THE FINANCE (NO.2) ACT, 2019

(CA. P N SHAH AND CA (MS.)ARTI SHAH)

I THE FINANCE ACT, 2019:

1.1 Shri Piyush Goyal, an eminent Chartered Accountant, in his capacity as Finance Minister, presented a very bold Interim Budget of Shri Narendra Modi Government on 1st February 2019. He has tried to give benefit to farmers, poor persons, unorganized sector, salaried employees and middle-class families of our country. This Interim Budget is unique as it gives relief to certain deserving persons in respect of Income tax payable by them in the financial year beginning from 01.04.2019. In the past no Finance Minister has given any concession in the Direct tax provisions in the Interim Budget. With this Interim Budget the Finance Act, 2019 was passed in February, 2019 and received the assent of the President on 21st February, 2019.

1.2 Benefits to salaried Employees and Middle Class Families:

In the Interim Budget, the Finance Minister stated that, as per convention, the main tax proposals will be presented in the regular budget. However, small tax payers, especially middle class, salary class, pensioners and senior citizens need certainty in their minds at the beginning of the year about their taxes. He has further stated that while, for the present, the existing rates of Income tax will continue for the financial year 2019-20. The following amendments are made by the Finance Act, 2019 for giving benefits to salaried employees and middle-class families. These benefits will be available in the computation of income and in the taxes payable on income for the financial year commencing on 1st April, 2019.

(i) **Salary Income:** In the last Budget the provision for allowing standard deduction of ₹40,000/- was made in place of earlier provision for allowance for reimbursement of medical expenses and transport allowance. This standard deduction is now increased to ₹50,000/- w.e.f. 01.04.2019. This will benefit all salaried employees and pensioners.

(ii) **House Property Income:** At present an individual is entitled to claim exemption in respect of one self-occupied house property. Now, w.e.f. 01.04.2019, he will be entitled to claim exemption in respect of two residential houses. Therefore, if an individual owns two or more houses, which are not let out, he can claim exemption in respect of two residential houses of his choice. In respect of the houses in excess of two houses, which are not let out, he will have to pay tax on the basis of notional income.

(iii) **Properties held as stock-in-trade:** In the case of an assessee who is holding house properties as stock-in-trade, i.e. builders, developers and persons dealing in real estate, the Finance Act, 2017, had provided that such assessee's will have to pay tax on the basis of notional income of the house property which is not let out after one year from the date of completion of

the construction. By amendment of section 23(5) of the Income tax Act it is now provided that no tax will be payable in respect of the house properties which are not let out for the first two years after the date of completion of the construction.

(iv) **Interest on Housing Loans**: Section 24 of the Income tax, at present, provides for deduction of interest (subject to maximum of ₹2 Lakhs) paid in respect of one house which is claimed to be self-occupied. This provision is now amended to provide that this limit of ₹2 Lakhs shall apply in respect of two houses which are claimed to be for self-use and not let out. Considering the present level of prices of the real estate, when the benefit of exemption to self-occupied houses is extended to two houses, the above limit of ₹2 Lakhs for deduction of housing loans for two such houses should have been enhanced to ₹5 Lakhs.

(v) **Exemption of Capital Gains:** At present Section 54 of the Income tax Act provides for exemption in respect of long-term capital gains on sale of any residential house by an Individual or HUF. This exemption is available if such assessee sells any residential house and reinvests the capital gain in the purchase of another residential house within 2 years of sale or constructs such residential house within 3 years of such sale. This section is now amended effective from financial year 2019-20 to provide that, if the long-term capital gain does not exceed ₹2 Crores, the Individual or HUF can purchase or construct two houses within the prescribed time limit to claim the exemption from tax. It is also provided that if this benefit is claimed by the Individual or HUF in any assessment year, he cannot claim similar benefit in any other year later on in any other year. However, if the said Individual or HUF subsequently sells the residential house, the benefit under section 54 will be available if the capital gain is invested in purchase or construction of one residential house during the specified period.

(vi) **Benefit for Affordable Housing Projects:** At present, section 80IBA provides for exemption in respect of income of the assesse who is developing and building affordable houses. This is available if such Housing Project is approved between 1.6.2016 to 31.3.2019. To encourage this activity, it is now provided that the benefit of this exemption u/s 80IBA can be claimed if such housing project in approved between 1.6.2016 to 31.3.2020.

(vii) **Rebate in computing Income tax:** Section 87A of the Income tax Act, at present, provides that if the total income of a Resident Individual does not exceed ₹3,50,000/- he shall be entitled to a deduction from tax on his total income of ₹2,500/- or the actual tax payable on such income whichever is less. This section is now amended to provide that if the total income of an individual does not exceed ₹5 Lakhs, he shall be entitled to rebate of ₹12,500/- or actual tax payable on such income, whichever is less. This amendment is effective from financial year 2019-20. It may be noted that the above benefit of Tax Rebate is available u/s 87A only to Individuals. Therefore, HUF or AOP will not get this benefit.

(viii) **Tax Deduction at Source**: At present, tax is deducted at source (TDS) at 10% if the interest receivable on Bank / Post Office Deposits exceeds ₹10,000/- in a financial year. By amendment of section 194A of the Income tax Act, this threshold limit for TDS on such interest is increased from ₹10,000/- to ₹40,000/- effective from 1.4.2019. This will benefit small depositors and non-working spouse who will not suffer Tax Deduction at Source in respect of interest on Bank/Post Office Deposit if such interest is less than ₹40,000/-.

Similarly, under section 194-I the tax is required to be deducted from rent paid by the tenant to specified assessee at the rate of 10% if the total rent for a financial year is more than ₹1,80,000/-. This threshold limit is increased from ₹1,80,000/-. to ₹2,40,000/- from 1.4.2019. Thus, no tax will deductible if the yearly rent is less than ₹2,40,000/- from 1.4.2019.

II THE FINANCE (N0.2) ACT, 2019:

After the recent General Elections, Smt. Nirmala Sitharaman took charge as the first lady Finance Minister of the Country. She presented her budget to the parliament on 5th July, 2019. The Finance (No.2) Bill, 2019 was presented with the Budget. This was passed in the month of July, 2019. The Finance (No.2) Act, 2019, received the assent of the President on 1st August, 2019. Some of the important provisions of this Act are discussed in this Article. After the above Act was passed the President has promulgated "The Taxation Laws (Amendment) Ordinance, 2019", on 20th September, 2019 to further amend the Income tax Act and the Finance (No.2) Act, 2019. Some of the important provisions of this Act and the Ordinance are discussed in this Article.

1. RATES OF TAXES:

1.1 The slab rates of taxes for A.Y. 2020-21 (F.Y. 2019-20) for an Individual, HUF, AOP etc., are the same as in A.Y. 2019-20. Similarly, the rates of taxes for Firms, Co-operative Societies and Local Authority for A.Y. 2020-21 are the same as in A.Y. 2019-20. However, in the case of a Domestic Company the rate of tax will be 25% if the total turnover or gross receipts of the company in F.Y. 2017-18 was less than ₹400 Cr. In A.Y. 2019-20 the limit for total turnover or gross receipts for this rate was 250 Cr. for F.Y. 2016-17. Thus, about 99% of Domestic Companies will now pay tax at the rate of 25%. Other larger companies will pay tax at the rate of 30%.

1.2 The existing rates of Surcharge on Income tax will continue to be levied on companies, Firms, co-operative Societies and Local Authorities. However, the rates of Surcharge (S.C) in cases of Individual, AOP, HUF, BOI, Trusts etc. (Residents and Non-Residents) have been revised as under:

	Total Income	Existing Rate of S.C.	Rate of S.C. for A.Y. 2020-21 (F.Y.2019-20)
1	Upto ₹50 Lakhs	Nil	Nil
2	₹50 Lakhs to 1 Cr	10%	10%
3	₹1 Cr to 2 Cr.	15%	15%
4	₹2 Cr. to 5 Cr.	15%	25%
5	₹5 Cr. and above	15%	37%

Thus the super-rich Individuals, HUF, AOP, BOI Trusts etc., will now pay more tax if their income exceeds ₹2 Cr. While proposing to levy this additional surcharge on super-rich Individuals etc., the Finance Minister has stated in para 127 of her Budget Speech as under

> *"In view of rising income levels, those in the highest income brackets, need to contribute more to the Nation's Development. I, therefore, propose to enhance surcharge on individuals having taxable income of ₹2 Crore to ₹5 Crore and ₹5 Crore and above so that the effective tax rates for these two categories will increase by around 3% and 7% respectively."*

The impact of the above enhanced Super Surcharge was felt by many of the Foreign Institutional Investors (FPI) who are assessed in the status of AOP. There was large scale protest by them. In order the alleviate the tax burden in such cases and others who pay tax at special rates under section 111 A and 112A, the Central Government issued a Press Note on 24.8.2019 announcing that this additional super surcharge will not be payable in the following cases. In order to give effect to this announcement the Ordinance dated 20/09/2019 has made required amendments in the First Schedule to the Finance (No.2) Act, 2019.

(a) Capital Gains on transfer of Equity Shares in a company, redemption of Units of an Equity Oriented M.F. and Units of a Business Trust as referred to in section 111 A and 112A.

(b) Capital Gains tax payable on Derivatives (Futures and Options) in the case of Foreign Institutional Investors (FPI) which are taxable at the special rates under section 115AD.

(iii) In the case of Foreign Companies there is no change in the rates of taxes and surcharge. In the cases to which section 92 CE (2A), 115O, 115 QA, 115R, 115TA or 115TD applies, the rate of S.C will continue to be 12%.

(iv) The rate of Health and Education Cess at 4% of total tax will continue as at present.

1.3 **Corporate Taxation:**

The Ordinance dated 20/09/2019 has amended certain provisions of the Income tax Act effective from A.Y.:2020-21 (F.Y:2019-20). It is clarified in the Press Note dated 20/09/2019 that these amendments are made in order to promote growth and investment. These amendments are as under:-

(i) **Section 115BA:** This Section provides for tax on income of certain Domestic Companies. The Section provides for taxation at the rate of 25%, at the option of the Company, if specified tax incentives are not claimed. Now Section 115BAB is inserted from A.Y: 2020-21 giving similar tax concession to certain manufacturing Companies. Therefore, it is now provided that where the Company exercises option under Section 115BAB, the option exercised under Section 115BA will be withdrawn.

(ii) **Section 115BAA:** This is a new section inserted effective from A.Y:2020-21 (F.Y:2019-20). This section provides that the tax payable by a Domestic Company, at its option, shall be 22% plus applicable surcharge and cess, if such company satisfies the following conditions.

(a) The Company does not claim any deduction under section 10AA, 32(1)(iia), 32AD, 33AB, 33ABA, 35(1)(ii), (iia), (iii), 35(2AA), 35(2AB), 35AD, 35CCC, 35CCD or any of the provisions of Chapter VIA under the heading "C – Deductions in respect of certain incomes" excluding section 80JJAA.

(b) The Company does not claim deduction for set off of any carried forward loss which is attributable to deductions under the above sections.

(c) The Company will be able claim depreciation under section 32, excluding 32(1)(iia), which is determined in the prescribed manner.

(d) The Company has to exercise the option for the lower rate of 22% in the prescribed manner before the due date for filing return of income under section 139(1) relevant to A.Y:2020-21. The option once exercised will be valid for subsequent years. Further, the Company cannot withdraw the option once exercised in any subsequent year.

It may be noted that section 115JB is also amended, effective from A.Y:2020-21, to provide that Section 115JB will not apply to a Company which exercised the option under the new section 115BAA.

The Companies which are engaged in trading activities, letting out of properties, rendering services and other similar activities may find this concession in rate of tax attractive if they are not claiming deductions under the sections stated in (a) above.

(iii) **Section 115BAB:** This is also a new section inserted from A.Y. 2020-21 (F.Y:2019-20). This section provides that the tax payable by a Manufacturing Domestic Company, at the option of such Company shall be at the rate of 15% plus applicable surcharge and cess, if the Company satisfies the following conditions:

(a) The Company should be set-up and registered on or after 1st October, 2019 and should commence manufacturing on or before 31/3/2023 and:

- is not be formed by splitting up, or reconstruction of a business already in existence. However, this condition will not apply to reconstruction or revival of a company under section 33B.
- it does not use any machinery or plant previously used for any purpose.

However, this condition will not apply to machinery or plant previously used outside India if the condition stated in Explanation – 1 in the section are satisfied. Further, by Explanation 2 concession is given if the value of the old plant and machinery used by the company does not exceed 20% of the total value of the Plant and Machinery.

- The Company should not use any building previously used as a Hotel or Convention Centre.

(b) The Company should not be engaged in any business other than the business of manufacture or production of any article or thing. Further, the Company has to ensure that the transactions of purchase, sales etc. are entered into at arm's length prices.

(c) The total income of the Company should be computed without any deduction under sections 10AA, 32(1)(iia), 32AD, 33AB, 33ABA, 35(1)(2AA) (2AB) (iia)/(iii), 35AD, 35CCC, 35CCD or under any provisions of Chapter VI A other than the provisions of section 80JJA.

(d) The option under section 115BAB for concessional rate is to be exercised in the first return to be submitted after 1/4/2020 before the due date under section 139(1). This option once exercised cannot be withdrawn.

It may be noted that the provisions of section 115JB will not apply to a company which exercises option under this new section 115BAB. This new section will encourage investment in new Companies engaged in manufacture or goods and articles in India.

2. **TAX DEDUCTION AT SOURCE**:

The existing provisions for TDS will continue. However, there are some modifications in Sections 194-A and 194-I made by the Finance Act, 2019, as discussed earlier. Further, the following modifications and additions are made by the Finance (No:2) Act, 2019.

(i) **Section 194 I-A:** provides for TDS at the rate of 1% when payment of consideration is made at the time of purchase of Immovable Property. The term consideration for Immovable Property is not defined at present. This section is now amended **w.e.f. 1.9.2019** to provide that the consideration for Immovable Property will include the charges of the nature of Club Membership Fees, Car Parking Fees, Electricity and Water Facility Fees, Maintenance Fees, Advance Fees or any other charges of similar nature, which are incidental to transfer of the Immovable Property. This deduction of tax 1% will have to be made for payment made on or after **1.9.2019**.

(ii) **Section 194M:** A new section 194M has been inserted in the Income tax Act with effect from **1.9.2019**. At present, any individual or HUF, not liable to tax audit, is not required to deduct tax from payments made to a contractor, commission agent or a professional u/s 194C, 194 H or 194J. It is now provided in section 194M that if any Individual or HUF makes payment for a contract to a Contractor, Commission or brokerage or Fees to a Professional of a sum exceeding ₹50Lakhs, in the aggregate, in any Financial Year tax at the rate of 5% shall be deducted at source. This provision will apply even if the payment is for personal work. The Individual / HUF governed by section 194 M will not be required to obtain TAN for this purpose. Individual / HUF can use his PAN for this purpose. This provision for TDS will come into force from **1.9.2019** and will cover all payments made in F.Y. 2019-20.

(iii) **Section 194N** - A new section 194 N has been inserted **w.e.f. 1.9.2019**. This section provides that a Banking Company, Co-operative Bank or a Post Office shall deduct tax at source at 2% in respect of cash withdrawn by any account holder from one or more accounts with the Bank/Post Office, in excess of ₹1 Cr in a financial year. This section does not apply to withdrawal by any Government, Bank, Co-operative Bank, Post Office, Banking Correspondent, white label ATM operators and such other persons as may be notified by the Central Government. This limit of ₹1 Cr. will apply to all accounts of the person in any Bank, Co-operative Bank or Post Office. Hence, if a person has accounts in different branches of the same bank, total cash withdrawals in all these accounts will be considered for this purpose. This TDS provision will apply to all persons i.e. Individuals, HUF, Firms, Companies etc., engaged in business or profession as also to all persons maintaining bank accounts for personal purposes. Thus, there will be no deduction of Tax upto ₹1 Cr. This TDS provision applies on amounts drawn in excess of ₹1Cr. in a Financial Year. The provision in effective from **1.9.2019**. Therefore, if a person has withdrawn cash of more ₹1 Cr. in the **F.Y. 2019-20**, the tax of 2% will be deductible on or after **1.9.2019**. This

provision is made in order to discourage cash withdrawals and promote digital economy. It may be noted that under section 198 it is now provided that the tax deducted under section 194 N will not be treated as income of the assesse. If the amount of this TDS is not treated as income of the assesse, credit for this TDS amount will not be available to the assesse under section 199 read with Rule 37 BA. If credit is not given this will be an additional tax burden on the assesse. It may be noted that by a Press Release dated 30/08/2019 the CBDT has clarified that if the total cash withdrawals from one or more accounts with a Bank/Post Office is more than ₹1 Crore upto 31/8/2019, TDS will be deducted from cash withdrawn on or after **1/9/2019** only.

(iv) **Section 194DA:** Section 194DA providing for TDS in respect payment in respect of Life Insurance Policy has been amended **w.e.f. 1.9.2019**. At present the Insurance Company is required to deduct tax at 1% of the payment to a resident on maturity of life insurance policy if such payment is not exempt u/s 10(10D). At present, the provision for TDS at 1% applies to gross payment made by the Insurance Company although the assessee is required to pay tax on the net amount after deduction of premium actually paid. In order to mitigate the hardship, this section now provides that tax at the rate of 5% shall be deducted at source, **w.e.f. 1.9.2019**, from the net amount i.e. Actual amount paid by the Insurance Company on maturity of policy after deduction of actual premium paid on the Policy.

3. **EXEMPTIONS & DEDUCTIONS:**

(i) **Section 10(4C):** A new section 10 (4C) is inserted in the Income tax Act to give effect to Press Release dated 17.09.2018. Under this announcement the Central Government had given exemption from tax in respect of interest paid to a Non-Resident or a Foreign Company by an Indian Company or a Business Trust on Rupee Denominated Bonds. Under the new Section 10(4C) such interest received by the Non-Resident or Foreign Company during the period 17.09.2018 to 31.03.2019 will be exempt from tax.

(ii) **Section 10 (12A)**: At present, payment from National Pension System Trust to an assessee on closure of his account or on opting out of the Pension Scheme Under Section 80CCD to the extent of 40% of the total amount payable to him is exempt u/s 10(12A). This limit for exemption is now increased to 60% of the amount so payable to the assessee by amendment of Section 10 (12A) **effective from F.Y. 2019-20**.

(iii) **Section 80 C** : In order to enable Central Government Employees to have more options of tax savings investments under section 80C, this section has been amended to provide that such employees can now contribute to a specified account of the Pension Scheme referred to in section 80CCD (a) for a fixed period of not less than 3 years and (b) the contribution is in accordance with the scheme as may be notified. For this purpose, the Specified Account means an additional account referred to in section 20(3) of the Pension Fund Regulatory and Development Authority Act, 2013.

(iv) **Section 80CCD:** Section 80CCD (2) has been amended. The Central Government has enhanced its contribution to the account of its employees in the National Pension Scheme (NPS) from 10% to 14% by a Notification dated 31.1.2019. To ensure that such employees get full deduction of this contribution, the limit of 10% in section 80CCD (2) has been increased from F.Y. 2019-20 to 14%. For other employees the old limits of 10% will continue.

(v) **Section 80 EEA**: This is a new Section to provides that an individual shall be allowed deduction of interest payable upto ₹1,50,000/- on loan taken by him from any Financial Institution for the purpose of acquiring any residential house property. This deduction is subject to the following conditions:

(a) The individual is not eligible to deduction under section 80EE;

(b) The Loan has been sanctioned during the F.Y. 1.4.2019 to 31.3.2020.

(c) The Stamp Duty Value of the Residential House does not exceed ₹45 Lakhs.

(d) The assesse does not own any other Residential House as on the date of sanction of the loan;

Once deduction of interest is allowed under this section, deduction of the same interest shall not be allowed under any other provisions of the Act for the same or any other assessment year. It may be noted that the assessee will have option to claim deduction for interest upto ₹2 Lakhs under Section 24(b), if he does not desire to avail of the above deduction.

(vi) **Section 80 EEB:** This is also a new section inserted to encourage purchase of Electric Vehicle (EV) and conserve the environment. This section provides that an Individual can claim deduction for interest upto ₹1,50,000/- payable on loan taken by him from a Financial Institution for purchase of EV. For this purpose the loan should have been sanctioned between 1.4.2019 to 31.3.2023. Once a deduction of interest is allowed under this section, no deduction for this interest will be allowable under any other section for the same or any other assessment year. The terms “Electric Vehicle” and “Financial Institution” are defined in the section. It may be noted that this deduction is allowable to an Individual only and not to any other assessee. From the wording of this section it is evident that an Individual can claim this deduction for interest even if the electric vehicle is purchased for his personal use.

(vii) **Section 80 – I BA** : The section deals with deduction from profits and gains from housing projects. The Finance Act, 2019, has extended the date for approval of the project by competent authority from 31.3.2019 to 31.3.2020. However, in respect of the projects approved **on or after 1.9.2019** some of the conditions about the size of the project have been modified by amendment of the section as under:

(a) The restriction of plot area for the project of 1000 Sq. Meters which applied to only 4 metropolitan cities, will now apply to cities of Bangalore, Chennai, Delhi Notional Capital Region (Limited to Delhi, Noida, Greater Noda, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkatta and whole of Mumbai Metropolitan Region (Specified Cities)

(b) The carpet area of a residential unit in the housing project should not exceed.

- In specified cities 60 sq. Meters (as against 30 Sq. Meters at present)
- In other cities 90 Sq. Meters (as against 60 sq. Meters at present)

(c) The stamp Duty Valuation of a residential Unit in the housing project should not exceed ₹45 Lakhs.

The above amendments will benefit some affordable housing projects.

4. **CHARITABLE TRUSTS:**

The provisions of Section 12AA deal with the procedure for granting registration and cancellation of registration in the case of a Public Trust or Institution claiming exemption under section 11. This section is now amended, effective from **1.9.2019,** to give the following additional powers to the Commissioner (CIT).

(i) At the time of granting registration the CIT can call for necessary information or documents in order to satisfy himself about the compliance of such requirements of any other law for the time being in force by the Trust or Institution as are material for the purpose of achieving its objects;

(ii) Where a Trust or Institution has been granted registration under section 12A or 12AA, and subsequently it is noticed that the Trust or Institution has violated the requirements of any other law which is material for the purpose of achieving its objects and the order, direction or decree, holding that such violation under the other law has become final, the CIT can cancel the Registration granted to the Trust or Institution.

It may be noted this is a very wide power given to the CIT. To take an illustration, if a Trust governed by the Bombay Public Trust Act takes a loan from a Trustee or a third party or sells its immovable property without obtaining the permission of the charity commissioner as provided in the BPT Act, and the non-compliance or delay in compliance with the provisions of BPT Act is not condoned by the Charity Commissioner and his order becomes final, the CIT can cancel the Registration under section 12A/12AA. The consequence of such cancellation of Registration will be that the Trust or the Institution will be denied exemption under section 11. In addition, tax on accreted income under section 115TD will be payable at the maximum marginal rate.

It may be noted that similar amendment is made in section 10(23C) effective from 1.9.2019. Therefore, all Hospitals, Universities, Education Institutions claiming exemption under section 10(23C) will have to ensure that they comply with any other law which is material for the purpose of achieving their objects.

5. INTERNATIONAL FINANCIAL SERVICES CENTRE:

(i) Section 47 (viia b): This section provides that any transfer of a Capital asset such as Bonds, Global Depositary Receipts, Rupee Denominated Bonds of Indian Company or Derivatives, made by a Non-Resident through a Recognized Stock Exchange located in International Financial Services Centre (IFSC) will not be treated as a transfer. In other words no tax will be payable on such transfer.

By amendment of this section the Central Government is given power to notify similar other securities in respect of which this exemption can be claimed. Consequential amendment is made in Section 10 (4D).

(ii) Section 80LA: At present any unit located in IFSC is eligible for deduction under section 80LA in respect of the specified business. Under the existing provision 100% of the income of the unit from the specified business is exempt for the first five consecutive assessment years and 50% of such income is exempt for the subsequent five years. By amendment of this section, effective from A.Y. 2020-21) (F.Y. 2019-20) it is now provided that 100% of such income will be exempt for ten consecutive assessment years, at the option of the assesse, out of fifteen years beginning with the assessment year in which permission or registration is obtained under the applicable law,

(iii) Section 115A: This section provides for special rate of tax for a non-resident or a foreign company having income from dividend, interest, royalty, fees for technical services etc. In computing total income in such cases deduction under Chapter VI A is not allowed from the Gross Total Income. To give benefit of section 80LA to the eligible unit set up in IFSC, this section is amended to the effect that in the case of such eligible unit deduction u/s 80LA will be allowed against the income referred to in section 115A. This amendment is effective from A.Y. 2020-21 (F.Y. 2019-20).

(iv) Section 115-O: Under this section Dividend Distribution Tax (DDT) is not applicable on dividend distributed out of current income by an unit in IFSC deriving income solely in Convertible Foreign Exchange, on or after 1.4. 2017. By amendment of this section, effective from 1.9.2019, it is now provided that DDT will not be payable even if the dividend is distributed out of the income accumulated after 1.4.2017 by such Unit in IFSC.

(v) **Section 115 R:** This section provides for levy of additional income tax (income distribution tax) by a Mutual Fund (MF). This section is now amended, effective from **1.9.2019** to provide that the above income distribution tax will not be payable if such distribution is out of income derived from transactions made on a Recognized Stock Exchange located in any IFSC. For this exemption, following conditions will have to be satisfied.

(a) The M.F. specified under section 10(23D) should be located in an IFSC.
(b) The M.F should derive its income solely in Convertible Foreign Exchange.
(c) All units in the M.F. should be beneficially held by non-residents.

(vi) **Section 10(15):** This section provides for exemption of interest income from specified sources. New clause (ix) has been inserted, effective from **1.9.2019**, to provide for exemption in respect of interest received by a non-resident from an Unit located in IFSC on monies borrowed by such unit on or after **1.9.2019**.

From the above amendments it is evident that the Government wants to encourage units to be set up in IFSC (e.g. Gifts City)

6. **INCOME FROM BUSINESS OR PROFESSION:**

(i) **Section 32:** At a press conference on 23.8.2019 the Finance Minister has announced that on vehicles purchased during the F.Y. 2019-20 the depreciation will be allowed at the rate of 30% instead of 15%. For this purpose the I.T. Rules will be amended. It is not clear from this announcement whether this benefit will be given for only Motor Cars or all other vehicles and whether it will apply to purchase of new vehicles or to purchase of second hand vehicles also.

(ii) **Section 43B:** This section provides that deduction for certain expenditure will be allowed in the year in which actual payment in made. This is irrespective of the fact that liability for the expenditure is incurred in an earlier year. This section is amended, effective from **A.Y. 2020-21 (F.Y. 2019-20)**, to provide that interest on any loan or borrowing taken from a deposit taking NBFC or systemically important non-deposit taking NBFC will be allowable only in the year in which the interest is actually paid. It is also provided that in respect of F.Y. 2018-19 or any earlier year, If the deduction for such interest is actually allowed on accrual basis, no deduction will be allowed for the same amount in the year in which actual payment is made.

(iii) **Section 43D:** This section provides that in the case of a Schedule Bank, Co-operative Bank and other specified Financial Institutions interest on specified bad and doubtful debts is not taxable on accrued basis but is taxable in the year in which the same is credited to Profit and Loss Account. By amendment of this section this benefit in now extended,

effective from **A.Y. 2020-21 (F.Y. 2019-20)**, to deposit taking NBFC and systemically important non- deposit taking NBFC.

7. **CAPITAL GAINS:**

(i) **Section 50 CA**: At present the difference between the fair market value and actual consideration is taxed in the hands of the assessee who transfers unquoted shares, held as a capital asset, for inadequate consideration. The section 50CA is now amended, effective from **A.Y. 2020-21 (F.Y. 2019-20)** to provide that this section will not apply to any consideration received or accruing as a result of transfer of such shares by such class of persons and subject to such conditions as may be prescribed. The intention behind this amendment is that if the prices of the shares are fixed by certain authority (e.g. RBI) and the assessee has no control over fixing the price, the assessee should not suffer.

(ii) **Section 54 GB:** This section grants exemption in respect of long term capital gain arising from transfer of Residential Property if the net consideration is invested in shares of eligible Start-up Company. The said start-up company has to utilize the amount so invested for purchase of certain specified assets, subject to certain conditions.

By amendment of section 54GB, effective from **A.Y. 2020-21 (FY 2019-20)** some of the above conditions have been relaxed as under.

(a) Lock-in period of holding the new asset (Computer or Computer Software) by the Company is now reduced from 5 years to 3 years.

(b) Benefit of section 54 GB is now extended to transfer of Residential Property from 31.03.2019 to 31.03.2021.

(c) The minimum shareholding and voting power requirement in the Start-up company is now reduced from 50% to 25%.

The wording of the amended section suggests that the above relaxations will also apply to investments made by an assessee in a start-up company prior to 31.03.2019.

(iii) **Section 111A:** At present, Short Term Capital Gain on transfer of Units of Fund of Funds is not eligible for concessional rate of 15% under this Section. The section is now amended from **A.Y.: 2020-21 (F.Y:2019-20)** to provide that Short Term Capital Gain on transfer of units of Fund of Funds will be taxable at the concessional rate of 15% plus applicable surcharge and cess.

8. **INCOME FROM OTHER SOURCES:**

(i) **Section 56 (2) (viib):** Under this section, share premium received from a resident by a closely held company from issue of shares at a consideration in excess of the fair market value is taxable in the hands of the company as Income from other sources. This is popularly referred to as "**Angel Tax**". At present this provision does not apply to investments by a venture capital fund under the "Category I Alternative Investment Funds". By amendment of this provision it is now provided, effective from **A.Y. 2020-21 (F.Y. 2019-20)** that this section will not apply to investments by category II Alternative Investment Funds.

This section provides that the Central Government can declare that the provisions of this section shall not apply to investment by specified class or classes of persons. By amendment of this provision it is now provided that if there is failure on the part of the company to comply with the conditions specified in the above notification the company will be liable to pay the **Angel Tax** as provided in the section in the year in which there is such default. Further, the difference between the fair market value of shares and the actual consideration received on issue of shares will be considered as under reported income and penalty under section 270A will be levied on such amount.

It may be noted that by a Press Release dated 22/8/2019 the CBDT has clarified that the provisions of this section will not apply to start-up Companies recognized by DPIIT. CBDT has also issued a comprehensive circular on 30/8/2019 to clarify the assessment procedure for such start-up companies and also clarifying the circumstances when the provisions for levy of Angel Tax will not apply to such Companies. This indicates that the Government is keen to encourage start-up Companies and may amend the Income tax Act to give effect to the assurances given by the Finance Minister at the Press Conference on 23/8/2019 and at various meetings with stakeholders.

(ii) **Section 56(2)(x):** This section provides that any sum of Money immovable property or specified movable assets received by an assessee for inadequate consideration, the difference between the fair market value and actual consideration will be taxable in the hands of the assesse. There are certain exceptions to this provision as listed in the Fourth Proviso to the section. In this Proviso, amendment is made and item XI is added to provide that receipt from such class of persons and subject to such conditions as may be prescribed will not be taxable under this section.

It may be noted that the provisions of this section are now made applicable to a non-resident. This has been provided by amendment of Section 9(1)(viii). Therefore, if a Non-Resident receives any money, immovable property or specified movable property outside India,

on or after 5.7.2019, for inadequate consideration, tax under section 56(2)(x) will be payable by the Non-Resident.

9. **INCOME OF A NON RESIDENT:**

(i) **Section 9:** Section 9 of the Act deals with income deemed to accrue or arise in India. Under the Act, Non-residents are taxable in India in respect of income that accrue or arise (including income deemed to accrue or arise) or received in India. At present, a gift of money or property (movable or immovable) received by a resident is taxed in the hands of the Donee, subject to certain exceptions as provided in Section 56(2) (x) of the Act. However, in the case of a Non-Resident (including a Foreign Company) who is outside India a view is taken that such gift is not taxable as it does not accrue or arise or received in India and is a Capital Receipt. To ensure that such gifts by a resident to a Non-Resident are subject to tax u/s 56(2) (x) of the Act, Section 9 has been amended w.e.f. **5.7.2019.** The amendment provides in new clause (viii) added in Section 9(1), that such income is taxable under section 56(2)(x) under the head " Income from Other Sources". Thus, any sum of money paid or transfer of any movable or immovable property situated in India on or after **5.7.2019** by a Resident to a person outside India shall now be taxable. In other words, section 56(2) (x) which provides for taxation of a gift or a deemed gift where the value of the gift exceeds ₹50,000/- will now apply to such gift given by a Resident to a Non-Resident. If there is a treaty with any country, the relevant Article of applicable DTAA shall continue to apply for such gifts as well.

(ii) Some of the cases in which the above amendment will apply are considered below:

(a) If Mr. "A" (Resident) who is not a relative of Mr. "B" (Non-Resident), as defined in Section 56(2) (vii), remits more than ₹50,000/- as a gift to Mr. "B" in a Financial Year, Mr. "B" will be liable to tax on this amount.

(b) In the above case, if Mr. "A" has sold some shares of an Indian Company to Mr. "B", at a price below its market value as provided in Section 56(2) (x), Mr. "B" will have to pay tax on the difference between the market value and the sale price, if such difference is more than ₹50,000/-.

(c) In the above case if Mr. "A" sells any immovable property, situated in India, to Mr. "B" at a price which is below the Stamp Duty Valuation and the difference between the Stamp Duty Valuation and the Sale Price is more than ₹50,000/- the said difference will be deemed to be the income of Mr. "B".

(d) It may be noted that the above amendment is applicable to all transfers of property made on or after **5.7.2019**. Further, the amended provisions apply in all cases of transfers of property, situated in India, by a Resident (including an individual, HUF, AOP, Firm, Company etc.) to a Non-Resident person (including individual, Firm, AOP, Company etc.). In all such cases the Resident will have to deduct tax at source under Section 195 at applicable rates.

10. **BUY-BACK OF SHARES:**

Section 115QA: This section provides for levy of additional Income tax at the rate of 20% plus applicable Surcharge and Cess of the distributed income on account of buy-back of shares by an unlisted domestic company. As a result of this, the consequential income in the hands of the shareholder is exempt under section 10(34A). This provision did not apply to buy-back of shares by a listed company. This section as well as section 10(34A) is now amended. The amendment provides that even in the case of buy-back of shares by a listed company, **on or after 5.7.2019**, the above additional income tax will be payable by the company. So far as the shareholder is concerned exemption under section 10(34A) will be allowed. It may be noted that the Ordinance dated 20/09/2019 provides that this provision will not apply to a listed Company which has made a public announcement for buy-back of shares before **5/7/2019** in accordance with SEBI Regulations.

11. **CARRY FORWARD OF LOSSES:**

(i) **Section 79:** The existing section 79 which restricts carry forward and set off of losses in the case of Companies where there is change in shareholding of more than 51% has been substituted by a new section 79. This new section is more or less on the same lines as the existing section. The only change made by the new section is that this section will not apply from **A.Y. 2020-21 (F.Y. 2019-20)** to a company and its subsidiary and the subsidiary of such subsidiary in the case where the National Company Law Tribunal (NELT), on an application by the Central Government, has suspended the Board of Directors of such a company and has appointed new Directors nominated by the Central Government under Section 242 of the Companies Act, 2013 and a change in shareholding has taken place in the previous year pursuant to a resolution plan approved by NCLT Under Section 242 of the Companies Act, 2013, after affording opportunity of hearing to the concerned Principal C.I.T.

(ii) **Section 115 UB:** This Section provides for pass through of income earned by Category I and II Alternate Investment Funds (AIF), except for business income which is taxed at AIF level. Pass through of income (other than profit & gains from business) has been allowed to individual investors so as to give them the benefit of lower rate of tax, if applicable. Pass through of losses are not permitted and these are retained at AIF level to be carried forward and set off in accordance with Chapter VI.

Sections 115UB(2) (i) and (ii) have been substituted and sub-section (2A) has been inserted from **A.Y.:2020-21 (F.Y:2019-20)** to provide that the business loss of the investment fund, if any, shall be allowed to be carried forward and it shall be set-off by it in accordance with the provisions of Chapter VI and it shall not be passed on to the unit holder. The loss other than business loss, if any, shall be regarded as loss of the unit holders. It shall, however, be ignored for the purposes of pass through to its unit holders, if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of at least 12 months.

The loss other than business loss, if any, accumulated at the level of investment fund as on 31st March, 2019, shall be deemed to be the loss of a unit holder who held the unit on 31st March, 2019 and be allowed to be carried forward for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and shall be set-off in accordance with the provisions of Chapter VI. The loss so deemed in the hands of unit holders shall not be available to the investment fund.

12. **FILING OF INCOME TAX RETURNS:**

(i) **Section 139:** At present Section 139(1) provides that an individual, HUF, AOP/BOI or Artificial Juridical Person has to file the return of income if their total income exceeds the threshold limit without giving effect to exemptions / deductions provided under sections 10(38), 10A, 10B, 10BA and Chapter VIA. By amendment of this section from the current financial year, in case of such assessees the return of income will have to be filed if the total income exceeds the threshold limit before claiming the benefit of Sections 10(38), 10A, 10B, 10BA, 54, 54B, 54D, 54EC, 54F, 54G, 54GA, 54GB and Chapter VIA.

Further, from the **A.Y. 2020-21(F.Y 2019-20)** it will be necessary for an Individual, HUF, AOP, BOI etc., to file the return of income although their income is below the threshold limit in the following cases -

(a) If the person has deposited an aggregate amount exceeding ₹1 Cr., in one or more current accounts, with one or more Banks or Co-operative Bank during the year. It may be noted that this requirement includes deposits in cash or by way of cheques, drafts, transfers by electronic means etc.

(b) If the person has incurred expenditure exceeding ₹2Lakh on foreign travel for himself or any other person during the year.

(c) If the person has incurred expenditure exceeding ₹ 1 Lakh on electricity consumption during the year or

(d) If the person fulfills any other conditions that may be prescribed.

(ii) **Section 139A:** This section provides for allotment of PAN. This section has been amended, effective from **01.09.2019** to provide as under:

(a) It is now provided that every person intending to enter into any transection, as may be prescribed, shall apply for PAN.

(b) Every person possessing Aadhaar Number who is required to furnish or quote his PAN which has not been allotted, can furnish or quote his Adahaar Number in lieu of PAN. He shall then be allotted a PAN in the prescribed manner.

(c) Every person who has been allotted PAN, and who has intimated Aadhaar Number under section 139AA(2), can furnish or quote his Aadhaar Number in lieu of his PAN .

(d) If a person is required to quote his PAN in any document or transaction, as may be prescribed, he has to ensure that his PAN or Aadhaar Number is duly quoted in the document pertaining to such transaction and authenticated in the prescribed manner:

(e) It may be noted that in section 272, which deals with levy of penalty for non-compliance of section 139A, consequential amendment has been made effective from **1.9.2019**.

The above amendments are made for ease of compliance and inter-changeability of PAN with Aadhaar Number effective from **01.09.2019.**

(iii) **Section 139AA:** This section provides for linking of Aadhaar Number with PAN. The amendment in this section, effective from **1.9.2019** provides that if a person fails to intimate the Aadhaar Number, the PAN allotted to such person shall be made inoperative after the date so notified in such manner as may be prescribed.

(iv) **Section 140A:** This section provides for payment of tax by way of self-assessment. This section is amended effective form **1.4.2007** to provide that, while calculating the amount of tax payable on self-assessment basis, any relief of tax claimed under section 89 can be deducted from the tax liability. Section 89 grants relief in tax payable when salary or allowances are paid to an employee in advance Consequential Amendment is made in Sections (143(1) (c), 234A, 234B and 234C). This amendment is only clarificatory.

(v) **Section 239**: This section provides for time limit for a person claiming refund of tax. This section is amended effective from **1.9.2019**. Prior to the amendment the provision was that (a) The assesse claiming refund of tax was required to file Form 30 prescribed by the I.T. Rules; and (b) such claim for Refund of tax could be made within one year from the last day of the assessment year. Thus, claim for refund of tax could be made in respect of the F.Y. ending

31.03.2019 on or before 31.03.2021. This time limit has now been reduced by one year and the requirement of filing the prescribed Form No.30 has been done away with by this amendment from **1.9.2019**. Therefore, claim for Refund of Tax under Section 239 can be made by the assessee only within the time limit provided under section 139. In other-words claim for refund in respect of F.Y. 2018-19 will have to be made before 31.03.2020.

13. **MINIMUM ALTERNATE TAX (MAT):**

(i) At present, clause (iih) of Explanation 1 below section 115JB(2) provides for book profits to be reduced by the aggregate amount of unabsorbed depreciation and loss brought forward in case of a company in respect of which an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under sections 7, 9 or 10 of the Insolvency and Bankruptcy Code, 2016.

By amendment of this section this benefit is extended to a company, and its subsidiary and the subsidiary of such subsidiary, where, the NCLT, on an application moved by the Central Government under section 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors who are nominated by the Central Government under section 242 of the said Act. This amendment is effective from **A.Y:2020-2021 (F.Y:2019-20).**

(ii) The Ordinance dated 20/09/2019 has amended section 115JB(1) to provide that from A.Y.:2020-21 the rate of tax on Book Profits will be reduced from 18.5% to 15%.

(iii) Section 115JB(5A) is also amended to provide that this section will not apply to Companies opting to be taxed under sections 115BAA and 115BAB from A.Y.:2020-21.

14. **TRANSFER PRICING PROVISIONS:**

(i) **Section 92CD:** Section 92CD(3) provides that where the assessment or reassessment has already been completed and modified return of income has been filed by the assesse pursuant to an Advance Pricing Agreement, (APA), then the A.O. has to pass the order of assessment, re-assessment or computation of total income. This section is now amended, effective from **1.9.2019**, to provide that the A.O. can pass such revised order only to the extent of modifying the total income of the relevant assessment year in accordance with the APA. Consequential amendment is also made in Section 246 A dealing with appealable orders before CIT(Appeals).

(ii) **Section 92CE:** (a) Section 92CE(1) provides that the assessee shall make secondary adjustment in a case where primary adjustment to transfer price takes place as specified therein. Further, it is provided that the said section shall not apply in cases fulfilling cumulative

conditions i.e. (a) where the amount of primary adjustment made in any previous year does not exceed one crore rupees; and (b) the primary adjustment is made in respect of an assessment year commencing on or before 1st April, 2016. Now this proviso is amended to make these two conditions alternative. This amendment is effective from **A.Y. 2018-19**.

(b) **Section 92CE(1)(iii):** This section provides that secondary adjustment shall be applicable where primary adjustment to transfer price is determined by an advance pricing agreement. Now section 92CE(1) (iii) is amended to provide that the secondary adjustment will be applicable only where the primary adjustment to transfer price is determined by an advance pricing agreement entered into by the assessee under section 92CC on or after 1st April, 2017. Further, a new proviso after section 92CE(1) has been inserted with effect from **A.Y. 2018 – 19** to provide that no refund of the taxes already paid till date under the pre-amended section shall be claimed and allowed.

(c) **Section 92CE(2):** This section provides that the excess money available to the associated enterprise shall be repatriated to India from such associated enterprise within the prescribed time and in case of non-repatriation, interest thereon is to be computed deeming the excess money as advance to such associated enterprise. Now the said section is amended to provide that the assesse shall be required to calculate interest on the money that has not been repatriated. Further, an Explanation has been inserted to clarify that the excess money may be repatriated from any of the associated enterprises of the assessee which is not resident in India, in lieu of the associated enterprise with which the excess money is available. This amendment is effective from **A.Y. 2018-19**.

This section has also been amended by insertion of new sub-sections (2A), (2B), (2C) and (2D) to provide that where the excess money or part thereof has not been repatriated in time, the assessee will have the option to pay additional income-tax at the rate of 18% on such excess money or part thereof. Such tax shall be in addition to the computation of interest till the date of payment of this additional tax. Further, if the assessee pays additional income-tax, such assessee will not be required to make secondary adjustment or compute interest from the date of payment of such tax. Also, the deduction in respect of the amount on which additional tax has been paid shall not be allowed under any other provision of the Act and no credit of additional tax paid shall be allowed under any other provision of the Act. This amendment is effective from **1.9.2019**.

(iii) **Section 286:** This section provides for specific reporting regime containing revised standards for transfer pricing documentation and a template for country-by-country reporting. Section 286(9)(a)(i) defines “accounting year” to mean a previous year, in a case where the parent entity or alternate reporting entity is resident in India. This definition is now amended effective from **A.Y. 2017-18** and accounting year” in such a case will be the annual accounting

period, with respect to which the parent entity of the International group prepares its financial statements under any law of the country or territory of which such parent entity is resident.

15. **PENALTIES AND PROSECUTION:**

(i) **Section 270 A**: This section provides for levy of penalty in a case where a person has under-reported his income. The several cases of under reporting of income have been provided in such section (2) of this section which includes a case where no return of income has been furnished. In a case where the person files his return of income for the first time in response to a notice under section 148, the mechanism for determining under reporting of income and quantum of penalty to be levied are not provided in this section. By amendment of the section, effective from **A.Y. 2017-18**, it is now provided that, where a return of income has been filed for the first time in response to a notice under section 148, if the income assessed is greater than the maximum amount which is not chargeable to tax, then it will be considered that the assessee , has under reported his income.

In such a case, the amount of under-reported income shall be computed in the following manner:

(a) In case of a company, firm or local authority, the assessed income itself will be considered as under-reported income.

(b) In other cases, the excess of assessed income over the maximum amount not chargeable to tax will be considered as under reported income.

(ii) **Section 271 DB:** This is a new section added with effect from **1.11.2019**. It provides that if a person who is required to provide facility for accepting payment through the prescribed electronic modes of payment as referred to in new section 269 SU, fails to provide such facility, penalty of ₹5,000/- for each day of default will be levied. This penalty can be levied only by the joint commissioner. No penalty under this section will be levied if the concerned person proves that there were good and sufficient reasons for such failure.

It may be noted that new section 269SU has been added with effect from **1.11.2019** to provide that every person whose turnover or gross receipts in a business, exceeds ₹50Cr. in the immediately preceding previous year, shall provide facility for accepting payment through prescribed electronic modes.

(iii) **Section 271 FAA:** This section provides for levy of penalty of ₹50,000/- for default in compliance with clause (k) of section 285 BA (1). Clause (K) referred to only reporting of prescribed particulars. By amendment of this section, effective from **1.9.2019,** this section has

been made applicable to defaults in complying with reporting requirements under section 285BA(1)(a) to (k).

(iv) **Section 276 CC:** This section empowers prosecution in the case of willful default to furnish return of income within the prescribed time limit. At present, in the case of a non-corporate assesse prosecution cannot be initiated if the tax payable on total income, as reduced by advance tax and TDS, does not exceed ₹3,000/-. The amendment in this section form **A.Y. 2020-21 (F.Y. 2019-20)** it is provided that such persecution cannot be initiated if the tax payable on the total income assessed in a regular assessment, as reduced by advance tax and self-assessment tax paid before the end of the assessment year and TDS, does not exceed ₹10,000/-

It appears that raising of limit from ₹3,000/- to ₹10,000/- is inadequate when the Government is trying to reduce litigation. This limit should have been raised to ₹25 Lakhs.

It may, further be noted that by CBDT Circular No:24/2019 dated 9/9/2019 it has now been clarified that no prosecution under sections 276B to 276CC should ordinarily be initiated if the amount of tax is less than ₹25lakhs. In cases where the amount of tax is less than ₹25 lakhs, the prosecution should be initiated only with the prior approval of Collegium of two CCIT/DGIT. This is a welcome move and will result in reduction of litigation.

It may, further, be noted that by another circular No:25/2019 dated 9/9/2019, the CBDT has granted further time upto 31/12/2019 for making application for compounding of offences under Direct Tax Laws as a one-time measure. Normally, application for compounding of offences can be filed within 12 months as per the guidelines issued by CBDT. In some cases, the assessees have not been able to make such application. In order to reduce litigation the CBDT, by the above circular has granted time upto 31/12/2019 as a one-time concession. Therefore, assessees who have not been able to make such compounding applications upto now will be able to make such application upto 31/12/2019.

(v) **Section 201:** At present, section 201 provides for treating certain persons as assessees in default for failure to deduct tax and also provides for charging interest in such cases. From this, relaxation is provided in cases of failure of such deduction in respect of payments etc., made to a resident subject to the condition that such resident payee - (a) has furnished his return of income under section 139 (b) has taken into account such sum for computing income in such return of income; and (c) has paid the tax due on the income declared by him in such return of income. In such cases, it is provided that the person shall not be deemed to be assessee in default in respect of such non deduction of tax.

The above benefit is now extended, by amendment of sections 201 and 40(a)(i) for payments made to Non-Residents effective from **1.9.2019**.

(vi) **Section 201(3)**: This section provides that an order deeming a person to be an assessee in default for failure to deduct whole or part of the tax from a payment made to a resident shall not be made after expiry of seven years from the end of the financial year in which payment is made or credit is given.

Section 201(3) is now amended, effective from **1.9.2019** to provide that such an order can be made upto:-

(a) expiry of seven years from the end of the financial year in which payment is made or credit is given; or

(b) two years from the end of the financial year in which correction statement is delivered under proviso to section 200(3) whichever is later

16. **OTHER AMENDMENTS:**

(i) **Section 2(19AA):** This section gives definition of "Demerger". Section 2(19AA) (iii) provides that for such demerger, the property and liabilities of the undertaking transferred by demerged company to the resulting company should be at book value. The applicable Indian Accounting Standards (Ind-AS) provides that in the case of demerger, the property and liabilities of the demerged company should be transferred at a value different from its book value.

This section has been amended from **A.Y. 2020-21 (F.Y. 2019-20)** to provide that in a case where Ind AS is applicable, the property and liabilities of the demerged company can be recorded by the Resulting company at Values different from the Book Value.

(ii) **Rule 68B of Second Schedule:** Presently, the Rule provides that sale of immovable property attached towards recovery shall not be made after expiry of three years from the end of the financial year in which the order in consequence of which any tax, interest, fine, penalty or any other sum becomes final.

The following amendments have been made affective from **1.9.2019** to protect the interest of revenue especially to include those cases where demand has been crystallized on conclusion of the proceedings;

(a) Sub-rule 1 is amended to increase the time limit for sale of attached property from a period of three years to seven years;

(b) New proviso has been inserted in the said sub-rule so as to give powers to CBDT to extend the above period of limitation by a further period of three years after recording the reasons in writing.

(iii) **Section 206A:** The existing section 206A dealing with submission of statement, in the prescribed form to the prescribed authority, about Tax Deducted at Source from payment of any income to a resident has been replaced by a new section effective from **1.9.2019**. The new section is more or less on the same lines as the old section with two major modifications as under:

(a) In the case of a Bank or a Co-operative Bank the threshold limit for submission of this statement for interest payment to the resident will now be ₹40,000/- instead of ₹10,000/-.

(b) Earlier the Central Government was authorized to issue a notification to require any other person to submit a statement for TDS from other payments. This power is now given to CBDT which will frame Rules for this purpose.

(c) The persons required to submit these statements can make corrections in the statement in the prescribed form.

(iv) **Section 285 BA:** This section provides for furnishing of statement of Financial Transactions or Reportable Accounts by the specified persons. This section is amended, effective from **1.9.2019**. These amendments are as under:

(a) At present, CBDT has power to prescribe different values for different specified transactions. This is subject to the minimum limit of ₹50,000/-. This limit is now removed.

(b) If there is any defect in the statement, at present it can be rectified within the specified time provided in section 285BA(4). If this defect is not rectified by the concerned person, it is now provided that such person has furnished inaccurate information in the statement. This will invite penalty of ₹50,000/- under section 271 FAA.

(v) **Promotion of Digital Economy**: At present, various sections of the Income tax Act encourage payment / receipts through Account payee cheques, draft, electronic clearing systems etc. From the current year Sections 13A, 35AD, 40A, 43(1), 43CA, 44AD, 50C, 56(2) (X), 80JJA, 269SS, 269ST, 269T etc., are amended to provide that the in addition to existing modes of payment / receipt, any other electronic mode, as may be prescribed, will also be considered permissible.

17. **AMENDMENTS IN OTHER LAWS:**

(i) Along with the Finance (No.2) Act, 2019, some of the sections of the following Acts are also amended:

(a) The Reserve Bank of India Act, 1934, (b) The Insurance Act, 1938, (c) The Securities Contracts (Regulation) Act, 1956, (d) The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and 1980, (e) The General Insurance Business (Nationalization) Act, 1972, (f) The National Housing Bank Act, 1987, (g) The Prohibition of Benami Property Transactions Act, 1988, (h) The Securities and Exchange Board of India Act, 1992, (i) The Central Road and Infrastructure Fund Act, 2000, (j) The Finance Act, 2002, 2016, 2018 and The Finance (No.2) Act, 2004, (k) The Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, (m) The Prevention of Money-Laundering Act, 2002, (n) The Payment and Settlement System Act, 2007 and (o) The Black Money (Undisclosed Foreign Income and Assets) And Imposition of Tax Act, 2015.

(ii) **Finance Act, 2016:** The Income Declaration Scheme, 2016 – Sections 187 and 191 of the Finance Act, 2016, have been amended effective from **1.6.2016** as under:

(a) Presently, under the Income Declaration Scheme, 2016, there is no provision for delayed payment of the tax, surcharge and penalty payable in respect of undisclosed income. Further, section 191 of the Finance Act, 2016 states that any tax, surcharge and penalty paid shall not be refunded. A proviso is now inserted in section 187 of the Finance Act, 2016 to provide that where the tax, surcharge and penalty has not been paid within the due date for the same, the Government may notify a class of persons who may make payment of the same within the notified date along with interest at the rate of 1% for every month or part thereof from the due date of payment till the date of actual payment.

b) Further, a proviso is inserted to section 191 to enable the Government to notify a class of persons to whom excess tax, surcharge and penalty paid shall be refunded.

18. **TO SUM UP:**

(i) From the above analysis it is evident that Shri Piyush Goyal, the then Finance Minister has provided some relief to all deserving sections of the Society in the Finance Act, 2019, which was passed with the Interim Budget in February, 2019. In the interim Budget the Finance Minister has placed the vision document of the Government Covering ten areas such as building physical as well as social infrastructure, creating digital India, making India pollution free nation, expanding rural industrialization, making our Rivers and water bodies our life supporting assets, developing our coast lines, developing our space programmers, making India self-sufficient in Food, making India a healthy society and transforming India into a Minimum Government and Maximum Governance Nation. He has also stated that this will be India of 2030. Further, a proactive and responsible bureaucracy which will be viewed as friendly to people. If this can be achieved, we can make India where poverty malnutrition and illiteracy would be a matter of the past. He further stated that it is the vision of the present Government that by 2030, India will be modern, technology driven, high growth, equitable, transparent society and a Ten Trillion Dollar Economy in the world. Let us hope that our present Government is able for achieve its vision.

(ii) The present Finance Minister, Smt. Nirmala Sitharaman in her Budget speech has repeated the above ten points of the vision of the Government for the next decade. She has further stated in Para 10 of the Budget Speech that "Today we are nearing a 3 trillion dollar level. So when we aspire to reach 5 trillion dollar level, many wonder if it is possible. If we can appreciate our citizens' "purusharth" or their "goals of human pursuit" filled with their inherent desire to progress led by the dedicated leadership present in this House, the target is eminently achievable".

(iii) In the Finance Act, 2019 which was passed in February, 2019, some benefit was given to small tax payers, especially middle class, salary earners, pensioners and senior citizens. In the Finance (No.2) Act, 2019, several amendments are made in the Income tax Act. The major amendment is made in the field of surcharge on income above 2 Cr. earned by all Individuals, HUF, AOP, Trusts etc. There was lot of resistance from Foreign Institutional Investors. Considering the issues raised by them the Finance Minister has now announced that this super surcharge will not be payable on Capital Gains on sale of quoted shares by residents and non-residents. Further, as promised by the Government, the rate of tax for domestic companies is now reduced to 25% where the turnover or gross receipts is less than ₹400 Cr. This year's Finance (No:2) Act, 2019, passed in July, 2019, is unique as the same is amended by an Ordinance within 2 months on 20th September, 2019. It is explained that this has been done to resolve several issues raised opposing some of the tax proposals. Further, some of the amendments are made by the Ordinance to encourage Corporate Sector to invest in new manufacturing activities and thus boost the economy.

(iv) Another important amendment relates to TDS provisions. Now tax is required to be deducted at 5% by an Individual or HUF, who has paid more than ₹50 Lakhs in a Financial year to a contractor, Commission Agent or a Professional even for personal work. Further TDS at 2% will now be deducted by a Bank if an assessee withdraws more than ₹1 Cr. in cash in a Financial Year. Since this tax is not to be deducted from any income chargeable to tax the assessee will not get credit for the TDS amount. This will amount to additional tax burden on the assessee.

(v) There are several provisions in the Act to give incentives to units situated in International Financial Services Centre (IFSC). Incentives are also provided to attract new units to be established in IFSC. Similarly, incentives are also given to Start-Ups. It is proposed that the Angel Tax shall not be charged on Start-ups registered with DPIIT. Incentives are also provided for those engaged in construction of affordable houses.

(vi) Last year Section 143, of the Income tax Act was amended authorising the Government to notify a new scheme for "e-assessment" to impart greater efficiency, transparency and accountability. Under this scheme it is proposed to eliminate the interface between the assessing officer and the assessee, optimize utilization of resources and introduce a team based assessment procedure. The Finance Minister has stated in her Beget Speech that it is proposed

to launch this scheme of "e-assessment" in a phased manner this year. To start with, such e-assessment will be carried out in cases requiring verification of certain specified transactions or discrepancies. Cases selected for scrutiny shall be allocated to assessment units in a random manner and notices will be issued electronically by a central cell, without disclosing the name, designation, or location of the A.O. The Central Cell will be the single point of contact between the taxpayer and the Department. It is stated that this new scheme of assessment will represent a paradigm shift in the functioning of the Income tax Department. It may be noted that CBDT has issued a Notification dated 12/9/2019 notifying a detailed Scheme called the "E-Assessment Scheme, 2019". This Scheme provides for the procedure for e-assessment under section 143(3A). This Scheme will come into force on the date to be notified hereafter. There is going to be some confusion in the initial years when the new scheme is introduced. Let us hope that this new scheme is successful.

(vii) With the amendments made in several sections of the Income tax Act by this year's Budget, the Income tax Act has become more complex. The Committee appointed by the Government has submitted its Report to simplify the Income tax Act. The proposal is to replace the present six decade old Act by a new Direct Tax Code. This Report is not put in the public domain. Let us hope that we get a new simplified law during the tenure of the present Government.