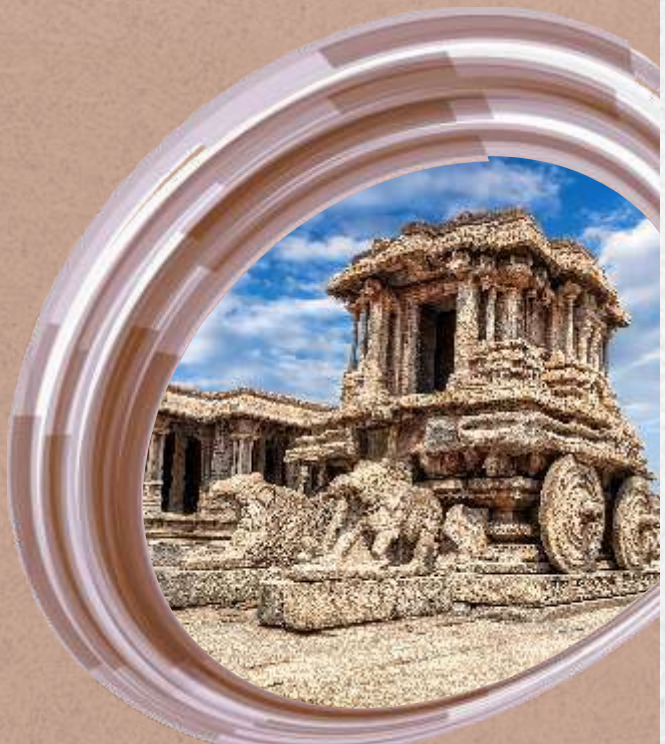

2 Tax Incentives to Start-up

In Finance Act, 2021, the time limit for incorporation of eligible start-up was extended till April 1, 2022 for the purpose of determining eligibility for claiming deduction u/s 80-IAC. The Finance bill further proposes to extend the said period of incorporation by one year i.e. till March 31, 2023. This is aimed at promoting the eligible start-ups after factoring the delay in setting up such units due to COVID-19 pandemic.

3 Business Deductions

Expenditure in relation to exempt income

Section 14A of the Act provides for disallowance of any expenditure incurred in relation to earning of exempt income. Applicability of section 14A of the Act in cases where the Assessee has not earned any exempt income during particular financial year has remained a matter of prolonged litigation and conflicting rulings are available on the same.

In order to make the intention of the legislature clear and to make the section free from misinterpretation, Explanation to section 14A is proposed to be inserted providing an overriding effect and deeming the provision applicable even to cases where exempt income has not accrued or arisen or received during the financial year and expenditure has been incurred during the said year for earning such exempt income.

Disallowance of certain expenses

Section 37 of the Act inter-alia provides non deduction of certain types of expenditure. Explanation to said section provides that any expenditure incurred by the Assessee for any purpose which is an offence, or which is prohibited by law is not deductible while computing the business income. There are certain litigation as to whether such explanation would covers compounding fees for any offence in or outside India or penalty or fine paid for violation of law

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outside India. There are also contrary decisions on the allowability of certain benefit paid as business deduction which are paid in violation of law/ rule/guideline which prohibit the receiver to accept such amount. The provision has been amended to clarify that no deduction u/s.37 is allowable in respect of expenditure incurred by the Assessee for any purpose which is an offence, or which is prohibited by law shall include any offence which is prohibited under the law of India or outside India including expenditure for compounding of offence under the law for the time being in force in India or outside India . It has also been provided that any expenditure incurred to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, is also not allowable as deduction.

Since such amendment is made by way of clarification, it is disputed to challenge its applicability to pending tax proceeding before tax officer or appellate authorities. .

Allowability of surcharge and cess

Currently there is an ambiguity with respect to allowability to claim surcharge and cess paid on income tax while computing business income. Though it is highly litigative to claim such amount as business deduction, certain High Courts have taken contrary view on the subject and allow the same as business deduction. In order to remove such ambiguity, the Bill proposed amend provision of section 40(a)(ii) of the Act retrospectively w.e.f. AY 2005-06 to provide that surcharge or cess paid on income tax is not allowable as business decision.

Deductibility on payment basis

Section 43B allows deduction in respect of interest on certain loan or borrowing only on payment basis. The section also provides that if such interest is converted into loan or advances it shall be not treated as payment of interest for the purpose of section 43B of the Act. The Bill provides that even if such interest is converted into other form of liability i.e. debenture or any other form in which liability to pay is deferred to a future date, such interest is not allowable as deduction u/s.43B at the time of such conversion.

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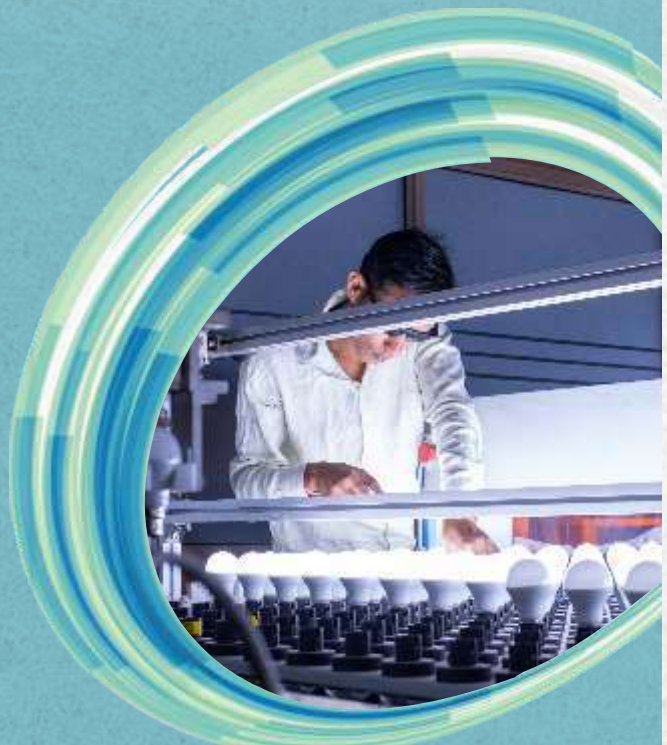

4 Capital Gains

Section 94 of the Act contains anti avoidance provisions to deal with transactions in securities and units of mutual fund which, inter-alia, include provisions of dividend stripping and bonus stripping

However, the current provisions of sub-section (8) of section 94 of the Act do not apply to bonus stripping undertaken in case of securities. It is also not applicable to units of Infrastructure Investment Trust (InvIT) or Real Estate Investment Trust (REIT) or Alternative Investment Funds (AIFs).

In view of the above, it is proposed to amend sub-section (8) of section 94, pertaining to the prevention of tax evasion through bonus stripping, so as to make the said provision applicable to securities as well.

5 Taxation of Virtual Digital Assets (VDA)

Provisions are proposed to be introduced to provide a tax rate of 30% on income arising from transfer of virtual digital asset. It is also proposed that while computing the taxable income from transfer of digital virtual asset, no deduction of any expenditure (except cost of acquisition) or allowance or set off of any loss shall be allowed. Further, loss arising from transfer of virtual digital asset shall not be set off against any other income and also cannot be carried forward to the future assessment year. Provisions have also been introduced to tax VDAs received for Nil / Inadequate consideration by including VDAs within the definition of the term “property”.

Further, withholding tax provisions have been introduced mandating a TDS @ 1% on consideration for transfer of VDA with a limit of INR 10,000 per financial year. Further, in case of non-cash or partially cash consideration, a responsibility is cast on the buyer to ensure payment of taxes by seller before discharging consideration. Certain relaxations have been provided in case of individual payers (like higher threshold of INR 50,000). These provisions shall override provisions of section 194-O pertaining to e-commerce operators.

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6 Tax Incentives for IFSC

The Government has continued with its efforts for providing further tax incentives to IFSC and has accordingly proposed certain incentives. Following income of a non-resident shall be considered tax exempt:

- Income from transfer of offshore derivative instruments or OTC derivatives entered with an OBU of an IFSC
- Royalty or interest on account of lease of a ship, paid by a unit in IFSC provided the Unit commences operations on or before 31 March 2024
- Income from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of non-resident, in an account maintained with OBU in IFSC

Receipt of excess consideration on issue of shares (which is otherwise taxable in case of a private company) shall now not be taxed in cases of Category I and II AIFs regulated under IFSCAA. Deduction under section 80LA has now been extended to income from transfer of ship leased by a unit in IFSC.

7 Mergers and Acquisitions

Amalgamation, merger and de-merger requires applicable Court approval and therefore there is a time gap between the filing of application for such business re-organisations and final court order. In certain judicial decisions, the judiciary has held the assessment order passed in the name of amalgamating company is not valid since at the time of passing of such order such entity is already merged with amalgamated company though assessment was started in the name of amalgamating company. In order to nullify such position, the Bill proposed to provide that any assessment re-assessment or any other proceedings made in the name of amalgamating/ demerged entity during the pendency of such business re-organisations before the Court is deemed to be made in the name of amalgamated/ resulting company.

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It has also been provided that in case of such re-organisations, amalgamated/resulting company is required to file modified return as specified within 6 months from the end of the month in which order of Court with regards to re-organisation is issued.

In addition to the above, certain consequential amendments / clarifications have been provided to the definition of slump sale and to the provisions of computing short term capital gains on account of adjustment of Goodwill pursuant to the amendments brought in by Finance Act 2021. These are only consequential and do not alter the technical position.

8 Covid-19 related measures for individuals

Exemption of amount received for medical treatment and on account of death due to COVID-19

The Finance Ministry vide Press Release dated June 25, 2021, had announced that any sum paid by the employer in respect of any expenditure incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 shall not be subject to tax. The Finance bill proses to incorporate the same in the law which will be applicable from FY 2019-20 and subsequent years. It will be subject to conditions, as may be notified by the Central Government.

Non-taxability Clause 16 of the Finance Bill 2022 – amendment in section 56(2)(x) of the Act

In order to provide tax relief to COVID-19 affected individuals, the Bill has proposed following amendments:

- Where any sum of money is received by an individual, from any person, in respect of expenditure actually incurred by such individual on his medical treatment or the treatment of his family member, in respect of COVID-19, it shall not be treated as income u/s.56(2) of the Act. However this is subject to fulfilment of certain condition as yet to be prescribed by CBDT.

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- Where any sum of money is received by a family member of a deceased person, from the employer of such deceased person – full amount received shall not be treated as income
- Where any sum of money is received by a family member of a deceased person, from any other person – amount or aggregate amount not exceeding INR 10 lakhs shall not be treated as income

Exemption in respect of amount received on death of the person is subject to the condition that cause of death of such person is illness related to COVID-19 and the payment is received within 12 months from the date of death.

9 Updated Tax Return

In order to provide for situations wherein the taxpayer gets information about certain transactions at a later point in time, sub-section (8A) is proposed to be inserted to provide for filing of 'updated return' of income whether he has filed a return of income previously or not. This would facilitate ease of compliance to the taxpayer in a litigation free environment. The time limit for filing the updated return of income is 24 months from the end of the relevant assessment year.

The section also provides that no updated return cannot be filed in case of loss return or which has the effect of decreasing the total tax liability or results in refund or increasing the refund due on the basis of original or revised or belated return.

Further, section also carve out certain situations where updated return cannot be furnished (for e.g. in the cases of search, survey, years where assessment or reassessment proceedings are pending or completed, prosecution, etc.)

Section 140B is proposed to insert in the Act to provide for payment of tax pursuant to filing of updated tax return under section 139(8A) of the Act. The said section provides two scenarios for making tax payment. One, where return of income is furnished, and second no return of income is furnished. This section requires the Assessee to make the payment of tax along with interest and fee payable under the Act along with payment of additional tax, before filing a return of income.

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The said section also provides the meaning of the term 'additional income tax' as follows:

- 25% of the aggregate of tax and interest payable if updated return is furnished before completion of twelve months from the end of the relevant assessment year;
- 50% of the aggregate of tax and interest payable if updated return is furnished after the expiry of twelve months but before the expiry of twenty four months from the end of the relevant assessment year.

Further, it is also clarified that additional income tax shall also include surcharge and cess. Consequential changes have also been proposed to section 234A, 234B and 234C.

10 TDS Provisions

Transfer of Immovable Property

Section 194-IA of the Act delas with deduction of tax at source from payment on transfer of certain immovable properties. As per the said section, tax is required to be deducted at the rate of 1% of the actual amount of consideration. However, in certain situations, stamp duty value is required to be considered for computing income from transfer of such immovable property. Hence, in order to remove such mismatch, section 1944-IA is proposed to amend to provide that tax shall be deducted on amount of actual consideration or stamp duty value, whichever is higher.

Benefit or perquisite taxable under section 28(iv)

As per section 28(iv), the value of any benefit or perquisite (whether convertible into money or not) arising from business or exercise of profession is taxable as business income. In order to safeguarded and monitor the taxability of such item in the hands of resident taxpayer, the Bill proposed to insert Section 194R to provide deduction of tax on such income by the payer (excluding individual/HUF not subject to tax audit in preceding year) of such income @ 10% on the value or aggregate value of such benefit or perquisites in excess of INR 20,000. It is also provided that where

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benefit or perquisite is partly in cash or partly in kind or fully in kind, then payer has to ensure that tax due in respect of benefit or perquisite has been paid in case the cash payment is not sufficient to meet such TDS liability.

Higher tax deduction in case of non-filers

Section 206AB of the Act provides for higher deduction of tax in certain circumstances and in case of specified person. Such specified person is defined to mean any person who has not filed the return of income of both the two previous years immediately preceding to the financial year in which tax is required to be deducted and for which the time limit for filing the return of income is expired. In order to widen the tax base, it has been proposed to reduce the requirement of filing a return of income from two years to one year. Further such one year shall be in respect of latest return of income for which due date of its filing has been expired and the aggregate value of TDS is Rs.50,000 or more. It has been also provided that provisions of section 206AB shall not be applicable in case of individual and HUF for deducting tax under section 194-IA, 194-IB and 194M of the Act.

Similar amendment is also made under section 206CCA of the Act which deals with the collection of higher TCS.

Refund of TDS under a Gross up arrangement

Section 239A is proposed to be inserted in the Act to provide and enable a person responsible for withholding tax under a grossing-up arrangement to obtain a refund of the taxes so withheld, where such person claims that no tax was required to be withheld. Application for claiming refund should be submitted within 30 days of payment of the taxes and the Assessing Officer is required to pass an order within 6 months from the end of month of receipt of application.

In absence of any such provision, earlier the payer only had a recourse to file an appeal under section 248 of the Act. With introduction of the new provision, section 248 shall no longer be applicable.

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11 Rationalisation of provisions related to Assessment and Reassessment

The Finance Act, 2021 overhauled the entire the procedure for re-assessment of income in the Act with effect from the April 1, 2021 by modifying the provisions of sections 147, 148, 149 and insertion of section 148A. Under the existing provision, the case can be re-opened if any information is flagged in the case of an assessee in risk management strategy formulated by CBDT or there is any final objection raised by C&AG that relevant assessment is not made in accordance with the provision under the Act. The Bills proposes to include further information viz. a) audit objection b) information received under any DTAA c) information available with the AO under faceless collection information u/s.135A and information which requires an action in consequence of the order of Tribunal or Court as the basis for selection of case for reassessment.

Further under the existing provision of the Act, for re-opening of case for assessment beyond 3 years period, it requires existence of books of account or other document or evidence which reveal that income chargeable to tax which has escaped assessment should be represented in the form of asset for an amount of Rs.50 lacs for that year. The Bill proposes to substantially expand such scope to include further information relating to any expenditure in respect of any transaction or event or any entry found in books of account which has escaped such assessment. Further the limit of Rs.50 lacs for such escaped income should be counted on agreement basis in respect of assessment years for which notice for reassessment is required to be issued beyond period of 3 years (but not more than 10 years).

For issuing notices u/s 148 where it is deemed that the income chargeable to tax has escaped assessment in cases of search or survey or requisition, it is proposed to remove the restriction

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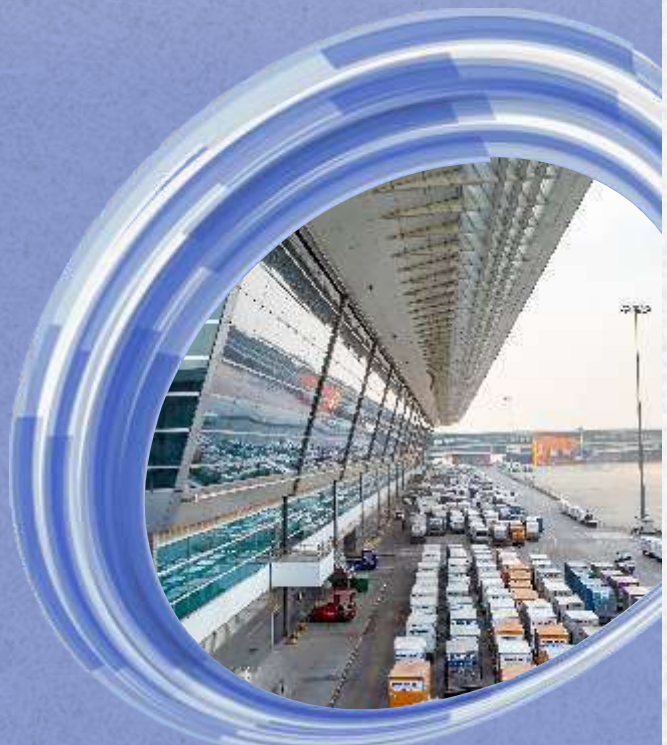

of time limit of 3 years preceding the year of such search or survey or requisition. Hence the notice can be issued beyond 3 years subject to time limit provided u/s 149 in case of search and survey cases without proving the existence of any information relating to escapement of income.

12 Amendment to procedure for conducting Faceless Assessment

The Finance bill proposes to modify the existing Faceless Assessment Procedure for resolving the difficulties faced by the taxpayers and administration in its implementation so as to streamline the overall process. Following are important changes;

- Transfer Pricing Assessment to be faceless - detailed guidelines can be issued on or before 31.03.2024
- Faceless assessment now covers reassessment cases u/s.147
- Reply to first notice u/s.143(2) for faceless assessment can be made within specified time (instead of 15 days)
- Technical unit to carry out determination of Arm's Length Price
- Assessment unit to prepare income or loss determination proposal (instead of draft assessment order) before finalising assessment
- Draft Assessment order can be prepared only after getting direction from NFAC
- NFAC has power for to give directions for special audit u/s.142(2A)
- Assessee can now file submission through electronical verification code or by logging into his registered account in addition to existing mechanism of digital signature.
- Specific provision to treat assessment as void in view of non-following of faceless assessment procedure has been removed

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13 Amendments relating to Trusts

In order to have more accountability on Trust and to disincentive various misuse of provisions under the Act, the Bill has made various changes with regards to taxation of Trust claiming exemption u/s.11.

Now only paid expenditure shall be regarded as application of income. The accrued expenditure/ liability shall be regarded as application of income only in the year of its actual payment. The Trust is now required to maintain books of account in such form and at place as to be prescribed by CBDT. More power has been given to the Principal CIT to cancel the registration of Trust under the Act in various situation where the activity of the Trust is not managed or there is misuse of Trust's fund.

Further there was an ambiguity with regard to taxation of income of the Trust when various condition relating to its exemption is violated. The Bill provides detailed provision for each of such violation for taxing such income up to 30% including heavy penalty in certain cases.

Trust can now opt to treat the voluntary donation received for the purpose of renovation of temple, mosque, gurdwara, charge and other notified place as Corpus of the Trust provided such corpus is apply only for such purpose and does not apply for making donation to any person. Further the Trust is required to maintain separate identify of such corpus and the amount thereof remains to be invested in form specified u/s.11(5). Any unused accumulated fund u/s.11(2) shall become taxable in 5th year of its accumulation instead of 6th year currently.

Similar amendments have been made in respect of provision of section 10(23C) which allows exemption to specified funds, educational institution, medical institution etc. to make such provision in line with exemption provided to charitable and religious trust. Considering the above changes, it is advisable that every trust need to reassess its position with regard to compliance with all the applicable conditions under the Act in order to avoid any adverse impact in view of the above changes.

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14 Other Amendments

Loss of Public Sector Companies

The Finance Bill proposes to allow the carry forward and set off of losses to erstwhile public sector company even after change in the shareholding of more than fifty one percent if such change is on account of strategic disinvestment by the central or state government. It is subject to the condition that the ultimate holding company of such erstwhile public sector company continues to hold at least fifty-one per cent of the voting power of such company in aggregate, directly or through its subsidiary or subsidiaries immediately after the completion of strategic disinvestment. It is further proposed to provide that when the said condition is not complied with in any previous year, the section shall apply for that and subsequent previous years.

Taxability of unexplained amounts

Section 68 of the Act deals with the taxability of unexplained amount credited in the books of account of the Assessee. Currently an assessee is required to give explanation about the nature and source of such amount received from person to prove its genuineness. It is only in case of receipt of share application money by a closely held company, it also needs to provide the source of such amount in the hands of shareholders. There are plethora of decisions wherein it was held that the borrower is not required to provide explanation relating to source of source in the hands of the lender.

In order to reduce the practice of conversion of unaccounted money through masquerade of loan or borrowing, in line with provision relating to share application money, it has been provided that the borrower is also required to prove the source of income in the hands of lender in respect of money given by him to escape from the taxability u/s.68 of the Act.

Undisclosed Income and set off of loss

The Finance Bill proposes to restrict the set off of any loss or unabsorbed depreciation against undisclosed income detected consequent to search & seizure or survey or requisition proceedings under the Act from AY 2022-23.

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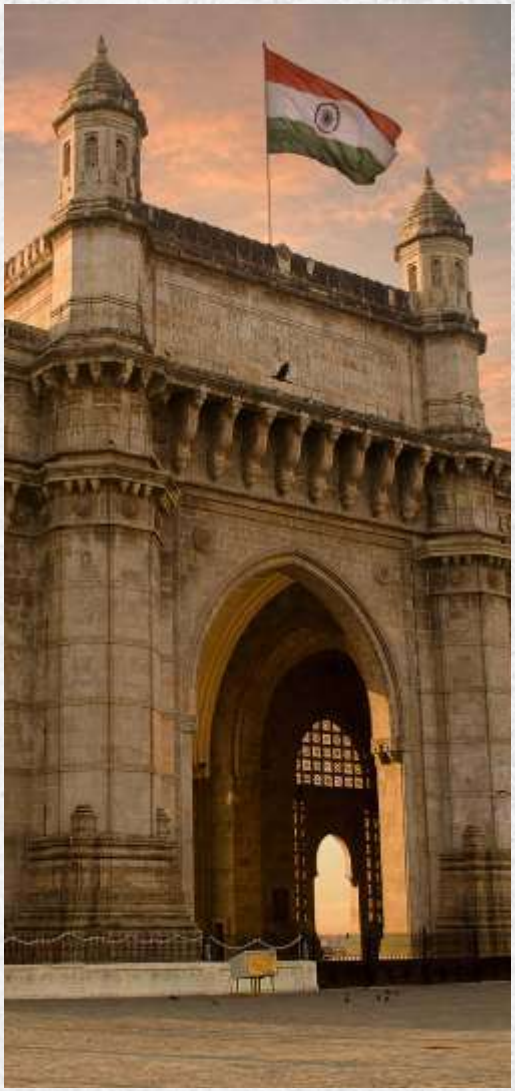
Tax Demand in IBC Cases

In the case of business reorganizations, there is a possibility that prescribed court or tribunal or authority, as part of restructuring process and to ensure the revival of sick entities in future, may modify the demand created under the various proceedings of the Act. However, under the existing provisions of the Act, there is no mechanism to reduce such demands from the records of outstanding demand maintained by the tax department. Hence, this section is proposed to be introduced in the Act to provide that assessing officer shall modify the demand payable in conformity with the order passed by the prescribed court or tribunal or authority and serve a revised notice of demand to the taxpayer.



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INDIRECT TAXES

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Goods and Services Tax

[All proposals shall be effective from a date to be notified post President's assent to the Finance Bill – except wherever expressly provided]

- Section 16 of the CGST Act is proposed to be amended to increase the time limit for availing Input Tax Credit ('ITC') from filing of return for the month of September succeeding the next financial year to which an invoice or debit note relates to 30th November of the subsequent Financial Year.
- Amendment in Section 38 of the CGST Act is proposed that a registered person shall be entitled to avail the ITC of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger ('ECL') subject to the restrictions and conditions as may be prescribed. This section earlier allowed ITC on provisional basis which is now done away with.
- Section 34 has been proposed to be amended to allow time limit for issuing credit note till 30 November of subsequent financial year from erstwhile time limit September of subsequent year.
- Amendment in Section 41 of CGST Act has been proposed to prescribe conditions to claim ITC wherein the supplier shall be required to correctly discharge tax liability along with filing of the return within the prescribed time limit. Non-compliance by the supplier shall require reversal of ITC along with interest at the applicable rate by the recipient. Post successful payment of tax by the supplier, the recipient would be allowed to re-claim ITC.
- Extension of the cutoff date from filing of return for the month of September to 30 November for any rectification/amendment of the documents /details in GSTR -1 & GSTR-3B under Section 37 & 39 of the CGST Act, respectively.
- Sections 37(4) and 39 (10) of CGST Act have been proposed to be amended to provide that non-furnishing of GSTR -1 for past periods shall restrict filing of GSTR 1 and 3B for the subsequent periods
- Section 29 of CGST Act is proposed to empower Proper Officer to cancel GST registration of a dealer under composition scheme for non-filing of return from three consecutive period after filing of annual return (earlier it was for three months).

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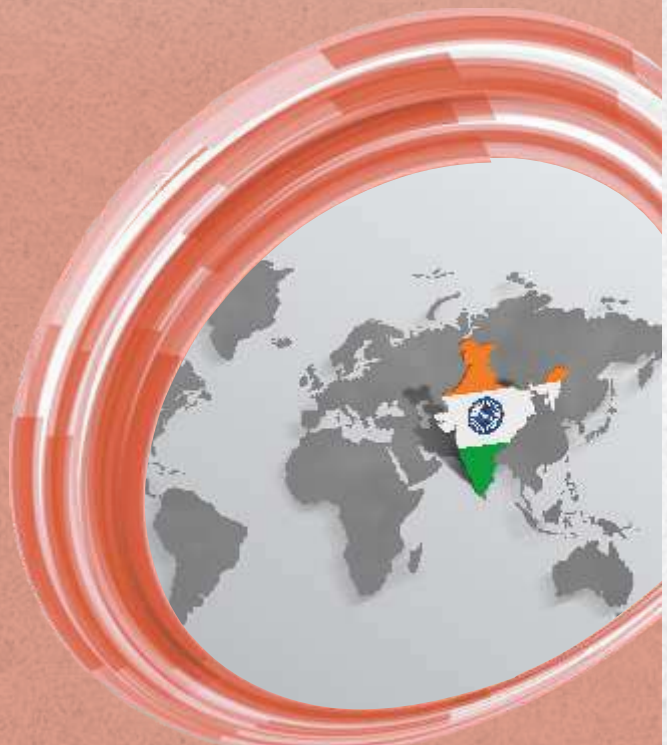

- Proposed to reduce the time limit for filing of return for a non-resident taxable person from twenty days to thirteen days from the end of the month under Section 30 (5) of the CGST Act.
- Section 42,43, 43A of the CGST Act dealing with matching, reversal and reclaim of Input Tax credit & Output tax Liability are proposed to be omitted considering that the said provisions were brought in to implement the new GST return structure which the Government has scrapped now.
- Section 47 of CGST Act is proposed to impose late fees on delay filing of TCS return (GSTR -7).
- An amendment is proposed under Section 49(10) of CGST Act to transfer balance cash lying in Electronic Cash ledger (CGST and IGST) to their another GSTIN under the same PAN, subject to condition that the transferor units should not have any unpaid liability.
- Proposed to amend Section 50 of CGST Act to provide that interest at 18% p.a. shall be leviable only if ITC is wrongly availed and utilized. In other words, no interest shall be payable if ITC was wrongly availed but not utilized. This amendment has been proposed retrospectively from 1 July 2017.
- Proposed to introduce a provision to determine maximum ITC that can be utilized to discharge output liability under Section 50(12) of the CGST Act for a registered person or class of registered persons as may be prescribed.
- Amendment to Section 52 of CGST Act is proposed to increase time limit for amendment/ rectification in GST return from filing of return for the month of September to 30 November of the subsequent Financial Year.
- Proposed that refund claim in case of zero-rated supply of goods or services to SEZ developer / SEZ unit shall be filed within two years from the date of filing of the return (GSTR -3B).
- The scope of withholding of or recovery from refunds has been extended to all types of refund which was earlier restricted to refunds under Section 54 (3) of the CGST Act
- Time limit for filing refund claim under Section 54 (2) of the CGST Act is proposed to be increased from six months to two years from the last date of the quarter in case of specified agency such as UNO, MFI, embassy etc.

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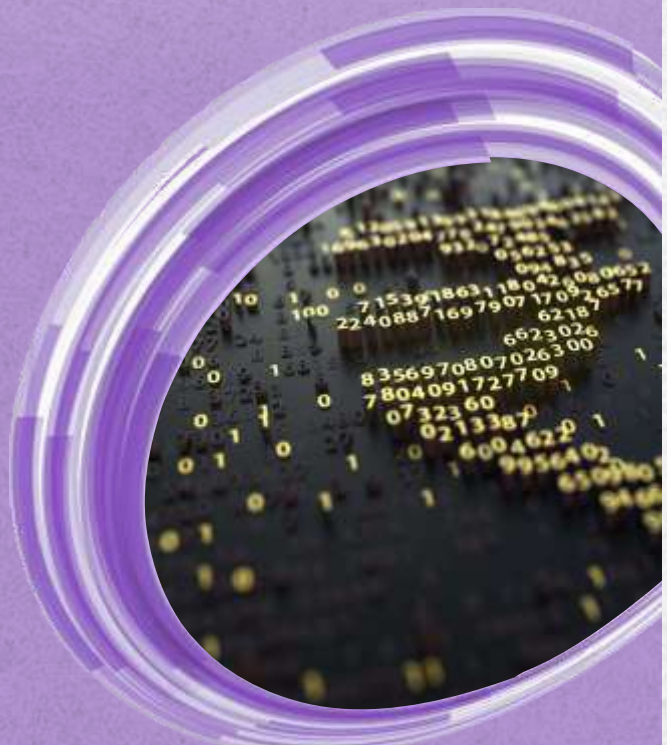

Customs Law

[All amendments (except changes in rates) to be made effective upon receipt of President's assent to the Finance Bill except where specifically mentioned]

- Section 3 of the Customs Act, (Classes of Customs officer), has been amended to include the officers of the Directorate of Revenue Intelligence ('DRI'), Officers of Customs (Preventive) and Customs audit officers to remove any ambiguity as regards the class of officers of Customs.
- Amendments have also been made to Sections 2 (34) containing the definition of "proper officer" as well as Section 5 of the Customs Act dealing with the powers of the customs officer, to implement the following changes:
  - Assignment of functions to an officer of Customs by the Board or the Principal Commissioner of Customs or the Commissioner of Customs shall be done under the newly inserted sub-sections (1A) and (1B) of Section 5 of the Customs Act, 1962 (52 of 1962)
  - Power of assignment of function to officers of customs explicitly provided to the Board or as the case may be by the Principal Commissioner of Customs or Commissioner of Customs.

The above amendment is sought to be given with retrospective effect with a specific mention of its overriding effect on any judgement of any court or Tribunal.

- An amendment to Section 14 of the Customs Act dealing with Valuation has been proposed to empower the CBIC to formulate Rules to specify additional obligations on importers in case of specific class of goods where CBIC has reasons to believe that the value of such goods may not be declared truthfully and accurately.
- An advance ruling pronounced under the Customs Act shall be valid for a period of 3 years or till there is change in law or change in facts on the basis of which the advance ruling has been pronounced, whichever is earlier. In case of advance rulings which are already in force, the period of 3 years will be applicable from the day the Finance Bill, 2022 receives the assent of the President.

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An amendment is also proposed to allow an applicant to withdraw the application for advance ruling at any time before the advance ruling is pronounced.

- Section of 135AA has been proposed to make the publishing of sensitive information related to the import / export of goods, as well as the information related to the importer / exporter of the said goods punishable with imprisonment up to 6 months and fine up to INR 50,000, unless the same is required to be published under any law.

Further, the cognizance offence under the above referred section can be taken with the previous approval of the Principal Commissioner of Customs or the Commissioner of Customs.

- Amendments have been proposed to the IGCR Rules 2007 to implement the record keeping and data submission with the authorities electronically. Various forms have also been notified in this regard which shall have to be filed / maintained by the importer in the electronic format on the Customs portal. An option for voluntary payment of the necessary duties and interest, through the Common Portal is being provided to the importer.
- Circular has been issued clarifying that Social Welfare Surcharge ('SWS') will be 'NIL' in case where the basic custom duty is exempted on import of goods.
- Various notifications issued under Customs law providing exemption from customs duty have been amended to extend the exemption to Agriculture Infrastructure Development Cess ('AIDC'). Similarly, where applicable, the exemption has been provided from payment of Road and Infrastructure Cess ('RIC') as well as Health Cess, wherever applicable.

Amendments in Custom Duty Rates

- All changes in rates of duty shall take effect from the midnight of 1Februay / 2 February 2022.
- The changes in Customs Tariff Act proposed through Finance Bill shall have effect from 1 May 2022
- There are two types of changes in customs duty rates –
  - Where the effective rates prescribed by notifications are being moved to Tariff. These changes are being incorporated in the First Schedule of the Customs Tariff Act 1975. The

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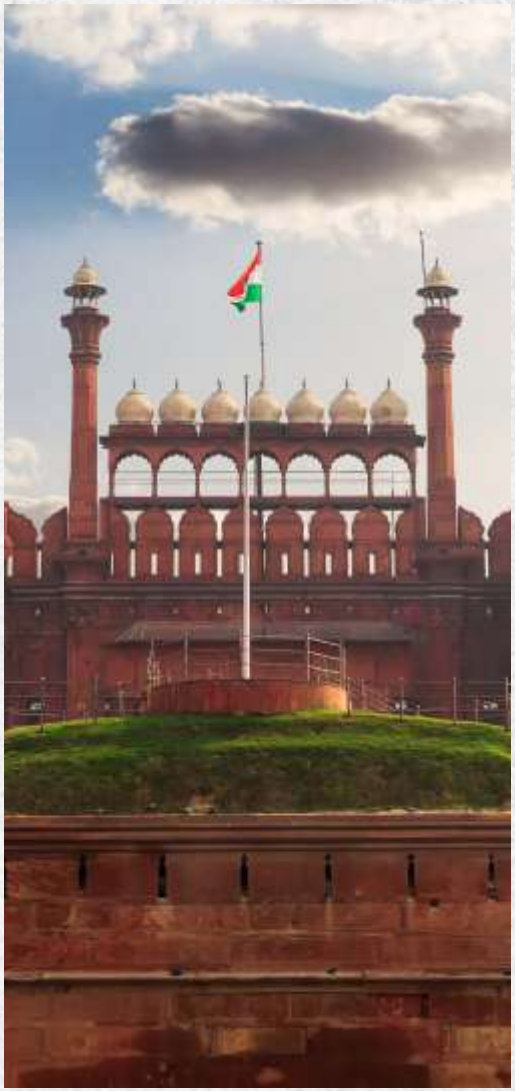
changes in the tariff schedule shall commence from 1 May 2022. Therefore, during the period from 2 February 2022 till 30 April 2022, these rates shall continue to operate through existing notifications, which shall be omitted on 1 May 2022.

- Certain new concessional rates coming into effect from 2 February 2022 are being prescribed through the notifications. These changes are also being incorporated in the First Schedule of the Customs Tariff Act, 1975.The changes in the tariff schedule shall commence from 1 May 2022. Consequently, the relevant entries in the notification shall be omitted w.e.f. 1 May 2022.

- About 350 exemptions have been withdrawn post comprehensive review of Customs Duty exemptions
- About 40 customs duty exemptions relating to capital goods and project imports are proposed to be phased out gradually.



K C Mehta & Co.

Chartered Accountants

Vadodara
Meghdhanush,
Race Course,
Vadodara - 390 007,
Gujarat, INDIA
Ph.: +91 265 2341626
+91 265 2440400

Ahmedabad
Level 11, Tower B,
Ratnaakar Nine Square,
Vastrapur,
Ahmedabad - 380 015,
Gujarat, INDIA
Ph.: +91 79 4910 2200

Mumbai
508, The Summit Business Bay,
Near WEH Metro Station,
Off Andheri Kurla Road,
Andheri East, Mumbai - 400069,
INDIA
Ph.: +91 22 26825834

Bengaluru
19/4, 4th Main,
Between 7th & 8th Cross,
Malleshwaram,
Bengaluru - 560 003, INDIA
Ph.: +91 80 23561880

Independent Member

BKR INTERNATIONAL

www.kcmehta.com