

VIEWS OF

**AGARWAL &
DHANDHANIA**

CHARTERED ACCOUNTANTS



**BUDGET
2022-23**

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Foreword

Dear Readers,

Union Finance Minister Nirmala Sitharaman presented a digital first Budget proposals 2022 on February 1, which focuses on stepping up capital expenditure while keeping at bay the fiscal deficit and inflationary concerns, reviving economic growth, increasing consumption, fostering investment to fuel post-pandemic growth, health and well-being, infrastructure, inclusive development, energy transition and climate action, financing of investments and 'Minimum Government, Maximum Governance'.

India's economic growth is estimated at 9.2% to be the highest among all large economies. The Budget hiked capital expenditure for FY23 at Rs 7.5 lakh crore, about 2.9% of GDP. This boost is 35.4% higher than the budget estimate of Rs 5.54 lakh crore in FY22. The fiscal deficit target has been set at 6.4% for FY23.

However, this Budget lacks any tangible measures to increase revenue generation even though the capital expenditure plans have gone up significantly therefore the fiscal deficit estimate suggests that the government is relying too much on Higher tax collections so far in the current fiscal.

Budget's major features are fostering startup innovation, ensuring more equitable treatment for cooperatives and state employees, promoting tax compliance through simplification, Expansion of National Highways Network by 25,000 km in FY23, 30% tax on transfer of virtual digital assets such as crypto currencies, non-

fungible tokens or NFTs, New legislation for SEZ, India's own Central Bank Digital Currency in the form of a digital rupee using block chain to be issued by RBI in 2022-23, E-passports in 2022-23, PM e-Vidya initiative in regional languages, provision for updated Income Tax Returns or ITR within two years in case of any omission or mistake, 25 % of the annual research and development budget of the defense ministry reserved for private companies and start-ups, 100% of India's 1.5 lakh post offices to be on-boarded on core banking system in 2022 etc.

Withdrawal of 3 farmer bills were seen as a political move in view of upcoming 5 state elections. The general perspective was that the government may announce soaps to appease farming people. However no such flavor was apparently observed in FM's speech. This shows that Modi's government is very confident about its political future.

Thanks

Publication Team

01.02.2022, Tuesday

Key Highlights of Economic Survey 2021-22

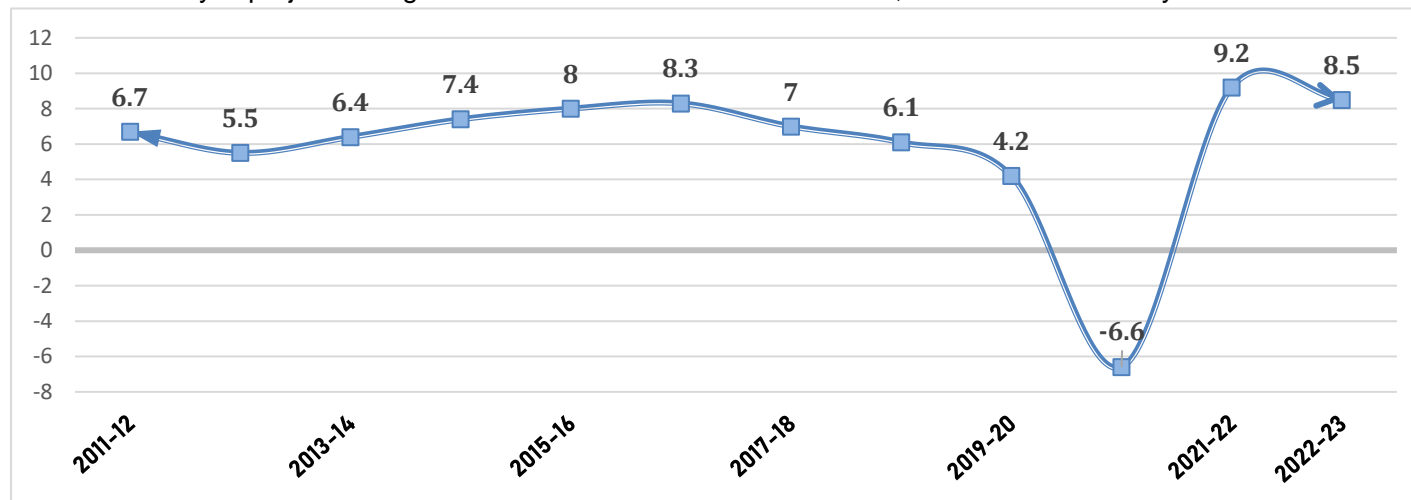
The last two years have been difficult for the world economy on account of the COVID-19 pandemic. Repeated waves of infection, supply-chain disruptions and, more recently, inflation have created particularly challenging times for policy-making.

1. The survey forecasts economy to grow 8-8.5 per cent in real terms for the fiscal year 2022-23.
2. Indian Economy is expected to grow at 9.2 per cent (as per the estimates) in FY 2021-22.
3. Agriculture and allied sectors have been the least impacted by the pandemic and the sector is expected to grow by 3.9 per cent in 2021-22, Industry rise by 11.8 per cent & sector is estimated to grow by 8.2 per cent this financial year.
4. Projection comparable with the World Bank's and Asian Development Bank's latest forecasts of real GDP growth of 8.7 per cent and 7.5 per cent respectively for 2022-23.
5. As per the IMF's latest World Economic Outlook (WEO) growth projections, India's real GDP is projected to grow at 9 per cent in both 2021-22 and 2022-23 and at 7.1 per cent in 2023-24. This projects India as the fastest growing major economy in the world in all these three years
6. Consumption is estimated to have grown by 7.0 per cent in 2021-22 with significant contributions from government spending.
7. Sustained revenue collection and a targeted expenditure policy, the fiscal deficit for April-November 2021 has been contained at 46.2 per cent of Budget Estimates (BE).
8. INR 89,066 crore was raised via 75 IPO issues in April-November 2021, much higher than in any year in the last decade.
9. Sensex and Nifty scaled up to touch its peak at 61,766 and 18,477 on October 18, 2021
10. GNPA ratio of SCBs decreased from 7.5 per cent at end-September 2020 to 6.9 per cent at end-September 2021.
11. Consumer Price Index (CPI) inflation moderated to 5.2 per cent in 2021-22 (April-December) from 6.6 per cent in the corresponding period of 2020-21.



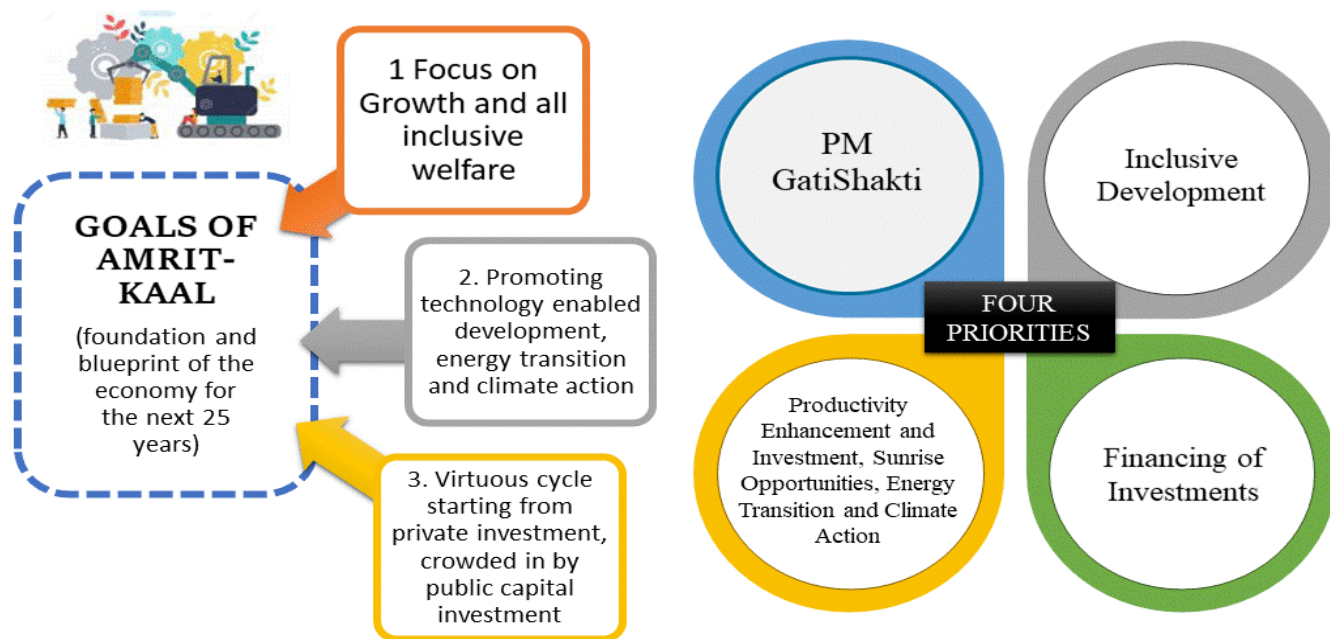
Economic Growth Projection

India's economy is projected to grow 8-8.5% in FY23 and 9.2% in FY22, the Economic Survey said.



*GSP for FY 2021-22 is provisional & for FY 2022-23 is estimate. (Source – TOI)

Key Feature of the Budget Part-I





PM GatiShakti



- Driven by seven engines: **Roads, Railways, Airports, Ports, Mass Transport, Waterways, and Logistics Infrastructure.**
- National Master Plan aimed at **world class modern infrastructure** and **logistics synergy**



05

- Formulation of Master Plan for expressways.
- Completing 25000 km national highways in 2022-23



04

- Unified Logistics Interface Platform allowing data exchange among all mode operators
- Open Source Mobility Stack for seamless travel of passengers
- 4 Multimodal Logistics parks through PPP to be awarded in 2022-23



03

- Integration of Postal and Railways Network facilitating parcel movement.
- One Station One Product
- Extending coverage under Kavach
- 400 new generation Vande Bharat Trains



02

- Multimodal connectivity between mass urban transport and railway stations
- National Roeways Development
- Plan as sustainable alternative to conventional roads.
- Capacity building for infrastructure Projects



01

All inclusive welfare focus and Agriculture & Food Processing

Har Ghar, Nal Se Jal:

3.8 crore households to be covered in 2022-23

PM Awas Yojana

80 lakh houses to be completed in 2022-23

Aspirational Blocks Programme

For development of lagging blocks of aspirational districts

Agriculture & Food Processing

- Use of Kisan Drones to aid farmers.
- Delivery of Digital and Hi-Tech services to farmers in PPP mode
- Launching fund with blended capital to finance agriculture start ups
- Promoting chemical free natural farming starting with farmers' lands close to river Ganga
- Promoting post harvest value addition, consumption and branding of millet products
- Implementation of Ken Betwa Link Project benefitting 9.1 lakh hectare farm land, providing drinking water to 62 lakh people and generating 130MW power
- 5 more such projects under process of implementation

Digital Banking by Post Offices

100% of post offices to come on the core banking system

Digital Payments

Scheduled Commercial Banks to set up 75 Digital Banking Units in 75 districts

Vibrant Villages Programme

Targeting development of villages on the Northern Border left out from the development gains



Financing of Investment, Health, Education & Skill Development

Financing of investment

- Public investment to continue to pump prime Private investment and demand in 2022-23
- Introduction of Digital Rupee by RBI starting 2022-23**
- Providing greater fiscal space to States



Education

- Universalisation of Quality Education
- One class One TV channel programme to be expanded to 200 TV channels
- Virtual labs and skilling e-labs to promote critical thinking skills and stimulated learning environment
- A Digital University will be established with world class quality universal education
- High quality e-content will be delivered through Digital Teachers

Health Sector



Skill Development

- Digital Ecosystem for Skilling and Livelihood (DESH-Stack e-portal) will be launched to promote online training
- Startups will be promoted to facilitate Drone Shakti for Drone-As-A-Service

MSME

Extending ECLGS with focus on hospitality and related enterprises

- ❖ To support sectors disproportionately affected by the pandemic, FM announces extension of ECLGS till Mar-23. Given that nearly 95% of ECLGS borrowers are MSMEs,
- ❖ The services sector, which accounts for more than 60% of India's GDP, remains an important engine of economic growth

Interlinking various portals

- ❖ Various portals such as Udyam, e-Shram, National Career Service (NCS) and Atmanirbhar Skilled Employee-Employer Mapping (ASEEM) will be interlinked.



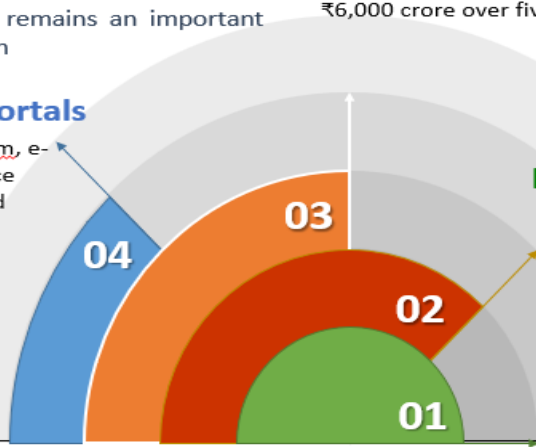
Raising and Accelerating MSME Performance (RAMP) programme

- ❖ Emergency Credit Line Guarantee Scheme will be extended up to March 2023,
- ❖ In a bid to make the MSME sector more competitive, it will be rolling out the Raising and Accelerating MSME Performance (RAMP) programme with an outlay of ₹6,000 crore over five years



Revamping CGTMSE

- ❖ Revamp of CGTSME will be an added incentive for banks to extend lending
- ❖ This will facilitate additional credit of Rs 2 lakh crore for micro and small enterprises and expand employment opportunities



Productivity enhancement and Investment

Ease of Doing Business 2.0

- Trust based governance
- Integration of central and state level systems through IT bridges
- Expanding scope of PARIVESH Portal
- Unique Land Parcel Identification Number for IT based management of land records.
- Establishing C-PACE to facilitate voluntary winding up of companies
- End to end online e-Bill System and utilising surety bonds in government procurement.
- AVCG promotion task force
- Support to 5G under PLI scheme
- Opening up defence R&D for industry, startups and academia

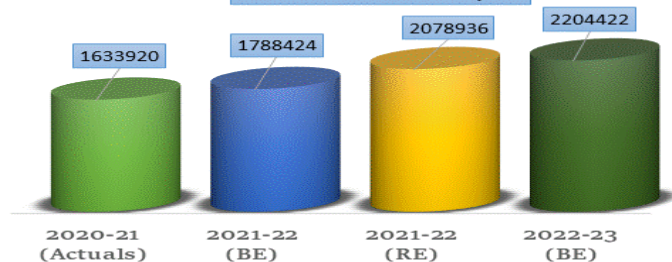


Ease of Living

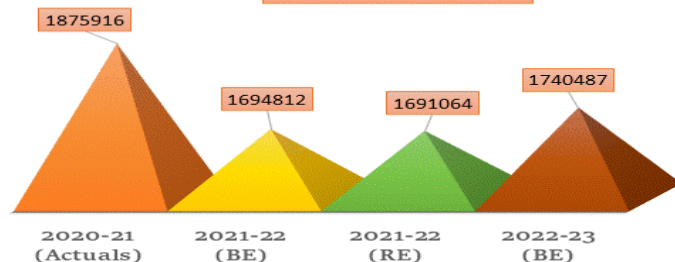
- Issuance of chip embedded e- Passports
- Modernisation of building byelaws, implementing Town Planning Schemes and Transit Oriented Development
- Establishing Centres of Excellence in urban planning
- Providing a battery swapping policy as an alternative to setting up charging stations in urban areas

BUDGET AT A GLANCE (All Figure in Crores)

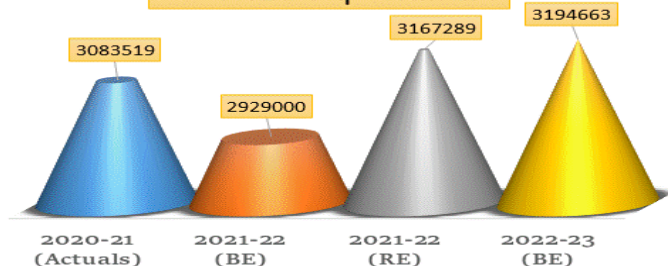
Revenue Receipts



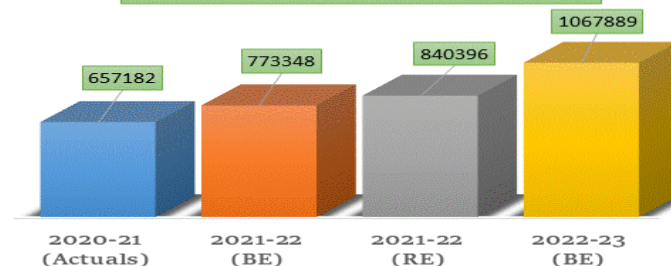
Capital Receipts



Revenue Expenditure



Effective Capital Expenditure

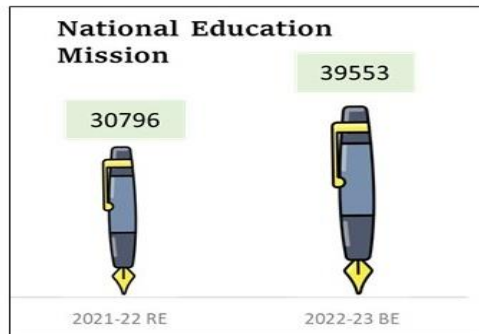
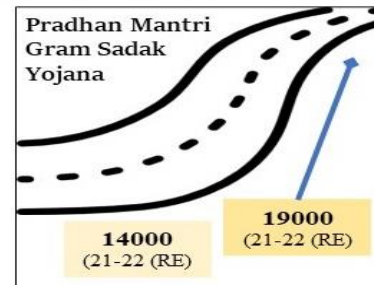
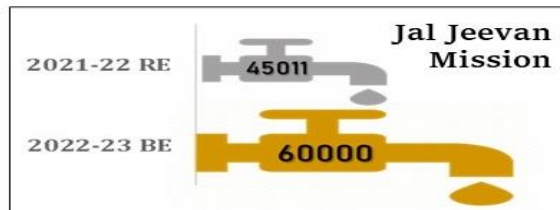


Source – Budget Document

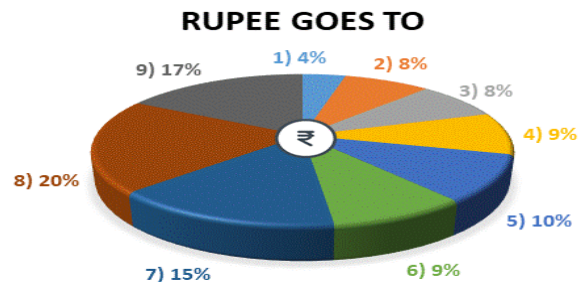
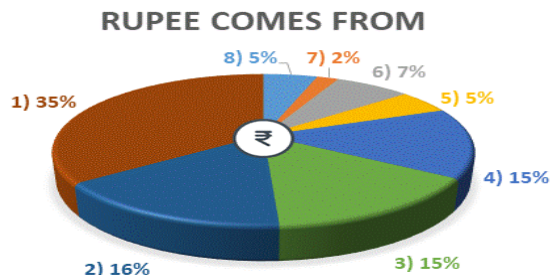
EXPENDITURE ON VARIOUS KEY AREAS (At a Glance) – INR in Crore

Name of Ministry	FY 2022-23	FY 2021-22	% of Change
Ministry of Education	104277	93224	↑ 12%
Ministry of Communications	105407	75265	↑ 40%
Ministry of Chemicals and Fertilisers	107715	80714	↑ 33%
Ministry of Agriculture and Farmers' Welfare	132514	131531	↑ 1%
Ministry of Rural Development	138204	133690	↑ 3%
Ministry of Railways	140367	110055	↑ 28%
Ministry of Home Affairs	185777	166547	↑ 12%
Ministry of Road Transport and Highways	199108	118101	↑ 69%
Ministry of Consumer Affairs, Food and Public	217684	256948	↓ -15%
Ministry of Defence	525166	478196	↑ 10%

Allocation to Major Schemes (All Figure in Crores)



BUDGET AT A GLANCE



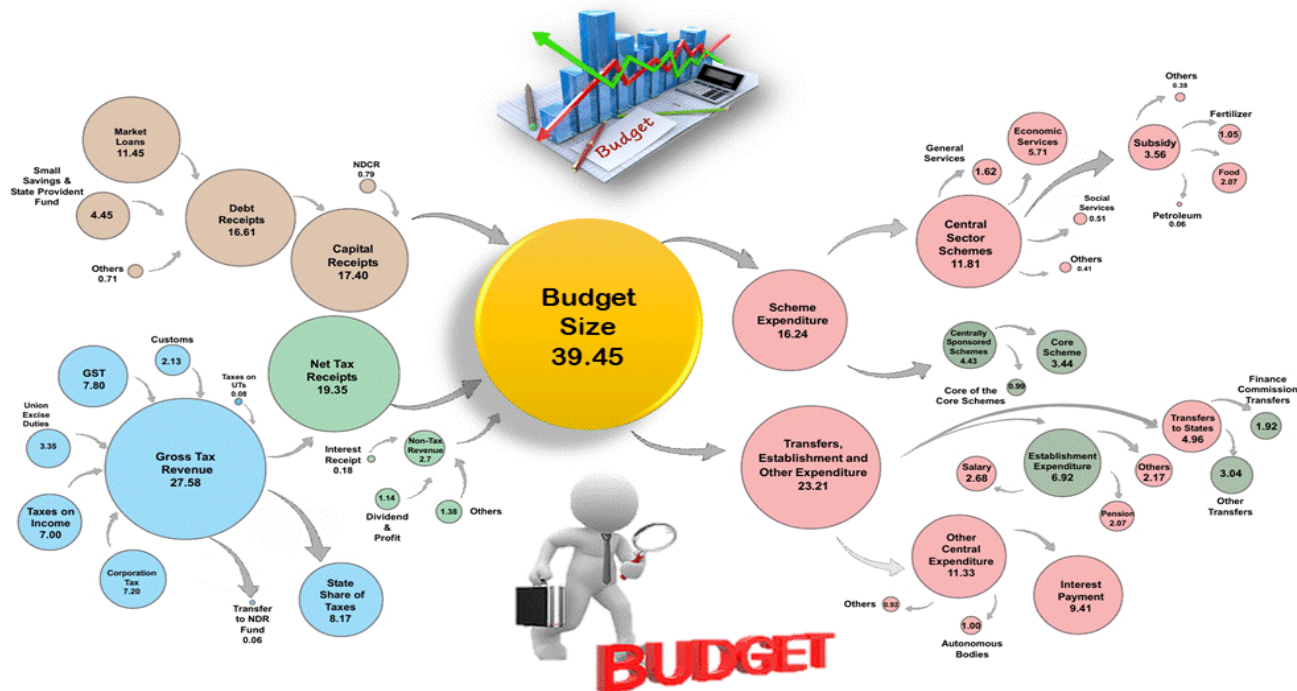
RUPEE COMES FROM	2021-22	2022-23	RUPEE GOES TO	2021-22	2022-23
1) Borrowings and Other Liabilities	36%	35%	1) Pensions	5%	4%
2) GST	14%	16%	2) Subsidies	8%	8%
3) Corporation Tax	15%	15%	3) Defence	8%	8%
4) Income Tax	13%	15%	4) Centrally Sponsored Schemes	9%	9%
5) Non Tax Revenue	8%	5%	5) Finance Commission and Transfers	10%	10%
6) Union Excise Duties	6%	7%	6) Other Expenditure	10%	9%
7) Non Debt Capital Receipts	5%	2%	7) Central Sector Schemes	14%	15%
8) Customs	3%	5%	8) Interest Payments	20%	20%
			9) States' Share of Taxes and Duties	16%	17%

Downgrade in % in compared to PY

Upgrade in % in compared to PY

No Change

Budget Profile (In INR Lakh Crore)



DIRECT TAXATION PROPOSALS

Income from transfer of virtual assets to be taxed at 30%

Avoid Repetitive Appeals

Better litigation management to avoid repetitive appeals



Any Surcharge or Cess on Income and Profits not allowable as business expenditure



Increasing tax deduction limit on employer's contribution to NPS account of state gov. employees



Updation of Return allow within 2 Years

Allowing taxpayers to file Updated Return within 2 years for correcting errors with one time Window.



Reducing Alternate Minimum Tax Rate and Surcharge for Cooperatives.

Extending period of incorporation of eligible startups for providing tax incentives

Reducing Alternate Minimum Tax Rate and Surcharge for Cooperatives.



Tax relief to persons with Disability. Allowed to differently abled dependent on attending the age of 60 Years.

HIGHLIGHTES OF THE INDIRECT TAXATION PROPOSALS

1



Maintain consistency in GST collections during 21-22

Clause (aa) introduced in Sec 16(2), to allow ITC only if debit note are uploaded by supplier

2



Extension of time limit on availment of ITC & Credit Notes

Amendment on ITC availment limit to be 30th November & Credit Notes for previous financial year can be issued by 30th November of next financial year.

3



Registration cancellation on non-filing of GST returns

Registration of a person can be cancelled if has not furnished returns for such continuous tax period as may be prescribed.

4



ITC Available to the extend of Auto-population

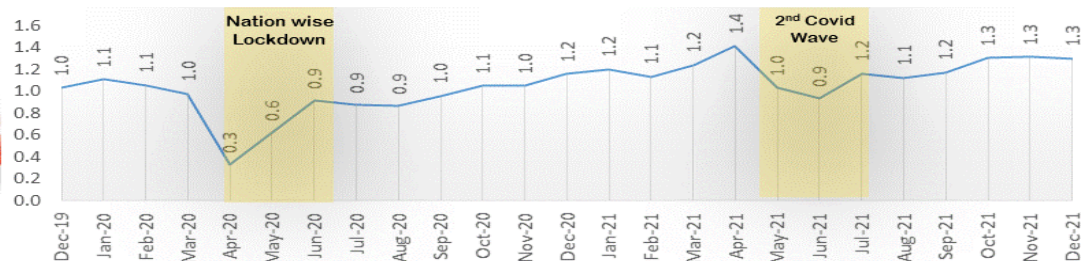
Auto generated statement containing the details of input tax credit shall be made available electronically to the recipients

5



GST 1/ GST 3B rectification allowed till 30th November

Any rectification of error in GSTR-1/ GSTR-3B is now permitted till 30th November of next financial year



Rs. In Lakh Crore (Source: Budget Document)

Direct Tax Proposals

Tax Rates

(A) Individual/ HUF:

(I) The Slab for Individual/HUF, whether Incorporated or not, or every artificial Juridical person:(Less than 60 years)

Slab Rates

Income	Tax Rate
Upto Rs. 2,50,000	Nil
Rs.2,50,001 to Rs. 5,00,000	5% (Income <= Rs.5,00,000, Tax liability= Nil)
Rs.5,00,001 to Rs. 7,50,000	10%
Rs.7,50,001 to Rs. 10,00,000	15%
Rs.10,00,001 to Rs. 12,50,000	20%
Rs. 12,50,001 to Rs. 15,00,000	25%
Above Rs.15,00,000	30%

In case of Non-resident person-amount of tax would be increased by a surcharge-

Income	Rate (%)
Below two crores	Same as Resident tax payer.
Between two to five crores	25%
Exceeding five crores	37%



- (II) In case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year:

Slab Rates	
Income	Tax Rate
Up to Rs. 3,00,000	Nil
Rs. 3,00,001 to Rs. 5,00,000	5%(Income <= Rs.5,00,000, Tax liability= Nil)
Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs.10,00,000	30%

- (III) In case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year:

Slab Rates	
Income	Tax Rate
Up to Rs. 5,00,000	Nil
Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs.10,00,000	30%

(B) Co-operative Societies:

In case of Co-operative Societies, the rates of income-tax are as given below. The rates will be continued to be same as those specified for Assessment Year 2019-20.

Slab Rates	
Income	Tax Rate
Up to Rs. 10,000	10%
Above Rs. 10,000-Rs. 20,000	20%
Above 20,000	30%

(C) Firms:

In the case of firms, the rate will continue to be the same as that specified for Assessment Year 2019-20. The rate of income-tax in case of firm is @ 30% which will further be increased by "Health and Education Cess on Income Tax" @ 4%.

(D) Local Authorities:

In the case of Local Authorities, the rate will continue to be the same as that specified for Assessment Year 2019-20. The rate of income-tax in case of local authority is @ 30% which will further be increased by Health and Education Cess on Income Tax" @ 4%.

The amount of income-tax computed in accordance with all above (B), (C) & (D) provisions shall be increased by a surcharge at the rate of 12% such income-tax in case of all the above assesses having a total income exceeding one Crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding Rs. 1 Crore shall not exceed the total amount payable as income-tax on a total income of one Crore rupees by more than the amount of income that exceeds Rs. 1 Crore.

(E) Companies:

Income Tax Slab Rate		Surcharge Rate	
Assessee	Tax Rate	Total Income	Rate
In Case of Domestic Company (where its total turnover or the gross receipt in the previous year 2020-21 does not exceed 400 crore rupees)	25%	Above 1 Crore but not exceed 10 Crore	7%
		Above 10 Crore	12%
In Case of Domestic Company (where its total turnover or the gross receipt in the previous year 2020-21 exceed 400 crore rupees)	30%	Above 1 Crore but not exceed 10 Crore	7%
		Above 10 Crore	12%
In case of Company other than a domestic company- i) On the total income as consists of, — (a) royalties received from the Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976 or (b) Fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, and where such agreement has, in either case, been approved by the Central Government.	50%	Above 1 Crore but not exceed 10 Crore	2%
		Above 10 Crore	5%
In case of Company other than a domestic company- ii) Other Than Above mentioned in (i)	40%	Above 1 Crore but not exceed 10 Crore	2%
		Above 10 Crore	5%

➤ In other cases, (including sections 115-O, 115QA, 115R, 115TA or 115TD) the surcharge shall be levied at the rate of twelve percent.

Optional

Income Tax Slab Rate		Surcharge Rate	
Assessee	Tax Rate	Income	Rate
All Domestic Company	22%	-	10%
New Domestic Manufacturing Company	15%	Above 1 Crore but not exceed 10 Crore	7%
		Above 10 Crore	12%

Definition of Virtual Digital Asset

Section 2- New Clause Inserted in Section 2: Clause 47A Definition of Virtual Digital Asset

Virtual digital asset is proposed to mean any information or code or number or token (not being Indian currency or any foreign currency), generated through **cryptographic means** or otherwise, by whatever name called, providing **a digital representation of value** which is exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account and includes its use in any financial transaction or investment, but not limited to, investment schemes and can be **transferred, stored or traded electronically. Non fungible token** and; any other token of similar nature is included in the definition.

Non Fungible Token: The Non-fungible tokens mean such digital assets as notified by the Central Government. Further, Central Government can notify such assets which shall not be considered as virtual digital assets for the purposes of the proposed section.

WEF: These amendments will take effect from 1st April, 2022.

Definition of Slump Sales

Clause 42C:

Slump sale is now defined as the **transfer** of one or more undertaking, by any means, for a lump sum consideration without values being assigned to individual assets and liabilities in such sales.

Earlier the instead of transfer “sales” word was mentioned in the Definition of Slump Sales.

Implication: the definition of “slump sale” was amended to expand its scope to cover all forms of transfer under slump sale

WEF: This amendment will take effect retrospectively from the 1st April, 2021

Incentives to IFCS

Section 10

Existing Provisions: Clause 4E section 10: The income accrued or arisen to, or received by, a non-resident as a result of transfer of **non-deliverable forward contracts** under clause (4E) of section 10 of the Act, shall be exempted subject to fulfilment of the specified conditions.

New Provision: Now after Non- Deliverable Forwards Contract Word **offshore derivative instruments or over-the-counter derivatives,” shall be inserted;**

Implication: to extend the exemption under the said clause to the income accrued or arisen to or received by a non-resident as a result of transfer of offshore derivative instruments or over-the-counter derivatives entered into with an Offshore Banking Unit of an International Financial Services Centre, referred to in subsection (1A) of section 80LA.

WEF: 01.04.2023

Section 10 (4F)

Existing Provision: Clause 4F section 10: any income of a non-resident by way of royalty or interest, on account of lease of an aircraft in a previous year, paid by a unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, if the unit has commenced its operations on or before the 31st day of March, 2024

New Provision: In amended definition after the word Aircraft the word “**or a ship**” shall be inserted; **Ship in the amended clause defined as:** a ship or an ocean vessel, an engine of a ship or an ocean vessel, or any part thereof.

Implication: to extent the exemption under the said clause on account of lease of a ship also.

WEF: 01.04.2023

New Provision 4G inserted: to provide exemption to any income received by a non-resident from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident, in an account maintained with an Offshore Banking Unit, in any International Financial Services Centre, referred to in subsection (1A) of section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

Portfolio Manager: Same definition as defined in the International Financial Services Centres Authority Act, 2019

Withdrawal of exemption under clauses (8), (8A), (8B) and (9) of section 10

Earlier Provision: - **Clause 8:** provides for exemption to the income of an individual who is assigned duties in India in connection with any co-operative technical assistance programmes and projects. **Clause 8A:** provides for exemption on the remuneration or fee received by a

consultant, directly or indirectly out of the funds made available to an international organisation (agency) under a technical assistance grant agreement between the agency and the Government of a foreign state. **Clause 8B:** provides for exemption to an individual who is an employee of the consultant as referred to in clause (8A) of section 10. Such individuals are those who are assigned duties in India in connection with any technical assistance programme and project. **Clause 9:** provides for exemption to the income of the family members of any individual or consultant as referred in clause (8), clause (8A) and clause (8B), who accompanies such individual or consultant to India.

In all the above mentioned clauses the exemption is provided to income accruing or arising outside India (which is not deemed to accrue or arise in India), in respect of which such member is required to pay any income or social security tax to the Government of that foreign state or country of origin of such member.

Proposed: It is proposed to amend clauses (8), (8A), (8B) and (9) of section 10 of the Act to provide that the provisions of the said clauses shall not apply to remuneration, fee or income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2023.

Implication: As per existing provision if under DTAA, India is supposed to collect tax on these above mention Income, Indian Govt. is surrendering their right of taxation in favour of other country. Now since these exemptions are withdrawn, these incomes will be taxed in India if the respective DTAA will permit the same.

WEF: 01.04.2023

Rationalization of the provision of Charitable Trust and Institutions

Section 11 - Income from property held for charitable or religious purposes

Existing provision: Income derived from property held under trust— (i) created on or after the 1st day of April, 1952, for a charitable

purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and (ii) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of 15% of the income from such property

Proposed Provision: For the purposes of this subsection, where the property held by a trust or institution includes any worship place notified under clause (b) of subsection (2) of section 80G, any sum received for the purpose of renovation or repair of such place, this sum treated as corpus fund subject to the condition like, (a) it's apply only for voluntary contribution, b) it doesn't apply for making contribution or donation to any person, c) such funds are maintain as separate identifiable, d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Implication:- Applicable assessee has to maintained separate books of account for particular corpus fund and ensure fund is used for intended purpose and not for any other purpose.

W.E.F - will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-24 and subsequent assessment years.

Books of account to be maintained by the trusts or institutions under both the regimes

Section 12A (b) – The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled:

Existing provision: Where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the

trust or institution for that year have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed;

Proposed Provision: Where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year,–

(i) the books of account and other documents have been maintained in such prescribed form, manner and place.

(ii) the accounts of the trust should be audited by an accountant defined in the Explanation below sub-section (2) of section 288 **before the specified date referred to in section 44AB** and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed; ”.

Implication:- Earlier there was no provision for maintenance of books of account in prescribed manner. Now applicable assessee has to maintained separate books of account in prescribed manner which is to be audited as per section 288 before the specified date referred to in section 44AB.

Applicability : WEF 1st April, 2023

Section 12AB of Income Tax Act, 1961- Provisions & registration procedure.

Existing Provision: Sub section (4) Where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, the Principal Commissioner or Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution after affording a reasonable opportunity of being heard. Sub section (5) Without prejudice to the provisions of sub-section (4), where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, (a) the activities of the trust or the institution are being carried out in a manner that the

provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13; or (b) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality, then, the Principal Commissioner or the Commissioner may, by an order in writing, after affording a reasonable opportunity of being heard, cancel the registration of such trust or institution."

Proposed Provision: (4) The Principal Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust, Principal Commissioner may also (in addition to existing clause):-
(i) Call for such documents or information, for inquiry. (ii) Refuse to cancel the registration of such trust or institution, if he is not satisfied.
(5) The order under clause (i) or clause (ii) of subsection (4), as the case may be, shall be passed before the expiry of a period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (i) of sub-section (4).

Implication: Principal Commissioner can call for any document for inquiry and can also refuse to cancel the registration if he is not satisfied about occurrence of violation. Also, order have to be passed within laid down timeline

Applicability : WEF 1st April, 2022

Circumstances where exemptions under Section 11 and 12 would not be available for a Trust:

Section 13

Existing Provision: Section 11 of the Income Tax Act deals with the exemption of income derived from property held in trust or other legal obligations, relating to religious or charitable purposes. Section 12 deals with the exemption of income derived by such a trust from

voluntary contributions not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution.

Insertion of sub section 10(13):

Where the provisions of sub-section (8) are applicable to any trust or institution or it violates the conditions specified **under clause (b) or clause (ba) of sub-section (1) of section 12A**, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions as specified under the act.

For the purposes of computing income chargeable to tax under **sub-section (10)**, no deduction in Respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act.

Implications: The income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions as specified under the act.

WEF: Retrospective effect from 01.04.2023

Expenditure incurred in relation to income not includible in total income.

Sec 14A

Existing Provision: For the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act.

Proposed Provision: In place of the words "For the purposes of", the words "Notwithstanding anything to the contrary contained in this Act, for the purposes of" shall be substituted.

Newly Inserted Explanation: Explanation– For the removal of doubts, it is hereby clarified that notwithstanding anything to the contrary contained in this Act, the provisions of this section shall apply and shall be deemed to have always applied in a case where the income, not forming part of the total income under this Act, has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such income not forming part of the total income.

Implication: The above-mentioned provision cannot override any section of this Act after this amendment.

W.E.F: 01st April 2022

"Salary", "perquisite" and "profits in lieu of salary" defined. Section 17

Existing Provision: Clause (2) of the said section, provides the definition of the term "perquisite" and proviso to the said clause provides certain exclusions which shall not be part of "perquisite". Clause (ii) of the said proviso provides that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in certain specified cases shall not be part of perquisite.

Proposed Provision: Insert a new sub-clause to provide that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf, shall not be forming part of perquisite.

Implication: Expenditure incurred on treatment of illness related to Covid-19 shall not form part of the perquisite.

W.E.F: 01st April 2020

Disallowance of Expenditure on scientific research in specific circumstances:

Section - 35

Existing Provision: - 1A) Notwithstanding anything contained in sub-section (1), the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) shall not be entitled to deduction under the respective clauses of the said sub-section, unless such research association, university, college or other institution or company— (i) prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the said prescribed income-tax authority or the person authorized by such authority such statement in such form, verified in such manner, setting forth such particulars and within such time, as may be prescribed: Provided that such research association, university, college or other institution or the company may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed; (ii) furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of sum, as may be prescribed.

Proposed Provision: In section 35 of the Income-tax Act, in sub-section (1A), for the words, brackets, figures and letter “the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) shall not be entitled to deduction under the respective clauses of the said sub-section”, the words, brackets, figures and letter “the deduction in respect of any sum paid to the research association, university, college or other institution referred to in clause (ii) or clause (iii), or the company referred to in clause (iia) of sub-section (1), shall not be allowed” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2021.

Implication: The existing provision reads that no deduction shall be allowed to research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) of section 35 if the statement of donations is not furnished. However, the intended meaning was that the deduction claimed by donor needs to be dis-allowed in such cases.

W.E.F: This amendment will take effect retrospectively from 1st April, 2021.

Clarity regarding allowability of expenditure under section 37

Section - 37

Existing Provision: Any expenditure (not being expenditure of the nature described in sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 1. For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.

Proposed Provision: New Explanation Inserted:

'Explanation 3 - For the removal of doubts, it is hereby clarified that the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" under Explanation 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee,— (i) for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or (ii) to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or

guideline, as the case may be, for the time being in force, governing the conduct of such person; or (iii) to compound an offence under any law for the time being in force, in India or outside India.’.

Implication: It is clarified that expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall also include any benefit or perquisite, in any form, to a person, whether or not carrying on a business or exercising a profession, and such person's acceptance of such benefit or perquisite is in violation of any law, rule, regulation, or guideline and expenditure incurred to make an offence.

W.E.F: This amendment will take effect from 1st April, 2022.

Inadmissible deduction of Surcharge & Cess amount on tax

Section - 40

Existing Provision: Section 40 of the Act specifies the amounts which shall not be deducted in computing the income chargeable under the head “Profits and gains of business or profession”. Sub-clause (ii) of clause (a) of section 40 of the Act provides that any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains shall not be deducted in computing the income chargeable under the head “Profits and gains of business or profession”

Proposed Provision: New Explanation Inserted: In section 40 of the Income-tax Act, in clause (a), in subclause (ii), after Explanation 2, the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2005, namely:— ‘Explanation 3.— For the removal of doubts, it is hereby clarified that for the purposes of this sub-clause, the term “tax” shall include and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax.’.

Implication: Certain taxpayers are claiming deduction on account of cess and surcharge. **Hence, it is clarified that the term 'tax' shall always include any surcharge or cess, by whatever name called, on such tax.**

W.E.F This amendment will take effect retrospectively from 1st April, 2005 and will accordingly apply in relation to the assessment year 2005-06 and subsequent assessment years.

Deduction allowed based on actual Payment:

Section - 43B

Existing Provision: Section 43B of the Act provides for certain deductions to be allowed only on actual payment. Explanation 3C, 3CA and 3D of this section provides that a deduction of any sum, being interest payable on loan or borrowing from specified financial institution/NBFC/scheduled bank or a co-operative bank under clause (d), clause (da), and clause (e) of this section respectively, shall be allowed if such interest has been actually paid and any interest referred to in these clauses which has been converted into a loan or borrowing or advance shall not be deemed to have been actually paid.

Proposed Provision: New Explanation Inserted: — It is proposed to amend Explanation 3C, Explanation 3CA and Explanation 3D of section 43B after the words "loan or borrowing", the words "or debenture or any other instrument by which the liability to pay is deferred to a future date" shall be inserted;

Implication: The conversion of an outstanding interest burden into debentures or any other instrument by which the liability to pay is deferred to a future date also cannot be claimed as a deduction under the requirements of this section.

W.E.F: This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

Reduction of Goodwill from block of assets to be considered as 'transfer'.

Section: 50

Existing Provision: In a case where **goodwill** of a business or profession forms part of a block of asset for the assessment year beginning on the 1st day of April, 2020 and depreciation thereon has been obtained by the assessee under the Act, the written down value of that block of asset and short term capital gain, if any, shall be determined and computed in prescribed manner.

Addition to Existing Provision: Explanation. - For the purpose of this section, reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub item (B) of item (ii) of sub-clause (c) of clause (6) of section 43 shall be deemed to be transfer."

Implication: From the assessment year 2021-2022, goodwill of a business or profession is not considered as depreciable but in case where goodwill is purchased by an assessee, the purchase price of the goodwill shall be considered as cost of acquisition for the purpose of computation of capital gains and any reduction in value of Goodwill from block of assets is to be considered as 'transfer'.

WEF: 1st day of April 2021

Section 56: Income from other sources

Existing: Income as specified under the act chargeable to income- tax under the head" Income from other sources", if it is not chargeable to income- tax under any of the heads specified in section 14, items A to E.

Insertion of following clause: After clause (XI) and before the Explanation, the following clauses shall be inserted:

(XII) by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19. Subject to such conditions, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(XIII) By a member of the family of a deceased Person from the persons as specified under the act. Where the cause of death of such person is illness related to COVID-19 and the payment is received within **twelve months** from the date of death of such person subject to fulfillment of other conditions as specified.

Implication: Any amount received for medical treatment of illness related to COVID-19 or any amount received after death of person due to illness of COVID-19 subject to fulfillment of condition mentioned in act will be treated as income from other sources and will be exempted from tax.

WEF: Effect from 01.04.2020

Unexplained Cash Credit Sec 68

Existing Provision: The provisions of the said section provide that where any sum is found to be credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

Proposed Provision: It is proposed to insert a new proviso to the said section to provide that where the sum so credited consists of loan or borrowing or any such amount by whatever name called, any explanation offered by the assessee shall be deemed to be not satisfactory unless (a) the person in whose name such credit is recorded in the books of the assessee also offers an explanation about the nature and

source of such sum so credited, and (b) such explanation in the opinion of the Assessing Officer has been found to be satisfactory and consequential amendments in the other provisos.

W.E.F: These amendments will take effect from 1st April, 2023, and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Implication: Along with explanation of the assessee, if the person in whose name credit is recorded provides the explanation which in the opinion of assessing officer is satisfactory the such explanation is acceptable.

W.E.F. – 1st April, 2023

The word “Central Government” shall be substituted by “Central Government or State Government”

Section-80CCD (2)

Existing Provision: Deduction under sec 80CCD (2) would be restricted to 14% of salary, in case of contribution made by the central government, and to 10% of salary, in case of contribution made by any other employer.

Proposed Provision: In section 80CCD of the Income-tax Act, in sub-section (2), for the words “Central Government” wherever they occur, the words “Central Government or the State Government” shall be substituted and shall be deemed to be substituted with effect from 01.04.2020.

Implication: Provision of deduction under this section, in case of contribution is made by the central government will also be applicable in case of contribution made by the State government.

W.E.F.01.04.2020

Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.

Section 80DD

Existing Provision: The scheme referred to in clause (b) of sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability, in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made.

Proposed Provision: the scheme referred to in clause (b) of sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability,— (i) in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made; or (ii) on attaining the age of sixty years or more by such individual or the member of the Hindu undivided family, and the payment or deposit to such scheme has been discontinued.

Newly Inserted Sub-section: (3A) The provisions of sub-section (3) ,i.e. "If the dependant, being a person with disability, predeceases the individual or the member of the Hindu undivided family, an amount equal to the amount paid or deposited shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year." shall not apply to the amount received by the dependant, being a person with disability, before his death, by way of annuity or lump sum by application of the condition referred to in sub-clause (ii) of clause (a) of sub-section (2).

Implication: Earlier the Dependent was able to receive the amount only after death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made. But after this amendment he can receive the amount after the individual or member of the Hindu undivided family attains the age of sixty years and as per the newly inserted sub-section amount received by dependent in such scenario will not be treated as income of the dependent.

W.E.F: 01st April 2023

Tax Incentives for New Start-ups

Section 80-IAC:

Existing Provision: "eligible start-up" means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:— (a) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2022

Proposed Provision: As per the amendment, the date of incorporation of eligible startup is extended by one year. The revised date is 1st day of April, 2023.

Implication: The assessee gets one more year of extension to get the benefit of the tax incentive under this section.

W.E.F: 01st April 2022



Deduction of certain incomes of Offshore Banking Units and IFS Centre.

Sec 80LA

Existing Provision: The income referred to in sub-section (1) shall be the income— (d) arising from the transfer of an asset, being an aircraft, which was leased by a unit referred to in clause (c) to a person, subject to the condition that the unit has commenced operation on or before the 31st day of March, 2024. Explanation. —For the purposes of this clause, "aircraft" shall have the meaning assigned to it in the Explanation to clause (4F) of section 10.

Proposed Provision: i) after the words "being an aircraft", the words "or a ship" shall be inserted ii) in the Explanation, for the words 'this clause, "aircraft" shall', the words 'this clause, "aircraft" and "ship" shall' shall be substituted.

Implication: The scope of income arising has increased as per the amendment as the ship has also been included in the definition.

W.E.F: 01st day of April, 2023

Reference to Transfer Pricing Officer Sec 92CA

Existing Provision: The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification: **Provided** that no direction shall be issued after the 31st day of March, 2022.

Proposed Provision: The direction shall not be issued after 31st day of March, 2024.

Implication: The last date of issuance of direction has been extended by 2 Years.

W.E.F: 01st day of April, 2022

Tax on Income of new manufacturing domestic companies Section 115BAB

Existing Provision: Assessee, being new manufacturing domestic companies, have the option of availing the reduced tax rate, if following conditions are satisfied:

- Company has been set up and registered on or after 1 October 2019 and commence manufacturing on or before 31 March 2023;
- Company has not been formed by splitting up or reconstructing an existing business (a certain level of relaxation applies in this regard);

- use no machinery or plant previously used for any purpose (a certain level of flexibility applies in this regard);
- are not engaged in any business other than the manufacture or production of goods or research in relation to, or the distribution of, such goods; and
- Do not avail of specified exemptions or incentives.

Proposed Provision: The date for commencement of manufacturing has been changed from 31 March 2023 to 31 March 2024.

Implication: Companies which are going to commence manufacturing on or before 31 March 2024 will also have the option of availing the benefit reduced tax Rates.

W.E.F: 1st April 2022

Withdrawal of concessional rate of Taxation on Certain Dividends received from foreign companies **Section 115BBD**

Existing Provision: Dividend received by Indian Companies from Specified Foreign companies have the option of availing the reduced tax rate. Concessional rate of 15% plus surcharge has been charged instead of 30%. No Expenses will be allowable in respect of such dividend. Specified foreign company means foreign company in which Indian company holds 26% or more in nominal value of equity share capital.

Proposed Provision: Section 115BBD shall not apply to any assessment year beginning on or after 1st April 2023 in relation to assessment year 2023-24 and subsequent assessment years.

Implication: This Section will not be applicable from 1st April 2023 i.e. assessment year 2023-2024.

W.E.F: 1st April 2023

Tax on income from virtual digital assets

Section 115BBH

Existing Provision:(Newly Inserted)

Proposed Provision: Where the total income of assessee includes any income from transfer of any virtual digital assets

- Tax payable shall be at the rate of 30%
- Income arising out of such transfer shall be deducted from total income
- No deduction shall be allowable in respect of any expenditure or allowances or set off of any loss.
- No set off of loss shall be adjusted against any other head of income.

Implication: Income arising from transfer of virtual digital assets shall be taxable.

W.E.F: 1st April 2023

Specified Income of certain institutions

Section 115BBI

Existing Provision: (Newly Inserted)

Proposed Provision: Where the total income of an assessee, being a person in receipt of income on behalf of :

Any fund or institution or/Any trust or institution/Any university or other educational institution/Any hospital or other medical institution...Includes specified income, on which the income tax shall be payable by the aggregate of: i) the amount of income tax calculated at the rate of 30% on the aggregate of specified income, ii) If the total income of the assessee has been reduced by the aggregate of specified income the amount of income tax with which the assessee would have been chargeable.

Specified Income means: 1)Income accumulated or set apart in excess of 15% of the income where such accumulation is not allowed under any provision of the Act, 2)Deemed Income, 3)any Income which is not exempt under sec 10, 4)any income which is deemed to be income under sec 10, 5)Any Income which is not excluded from total income

Implication: No deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of the act if income is received from trust, institution, university, educational institution, hospital, medical institution etc.

WEF: 01-04-2022

Reduction in Alternate Minimum Tax Section 115JC

Existing Provision: If a person subject to Alternate Minimum Tax (AMT) is a unit located in International Financial Services centre and deriving its income solely in convertible foreign exchange, the alternate minimum tax shall be chargeable at the rate of 9% instead of 18.5% Where the regular income tax payable by a person other than a company computed under income tax Act 1961 is less than the AMT payable then the adjusted total income would be deemed to be total income of the person and such person shall be liable to pay income tax on the adjusted total income@18.5%.

Proposed Provision: Additional clause added : In case of co-operative society, the alternate minimum tax shall be chargeable at the rate of 15% instead of 18.5%.

Implication: Tax rate for co-operative society has been reduced from 18.5% to 15%. So the burden to pay Tax will be lower in co-operative society. The section shall be substituted with effect from 1st day of April 2023.

WEF: 01st April, 2023 (Assessment year 2023-24)

Levy of Alternate Minimum Tax on all persons claiming profit linked deductions other than companies

Section 115JF

Existing Provision: Alternate Minimum tax means the amount of tax computed on adjusted total income of :

1) In case of an assessee being a unit referred to in sub sec 4 of sec 115JC at the rate of 9% & 2) In any other case at a rate of 18.5%

Proposed Provision: Alternate Minimum tax means the amount of tax computed on adjusted total income of :

1) In case of an assessee being a unit referred to in sub sec 4 of sec 115JC at the rate of 9%

2) In case of an assessee being a co-operative society referred to in clause (ii) of sub section (4) of section 115JC at the rate of 15%

Implication: Tax rate for co-operative society has been reduced from 18.5% to 15%. So the burden to pay Tax will be lower in co-operative society. The section shall be substituted with effect from 1st day of April 2023.

WEF: 01st April, 2023 (Assessment year 2023-24)

Prescribes circumstances under which exit tax is leviable:

Section 115TD

Existing Provision: There are three conditions under which exit tax would become leviable when trust is converted into any form which is not eligible for grant of registration under section 12AA, Trust is merged with an entity, Trust failed to transfer upon dissolution all its assets to the specified intuitions.

Proposed Provision:

Substitution for sub section 115(1,2&3):

- If any violation happen according to existing condition then, In addition to the income-tax chargeable in respect of the total income of such specified person, the accreted income of the specified person as on the specified date shall be charged to tax and

such specified person shall be liable to pay additional income-tax (herein referred to as tax on accreted income) at the maximum marginal rate on the accreted income.

- Provided that so much of the accreted income met the criteria defined under the section as specified.

Implication: In case of violation of existing conditions, addition to the income-tax chargeable in respect of the total income of such specified person, the accreted income of the specified person as on the specified date shall be charged to tax and such specified person shall be liable to pay additional income-tax (herein referred to as tax on accreted income) at the maximum marginal rate on the accreted income.

WEF: 01.04.2023

Interest for Nonpayment of tax within prescribed time by Specified person:

Section 115 TE

Existing Provision: In case of failure of payment of tax by Charitable trusts and institutions within the prescribed time, a simple Interest of 1% per month or part of the month is applicable.

Proposed Provision: In case of failure of payment of tax by Specified person within the prescribed time, a simple Interest of 1% per month or part of the month is applicable. Here specified person means Any fund or institution, Trust, Any university or educational institution, Any hospital or medical institution referred to in clause (23C) of section 10. or A trust or institution registered under section 12AA or section 12AB.

Implication: University, educational institution, hospital, medical institution and trust or institutes registered under section 12AB will also have to pay interest on non-payment of tax within prescribed time.

WEF: 01-04-2023

Circumstance when Specified person is deemed to be assessee-in-default:

Section 115 TF

Existing provision: The principal officer or the trustee and the trust or the institution shall be deemed to be assessee-in-default for non-payment of tax and all provision related to recovery of taxes shall apply.

Proposed Provision: The principal officer or the trustee and the Specified person shall be deemed to be assessee-in-default for non-payment of tax and all provision related to recovery of taxes shall apply.

Here specified person means Any fund or institution, Trust, Any university or educational institution, Any hospital or medical institution referred to in clause (23C) of section 10 and A trust or institution registered under section 12AA or section 12AB.

Implication: University, educational institution, hospital, medical institution and trust or institutes registered under section 12AB will also be deemed to be assessee-in-default for non-payment of tax and all the provision related to recovery of taxes.

WEF: 01-04-2023

Maximum days to seize books of accounts

Section – 132 (8)

Existing Provision: The authorized officer shall not retained the seized books of accounts or other documents for a period exceeding 30 days from the date of the **order of assessment under section 153A or clause (c) of section 158BC** unless the reasons for retaining the same are recorded by him in writing and the approval of the Principal Chief Commissioner.

Proposed Provision: The authorized officer shall not retained the seized books of accounts or other documents for a period exceeding 30 days from the date of the **order of assessment or reassessment or recomputation under sub-section (3) of section 143 or section 144**

or section 147 or section 153A or clause (c) of section 158BC unless the reasons for retaining the same are recorded by him in writing and the approval of the Principal Chief Commissioner.

Implication: The books of accounts or other documents seized shall not be retained for a period exceeding 30 days from the date of the order of assessment or reassessment or recomputation.

W.E.F: 01-04-2022

Application of seized or requisitioned assets

Section – 132B

Existing Provision: (i) In sub-section (1), in clause (i), the amount of the liability determined on **completion of the assessment under section 153A** may be recovered out of such assets. (ii) In sub-section (4), in clause (b), the central government shall pay interest from the date immediately following the expiry of the period of 120 days from the date on which the last of the authorization's for search was executed to the date of completion of the assessment **under section 153A or under Chapter XIV-B.**

Proposed Provision: (i) In sub-section (1), in clause (i), the amount of the liability determined on **completion of the assessment or reassessment or recomputation** may be recovered out of such assets. (ii)) In sub-section (4), in clause (b), the central government shall pay interest from the date immediately following the expiry of the period of 120 days from the date on which the last of the authorizations for search was executed to the date of completion of the assessment **or reassessment or recomputation.**

Implication: (i) If any liability arises out of assessment or reassessment or recomputation may be reduced out of the assets seized or requisitioned. & (ii) Central government shall pay simple interest in case of reassessment or recomputation also.

W.E.F: 01-04-2022

Change in Income-tax authority **Section – 133A**

Existing Provision: In sub-section (6), in the Explanation occurring after sub-section (6), in clause (a), "income-tax authority" includes—Who is subordinate to the Principal Director General of Income-tax (Investigation) or the Director General of Income-tax (Investigation) or the Principal Chief Commissioner of Income-tax (TDS) or the Chief Commissioner of Income-tax (TDS), as the case may be.

Proposed Provision: In sub-section (6), in the Explanation occurring after sub-section (6), in clause (a), "income-tax authority" includes—who is subordinate to the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner, as may be specified by the Board.

Implication: Now the meaning of "income-tax authority" is no more bounded, any person who is specified by the Board can become an income-tax authority.

W.E.F: 01-04-2022

Opportunity to furnish a return or revised return: **Section – 139**

Existing Provision:Newly Inserted

Proposed Provision: Sub-section (8A), Any person, whether or not he has furnished a return for an relevant assessment year, may furnish an updated return of his income or the income of any other person in respect of which he is assessable under this Act, for the previous year relevant to such assessment year, in the prescribed form, verified in such manner and setting forth such particulars as may be prescribed, at any time within **2 Years** from the end of the relevant assessment year:

Provided that the provision of this sub-section shall not apply, if the updated return,—

- (a) is a return of a loss; or
- (b) has the effect of decreasing the total tax liability determined on the basis of return furnished under subsection (1) or sub-section (4) or sub-section (5); or
- (c) results in refund or increases the refund due on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5)

Provided further that a person shall not be eligible to furnish an updated return under this sub-section, where—

- (a) a search has been initiated under section 132 or requisitioned under section 132A.
- (b) a survey has been conducted under section 133A, other than sub-section (2A) of that section.

Implication: The amendment will provide an option to assessee to furnish a return or update return with additional tax within 2 years from the end of the relevant assessment year.

W.E.F: 01-04-2022

Tax on updated return

Section-140B

Newly Inserted Section

Proposed Provision:

(1) Where no return of income under sub-section (1) or sub-section (4) of section 139 has been furnished by an assessee and tax is payable, on the basis of return to be furnished by such assessee under sub-section (8A) of section 139, after taking into account,—

- (i) the amount of tax, if any, already paid as advance tax; (ii) any tax deducted or collected at source; (iii) any relief of tax claimed under section 89; (iv) 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; (v) 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 (vi) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD,

the assessee shall be liable to pay such tax together with interest and fee payable under any of the provisions of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional income-tax computed in accordance with subsection (3), before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(2) Where, return of income under sub-section (1) or subsection (4) or sub-section (5) of section 139 (referred to as earlier return) has been furnished by an assessee and tax is payable on the basis of return to be furnished by such assessee under sub-section (8A) of section 139,—
(a) after taking into account,— (i) the amount of relief or tax referred to in subsection (1) of section 140A, the credit for which has been taken in the earlier return; (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return; (iii) 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 on such income which has not been included in the earlier return; (iv) 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 included in the earlier return; (v) 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; and

(b) as increased by the amount of refund, if any, issued in respect of such earlier return, the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax along with the payment of additional income-tax, as computed in accordance with sub-section (3), as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(3) For the purposes of sub-sections (1) and (2), the additional income-tax payable at the time of furnishing the return under sub-section (8A) of section 139 shall be equal to,—(i) **twenty-five per cent.** of aggregate of tax and interest payable, as determined in sub-section (1) or subsection (2), as the case may be, if such return is furnished after expiry of the time available under sub-section (4) or sub-section (5) of section 139 and before completion of the period of **twelve months** from the end of the relevant assessment year; or (ii) **fifty per cent.** of

aggregate of tax and interest payable, as determined in sub-section (1) or sub-section (2), as the case may be, if such return is furnished after the expiry of twelve months from the end of the relevant assessment year but before completion of the period of **twenty-four** months from the end of the relevant assessment year. Explanation.—For the purposes of computation of “additional income-tax”, tax shall include surcharge and cess, by whatever name called, on such tax.

(4) Notwithstanding anything contained in Explanation 1 to section 234B, for the purposes of sub-section (2), interest payable under section 234B shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax, where, “assessed tax” means the tax on the total income as declared in the return to be furnished under sub-section (8A) of section 139,— (a) after taking into account,— (i) the amount of relief or tax referred to in subsection (1) of section 140A, the credit for which has been claimed in the earlier return; (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income, which has not been included in the earlier return; (iii) 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 on such income which has not been included in the earlier return; (iv) 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 included in the earlier return; (v) 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; and

(b) as increased by the amount of refund, if any, issued in respect of such earlier return.

(5) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the approval of the Central Government, by notification in the Official Gazette, issue guidelines for the purpose of removing the difficulty.

(6) Every guideline issued under sub-section (5) shall be laid before each House of Parliament. Explanation.—For the purposes of this section,— (i) interest payable under section 234A, for the purposes of sub-section (1), shall be computed on the amount of tax on the total income as declared in the return, under sub-section (8A) of section 139, in accordance with the provisions of sub-section (1A) of section 140A; (ii) interest payable under section 234C, for the purposes of sub-section (2), shall be computed after taking into account the total

income furnished in the return under sub-section (8A) of section 139 as the returned income; (iii) interest payable, for the purposes of subsection (3), shall be the interest chargeable under any provision of this Act, on the income as per return furnished under sub-section (8A) of section 139, as reduced by interest paid, in accordance with the earlier return, if any: Provided that for the purposes of this clause, the interest paid in the earlier return shall be nil if such return is an updated return referred to in sub-section (1).’.

Implication - If assessee files return of income under sub-section (8A) under section 139, Then assessee shall be liable to pay such tax together with interest and fee payable as per sub-section (1) and (2) of section 140B along with Additional Tax as per sub-section (3).

W.E.F: - 1st day of April, 2022.

Best judgment assessment.

Section 144(1) (a)

Existing Provision - fails to make the return required under sub-section (1) of section 139 and has not made a return or a revised return under sub-section (4) or sub-section (5) of that section, or

Proposed Provision: - fails to make the return required under sub-section (1) of section 139 and has not made a return or a revised return under sub-section (4) or ~~sub-section (5)~~ or **an updated return under sub-section (8A)** of that section,

Implication: If assessee has not filed return of income under Sub section (1), (4), and (8A), then Assessing Officer, after taking into account all relevant material which the Assessing Officer has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment.

W.E.F: 1st day of April, 2022.

Direction issued by Central Government under sub-section (14B)

Section 144C

Existing Section: - The Central Government may, for the purpose of giving effect to the scheme made under sub-section (14B), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification: Provided that no direction shall be issued after the 31st day of March, 2022.

Proposed Section: In existing section no direction shall be issued after 31st day of March, 2022 has been substituted by 31st day of March, 2024.

Implication: Time duration of direction issued by Central Government under sub-section (14B) has been extended from 31st day of March 2022 to 31st day of March, 2024.

W.E.F: - 1st day of April, 2022.

Issue of notice where income has escaped assessment

Section 148:

Proposed Provision: After the proviso, the new proviso inserted is as follows: As part of the government's policy related to simplification of procedures under the Act, it is proposed to Requirement for approval to issue notice under section 148 shall not be required to be taken by the Assessing Officer if he has passed an order under 148A (d) with prior approval in that case stating that the income is escaping assessment. In Explanation 1, Following has been substituted - Information related to the Income escaped for assessment will include Any audit objection in case of assessee for the relevant assessment year in relation to the assessment not made, any information received under

an agreement referred to in section 90 or section 90A of the Act, any information made available to the Assessing Officer under the scheme notified under section 135A, any information which requires action in consequence of the order of a Tribunal or a Court

In Explanation 2 of section 148 the reference to three assessment years preceding the assessment year relevant to the year of search has been omitted. (With **effect from: - 01.04.2021 retrospectively**)

Implications:

1. As per the newly inserted proviso, assessing officer can issue notice without any prior approval of specified authority if assessing officer complies with the requirements of section 148A, hence Income tax act has provided power to the assessing officer to proceed further for assessment or re-assessment under section-147, if assessing officer considers that returned income has escaped assessment.
2. The income tax act has included further more kinds of nature of information which can be considered as information in relation to the escaped income for which income escaped assessment can be made, hence assessee can be assessed under section 147 in relation to information received for any domestic or international transactions made or any other information received in lieu of court's order
3. Assessing officer can consider any relevant information retrieved by him for the any assessment year in which search was initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.



With effect from: 01.04.2022

Conducting inquiry and providing opportunity before issue of notice under section 148

Section 148A

Existing Provision - The Assessing Officer shall, before issuing any notice under section 148,—

- (b) provide an opportunity of being heard to the assessee, **with the prior approval of specified authority**, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);

Provided that the provisions of this section shall not apply in a case where,

- (c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, **the assessee.**

Proposed Provision -

1. In the above provision there are amendment in clause (b) in which assessing officer was required to obtain **prior approval of specified authority**, for providing opportunity of being heard, however such approval is not required now. Assessee can be given opportunity of being heard in case of notice under section 148 without obtaining approval of specified authority.

2. Also there some changes in the proviso, in clause (c) there is insertion of the word **“or”** and clause (d) in the proviso as under:

(c) The Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee, **or**

(d) The Assessing Officer has received any information under the scheme notified under section 135A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee.”

Implication:

Providing opportunity to the Assessee before issue of notice under section 148 and this is in favor of assessee that he can satisfy the AO of why notice should not be issued to him without obtaining approval of specified authority.

W.E.F: 1st day of April, 2022.

Approval of AC/JC/AD/JD for order of assessment or reassessment or recomputation below the rank of Joint Commissioner**Section 148B:**

Existing Provision: Newly inserted Section

Proposed Provision: No order of assessment or reassessment or recomputation under this Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, in respect of an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 apply except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director.”.

Implication: Approval of AC/JC/AD/JD will make the order more effective and genuine.

W.E.F. 1st April, 2022

Time limit for completion of assessment, reassessment and recomputation. - Section 153:

Existing Provision: No order of assessment shall be made under section 143 or section 144 at any time after the expiry of twenty-one months from the end of the assessment year in which the income was first assessable

1. No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of nine months from the end of the financial year in which the notice under section 148 was served
2. Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner
3. Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer, wholly or partly, otherwise than by making a fresh assessment or reassessment, such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner

Proposed Provision: Section 153 has been amended, by

1. Inserting a new clause to provide for exclusion of the period of limitation for the purpose of assessment, reassessment or recomputation, (not exceeding one hundred eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 are handed over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated or such requisition is made or to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to
 - (a) After sub-section (1), the following sub-section shall be inserted, namely
 - (1A) notwithstanding anything contained in subsection (1), where a return under sub-section (8A) of section 139 is furnished, an order of assessment under section 143 or section 144 may be made at any time
Before the expiry of nine months from the end of the financial year in which such return was furnished

- (b) After sub-section (5), the following sub-section shall be inserted, namely
- (5A) Where the Transfer Pricing Officer gives effect to an order or direction under section 263 by an order under section 92CA and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or recomputation, in conformity with such order of the Transfer Pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him.
- (a) after clause (xii), the following clause shall be inserted, namely
- (xiii) The period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending With the date on which the copy of the order under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer

Implications:

1. As per the New clause inserted , **assessing officer will get additional time-period for completion of assessment**
2. Where return of income is filed under section 139(8A), assessing officer has to pass the assessment order before the expiry of **nine months** from the end of the financial year in which such return was furnished, hence there will be timely disposal of matter in relation to the income escaped of the assessee.
3. As per the newly inserted sub-section (5A), on receipt of order of Transfer Pricing officer, Assessing officer has to pass the order within 2 months, hence assessing officer will include the adjustments made by transfer pricing officer in its order in relation to the income of the assessee.

With effect from: 01.04.2022

Time limit for completion of assessment under section 153A.

Section 153(B):

Existing Provision: Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,

- (a) In respect of each assessment year falling within six assessment years and for the relevant assessment year or years referred to in clause (b) of sub-section (1) of section 153A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed

Explanation in computing the period of limitation under this section, following period shall be excluded

1. The period during which the assessment proceeding is stayed by an order or injunction of any court
2. The period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer
3. The time taken in re-opening the whole or any part of the proceeding or in giving an opportunity to the assessee of being re-heard under the proviso to section 129
4. The period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer

Proposed Provision: Following sub-section (4) of Section 153(B) has been inserted

Nothing contained in this section shall apply to any search initiated under section 132 or requisition made under section 132A on or after the 1st day of April 2021. New clause inserted in sub-section (3) of Section 153(B) - For the purpose of computing period of limitation, following period shall be excluded.

The period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account, or other documents or money or bullion or jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed

over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated under section 132 or such requisition is made under section 132A, as the case may be

Implications: As per the newly inserted sub-section, section 153B is now not applicable to any search conducted u/s 132 or requisition made u/s 132A after 01.04.2021, hence assessing officer is now not bound to pass the order under the time-limit of section 153(B) for the search initiated after 01.04.2021.

With effect from: 01.04.2022

Reduced liability in case of notice of demand under section 156 as a result of order of IBC, 2016 **Section 156A**

Existing Provision: Newly inserted Section

Proposed Provision: (1) Where any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued under section 156, is reduced as a result of an order of the Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, the Assessing Officer shall modify the demand payable in conformity with such order and shall thereafter serve on the assessee a notice of demand specifying the sum payable, if any, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall accordingly, apply in relation to such notice.

(2) Where the order referred to in sub-section (1) is modified by the National Company Law Appellate Tribunal or the Supreme Court, as the case may be, the modified notice of demand as referred to in sub-section (1), issued by the Assessing Officer shall be revised accordingly."

Implications: It is beneficial for the assessee as the the sum payable by the assessee in the form of tax, interest, penalties and fine is now required to be adjusted from the reduced liability as ordered by the adjudicating authority in case of clause(1) of section 5 of the IBC Code, 2016 by the assessing officer.

W.E.F: 1st April, 2022

Procedure when in an appeal by revenue on identical question of law is pending before Supreme Court.

Section 158AA:

Existing Provision: 158AA(1) Notwithstanding anything contained in this Act, where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of an assessee for any assessment year is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court, in an appeal under section 261 or in a special leave petition under article 136 of the Constitution, against the order of the High Court in favour of the assessee, he may, instead of directing the Assessing Officer to appeal to the Appellate Tribunal under sub-section (2) or sub-section (2A) of section 253, direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within sixty days from the date of receipt of the order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case.

158AA(2) The Commissioner or Principal Commissioner shall direct the Assessing Officer to make an application under sub-section (1) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and in case no such acceptance is received.

Proposed Provision: The following proviso has been inserted in sub-section (1). "Provided that no such direction shall be given on or after the 1st day of April, 2022."

Implications: The assessing officer can now file appeal to the appellate tribunal in case of any order of question of law, even though identical matter in relation to any other matter is pending before the Supreme Court or high court on question of law and principal commissioner or commissioner is not required to provide any direction, hence assessing officer can act independently, if he is not satisfied with the order passed by commissioner of income tax.

With effect from: 01.04.2022

Procedure where an identical question of law is pending before High Courts or Supreme Court.

Section 158AB:

Insertion of New Section:

Any question of law arising in the case of an assessee for any assessment year (such case being herein Referred to as the relevant case) is identical with a question of law arising,— In his case for any other assessment year; or In the case of any other assessee for any Assessment year; and Such question is pending before the jurisdictional High Court under section 260A or the Supreme Court in an appeal under section 261 or in a special leave petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, as the case may be, which is in favour of such assessee (such case being herein referred to as the other case),

The collegium may, decide and inform the Principal Commissioner or Commissioner not to file any appeal, at this Stage, to the Appellate Tribunal under sub-section (2) of section 253 or to the jurisdictional High Court under Sub-section (2) of section 260A in the relevant case against the order of the Commissioner (Appeals) or the Appellate Tribunal, as the case may be.

*The Principal Commissioner or the Commissioner shall, on receipt of a communication from the collegium under sub-section (1), direct the Assessing Officer to make an application to the Appellate Tribunal or the jurisdictional High Court, as the case may be, in such form as may be prescribed within a period of **sixty days from the date of receipt of the order of the Commissioner (Appeals)** or within a period of one hundred and twenty days from the date of receipt of the order of the Appellate Tribunal, as the case may be, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on such question of law becomes final in the other case.*

The Principal Commissioner or Commissioner shall direct the Assessing Officer to make an application under subsection (2) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and in case no

such acceptance is received, the Principal Commissioner or Commissioner shall proceed in accordance with the provisions contained in sub-section (2) of section 253 or in sub-section (2) of section 260A.

Where the order of the Commissioner (Appeals) or the order of the Appellate Tribunal, as the case may be, referred to in sub-section (1) is not in conformity with the final decision on the question of law in the other case, as and when such order is received, the Principal Commissioner or Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, as the case may be, against such order and save as otherwise provided in this section all other provisions of Part B of Chapter XX shall apply accordingly.

Every appeal under sub-section (4) shall be filed within a period of sixty days from the date on which the order of the jurisdictional High Court or the Supreme Court in the other case is communicated, in accordance with the procedure specified by the Board in this behalf, to the Principal Commissioner or Commissioner.

Implications: The newly inserted section provides that any question of law raised in case of assessee for same assessment year is identical with the question of law in case of same assessee for any other assessment year or for any other assessee, and the same is pending before high-court or supreme-court than, such matter will be finalised only when final order is passed by the supreme court or high-court, Hence assessee gets benefited as he is not liable to any additional tax, interest or penalty till such matter is finalised

With effect from: 01.04.2022

Amendments related to successor entity subsequent to business reorganization

Section: 170:

Existing Provision: Where a person carrying on any business or profession has been succeeded therein by any other person who continues to carry on that business or profession,-

- (a) The predecessor shall be assessed in respect of the income of the previous year in which the succession took place up to the date of succession;
- (b) The successor shall be assessed in respect of previous year after the date of succession.

Proposed Provision: It is Proposed that where there is business reorganization, the assessment or reassessment or other proceedings made on the predecessor during the course of pendency of such reorganisation, shall be deemed to have been made on the successor and all the provisions of this Act shall, so far as may be, apply accordingly.

Implication: Now onwards Successor along with predecessor will also be liable for all the statutory compliances pending during course of reorganisation of succeeded company.

W.E.F. 1st April 2022.

Burdon of Filling of modified returns for captioned period in case of successor **Section:170A- Newly Inserted-**

Proposed Provision: In a case of business reorganisation, where prior to the date of order of a High Court or tribunal or an Adjudicating Authority as the case may be, any return of income has been furnished by the successor under the provisions of section 139 for any assessment year relevant to the previous year to which such order applies, such successor shall furnish, within a period of six months from the end of the month in which the said order was issued, a modified return in such form and manner, as may be prescribed, in accordance with and limited to the said order.

Implication: Successor will have time to file return within six months of issue of order in case of business reorganization.

W.E.F. 1st April 2022.

Clarification of the provision of 179 (Liability of the company can be recovered from the Director).

Section:179:

Existing Provision: Where any tax due (Penalty, Interest or any other sum payable under income tax act 1961) from private company in respect of any income of any previous year cannot be recovered, then every person who was director of a private company at any time during the relevant previous year shall be jointly and severally liable for payment of tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Proposed Provision: In the proposed provision, the marginal heading of the said section reads as liability of directors of private company in liquidation. However, this provisions do not deal with companies in liquidation. Therefore, it is proposed to omit the words "in liquidation" from the marginal heading of the said section. It is further proposed to include "fees" within the scope of the expression "tax due".

Implication: Word liquidation have been omitted and word fees has been inserted along with word interest.

W.E.F. 1st April 2022.

TDS on purchase of immovable property.

Section: 194-IA:

Existing Provision: Every transferee responsible for paying any sum as consideration for transfer of immovable property (land, other than agricultural land, or building or part of building) to a resident transfer shall deduct tax, at the rate of 1% of such sum if total amount of consideration is 50 lakh or more.

Proposed Provision: It is proposed to amend section 194-IA of the Act to provide that in case of transfer of an immovable property (other than agricultural land), TDS is to be deducted at the rate of 1%. Of such sum paid or credited to the resident or the stamp duty value of such

property, whichever is higher In case the consideration paid for the transfer of immovable property and the stamp duty value of such property are both less than 50 Lakh, then no tax is to be deducted under section 194-IA.

Implication: TDS is to be deducted at the rate of one per cent. of such sum paid or credited to the resident or the stamp duty value of such property, whichever is higher. No tax to be paid if transfer amount along with stamp duty is less than Rs. 50 lacs.

W.E.F. 1st April 2022.

Reduction of the additional burden on individual

Section: 194-IB (4):

Existing Provision: In a case where the tax is required to be deducted as per the provisions of section 206AA or Section 206AB- such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be

Proposed Provision: It is proposed that where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be

Implication Removal of Section 206AB will reduce additional tax burden on individual who are already covered in other section to whom simplified tax system is applicable without requirement of TAN

W.E.F. 1st April 2022.

Insertion of Newly Section 194R (Deduction of tax on benefit of perquisite in respect of business or profession.)

In Finance Bill 2022, it is proposed to insert a new section 194R says that the person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from carrying out of a business or exercising of a profession by such resident, shall, before providing such benefit or perquisite, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of 10% of the value or aggregate of value of such benefit or perquisite.

In addition to this,

- (a) In a case where the benefit or perquisite, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax, the person responsible shall, before releasing the benefit or perquisite, ensure that tax has been paid
- (b) No tax is to be deducted if the value or aggregate value of the benefit or perquisite paid or likely to be paid does not exceed twenty thousand rupees during the financial year.
- (c) The provisions shall not apply to an individual or HUF, whose total turnover does not exceed Rs. 1 Cr in case of business or Rs. 0.50 Cr in case of profession during the financial year.

Implication: Any benefit or perquisite received by an individual will be taxable. This will help in avoiding tax evasion on the part of the recipient who sometime do not report the benefit in their returns.

W.E.F from 1st of July, 2022.

Insertion of New Section 194S (Payment on transfer of Virtual Digital Asset)

In Finance Bill 2022, it is proposed to insert section 194S to the Act to provide for deduction of tax on payment for transfer of virtual digital asset to a resident at the rate of 1% of such sum. However, in case the payment for such transfer is–

- (i) wholly in kind or in exchange of another virtual digital asset where there is no part in cash; or
- (ii) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax, the person before making the payment shall ensure that the tax has been paid in respect of such consideration.

In addition to this,

- (a) No tax is to be deducted in case the payer is the specified person and the value or the aggregate of such value of consideration is less than Rs. 50,000 during the financial year. In any other case, the said limit is Rs. 10,000 during the financial year.
- (b) It is also proposed to provide that if tax has been deducted under section 194S, then no tax is to be collected or deducted in respect of the said transaction under any other provision of Chapter XVII of the Act.
- (c) It is also proposed to provide that in case of a transaction where tax is deductible under section 194-O along with the proposed section 194S, then the tax shall be deducted under section 194S and not section 194-O.

Implication: This will widen the scope of tax. Any person dealing in virtual digital asset like crypto currency need to pay tax on any transaction undertaken by him beyond specified limit.

W.E.F from 1st of July, 2022.

Section 201 (1A): Interest on late deposit of TDS

Existing Provision: If any person, principal officer or company does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest,—

- (i) at one per cent. for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and
- (ii) at one and one-half per cent. for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid

Proposed Provision: Amendment in section 201 (1A) provide that where any order is made by the Assessing Officer for the default under sub-section (1) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard

Implication: In case of order has been passed by assessing officer in such cases instead of paying interest at pre decided rate whatever interest rate mentioned in order has to be paid. This will clear any ambiguity in interest calculation.

W.E.F from 1st of April, 2022.

Consequence of failure to deduct or pay TDS

Section 201AB:

Existing Provision: Where tax to be deducted at source under the provisions of this chapter on any sum or income or amount paid, or payable or credited, by a person to a specified person , at higher of the following rates-

- (a) At twice the rate prescribed in the relevant provisions of the act
- (b) at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
- (c) at 5%

However, section 206AB is not applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BB or 194LBC or 194N

Proposed Provision: Where tax to be deducted at source under the provisions of this chapter on any sum or income or amount paid, or payable or credited, by a person to a specified person , at higher of the following rates-

- (a) At twice the rate prescribed in the relevant provisions of the act
- (b) at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
- (c) at 5%

However, section 206AB is not applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BB or 194-IA, 194-IB, 194LBC, 194M or 194N

Implication: Sections 194-IA, 194-IB & 194M has been added in the list for non-applicability of section 206AB if the tax has been deducted in respective sections.

W.E.F from 1st of April, 2022.

Section 206C (7): Interest on delay payment of TCS.

Existing Provision: If the person responsible for collecting tax does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple interest at the rate of 1% per month or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which the tax was actually paid and such interest shall be paid before furnishing the quarterly statement for each quarter

Proposed Provision: After the proviso of 206C (7), the following proviso shall be inserted, namely: "Provided further that where an order is made by the Assessing Officer for the default under sub-section (6A), the interest shall be paid by the person in accordance with such order."

Implication: : In case of order has been passed by assessing officer in such cases instead of paying interest at pre decided rate whatever interest rate mentioned in order has to be paid. This will clear any ambiguity in interest calculation.

W.E.F from 1st of April, 2022.

Interest for defaults in furnishing return of income Section 234A

Existing Provision: Where the return of income for any assessment year under sub-section (1) or sub-section (4) of section 139, or in response to a notice under sub-section (1) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay interest.

Proposed Provision: Where the return of income for any assessment year under sub-section (1) or sub-section (4) or sub-section (8a) of section 139, or in response to a notice under sub-section (1) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay interest.

Implication: No any financial burden however Section (8a) of section 139 is not included in the previous applicability of Section 234A, although interest was charged even before such changes.

W.E.F. 01.04.2022

Interest for defaults in payment of Advance tax Section 234B

Existing Provision: Explanation 2.—In this sub-section, "tax on the total income as determined under sub-section (1) of section 143 " shall not include the additional income-tax, if any, payable under section 143.

Proposed Provision: i) Tax on total income as determined under subsection (1) of section 143" shall not include the additional income-tax, if any, payable under section 140B or section 143; and (ii) Tax on the total income determined under regular assessment shall not include the additional income-tax Payable under section 140B

Implication: This section is also applicable for New introduced Sec 140B.

WEF: 01.04.2022

Refund for denying liability to deduct tax in certain cases. Section 239(A) - Newly Inserted

Proposed Provision: Where under any written Agreement or Arrangement, if tax is deductible on any income other than interest is borne by the Assessee and have paid the tax to the Central Government and according to Assessee no tax to be deducted then he can make an application within 30 days for refund of such tax.

The Assessing officer can make inquiry on the same application before making any order of acceptance or rejection of that application and the order can be made within 6 months of the months in which application is received.

Before making such order an opportunity of being heard is given to the assessee.

Implication: Assessee can make application for refund of the tax paid which he considered.

W.E.F: 01.04.2022

Section 245MA

Existing Provision: As per sub section 2 of section 245MA The Dispute Resolution Committee, subject to such conditions, as may be prescribed, shall have the powers to reduce or waive any penalty imposable under this Act or grant immunity from prosecution for any offence punishable under this Act in case of a person whose dispute is resolved under this Chapter.

Proposed Provision: As per sub section 2 of section 245MA The Dispute Resolution Committee, subject to such conditions, as may be prescribed, shall have the powers to reduce or waive any penalty imposable under this Act or grant immunity from prosecution for any offence punishable under this Act in case of a person whose dispute is resolved under this Chapter.

“(2A) Notwithstanding anything contained in section 144C, upon receipt of the order of the Dispute Resolution Committee under this section, the Assessing Officer shall,--

(a) In a case where the specified order is a draft of the proposed order of assessment under sub-section (1) of section 144C, pass an order of assessment, reassessment or recomputation; or

(b) In any other case, modify the order of assessment, reassessment or recomputation,

In conformity with the directions contained in the order of the Dispute Resolution Committee within a period of one month from the end of the month in which such order is received.”

Implication: Introduction of new sub section regarding Dispute Resolution Committee can pass an order of assessment, reassessment or recomputation or may modify such order within one month from the end of the month in which such order is received. Timely resolution of dispute.

WEF: 01.04.2022

Appealable orders before Commissioner (Appeals). Section 246A

Existing Provision: Any assessee or any deductor or any collector aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against- List includes points from (a) to (r) (i) an order made under section 237;

Proposed Provision: Any assessee or any deductor or any collector aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against— List includes points from (a) to (r) an order made under section 237 (ia) an order made under section 239A.

Implication: Assessee can make appeal for the refund of tax under section 239A which he considered not to be deducted

W.E.F: 01.04.2022

Appeal by a person denying liability to deduct tax in certain cases. Section 248

Existing Provision: Where under an agreement or other arrangement, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central

Government, claims that no tax was required to be deducted on such income, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income.

Proposed Provision: Where under an agreement or other arrangement, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government, claims that no tax was required to be deducted on such income, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income. **“Provided that no appeal shall be filed where tax is paid to the credit of the Central Government on or after the 1st day of April, 2022.”**

Implication: Right of appeals by individual will be withdrawn.

WEF: 01.04.2022

Appeals to the Appellate Tribunal

(Central Government may make a scheme, optimising utilisation of the resources through economies of scale and functional specialisation; introducing a team-based mechanism for appeal to the Appellate Tribunal, with dynamic jurisdiction)

Section 253

Existing Provision: As per Section 253(9) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification: **Provided** that no direction shall be issued after the 31st day of March, 2022.

Proposed Provision: As per Section 253(9) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2024.

Implication:

Due date for issuing such direction is increased from 31st march, 2022 to 31st march, 2024.

WEF: 01.04.2022

**Procedure of Appellate Tribunal
Section 255**

Existing Provision: 8) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (7), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply to such scheme or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification:

Provided that no such direction shall be issued after the 31st day of March, 2023.

Proposed Provision: 8) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (7), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply to such scheme or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification:

Provided that no such direction shall be issued after the 31st day of March, 2024.

Implication: Date of issuing directions under section 255(8) changed to 31st day of March, 2023 to 31st day of March, 2024

W.E.F: 01.04.2022

Penalty where search has been Initiated

Section- 271AAB:

Existing Provision: Assessing officer May direct penalty on: If undisclosed income is admitted during the course of search in the statement furnished under section 132(4), and the assessee explains the manner in which such income derived, pays the tax, together with interest if any, in respect of undisclosed income, and furnished the return of income for the specified previous year declaring such undisclosed income before the specified date (i.e. the due date of filing return of income or the date on which the period specified in the notice issued under section 153A expires as the case may be)

Proposed Provision: Assessing officer or Commissioner (Appeals) May direct penalty on: If undisclosed income is admitted during the course of search in the statement furnished under section 132(4), and the assessee explains the manner in which such income derived, pays the tax, together with interest if any, in respect of undisclosed income, and furnished the return of income for the specified previous year declaring such undisclosed income before the specified date (i.e. the due date of filing return of income or the date on which the period specified in the notice issued under section 153A expires or Section 148 as the case may be)

Implication: Before this proposed provision Assessing officer may direct for the penalty where search was initiated. After the Proposed Provision the commissioner in Appeal in addition to Assessing officer may allow to direct penalty where search was initiated. Section specified date" means the due date of furnishing of return of income under sub-section (1) of section 139 or the date on which the period specified in the notice issued "under Section 148 or under Section 153A, as the case may be," of return of income expires, as the case may be. I.e. Issue of Notice where income has escaped assessment also consider for Specified date.

WEF: 01-04-2022

Penalty in respect of certain income

Section – 271AAC

Existing Provision:

The Assessing Officer may impose penalty: In case where income determined includes any income referred to in section 68, 69, 69A, to 69D.

Proposed Provision:

The Assessing Officer or Commissioner (Appeal) may impose penalty: In case where income determined includes any income referred to in section 68, 69, 69A, to 69D.

Implications:

Now Commissioner in Appeal may also direct for penalty in addition to Assessing officer for the income referred to in section 68 (Cash Credit), Section 69 (Unexplained investments), Section 69A (Unexplained money), Section 69B (Investment amount not fully disclosed in Books of A/C), Section 69C (Unexplained Expenditure) and Section 69D (Amount borrowed or repaid on hundi).

WEF: 01-04-2022

Penalty for false entry, Etc., in books of Account

Section- 271AAD:

Existing Provision: The Assessing officer may impose penalty if - False entry etc. in the books of Account or Omission of any entry which is relevant for computation of total income of such person, to evade tax liability.

Proposed Provision: The Assessing officer or Commissioner (Appeals) may impose penalty if: False entry etc. in the books of Account or Omission of any entry which is relevant for computation of total income of such person, to evade tax liability

Implication: Now Commissioner in Appeal may also direct for penalty in addition to assessing officer for false entry or omission of entry which relevant to evade tax.

WEF: 01-04-2022

Penalty on fund utilized by trust for the benefit trustees

Insertion of New Section 271AAE:

This section impose penalty on violation of the provisions of the twenty first proviso to clause (23C) of section 10 or clause (c) of sub section (1) of Section 13, as the case may be, The Assessing officer may direct that such person shall pay by way of penalty- A sum equal to the aggregate amount of income applied directly or indirectly for the benefit of related Party of the trustees, where the violation is noticed for the first time during any previous year. A sum equal to two hundred percent of the aggregate amount of income applied directly or indirectly for the benefit of related Party of the trustees, where violation is noticed again in any subsequent previous year.

Implication: This section newly inserted to impose penalty on the trust which applied income (taken benefit under 21 proviso to 23C of section 10) for the benefit of the related party of the trustees defined under Section 13(3). If Violation is noticed first time then what amount is applied fall under penalty if violation is noticed subsequent time then Penalty is 200% of amount applied.

WEF: 01-04-2023

Penalty for failure to deduct tax at source

Section- 271C:

Existing Provision: In Existing Penalty on failure to deduct TDS on Second Proviso of section 194B i.e. winning amount received in Kind shall be given after deduction of TDS not on the failure of deduct TDS on Winning income in cash.

Proposed Provision: Now this section apply on whole 194B i.e. Fail to deduct TDS on Winning income in cash or in Kind.

Implication: Penalty for failure to deduct TDS U/S 271C shall implied on whole 194B i.e. Failure on deduct TDS on Winning income in cash or in Kind.

WEF: 01-04-2022

Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.
Section- 272A:

Existing Provision: If any Person fails – to comply with a notice issued under sub-section (6) of section 94; or to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176; or (c) to furnish in due time any of the returns, statements or particulars mentioned in section 133 or section 206 or section 206C or section 285B; or (d) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or (e) to furnish the return of income which he is required to furnish under sub-section (4A) or sub-section (4C) of section 139 or to furnish it within the time allowed and in the manner required under those sub-sections; or (f) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 197A; or (g) to furnish a certificate as required by section 203 or section 206C (h) to deduct and pay tax as required by sub- section (2) of section 226; he shall pay, by way of penalty, a sum which shall **not be less than one hundred rupees**

Proposed Provision: (h) to deduct and pay tax as required by sub- section (2) of section 226; he shall pay, by way of penalty, a sum which shall **not be less than Five hundred rupees**

Implication: Now wherever penalty is one hundred rupees per day become five hundred rupees per day for failure to answer questions, Sign statement furnish information, returns or statements, allow inspections, etc.

WEF: 01-04-2022

Failure to comply with the provisions of sections 269UC, 269UE and 269UL

Section- 276AB:

Existing Provision: Failure to comply with the Provisions of Section 269UC (Restriction on Transfer of Immovable Property), Section 269UE (Vesting of Property in Central Govt.) & Section 269UL (Restriction on registration etc. of document in respect of transfer of immovable Property shall be punishable with rigorous imprisonment for a term which may extend to two years and shall be liable to fine.

Proposed Provision: From 01-04-2022, No Proceeding under this section shall be initiated.

Implication: From 01-04-2022 there is no proceeding under section 276AB for failure to comply with the provision of sections 269UC, 269UE & 269UL.

WEF: 01-04-2022

Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B

Section- 276B:

Existing Provision: If failure to pay tax to the credit of Central Government for deduct TDS on winning income in Kind then payable penalty under section-276B.

Proposed Provision: If failure to pay tax to the credit of Central Government for deduct TDS on winning income in kind or Cash then Payable penalty under section-276B.

Implication: Now Penalty under section 276B shall be applicable for the whole section 194B i.e. TDS on winning income in cash or Kind.

WEF: 01-04-2022

Failure to furnish returns of income

Section- 276CC:

Existing Provision: If Person willful fail to furnish return in due time (In which income on fringe Benefits, Return not filed within time given Section 139(1), Section 142(1), Section 148 or section 153 A) shall be punishable under Section 276 CC but if they filed return before completion of assessment year then penalty under section 276CC not Applicable.

Proposed Provision: If Person willful fail to furnish return in due time (In which income on fringe Benefits, Return not filed within time given Section 139(1), Section 142(1), Section 148 or section 153 A) shall be punishable under Section 276 CC but if they filed return before time period given U/S 139 (8A) year then penalty under section 276CC not Applicable. Section 139 (8A) newly inserted under Finance Bill 2022. As per 139(8A) Revised return shall be filed within 2 years of completion of Previous Year.

Implication: Before Proposed provision return shall be filed under due time of section 139(1), 142(1), 148, & Section 153(A). If fails to file then Penalty under section 276CC shall be Applicable but if they file before the completion of Assessment year then Penalty U/S 276CC shall not be Applicable. After the proposed provision return shall be filed U/S 139 (8A) (i.e. Filed within 2 years of completion of Financial Year) then penalty U/S 276CC not Applicable.

WEF: 01-04-2022

Submission of statements by producers of cinematograph films

Section- 285B:

Existing Provision: Submission of statements of all payment over fifty thousand by producers of cinematograph films within thirty days from the end of the financial year or within 30 days from the date of completion of the production of the film.

Proposed Provision: Now Submission of Statement for all payment over fifty thousand by producers of cinematograph & Person engaged in specified Activity. Specified Activity means Any event management documentary production, Production of Programmes for telecasting on television or over the top Platform or any other similar platform.

Implication: Submission of statements for all payment over fifty thousand by producers of cinematograph films & Engaged in Specified Activity.

W.E.F: 01.04.2022

Indirect Tax Proposals

Goods & Service Tax

Eligibility and Conditions for taking Input Tax Credit (ITC)

Section: 16

Existing Provision: Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, **be entitled to take credit of input tax charged on any supply of goods or services or both** to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, —

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(b) he has received the goods or services or both;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and (d) he has furnished the return under section 39:

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Amendment: A New Clause to Sec 16(2)(ba) is added where in the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted.

And the **Sec16(4)** where in A registered person **shall not be entitled to take input tax credit** in respect of any invoice or debit note for supply of goods or services or both after the **thirtieth day of November** following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Implication: ITC from persons registered u/s 38 will not be restricted and last date for ITC of FY shall be 30th Nov. of the following F.Y.

WEF: 1st day of April 2022.

Section 29: Cancellation or Suspension of registration on non-filing of return for 3 consecutive months

Existing Provision: The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where:

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
- (b) a person paying tax under section 10 has **not furnished returns for three consecutive tax periods**; or
- (c) any registered person, other than a person specified in clause (b), has **not furnished returns for a continuous period of six months**; or
- (d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
- (e) registration has been obtained by means of fraud, willful misstatement or suppression of facts.

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

Amendment: Sec 29(2)(b) a person paying tax under section 10 has not furnished the return for a **financial year beyond three months from the due date of furnishing the said return** and Sec. 29(2)(c) any registered person, other than a person specified in clause (b), has **not furnished returns for a such continuous tax period as may be prescribed.**

Implication: It is clarified that in case return is not filed beyond 3 months from due date of furnishing of return then the proper officer can cancel the Registration.

WEF: 1st day of April 2022.

Extension of the Last date for declaring the details of Credit and Debit notes is extended.

Section 34

Existing Provision: Sec 34(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued **but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier**, and the tax liability shall be adjusted in such manner as may be prescribed.

Amendment: Sec 34(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued **but not later than the thirtieth day of November following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier**, and the tax liability shall be adjusted in such manner as may be prescribed.

Implication: In this Amendment the Last date for declaring the details of Credit and Debit notes is extended from September to 30th November of the Following F.Y.

WEF: 1st day of April 2022.

Section 37 of CGST Act 2017 Furnishing Details of Outward Supplies in Returns

Existing Provision: Some words are changed and conditions are applied so Amended provision is described.

Amended Provision: Sec. 37(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, **shall furnish, electronically subject to such conditions and restrictions and** in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a **tax period on or before the tenth day of the month succeeding the said tax period** and such details **shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies**

Sec. 37 (2) - Omitted

Sec. 37 (3) Any registered person, who has furnished the details under sub-section (1) for any tax period, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is short payment of tax on account of such error or omission, in the return to be furnished for such tax period.

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be **allowed after the thirtieth day of November following the end of the financial year** to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Sec. 37 (4): Newly Inserted: A registered person **shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.**

Implication: Date of furnishing Details of Outward Supplies is changed from September to 30th of November. In case this timeline is missed then registered person is not allowed to furnish any details of outward supplied.

WEF: 1st day of April 2022.

Section 38 Furnishing details of inward supplies – Input Tax Credit

Existing Provision: Substituted by New Provision

New Provision Inserted: The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and **an auto generated statement containing the details of input tax credit shall be made available electronically to the recipients** of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

Implication: Tax Payer is now onwards not required to prepare the details of Inward Supplies and the details of input tax credit shall be made available electronically to the recipients.

WEF: 1st day of April 2022.

Section 39(5) Furnishing of GST Returns – For Non Residents

Existing Provision: Furnishing of GST Returns – For Non Residents within 20 days of the end of the month in form and manner as specified by Law.

Amendment: Furnishing of GST Returns – For Non Residents within 13 days of the end of the month in form and manner as specified by Law.

Implication: Non-resident now have to file GST return on every 13th of the following Month.

WEF: 1st day of April 2022.

Section 39(9) Rectification of any omission or incorrect particulars in GST Returns.

Existing Provision: Last date for furnishing the Rectification of any omission or incorrect particulars in GST Returns is Month of September of the following the transaction Year.

Amendment: Last date for furnishing the Rectification of any omission or incorrect particulars in GST Returns will be 30th November of the Following the transaction Year.

Implication: Tax Payer shall be allowed to make amendments till 30th November of the Following the transaction Year.

WEF: 1st day of April 2022.

Section 41 Claim of Input Tax Credit

Existing Provision: Sec 41 (1) Every registered person are entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount will be credited on a provisional basis to his electronic credit ledger. **Sec 41(2)** The credit referred to in sub-section (1) shall be utilized only for payment of self-assessed output tax as per the return referred to in the said sub-section.

Amendment: The credit of input tax availed by a registered person u/s 41 (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.** (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)

Implication: If Tax Payer has taken credit of ITC for the supplies for which payment is not made then it will be reversed with interest and once the payment is made it can be re-availed.

Section 49 Payment of tax, interest, penalty and other amounts

Existing Provision: Substituted by New Provision

New Provision Substituted: Sec 49 (10) 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 to the electronic cash ledger for tax in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under.

Insertion of Sec 49(11): The maximum proportion of output tax liability under this Act or under the IGST, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.

Implication: Now Tax Payer can utilize the balance of Electronic Cash Ledger to pay off the IGST, CGST, SGST, UTGST and Cess.

WEF: 1st day of April 2022.

Section 50 Retrospective Amendment: Interest on delayed Payment of Tax

Existing Provision: Substituted by New Provision

New Provision Substituted: Sec 50 (3): If Input tax credit has been wrongly availed and utilized, the registered person shall **pay interest on such input tax credit wrongly availed and utilized, at such rate not exceeding 24 %** as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated in such manner as may be prescribed.

Implication: If tax payer have wrongly availed ITC then he has to pay interest at a rate of 24%.

WEF: Retrospective effect from 01.07.2017

Section 52(6) Rectification of any Omission or Incorrect particulars by E-Commerce Operator in Filing return

Existing Provision: Last date for furnishing the Rectification of any omission or incorrect particulars in GST Returns is Month of September of the following the transaction Year.

Amendment: Last date for furnishing the Rectification of any omission or incorrect particulars in GST Returns will be 30th November of the Following the transaction Year.

Implication: Tax Payer shall be allowed to make amendments till 30th November of the Following the transaction Year.

WEF: 1st day of April 2022.

Section 54 Refund of tax – Limit for Application is extended from 6 months to 2years.

Existing Provision: Sec. 54(2) A specialised agency of the UNO or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, **entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund**, in such form and manner as may be prescribed, **before the expiry of 6 months from the last day of the quarter in which such supply was received.**

Amendment: The Application shall be made **before the expiry of 2 Years from the last day of the quarter in which such supply was received.**

Implication: Tax Payer shall be allowed to make application for refund of tax within 2 years from the last day of the quarter in which such supply was received.

WEF: 1st day of April 2022.

Amendment of notification:

Amendment of notification issued U/s 20 of IGST & U/s 21 of UTGST read with Sec.50 of (1) & (3), Sec.54 (12) and sec. 56 of CGST Act, retrospectively.

Existing: Subject to the provisions of this Act and the rules made thereunder, the provisions of the Central Goods and Services Tax Act, relating to various areas as defined under the act.

Proposed: No refund shall be made of all such Union territory tax which has been collected, but which would not have been so collected, had the notification referred to in sub-section (1) been in force at all material times.

No Union territory tax shall be levied or collected 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 commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive)

Implications: There will be no refund of union territory tax once collected.

WEF: Retrospective effect from 01.07.2017



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