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BUDGET SPECIAL **NEWSLETTER** FEBRUARY 2022 **VOL.23**

Covering Updates for the Month of January' 22
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Due dates of various compliances falling in
February, 2022

BUDGET

HIGHLIGHTS OF UNION BUDGET 2022-23

The Union Finance Minister Mrs. Nirmala Sitharaman introduced the Finance Bill, 2022 in Parliament on Tuesday, February 01, 2022, in the Lok Sabha. The Finance Bill, 2022 will give effect to the financial proposals of the central government for the financial year 2022-23. The Union Budget delivered in Parliament was the fourth presented by Mrs. Sitharaman. In her address today, the Finance Minister said that Goods and Services Tax (GST) played a remarkable reform in India's GDP by mentioning that GST revenues are buoyant despite the pandemic. The gross GST collection for the month of January was over ₹ 1.4 lakh crore being the highest since the inception of GST.

Further, taking together with provision for the creation of capital assets through grants and aids to states, the Finance Minister mentioned that effective capital expenditure of The Central Government is estimated at ₹ 10.68 lakh crore in 2022-23, which will be around 4.1 per cent of GDP. In addition to this, it is announced that block chain and other technologies will be used by RBI to issue the digital currency from 2022. In an attempt to go green, the Union Budget for 2022-2023 was presented in a paperless format and thus, the Finance Minister read out the Budget at the Parliament through a tab, instead of the traditional bahi khata.

On agricultural front, certain welcome announcements are made like: Promoting chemical free natural farming, promoting post-harvest value addition, consumption and branding of millet products. On Education, the announcements like: One class One TV channel programme to be expanded to 200 TV channels to cater to rural and interior area students, setting up of Virtual labs and skilling e-labs, Establishment of Digital University, Delivery of High-quality e-content through Digital Teachers are expected to boost education.

In order to provide quality healthcare to all citizens, proposed roll out of National Digital Health Eco system, proposed launching of National Tele Mental Health Programme, proposed launching of integrated architecture of Mission Shakti, Mission Vatsalya, Saksham Anganwadi and Poshan 2.0 are also laudable.

Major Proclamations

India's economic growth is estimated to be 9.2% which is highest among all large economies. With the Azadi ka Amrit Mahotsav, the Country has entered into Amrit Kaal, the 25 years long lead up to India @ 100. **While laying her 4th Budget before Parliament, the Finance Minister, Smt. Nirmala Sitharaman conveyed that the Union Budget 2022 is focusing on 4 top most priorities viz.**

- Focus on growth with all-inclusive welfare focus;
- Promoting digital economy, energy transition and climate action;
- Virtuous cycle starting from private investment, crowded in by public capital investment.

Moving forward, on this parallel track, four priorities are laid:

- PM GatiShakti;
- Inclusive development;
- Productivity enhancement & Investment, sunrise opportunities, energy transition and climate action;
- Financing of Investments.

PM GatiShakti

The approach is driven by seven engines to pull forward the economy. PM GatiShakti National Master Plan will encompass the seven engines for economic transformation, seamless multimodal connectivity a logistics efficiency:

- Roads - The National Highways Network will be expanded by 25,000 km in 2022-23. Rs 20,000 crores will be mobilized for the same.
- Seamless Multimodal movement of Goods and People - The data exchange among all mode operators will be brought on Unified Logistics Interface Platform (ULIP), designed for Application Programming Interface(API). This will provide for efficient movement of goods through different modes, reducing logistics cost and time, assisting just-in-time inventory management, and eliminating tedious documentation.
- Multimodal Logistics Parks - Contracts for implementation of Multimodal Logistics Parks at four locations through PPP mode will be awarded in 2022-23.
- Railways - One Station-One Product concept will be popularized to help local businesses & supply chains. 2,000 kms of network will be brought under Kavach, the indigenous world-class technology for safety and capacity augmentation in 2022-23. 400 new generation Vande Bharat Trains with better energy efficiency and passenger riding experience will be developed.
- Mass Urban Transport including Connectivity to railways - Innovative ways of financing and faster implementation will be encouraged to build metro. Multimodal connectivity between mass urban transport and railway stations will be facilitated on priority.
- Parvatmala - National ropeways development program - Will be taken up on PPP mode. Contracts for 8 ropeways for a length of 60 kms will be awarded in 2022-23.
- Capacity Building for infrastructure projects - With technical support from the Capacity Building Commission, central ministries governments, and their infra-agencies will have their skills upgraded.

Inclusive Development

- Agriculture - Chemical-free Natural Farming will be promoted throughout the country. Use of 'Kisan Drones' will be promoted for crop assessment, digitization of land records, spraying of insecticides nutrients.
- Ken Betwa project and Other River Linking Projects – This is aimed at providing irrigation benefits to 9.08 lakh hectares of farmers' lands, drinking water supply for 62 lakh people. Draft details project reports of five river links, namely Damanganga-Pinjal, Par-Tapi Narmada. Godavari-Krishna, Krishna-Pennarand Pennar-Cauvery have been finalized.
- Skill development - Digital Ecosystem for Skilling and Livelihood (DESH-Stacke-portal) will be launched to promote online training.
- Universalization of Quality Education - Due to the pandemic-induced closure of schools, children in the rural areas have lost almost 2 years of formal education. Mostly, these are children in government schools. For this purpose, one class- one TV channel programme of PM eViDYA will be expanded from 12 to 200 TV channels.
- Digital University - A Digital University will be established to provide access to students across the country for world-class quality universal education with personalised learning experience at their doorsteps. This will be made available in different Indian languages and ICT formats.
- Ayushman Bharat Digital Mission - National Digital Health Ecosystem will be rolled out which consist of digital registries of health providers and health facilities, unique health identity, consent framework, and universal access to health facilities.
- Housing for All - In 2022-23, 80 lakh houses will be completed for the identified eligible beneficiaries of PM Awas Yojana, both rural and urban. Rs. 48,000 crore is allocated for this purpose.
- Prime Minister's Development Initiative for North East Region (PMDevINE) - An initial allocation of Rs 1,500 crore will be made to enable livelihood activities for youth and women, filling the gaps in various sectors.
- Anytime -Anywhere Post Office Savings - In 2022, 100% of 1.5 lakh post offices will come on the core banking system enabling financial inclusion and access to accounts through net banking, mobile banking, ATMs, and also provide online transfer of funds between post office accounts and bank accounts.

Productivity Enhancement & Investment, Sunrise Opportunities, Energy Transition, and Climate Action

- **Ease of Doing Business 2.0 & Ease of Living** - For the Amrit Kaal, the next phase of Ease of Doing Business EODB 2.0 and Ease of Living, will be launched. To improve productive efficiency of capital and human resources, the idea of 'trust- based governance' is introduced. This new phase will be guided by an active involvement of the states, digitisation of manual processes and interventions, integration of the central and state-level systems through IT bridges, a single point access for all citizen-centric services, and a standardization and removal of overlapping compliances.
- **e-Passport** – The issuance of e-Passports using embedded chip and futuristic technology will be rolled out in 2022-23 to enhance convenience for the citizens in their overseas travel.
- **Clean & Sustainable Mobility** - To promote the use of public transport in urban areas will be complemented by clean tech and governance solutions, special mobility zones with zero fossil-fuel policy, and EV vehicles.
- **Battery Swapping Policy** – Considering the constraint of space in urban areas for setting up charging stations at scale, a battery swapping policy will be brought out and interoperability standards will be formulated. This will improve efficiency in the EV ecosystem.
- **Land Records Management** - States will be encouraged to adopt Unique Land Parcel Identification Number to facilitate IT-based management of records. The facility for transliteration of land records across any of the Schedule VIII languages will also be rolled out. The adoption or linkage with National Generic Document Registration System (NGDRS) with the 'One-Nation One-Registration Software' will be promoted as an option for uniform process for registration and 'anywhere registration' of deeds & documents.
- **Accelerated Corporate Exit** - Several IT-based systems have been established for accelerated registration of new companies. The Centre for Processing Accelerated Corporate Exit (C-PACE) with process re-engineering, will be established to facilitate and speed up the voluntary winding-up of these companies from the currently required two years to less than 6 months.
- **Government Procurement** - The modernised rules allow use of transparent quality criteria besides cost in evaluation of complex tenders. Provisions have been made for payment of 75% of running bills, mandatorily within 10 days and for encouraging settlement of disputes through conciliation. As a further step to enhance transparency and to reduce delays in payments, a completely paperless, end-to-end online e-Bill System will be launched for use by all central ministries for their procurements. To reduce indirect cost for suppliers and work-contractors, the use of surety bonds as a substitute for bank guarantee will be made acceptable in government procurements. IRDAI has given the frame work for issue of surety bonds by insurance companies.
- **Telecom Sector** - Spectrum auctions will be conducted to facilitate rollout of 5G mobile services within 2022-23 by private telecom providers. A scheme for design-led manufacturing will be launched strong ecosystem for 5G as part of the Production Linked Incentive Scheme [PLIs].
- **Export Promotion** - SEZ Act will be replaced with a new legislation that will enable the states to become partners in 'Development of Enterprise and Service Hubs'. This will cover all large existing and new industrial enclaves to optimally utilise available infrastructure.
- **Atma Nirbharta in Defence** - Defence R&D will be opened up for industry, start-ups and academia with 25% of defence R&D budget earmarked. Private industry will be encouraged to take up design and development of military platforms and equipment in collaboration with DRDO and other organizations through SPV model.
- **Solar Power** - To facilitate domestic manufacturing for the ambitious goal of 280 GW of installed solar capacity by 2030, an additional allocation of Rs. 19,500 crore for PLI for manufacture of high efficiency modules, with priority to fully integrated manufacturing units from polysilicon to solar PV modules, will be made.

Financing of Investments

- **Public Capital Investment** - Capital investment holds the key to speedy and sustained economic revival and consolidation through its multiplier effect. The outlay for capital expenditure in the Union Budget is once again being stepped up sharply by 35.4% from Rs. 5.54 lakh crore in the current year to Rs. 7.50 lakh crore in 2022-23. This has increased to more than 2.2 times the expenditure of 2019-20. This outlay in 2022-23 will be 2.9% of GDP.
- **Green bonds** - As a part of the government's overall market borrowings in 2022-23, sovereign Green Bonds will be issued for mobilizing resources for green infrastructure. The proceeds will be deployed in public sector projects which help in reducing the carbon intensity of the economy.
- **GIFT-IFSC** - World-class foreign universities and institutions will be allowed in the GIFT City to offer courses in Financial Management, FinTech, Science, Technology, Engineering and Mathematics free from domestic regulations, except those by IFSCA to facilitate availability of high-end human resources for financial services and technology.

- Infrastructure Status - Data Centres and Energy Storage Systems including dense charging infrastructure and grid-scale battery systems will be included in the harmonized list of infrastructure. This will facilitate credit availability for digital infrastructure and clean energy storage.
- Digital Rupee - Central Bank Digital Currency (CBDC) will give a big boost to digital economy. It is proposed to introduce Digital Rupee, using block chain and other technologies, to be issued by the Reserve Bank of India starting 2022-23.
- Financial Assistance to States for Capital Investment - The 'Scheme for Financial Assistance to States for Capital Investment' are well received by the states. For 2022-23, the allocation is Rs. 1 lakh crore to assist the states in catalysing overall investments in the economy.
- Fiscal Management - As against a total expenditure of Rs. 34.83 lakh crore projected in the Budget Estimates 2021-22, the Revised Estimate is Rs. 37.70 lakh crore. The Revised Estimate of capital expenditure is Rs. 6.03 lakh crore. This includes an amount of Rs. 51,971 crore towards settlement of outstanding guaranteed liabilities of Air India and its other sundry commitments.

The Budget Estimates, the total expenditure in 2022-23 is estimated at Rs. 39.45 lakh crore, while the total receipts other than borrowings are estimated at Rs. 22.84 lakh crore. The revised Fiscal Deficit in the current year is estimated at 6.9% of GDP as against 6.8% projected in the Budget Estimates. The Fiscal Deficit in 2022-23 is estimated at 6.4% of GDP, which is consistent with the broad path of fiscal consolidation announced last year to reach a fiscal deficit level below 4.5% by 2025-26.

Apart from above facts and figures, the Finance Bill, 2022 have proposed various amendments in the Direct & Indirect Tax laws. The highlights of proposed amendments are summarized below:

Amendments Proposed in Direct Tax

The Finance Bill, 2022 proposed various amendments in the Income Tax Act, 1961. The said amendments shall be effective from Assessment Year (AY) 2023-24, unless otherwise specified. The key highlights of amendments proposed in the Income Tax Act, 1961 are briefly stated as under:

I. RATE OF SURCHARGE

At present, the rate of surcharge in case of long term capital gain on transfer of listed equity shares, units of equity oriented funds and units of business trust is capped at 15%. The said limit of surcharge at 15% on capital gain is now proposed to be extended to long term capital gains on transfer of any capital asset.

II. PROFITS FROM BUSINESS OR PROFESSION

- It is proposed to insert an explanation to section 14A stating that expenditure incurred in respect of exempt income shall be disallowed even though the income has not accrued or arisen or has not been received during the previous year and the expenditure has been incurred during the said previous year.
- It is proposed to amend section 40(a)(ia) by clarifying that the term "tax" includes surcharge or cess by whatever name called and is accordingly not a deductible expenditure. **The said amendment is effective retrospectively from 1st April, 2005 in relation to AY 2005-06 onwards.**
- Section 115BAB** applies to newly established manufacturing companies which are eligible to claim lower tax rate of 15% subject to certain conditions. **Now it is proposed to amend the said section by extending the date for commencement of manufacturing till 31st March, 2024** which was earlier upto 31st March, 2023.
- Section 115JC** is amended to reduce the Alternate Minimum Tax (AMT) payable by the co-operative societies to 15% from 18.5%.

III. INCOME FROM OTHER SOURCES

Scheme for Taxation of Virtual Digital Assets:

Virtual Digital Assets (e.g. cryptocurrencies) have gained tremendous popularity in recent times and trading volumes have also increased substantially. Therefore, a new scheme to provide taxation of such virtual digital assets has been proposed by insertion of a new section 115BBH. Salient features of the said scheme is as under:

- Tax at the rate of 30% shall be applicable on profit from sale of virtual digital assets.
- No deduction of expenditure except cost of acquisition shall be allowed against the income earned.
- Set off of any loss shall not be allowed against the income earned.
- Loss arising on sale of virtual digital assets shall not be set off against any other income in the same year or shall not be carried forward to any subsequent years.

Further, section 194-S is inserted, wherein the person who is making payment to a resident on transfer of the virtual digital asset shall be liable to deduct TDS at 1% from such payment. It is also clarified that section 194-S shall prevail over section 194-O. **This amendment shall take effect from 1st July, 2022.**

Further, gifting of virtual digital asset shall be taxable under the provisions of Section 56(2)(x) and amendments have accordingly been made to the said section.

IV. CHARITABLE TRUST OR INSTITUTION

- i. Amendments are proposed in sections 10(23C) and 12A(1)(b) wherein it is specified that charitable trust or institution shall keep and maintain books of accounts and other documents in such manner as may be prescribed.
- ii. A new section 271AAE is proposed to be inserted to levy penalty on charitable trust or institutions equal to income applied for benefit of specified person where violation is noticed for first time and twice the amount where violation is noticed for subsequent time. Specified person are such person who are trustees, relatives of trustees or any other related person.
- iii. Further, various amendments are proposed to bring parity among charitable trust and institution, which are claiming exemption under section 10(23C) or 12AB, on following grounds:
 - To bring consistency in provisions related to accumulation and payment to specified person,
 - Allowing certain expenditure in case of denial of exemption,
 - Filing of return by person claiming exemption under 10(23C),
 - Taxation of such charitable trust or institution at special rate,
 - Voluntary contribution for renovation and repair of temples, mosques, gurudwaras, churches etc. notified under section 80G(2)(b) - (proposed to be effective from AY 2022-23),
 - Clarification regarding allowance of application of income only on actual payment, and
 - Reference to Principal Commissioner or Commissioner for cancellation of registration / approval (proposed to be effective from 1st April, 2022).

V. TAX DEDUCTED OR COLLECTED AT SOURCE

- i. In section 194IA, an amendment is proposed wherein it is provided that 1% TDS shall be deducted by purchaser of immovable property not on the purchase value but on **higher amount of purchase value & the stamp duty value of such property**. However, it is also specified that if purchase value as well as stamp duty value of such property is less than ₹ 50 lakh then no tax shall be deducted (proposed to be effective from 1st April, 2022).
- ii. It is proposed to amend section 194IB (TDS on rent payable in excess of ₹ 50,000 per month by individual or HUF) whereby it is provided that tax at higher rate shall not be deducted by tenant if recipient of such rental income is specified person in view of section 206AB (Higher rate of TDS on non-filers of income return) - (proposed to be effective from 1st April, 2022).
- iii. A new section 194R is proposed to be inserted which specifies that **tax shall be deducted on any benefit or perquisite (whether in cash or kind) provided by any person to any resident and such benefit or perquisite is in relation to any business or profession carried on by such resident recipient**. The rate of TDS is 10% and shall be levied if the value of such benefit or perquisite is **in excess of ₹ 20,000 in a financial year**. This new section shall not apply to individual or HUF (being payer) whose total sales / gross receipts or turnover does not exceed **₹ 1 crore** from business or **₹ 50 lakh** from profession in immediately last financial year (proposed to be effective from 1st July, 2022).
- iv. It is proposed to insert a new section 194-S wherein it is specified that **tax shall be deducted at 1%, at the time of credit or payment whichever is earlier, on any sum paid by way of consideration (whether in cash or kind) to any resident for transfer of virtual digital asset**. The tax under this section shall be levied if the value of sale consideration exceeds **₹ 50,000** where payer is a specified person or **₹ 10,000** in any other case. The specified person means:
 - An individual or HUF whose total sales / gross receipts or turnover does not exceed **₹ 1 crore** from business or **₹ 50 lakh** from profession in immediately last financial year, or
 - An individual or HUF not having any income under the head 'profits and gains of business or profession'.

This new section is proposed to be effective from 1st July, 2022.

v. Relaxation in sections 206AB and 206CCA – provisions for higher rate of TDS & TCS respectively on non-filers of income tax returns:

In the Finance Act, 2021, sections 206AB and 206CCA were inserted wherein it is specified that TDS or TCS, as the case may be, shall be deducted at higher rate if the deductee (payer) have not filed income tax return within the due date for filing original return for last two financial years and aggregate of credit of TDS & TCS of such deductee exceeds ₹ 50,000 in each of the last two financial years.

However, the above condition of non-filed returns in last two financial years is reduced to one year in both the sections. Accordingly, it is proposed that higher rate of TDS or TCS shall be deducted if the deductee have not filed return of income for last financial year and the aggregate of credit of TDS & TCS exceeds ₹ 50,000 in such last financial year.

Further, an amendment is proposed in section 206AB wherein it is specified that higher rate of TDS to non-filer of income tax return shall not apply on deduction of tax under following sections as well:

- 194IA - Payment on transfer of certain immovable property other than agricultural land where purchase value or stamp duty value exceeds ₹ 50 lakh,
- 194IB - Payment of rent by certain individuals or Hindu undivided family in excess of ₹ 50,000 per month, and
- 194M - Payment of certain sums by certain individuals or Hindu undivided family in excess of ₹ 50 lakh in a financial year

This new section is proposed to be effective from 1st April, 2022.

VI. BENEFIT FOR STARTUPS

It is proposed to amend the provisions of section 80-IAC to extend the period of incorporation of eligible startups to 31st March, 2023 which was earlier upto 31st March, 2022.

VII. ASSESSMENT PROCEEDINGS

- i. A new section 148B is proposed to be inserted wherein it is provided that no order of assessment or reassessment or recomputation shall be passed by Assessing Officer below the rank of Joint Commissioner, if such assessment or reassessment or recomputation is in pursuance to search or seizure. However, it is also proposed that Assessing Officer below the rank of Joint Commissioner can pass such order with prior approval of Additional Commissioner or Additional Director or joint Commissioner or Joint Director.
- ii. Amendment is proposed in section 149 wherein it is provided that notice for assessing income escaping assessment can be issued if three years have elapsed but not more than 10 years have elapsed from the end of the relevant assessment year if the income escaping assessment (being ₹ 50 lakh or more) is in form of:
 - a. any asset,
 - b. expenditure in respect of a transaction or in relation to an event or occasion, or
 - c. an entry or entries in the books of accounts

In addition to this, new sub-section (1A) is proposed to be inserted in section 149 wherein it is mentioned that if any income escaping assessment is in form of any investment, asset or expenditure that have been made or incurred in more than one year then notice for assessing said income can issued for all such years. However, no notice can be issued if 10 years have elapsed from the end of relevant assessment year to which such income relates.

- iii. A new sub-section (1A) is proposed in section 153 wherein it is provided that where an updated return of income is filed as per new sub-section (8A) of section 139, an order of scrutiny assessment under section 143 or 144 shall be passed within nine months from the end of the financial year in which such updated return is filed.
- iv. It proposed by inserting new section 156A that where any demand is modified in pursuance to order of Adjudicating Authority under section 5(1) of the Insolvency and Bankruptcy Code, 2016 or by order of National Company Law Appellant Tribunal or the Supreme Court then the Assessing Officer shall amend notice of demand which is issued under section 156 to give effect of said order.
- v. A new section 158AB is proposed to be inserted wherein it is provided that where any identical question of law in case of the assessee or any other assessee for any assessment year is pending before the jurisdictional High Court or the Supreme Court then the Income Tax Department shall not file any appeal on same question of law for any other assessment year till the decision of jurisdiction High Court or Supreme Court is passed.

VIII. GENERAL

i. Provisions for filing updated return:

It is proposed to introduce a new sub-section (8A) in section 139 for filing **an updated return within 24 months from the end of the relevant assessment year** subject to certain conditions:

- Such updated return shall be **filed by any person whether he has furnished a return within due date, after due date, not yet furnished return** or has already revised return for that assessment year.
- **The updated return shall not be filed in case –**
 - a. Updated return is a return of loss; or
 - b. It has effect of decreasing total tax, or
 - c. Updated return results in refund, or
 - d. It increases the refund due.
- **Following persons shall not be eligible to file updated return –**
 - a. Search has been initiated under section 132,
 - b. Survey has been conducted under section 133A, or
 - c. A notice has been issued against the person under section 132 or 132A.
- **No updated return shall be furnished by any person, where –**
 - a. An updated return under section 139(8A) has already been furnished,
 - b. Any proceedings for assessment / reassessment / recomputation / revision of income under the Income Tax Act is pending or has been completed for relevant assessment year,
 - c. The AO has information in respect of such person under the Prevention of Money Laundering Act, 2002 / the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 / the Prohibition of Benami Property Transactions Act, 1988 / The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976,
 - d. Information for the relevant assessment year has been received under an agreement referred to in sections 90 or 90A in respect of such person, or
 - e. any prosecution have been initiated for the relevant assessment year in respect of such person.

Further, a new **section 140B** has been proposed to provide for the tax required to be paid for opting to file a return under section 139(8A):

➤ **Where no return is furnished earlier:**

A person shall before furnishing the return under section 139(8A), be liable to pay the tax due together with interest and fee payable under any provision of the Act. The tax payable shall be computed after taking into account the following:

- a. Advance Tax;
- b. TDS and TCS;
- c. any relief of tax claimed under section 89;
- d. any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;
- e. any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and
- f. any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

➤ **Where return of income is furnished under section 139(1) or 139(4) or 139(5):**

A person shall before furnishing the return under section 139(8A), be liable to pay the tax due together with interest and fee payable under any provision of the Act as reduced by the amount of interest paid under the provisions of the Act in the earlier return. The tax payable shall be computed after taking into account the following:

- a. Self Assessment Tax under section 140A, the credit for which has been taken in the earlier return;
- b. TDS and TCS which has not been claimed in the earlier return;
- c. any relief of tax or deduction of tax claimed under section 90 or section 91 which has not been claimed in the earlier return;

- d. any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been claimed in the earlier return; and
- e. any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return.

The additional tax, payable at the time of furnishing the updated return shall be equal to –

- a. 25% of aggregate of tax and interest payable, if such return is furnished after expiry of the time available under section 139(4) or section 139(5) and before completion of period of 12 months from the end of the relevant assessment year,
- and
- b. 50% of aggregate of tax and interest payable, if such return is furnished after the expiry of 12 months from the end of the relevant assessment year but before completion of the period of 24 months from the end of the relevant assessment year.

It is also clarified that “additional income-tax” shall include surcharge and cess, by whatever name called, on such tax. **These amendments will take effect from 1st April, 2022**

- ii. As per currently applicable provision of section 115BBD, any Indian company, holding 26% or more in nominal value of equity shares of a foreign company is liable to pay tax at 15% on dividend income declared, distributed or paid by such foreign company. The said section is now proposed to be amended to **restrict this concessional rate of tax on such dividend income only upto AY 2022-23 and not thereafter.**
- iii. It is proposed to amend Section 80CCD to increase the limit of deduction from existing 10% to 14% of the salary in respect of contribution made by the State Government towards National Pension System (NPS) to the account of its employees. **The said amendment is effective retrospectively from 1st April, 2020 in relation to AY 2020-21 onwards.**

Amendments Proposed in Indirect Tax

The Finance Bill, 2022 proposed various amendments in the GST Law. The Finance Bill, 2022 have proposed various amendments in the GST Law vide clause 99 to 113. Amendments carried out in the Finance Bill, 2022, vide clause 114 to 123 will come into effect on the date of its enactment. The key highlights of amendments proposed in GST law are briefly stated as under:

i. **Clause 99 - Section 16 of the CGST ACT:**

A new clause (ba) to sub-section (2) of section 16 of the CGST Act is being inserted to provide that input tax credit with respect to a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer under section 38. The law makers have tried to incorporate further restrictions in restrictions for the entitlement of Input Tax Credit.

Section 16(4) of the CGST Act is being amended so as to provide for an extended time for availment of input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year up-to thirtieth day of November of the following financial year. Earlier the last date to claim input tax credit was the due date of filing GSTR 3B return for the month of September following the end of financial year to which such invoice or debit note relates.

ii. **Clause 100 - Section 29 of the CGST ACT:**

Clause (b) and (c) of sub-section (2) of section 29 of the CGST Act are being amended so as to provide that the registration of a person is liable for cancellation, where –

- a. A person paying tax under section 10 (Composition scheme) has not furnished the return for a financial year beyond three months from the due date of furnishing of the said return;
This proposal clarifies that if the person registered under composition fails to furnish the designated return i.e. GSTR-4 beyond 3 months from the due date, the proper officer may proceed suo-moto for cancellation of registration after affording an opportunity of being heard.
- b. A person, other than those paying tax under section 10 (Composition scheme), has not furnished returns for such continuous tax period as may be prescribed.

By virtue of this amendment, the law makers proposed to do away with the condition of non-filing of return for continuous period of six months. This means that now even non-filing of returns for a lesser period can lead to invocation of suo-moto cancellation power by the Proper officer.

iii. **Clause 101 - Section 34 of the CGST ACT**

Section 34 (2) of the CGST Act is being amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year up-to thirtieth day of November of the following financial year. Earlier this date was due date of filing return for the month of September following the end of financial year to which this credit note relates.

iv. **Clause 102 - Section 37 of the CGST ACT**

Section 37 of the CGST Act is being amended so as to:

- a. Prescribe conditions and restrictions for furnishing the details of outward supply in GSTR 1 and for communication of the details of such outward supplies to concerned recipients in GSTR 2B;
- b. Do away with two-way communication process in return filing.
- c. Provide for an extended time up to 30th day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1) of Section 37 of the CGST Act (GSTR 1);
- d. Provide for tax period-wise sequential filing of details of outward supplies under sub-section (1) of Section 37 of the CGST Act (GSTR 1).

Two way communication process of filing GSTR 2 & GSTR 3 returns (a these provisions were anyways redundant), which was originally perceived return filing system by the Government has now been done away with.

v. **Clause 103 - Section 38 of the CGST ACT**

Clause 103 seeks to substitute a new section for section 38 of the Central Goods and Services Tax Act. Sub section (1) seeks to provide for prescribing such other supplies as well as the manner, time, conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.

Sub-section (2) seeks to provide for the details of inward supplies in respect of which input tax credit may be availed and the details of supplies on which input tax credit cannot be availed by the recipient."

Following nature of transactions in respect of which ITC cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,–

- a. by any registered person (supplier) within such period of taking registration as may be prescribed; or
- b. by any registered person (supplier), who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or
- c. by any registered person (supplier), the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said subsection during such period, as may be prescribed, exceeds the output tax actually paid by him during the said period by such limit as may be prescribed; or
- d. by any registered person (supplier) who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or
- e. by any registered person (supplier), who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or
- f. by such other class of persons as may be prescribed.

Sub-section (2) as proposed seems to be restricting the ITC availment to the recipient through the auto generated statement. It is very surprising to see such kind of insertion of the provision which speaks about the auto generated statement with – (i) inward supplies – ITC available to recipient, (ii) inward supplies – ITC not available, wholly or partially, on account of the circumstances/ situations specified in sub-clause (i) to (vi) of section 38(2)(b).

This auto generated statement will become the main document relied upon by the tax officers for allowing or disallowing the ITC which is not the right approach. In fact this will cause more hardship to the taxpayers and therefore this restrictions seems to be draconian and arbitrary. Further, it could be noted that the total credit of recipient is now being subjected to the act of the supplier and therefore any non-compliance at the end of supplier will cause denial of ITC to the recipient irrespective of the fact that he has no control whatsoever on his suppliers.

vi. Clause 104 - Section 39 of the CGST ACT

Section 39 of the CGST Act is being amended so as to:

- a. Provide that the non-resident taxable person shall furnish the return for a month by thirteenth day of the following month;

By virtue of this proposed amendment, due date of return filing for non-resident taxable person has been changed from twenty to thirteen.

- b. Provide an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an amount that may be prescribed;
- c. Provide for an extended time upto thirtieth day of November of the following financial year, for rectification of errors in the return furnished under section 39;
- d. Provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing the return under section 39 for the said tax period.

Since now, government is considering statement of outward supply as the most important compliance, they have proposed to amend sub-section (10) of Section 39 in a way that now even non-filing of statement of outward supplies for the concerned tax period can act as an embargo in furnishing the return under Section 39 except where the relaxation is given by way of Notification.

vii. Clause 105 - Section 41 of the CGST ACT

Section 41 of the CGST Act is being substituted so as to do away with the concept of "claim" of eligible input tax credit on a "provisional" basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be prescribed.

The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed.

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

First change is the change in heading. Earlier it was "Claim of Input Tax Credit and Provisional acceptance thereof". Now, it is proposed to be - "Availment of Input Tax Credit".

Prima facie, it could be said that the ITC which was provisionally taken as self-assessment is now no more to be considered as a provisional credit and therefore it would be the Final ITC.

Additionally, a duty has been casted on the tax payer to reverse the ITC along with Interest in the manner prescribed in case where the tax has not been paid by the supplier.

viii. Clause 106 - Section 42, 43 and 43A of the CGST ACT:

Sections 42, 43 and 43A of the CGST Act are being omitted so as to do away with two-way communication process in return filing.

ix. Clause 107 - Section 47 of the CGST ACT:

Section 47 of the CGST Act is being amended so as to provide for levy of late fee for delayed filing of return under section 52 (i.e. TCS return by e-commerce operator). Further, reference to section 38 is being removed consequent to the amendment in section 38 of the CGST Act.

x. Clause 108 - Section 48 of the CGST ACT:

Consequent to the amendment in section 38 of the CGST Act, sub-section (2) of section 48 of the CGST Act is being amended so as to remove reference to section 38 there-from.

xi. Clause 109 - Section 49 of the CGST ACT:

Section 49 of the CGST Act is being amended so as to:

- a. Provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger as well as provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.

For utilising the balance of Electronic Credit Ledger in making payment towards output tax liability, the conditions as well as restrictions may be imposed which intern mean even after complying with all the necessary conditions as per the provisions of Section 16(2) read with the amended Section 38(2) and the other sections, the said balance of Electronic Credit Ledger may not be permitted to be used for making the payment of output tax.

- b. Allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person;
- c. A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for,—
 - Integrated tax, central tax, State tax, Union territory tax or cess; or
 - Integrated tax or central tax of a distinct person in such form and manner and subject to such conditions and restrictions as may be prescribed.

By this, the Govt. is continuing to allow the transfer of the balance of Electronic Cash Ledger from one head to another and along with this, by virtue of this proposition, the Govt. is further allowing the transfer of balance lying in Electronic Cash Ledger to the Electronic Cash Ledger of distinct person.

xii. Section 50 of the CGST ACT:

Sub-section (3) of section 50 of the CGST Act is being substituted retrospectively, with effect from the 1st July, 2017, so as to provide for levy of interest on input tax credit wrongly availed and utilized.

By this, the government makes it clear that only wrongful availment of ITC will not attract interest. Meaning thereby it is not only, wrongful availment but also utilisation of such wrongfully availed ITC which will attract the Interest Liability.

xiii. Clause 111 - Section 52 of the CGST ACT:

Sub-section (6) of section 52 of the CGST Act is being amended so as to provide for an extended time upto thirtieth day of November of the following financial year for rectification of errors in the statement furnished under subsection (4) i.e. TCS return by e-commerce operator.

xiv. Clause 112 - Section 54 of the CGST ACT:

Section 54 of the CGST Act is being amended so as to:

- a. Explicitly provide that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed;

Since, there is no column or entry in GSTR-3B (Return u/s. 39). Therefore, this proposition has been made to substitute the words. Now, it is clear that claim of refund of extra balance lying in Electronic Cash Ledger has to be by way of filling the prescribed form in the prescribed manner.

- b. Provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 as two years from the last day of the quarter in which the said supply was received;

By virtue of this proposed amendment, time limit has been changed from Six months to Two Years for a specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55.

- c. Extend the scope of withholding of or recovery from refunds in respect of all types of refund;
- d. Provide clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit by way of insertion of a new sub-clause (ba) in clause (2) of Explanation thereto.

This is a good move as in case of zero rated supply, the due date for furnishing return under section 39 will be considered as the relevant date.

xv. Clause 113 - Section 168 of the CGST ACT:

Consequent to the amendment in section 38 of the CGST Act, sub-section (2) of section 168 of the CGST Act is being amended so as to remove reference to section 38 there-from.

xvi. Clause 115 - NN 13/2017 CT dated 28.06.2017 of the CGST ACT:

Notification No. 13/2017 - Central Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under subsection (3) of section 50 (i.e. reversal of ITC) under GST Law as 18%.

xvii. Clause 116 seeks to provide retrospective exemption from CENTRAL TAX in respect of supply of unintended **waste generated during the production of fish meal** (falling under heading 2301), except for fish oil, during the period from the 1st day of July, 2017 upto the 30th day of September, 2019 (both days inclusive).

It further seeks to provide that no refund shall be made of the said tax which has already been collected.

xviii. Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments, has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service vide notification No. 25/2019- Central Tax (R) dated 30.09.2019, notification No. 24/2019- Integrated Tax (R) dated 30.09.2019 and notification No. 25/2019- Union Territory Tax (R) dated 30.09.2019. These notifications have been given retrospective effect from 01.07.2017.

However, no refund shall be made of tax which has been collected, but which would not have been so collected, had the said notifications been in force at all material times.

DIRECT TAX UPDATES

1. Extension of due dates for income-tax compliances

The C.B.D.T. vide Cir.No. 01/2022 dated 11-01-2022 announced further extension of due dates which were extended vide Circular No.9/2021 dated 20-05-2021 and Circular No.17/2021 dated 09-09-2021, for following compliances in view of the Pandemic of covid-19 :

Particulars	Actual Due Date	Last Extended Due Date	New Extended Due Date
Due date for filing of audit report under section 44AB for the assessment year 2021-22	30-09-2021	15-01-2022	15-02-2022
(i) in the case of a corporate-assessee or non-corporate assessee	31-10-2021	31-01-2022	15-02-2022
(ii) in the case of an assessee entering in to international (TP) or specified domestic transactions (SDT) under Section 92E			
Due Date for filing of Income tax Return under sec 139(1) for the assessment year 2021-22 if the assessee (not having any international (TP) or specified domestic transaction (SDT) is:	31-10-2021	15-02-2022	15-03-2022
(a) corporate-assessee;			
(b) non-corporate assessee (whose books of account are required to be audited); or			
(c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies.			
Due Date for filing of Income tax Return under sec 139(1) for the assessment year 2021-22 in the case of an assessee if it is required to submit a report under section 92E pertaining to international (TP) or specified domestic transaction (SDT)	30-11-2021	28-02-2022	15-03-2022

• Important Circulars & Notifications under Allied Laws :

Extension of filing Annual Accounts with Charity Commissioner, Maharashtra

(Notification No. 593/2022 dt. 31-01-2022)

Due date for filing of Annual Audited Accounts for the F.Y. 2020-21 by Public Charitable Trust with the office of the Charity Commissioner in Maharashtra has been extended from 31-01-2022 to 15-02-2022.



DUE DATE

Due dates of various compliances falling in the month of February' 2022

S.No	Due Date	Act/Authority	Compliance Description
1	07/02/2022	GujRera	In case of projects whose dynamic quarter completes in January-2022
2	07/02/2022	Income Tax	Deposit of Tax Deducted at Source (TDS) / Tax Collected at source (TCS) during the month of January-2022
3	10/02/2022	GST	GSTR-7/GSTR-8 for the month of January-2022 for persons required to deduct TDS
4	10/02/2022	GST	GSTR-8 for the month of January -2022 for e-commerce operator required to Collect TCS
5	11/02/2022	GST	GSTR-1 for the month of January-2022 for taxpayers opted to file Monthly Return
6	13/02/2022	GST	GSTR-6 for the month of January-2022 for Input Service Distributor(ISD)
7	13/02/2022	GST	Filing of Invoice Furnishing Facility (IFF) for January-2022 for taxpayers who opted for Quarterly Return Monthly Payment (QRMP) option
8	15/02/2022	PF/ESIC	Payment of PF / ESIC for the month of January-2022
9	15/02/2022	Income Tax	Due date for filing of audit report under section 44AB for the financial year 2020-2021
10	15/02/2022	Income Tax	Due date of filing of Transfer Pricing report under section 92E for the financial year 2020-2021
11	15/02/2022	MCA	Extended due date for filing of Financial Statement for the financial year 2020-2021 in Form AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 Non-XBRL
12	20/02/2022	GST	Payment of GST & Filing of GSTR-3B for the month of January -2022, for taxpayers having turnover of more than Rs.5 Crore in preceding financial Year or who have opted to file monthly return
13	20/02/2022	GST	GSTR-5 & 5A by Non-resident taxable person & OIDAR for the month of January -2022
14	25/02/2022	GST	Payment of GST for the month of January-2022 for Tax payers who opted for QRMP Option
15	28/02/2022	GST	Filing of GSTR 9 and GSTR 9C - Annual Return and Reconciliation Statement for Financial year 2020-2021
16	28/02/2022	MCA	Extended due date for filing of Annual Return for the financial year 2020-2021 in forms MGT-7 / 7A
17	02/03/2022	Income Tax	Furnishing of Challan-cum-Return for Tax Deducted (TDS) u/s 194IA, 194IB and 194M during the month of January-2022 (As per Rule 31A, TDS deducted under these sections is to be paid within 30 days from the end of the month in which such tax is deducted. The specified 30 days from the end of the month of January will end on 02nd March. However, it is advisable to pay tax deducted under these sections by 28/02/2022 to avoid any future litigation)



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