Budget Edition

February, 2023

TAX Bulletin

Volume - 129
03.02.2023

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

Headquarters: CMA Bhawan, 12, Sudder Street, Kolkata - 700016
Ph: 091-33-2252 1031/34/35/1602/1492
Delhi Office: CMA Bhawan, 3, Institutional Area, Lodhi Road, New Delhi - 110003
Ph: 091-11-24666100

VISION STATEMENT

"The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally."

MISSION STATEMENT

"The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting."

Objectives of Taxation Committees:

1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
4. Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.
5. Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners and stake holders and also Crash Courses on GST for Colleges and Universities.

Budget Edition

February, 2023

TAX Bulletin

Volume - 129

03.02.2023

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

Headquarters: CMA Bhawan, 12 Sudder Street, Kolkata - 700016

Ph: 091-33-2252 1031/34/35/1602/1492

Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

Ph: 091-11-24666100

The Institute of Cost Accountants of India

Statutory Body under an Act of Parliament

www.icmai.in

Certificate Courses Offered by the Tax Research Department

1. Certificate Course on GST (CCGST)
2. Advanced Certificate Course on GST (ACCGST)
3. Advanced Certificate Course on GST Audit and Assessment Procedure (ACGAA)
4. Certificate Course on TDS (CCTDS)
5. Certificate Course on Filing of Returns (CCFOF)
6. Advanced Course on Income Tax Assessment and Appeals (ACIAA)
7. Certificate Course on International Trade (CCIT)

Admission Link - ***https://eicmai.in/advscc/DelegatesApplicationForm-new.aspx***

Modalities

Description	Course Name						
	CCGST	ACCGST	ACGAA	CCTDS	CCFOF	ACIAA	CCIT
Hours	72	40	30	30	30	30	50
Mode of Class	Offline/ Online	Online					
Course Fee* (₹)	10,000	14,000	12,000	10,000	10,000	12,000	10,000
Exam Fee* (₹)	1,000 per attempt						
Discounts	20% Discount for CMA Members, CMA Qualified and CMA Final Pursuing Students						

**18% GST is applicable on both Course fee and Exam fee*

Eligibility Criteria for Admission

- Members of the Institute of Cost Accountants of India
- Other Professionals (CA, CS, MBA, M.Com, Lawyers)
- Executives from Industries and Tax Practitioners
- Students including CMA Qualified and CMA Pursuing

On passing the examination with 50% marks a Certificate would be awarded to the participant with the signature of the President of the Institute

Course Details

https://icmai.in/TaxationPortal/OnlineCourses/index.php

Courses for Colleges & Universities by the Tax Research Department

Eligibility

- B.Com/ BBA pursuing or completed
- M.Com/ MBA pursuing or completed

Modalities

Description	Courses for Colleges and Universities	
	GST Course	Income Tax
Batch Size	Minimum 50 Students per Batch per course	
Course Fee* (₹)	1,000	1,500
Exam Fee* (₹)	200	500
Duration (Hrs)	32	32

For enquiry about courses, mail at: ***trd@icmai.in***

**18% GST is applicable on both Course fee and Exam fee*

Behind every successful business decision, there is always a CMA

CMA Chittaranjan Chattopadhyay
Chairman
Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Sir / Madam,

The Vision for 'Amrit Kaal' articulated in the Union Budget for FY 2023-24 is centered around:

- Opportunities for Citizens with focus on youth
- Growth & Job creation
- Strong & Stable Macro-Economic Environment

The seven priorities, termed Saptarishi, adopted in the Union Budget for FY 2023-24 to guide the country towards 'Amrit Kaal', thus providing a blueprint for an empowered and inclusive economy, are:

- Inclusive Development
- Reaching the last mile
- Infrastructure & Investment
- Unleashing the potential
- Green Growth
- Youth Power
- Financial Sector

The Union Budget for FY 2023-24 this year aims to further strengthen India's economic status. In the 75th Year of India's Independence, the World has recognized the Indian Economy as a 'bright star' with its Economic Growth estimated at 7 per cent, which is the highest among all major economies.

Budget 2023-24 adopts seven priorities which complement each other and expected to act as the 'Saptarishi' guiding the nation through the Amrit Kaal.

Finance minister in the Budget 2023 announced the highest ever proposed capex of INR 10 lakh crore in FY24 (3.3% of GDP); this push for infrastructure development will have a cascading impact on industrial sectors including Electrical & Electronics, Automotive, Industrial Machines, Pharma, Chemicals, Textiles and Apparels. This would further propel employment and assist in manufacturing taking centre stage in the Indian economy. The increase in capex on infrastructure and the emphasis on green growth will help the mobility sector.

The Green growth agenda of the Government, especially on energy transition seeks to consider the environmental impact of industrialization. The agricultural credit target of 20 lakh Crores would also lay the direction of addressing food security concerns, while making India a key exporter of food products in the future.

By laying a significant emphasis on Capex and Energy Transition, the FM has provided foundation for strong anti-cyclical momentum that should enable robust domestic economic growth and help counter the expected global headwinds. This budget gives something to everyone - from rural India, start-up India, middle class India, to digital India - it is about inclusive growth and building on the recovery we are seeing after the pandemic. Focus on rural economy, capex and infrastructure is expected to create jobs, push growth in transport and allied sectors, including banking.

Easier KYC norms, expansion of DigiLocker services, overall impetus on digitalisation and last mile connectivity augurs well for financial services. With the new age banks at the forefront of taking the digital-led benefits to Bharat, increased engagement and value creation for the masses is expected. The focus on making India future ready by way of AI labs, Agri-tech, R&D in healthcare, further boosting Digital Public Infrastructure and holistically expanding physical infrastructure, auger very well for sustained long term economic growth. Provisions like establishment of 3 centre for excellence for AI in top educational institutions noting that 'Make AI in India' will support the creation of stronger technology infrastructure in the country. This will further boost the Govt's vision of Digital India and Atmanirbhar Bharat. Having said this, the budget amply highlights the greater focus the government has placed on string digital infrastructure and technology at large and this announcement will have inherently positive impact on the sector.

The focus on important parameters like boosting consumption and inclusion is a welcome measure for our growing economy. The government has laid an important thrust on Capital Investment which will enhance consumption and create employment, both of which have been important areas of attention, especially post the pandemic. Allocation of the Budget to PM Awaas Yojana will further boost the housing sector.

Support to MSME sector along with enhancement of credit guarantee scheme will provide much needed relief to the sector. A significant increase of 33 per cent in the capital investment outlay to 10 lakh crores, revamped credit guarantee to MSMEs, easing of the credit cycle and rationalization of custom duties would add significant impetus to capital formation and job creation.

While talking about the fiscal deficiet, the Government has projected fiscal deficit at 5.9 per cent, a 50 bps improvement over FY24, which is a welcome move and should help in maintaining the interest rate lower. Further, a realistic target of 4.5 per cent of deficit has been set for FY26 as a part of medium-term fiscal consolidation. This along with lower-than- expected gross sovereign borrowings in the next fiscal will be positive for bond yields and debt market sentiments. The gross borrowing estimate of 15.43 trillion rupees for next year is lower than the survey estimates of 15.77 trillion rupees which should cheer the bond markets.

Further, the increase of tax rebates and rationalization of tax slabs to individual taxpayers would ensure higher disposable income in their hands, consequently spurring domestic consumption, thus providing more impetus to economic growth.

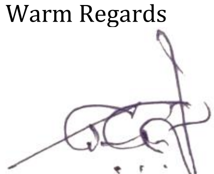
To discuss this highly Progressive Budget 2023 – 24, on the day of the Budget, 4 pm onwards we organized for a discussion session breaking down the intricacies of the budget. The session was highly successful and was attended by 500 plus participants.

The Classes for the Taxation courses have been completed. Exams are scheduled to be held on **12th of February, 2023**.

GST Course for college and university students have been completed at DDGD Vaishnav College, Chennai (4th Batch). Exam conducted on 27th January, 2023. The Tax Research Department is also very much active in conducting various courses, quiz on Taxation etc regularly as per schedule.

Suggestions/observations are solicited from our esteemed readers for furtherance of the objective of the Department.

Warm Regards



CMA Chittaranjan Chattopadhyay
Chairman
Indirect Taxation Committee
03.02.2023

CMA (Dr.) Ashish P. Thatte
Chairman
Direct Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Sir / Madam,

Union Budget 2023 has been quite promising on the Direct Tax front. The most important change for the assessees has been the change in the Tax slabs. The number of slabs have been increased to seven as well as the Rebate limit increased to Rs 7 Lacs. The new tax slabs are:

- Above 15 Lakhs - 30%
- Rs 12 to 15 Lakhs - 20%
- Rs 9 to 12 Lakhs - 15%
- Rs 6 to 9 Lakhs - 10%
- Rs 3 to 6 lakhs - 5%
- 0 to Rs 3 lakhs - NIL

Another very important announcement which has come up for our profession, has been the introduction of Section 142 (2A) wherein it is stated that an Assessing Officer of Income Tax may get the inventory valued by a cost accountant as nominated by the designated officials. This clearly shows that the focus has shifted to use of costing of the products to be used for the purpose of inventory valuation while applying Cost or Net Realizable Value whichever is less and hence in my opinion it requires the best of the expertise of the CMA Professionals.

Following are also some of the important updates on Direct Tax:

1. India's exemption-less tax regime, which is expected to see half of taxpayers migrating to, has been brought in to simplify the direct tax system in the country
2. It is expected, two third of current taxpayers will shift to new income tax regime
3. The government has also projected a 10.5 per cent growth in revenues from corporate and individual income tax to Rs 18.23 lakh crore in the next fiscal
4. Estimated overall revenue foregone due to direct taxes proposals to be Rs 37,000 crore.
5. The Economic Survey 2023 says that between April to November 2022, direct taxes registered a growth of 26% year on year basis. This has been enabled by corporate and personal income tax growth. As per the survey, "The growth rates observed in the major direct taxes during the first eight months of FY23 were much higher than their corresponding longer-term averages.

The Classes for the Taxation courses are completed and Exams are scheduled to be held on 12th of February, 2023.

One important workshop has been conducted on the topic 'Transfer Pricing' by CMA Seshappa Venkanna on 19.01.2023 - 22.01.2023. A webinar has also been conducted on the topic 'Tax Planning Vs Tax

Evasion' by CMA Kedarnath Potnuru on 20.01.2023. The Tax Research Department is also very much active in conducting various courses, quiz on Taxation etc regularly as per schedule.

Further suggestions/observations are solicited from the esteemed readers for furtherance of the objective of the Department.

Warm Regards

Ashish Thatte

CMA (Dr.) Ashish P. Thatte

Chairman

Direct Taxation Committee

03.02.2023

TAXATION COMMITTEES 2022 - 2023

EDITORIAL BOARD

ACKNOWLEDGEMENTS

CMA Ashok B. Nawal	CMA Navneet Kumar Jain
CMA Mrityunjay Acharjee	CMA Anil Sharma
CMA Amit Sarker	CMA Arindam Goswami
CMA Vishwanath Bhat	CMA Manmohan Daga
CMA Bhogavalli Mallikarjuna Gupta	CMA Susanta Kumar Saha
CMA T K Jagannathan	CMA Ajith Sivadas
CMA Shiba Prasad Padhi	Adv Srikanth
CMA Niranjan Swain	

TEAM TAX RESEARCH DEPARTMENT

CMA Rajat Kumar Basu	-	Additional Director - Tax Research
CMA Tinku Ghosh Das	-	Deputy Director - Tax Research
CMA Priyanka Roy	-	Assistant Director - Tax Research
CMA Debabrata Das	-	Officer - Tax Research
Ms. Mukulika Poddar	-	Officer - Tax Research

CONTENTS

Articles on the Topics of Direct and Indirect Taxation are invited from readers and authors. Along with the article please share a recent passport-sized photograph, a brief profile and the contact details. The articles should be the author’s own original.
Please send the articles to

trd@icmai.in /trd.ad1@icmai.in

UNION BUDGET 2023 – KEY CHANGES PROPOSED IN GOODS AND SERVICES TAX

CMA. Susanta Kumar Saha
Tax and Management Consultant

Union Finance Minister Madam Nirmala Sitharaman presented the Union budget 2023-24 in parliament on 1st February, 2023. This was her fifth budget presentation. In this article, an attempt has been made to analyse the amendments proposed in Goods and Services Tax and its impact.

SlNo	Ref to Finance Bill, 2023 [Clause No]	Relevant Chapter/ Section under CGST/ IGST Act, 2017	Particulars
		Central Goods & Services Tax Act, 2017	
1	128	Chapter III - Levy & Collection of Tax/ Section 10:Composition levy	47th GST Council Recommendation: In-principal approval for relaxation in the provisions for suppliers making supplies through e-Commerce Operators (ECOs). One of the recommendation in this regard was: ➢ Composition taxpayers would be allowed to make intra-State supply through e-commerce operators subject to certain conditions. The details of the scheme will be worked out by the Law Committee of the Council. The scheme would be tentatively implemented with effect from 01.01.2023, subject to preparedness on the portal as well as by ECOs. Proposed changes: Clause (d) of sub-section (2) and Clause (c) of sub-section (2A) in section 10 of the CGST Act is being amended so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy.

			SKS Comment: ➢ The proposal made in the budget is in line with the recommendation made by the GST Council; ➢ On becoming effective, a person supplying goods through an e-commerce operator, liable to collect tax under section 52, may opt for the Composition scheme; ➢ Removal of the explicit restriction imposed since the beginning will be beneficial for e-commerce operators and the small taxpayers registered under the Composition scheme. ➢ Small taxpayers with an aggregate turnover up to Rs. 1.50 crore, who opted for the Composition scheme for paying tax, will thus be eligible to supply goods through e-commerce operators.
2	129	Chapter -V, Input tax Credit / Section 16: Eligibility and conditions for taking input tax credit	GST Council Recommendation: Not Applicable. Proposed changes: Second and third provisos to sub-section (2) of section 16 of the CGST Act are being amended to align the said sub-section with the return filing system provided in the said Act. SKS Comments: ➢ The existing provision contemplates that if a taxpayer fails to pay the value of supply including the tax amount within 180 days, the tax amount will be added to his output liability; ➢ It is now proposed to reverse the benefit of input tax credit (ITC) along with interest, as self-assessed, under section 50. Such reversal is required to be reported in FORM GSTR-3B under Other reversals – Table (4)(B)(2); ➢ On making payment of the value to the supplier along with the taxes, ITC so reversed, as stated above, can subsequently be re-availed in Table 4(A)(5) of GSTR-3B with a corresponding disclosure in Table 4(D)(1) of GSTR-3B; ➢ Rule 37 of the CGST Rules, 2017 has already been changed vide Notification No. 19/2022 – CT dated 28.09.2022, effective from 1st October 2022 in this regard; ➢ The proposal will now align the Act with the Rules and with the return filing procedure in the Portal.

3	130(a)	Chapter -V, Input tax Credit / Section 17: Apportionment of credit & blocked credit	GST Council Recommendation: Not Applicable. Proposed changes: Explanation to sub-section (3) of section 17 of the CGST Act is being amended so as to restrict availing of input tax credit in respect of certain transactions specified in para 8(a) of Schedule III [Supply of warehoused goods to any person before clearance for home consumption] of the said Act, as may be prescribed, by including the value of such transactions in the value of exempt supply. SKS Comments: ➢ The proposed amendment seeks to include the supply of warehoused goods to any person before clearance for home consumption as an exempt supply for the purpose of reversal of common input tax credit (ITC) in accordance with rule 42 of the CGST Rules, 2017; ➢ Section 17(2) of the CGST Act, 2017 stipulates, the benefit of the input tax credit is available as is attributable to taxable supplies. Explanation to Section 17(3) states that the benefit of the input tax credit cannot be claimed on an exempt supply of goods or services or both. The activity of supply of the imported warehoused goods before clearance for home consumption would now become part of the schedule. ➢ An importer incurs different types of expenses during the course of import, viz, clearing and forwarding, CHA Charges, port charges, handling charges, freight charges, etc. on which tax (GST) is payable. Until now, a supplier claims exemption from tax on such type of sale and enjoys the benefit of the input tax credit as is not specifically barred. With this amendment in place, input tax credit on inputs and input services directly attributable to this type of sale along with proportionate common credit would not be available. This proposed amendment negates the favorable judgments passed by the Bombay High Court and the Kerala High Court in the case of Sandeep Patil and CIAL Duty-Free & Retail Services Limited respectively. ➢ On one hand the CGST Act, 2017 states that activities or transactions mentioned in Schedule III [refer section 7(2)(a)] shall be treated neither as a supply of goods nor a supply of services, on the other hand, an activity specified in para 8(a) of Schedule III has been proposed to be considered as an exempt supply which is considered as not a supply, even for the limited purpose of ITC reversal and are in contradictory;

4	130(b)	Chapter -V Input tax Credit / Sec 17(5)(f) Apportionment of credit & blocked credit	GST Council Recommendation: Not Applicable. Proposed changes: The following clause shall be inserted in Sec (17)(5) Further, sub-section (5) of said section is also being amended so as to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013. SKS Comments: ➢ Input tax credit (ITC) on CSR activities has been subjected to controversies since the beginning in the light of whether the goods supplied free of cost as a CSR activity can be considered a "gift"; ➢ Section 135 of the Companies Act, 2013 stipulates that any company, that meets the criteria for CSR, is mandatorily required to spend towards CSR activities to be compliant with the Companies Act, 2013 and non-compliance with these provisions may lead to business disruptions – the element of the compulsory requirement to undertake CSR activities in order to run its business, it becomes an essential part of the business process – therefore the said CSR activities are to be treated as incurred – "in the course of business"; ➢ Favourable judgements/ruling allowing the benefits of ITC on CSR activities: Dama India (P.) Ltd – Gujarat AAR, Essel Propack Ltd vs Bhiwandi on 31 August 2018 – CESTAT, Mumbai, M/s Commissioner of Central Excise, Bangalore Vs Millipore India (P) Ltd – Karnataka High Court; ➢ Unfavourable Advance Ruling dis-allowing the benefits of ITC on CSR activities: Dwarikesh Sugar Industries Ltd.- Gujarat AAR, Polycab Wires Private Limited – Kerala AAR; ➢ Under Income Tax Act 1961, the expenses incurred for CSR activities are not allowed as 'Business Expense' for the purpose of computation of total income; ~~and~~ ➢ Now proposed to restrict the benefit of ITC in respect of goods or services or both received by a taxable person which are used for CSR activities as referred to in Sec 135 of the Companies Act, 2013; and ➢ It appears, input tax credit benefits relating to the inward supply of goods or services or both for any voluntary CSR activity would be available.

5	131	Chapter VI, Registration/ Section 23: Persons not liable for registration	GST Council Recommendation: Not Applicable. Proposed changes: Sub-section (1) and sub-section (2) of section 23 of the CGST Act are being amended, with retrospective effect from 01st July 2017, so as to provide that person for compulsory registration in terms of sub-section (1) of section and section 22 of the Act need not register if exempt under subsection (1) of section 23. SKS Comments: ➢ Confusion was prevailing as to whether section 23 has an overriding effect on the provision as stated under section 22 and section 24; ➢ Section 23 has been proposed to be substituted with a non-obstante clause and the following persons shall not be liable to registration: ❖ any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, 2017; ❖ an agriculturist, to the extent of supply of produce out of cultivation of land; ➢ Retrospective effect is given to the proposal w.e.f 01st July, 2017.
6	132	Chapter IX-Returns / Section 37-Furnishing details of outward supplies	48th GST Council Recommendation: Section 37 to be amended to restrict the filing of returns/ statements to a maximum period of 3 years from the due date of filling. Proposed changes: A new sub-section (5) in Section 37 is being inserted so as to provide a time limit up to which the details of outward supplies under the said Section for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons. SKS Comments: ➢ No maximum time limit was prescribed beyond the due date to furnish the details of outward supplies; ➢ Once the proposal is effected, the registered person will not be able to file Form GSTR-1 electronically on the common portal after the expiry of a period of three years from the due date of furnishing the said details; ➢ Government by notification may exempt certain categories of persons from the above provision.

7	133	Chapter IX, Returns / Section 39: Furnishing of Returns	48th GST Council Recommendation: Section 39 is to be amended to restrict the filing of returns/ statements to a maximum period of 3 years from the due date of filling. Proposed changes: A new sub-section (11) in Section 39 of the CGST Act is being inserted so as to provide a time limit up to which the return for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for registered persons or a class of registered persons. SKS Comments: ➢ No maximum time limit was prescribed beyond the due date to file the return; ➢ Once the proposal is effected, the registered person will not be able to file Form GSTR-3B electronically on the common portal after the expiry of a period of three years from the due date of furnishing the said return; ➢ Government by notification may exempt certain category of persons from the above provision.
8	134	Chapter IX- Returns / Section 44: Annual return	48th GST Council Recommendation: Section 44 is to be amended to restrict the filing of returns/ statements to a maximum period of 3 years from the due date of filling. Proposed changes: A new sub-section (2) in section 44 of the CGST Act is being inserted so as to provide a time limit up to which the annual return under sub-section (1) of the said section for a financial year can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons. SKS Comments: ➢ No maximum time limit was prescribed beyond the due date to file the return; ➢ Once the proposal is effected, the registered person will not be able to file Form GSTR-9 electronically on the common portal after the expiry of a period of three years from the due date of furnishing the said return; ➢ Government by notification may exempt certain category of persons from the above provision.

9	135	Chapter – X, Payment of Tax Section 52: Collection of Tax at Source	48th GST Council Recommendation: Section 52 to be amended to restrict the filing of returns/ statements to a maximum period of 3 years from the due date of filling. Proposed changes: A new sub-section (15) in section 52 of the CGST Act is being inserted so as to provide a time limit up to which the statement under sub-section (4) of the said section for a month can be furnished by an electronic commerce operator. Further, it seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for an electronic commerce operator or a class of electronic commerce operators.. SKS Comments: ➢ No maximum time limit was prescribed beyond the due date to file the return; ➢ Once the proposal is notified, the electronic commerce operator required to collect tax at source will not be able to file Form GSTR-8 electronically on the common portal after the expiry of a period of three years from the due date of furnishing the said statement; ➢ Government by notification may exempt certain category of persons from the above provision.
10	136	Chapter – XI Refund / Section 54: Refund of Tax	GST Council Recommendation: Not applicable. Proposed changes: Sub-section (6) of section 54 of the CGST Act is being amended so as to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availing of the self-assessed input tax credit as per sub-section (1) of section 41 of the said Act. SKS Comments: ➢ The idea of provisional ITC was conceived on the basis of inward supply matched and accepted by the recipients under section 42 of the CGST Act, 2017; ➢ The concept was done away in the Finance Act, 2022 by way of substituting section 41(1) and 41(2), which stipulates to avail ITC on a self-assessment basis on the basis of FORM GSTR-2B and subject to other conditions of section 16 of the CGST Act, 2017; ➢ Insertion of section 16(2)(aa) and section (2)(b)(a) read with an amendment in section 41 resulted in the need of removal of provisional credit for which section 54(6) has been proposed to be amended.

11	137	Chapter – XI Refund / Section 56: Interest on delayed refunds	GST Council Recommendation: Not applicable. Proposed changes: Section 56 of the CGST Act is being amended to provide an enabling provision to prescribe the manner of computation of the interest for the period of delay for calculation of interest on delayed refunds. SKS Comments: ➢ Interest is payable on refunds sanctioned after 60 (sixty) days but no mechanism for calculation of such interest was prescribed, thus the amendment in this respect has been made for calculating such interest; ➢ The basis of calculation of interest on delayed refunds shall be provided in the Rules.
12	138	Chapter XIX, Offences and Penalties / Section 122: Offences and Penalties	GSTC Recommendation: Not applicable. Proposed changes: A new sub-section (1B) in section 122 of the CGST Act is being inserted so as to provide for penal provisions applicable to electronic Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition tax-payers. SKS Comments: ➢ Once becoming effective, the electronic commerce operator shall be liable to a penalty of 10,000/- or the amount of tax involved whichever is higher if he ❖ allows the supply of G/S or both through it by a URP other than a person exempted from obtaining registration under GST; ❖ allows an inter-state supply of G/S or both through it by a person who is not eligible to do such inter-state supply; and ❖ fails to furnish correct information in Form GSTR 8 of any O/S of goods effected through it by a person exempt from obtaining such registration.

13	139	Chapter XIX, Offences and Penalties /Section 132: Punishment for certain offences	48th GST Council Recommendation: Decriminalization under GST: Minimum threshold for launching prosecution from 1 cr. To 2 cr. Except for offence of issuance of invoice. Decriminalize certain offence u/s 132(1)(g)(h)(k). Proposed changes: Sub-section (1) of section 132 of the CGST Act is being amended so as to decriminalize offenses specified in clauses (g), (j), and (k) of the said sub-section and to increase the monetary threshold for launching prosecution for the offenses under the said Act from 1 cr. to 2 cr. rupees, except for the offenses related to the issuance of invoices without the supply of goods or services or both. SKS Comments: ➢ Decriminalization of certain offenses, as stated above, are friendly measure meant for honest taxpayers and will keep them away from unnecessary harassment, if any; ➢ However, the decriminalization benefit has not been extended for taxpayers issuing invoices without supply of goods or services or both.
14	140	Chapter XIX, Offences and Penalties /Section 138: Compounding of Offences	48th GST Council Recommendation: Reduce compounding amount (present range 50% to 150% & proposed range 25% to 100%) Proposed changes: The first proviso to sub-section (1) of section 138 of the CGST Act is being amended so as to simplify the language of clause (a), to omit clause (b), and to substitute clause (c) of said proviso so as to exclude the persons involved in offenses relating to the issuance of invoices without a supply of goods or services or both from the option of compounding of the offenses under the said Act. It further seeks to amend sub-section (2) to rationalize the amount for compounding of various offenses by reducing the minimum and maximum amount for compounding. SKS Comments: ➢ Consequential change suggested for change proposed in section 132 of the CGST Act, 2017. ➢ The proposal to lower the minimum and maximum limit of compounding of offenses is a welcome and tax-friendly measure for honest taxpayers. ➢ However, the benefit of compounding of offenses has not been extended to a taxpayer who has issued a tax invoice without supplying goods or services or both.

15	141	Chapter XXI, Miscellaneous / Section 158A: Consent based sharing of information furnished by taxable person [Newly inserted]	47th GST Council Recommendation: The GoM on IT Reforms, inter alia, recommended that the GSTN should put in place the AI/ML-based mechanism to verify the antecedents of the registration applicants and improve risk-based monitoring of their behavior post-registration so that non-compliant taxpayers could be identified in their infancy and appropriate action be taken so as to minimize risk to the exchequer. Proposed changes: A new section 158A in the CGST Act is being inserted so as to provide for prescribing manner and conditions for sharing of the information furnished by the registered person in his return or in his application of registration or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified. SKS Comments: ➢ Aims to share information with 'such other systems' which needs to be studied once made available; ➢ The proposal may aim to identify and monitor risky and non-compliant taxpayers from the initial period itself to minimize the risk of revenue loss; ➢ Although not stated specifically, ~~if~~ all such compliance-based information either in total or in a selective manner, is shared at the front end for other taxpayers ~~although not specifically mentioned~~, may reduce litigation for honest and compliant taxpayers (recipients) and may also lead to lay the foundation of system based compliance rating for taxpayer as prescribed under section 149 of the CGST Act, 2017.

16	142	Schedule III	48th GST Council Recommendation: Paras 7, 8(a) and 8(b) were inserted in Schedule III of CGST Act w.e.f 01.02.2019 to keep certain transactions/ activities as specified therein, outside the purview of GST. In order to remove the doubts and ambiguities regarding the taxability of such transactions/ activities during the period 01.07.2017 to 31.01.2019, the Council recommended making the said paras effective from 01.07.2017. However, no refund of tax paid shall be available in cases where any tax has already been paid in respect of such transactions/ activities during the period 01.07.2017 to 31.01.2019. Proposed changes: Schedule III of the CGST Act is being amended to give retrospective applicability to Para 7, 8 (a), and 8 (b) of the said Schedule, with effect from 01st July 2017, so as to treat the activities/ transactions mentioned in the said paragraphs as neither supply of goods nor supply of services. It is also being clarified that where the tax has already been paid in respect of such transactions/ activities during the period from 01st July 2017 to 31st January 2019, no refund of such tax paid shall be available. SKS Comments: ➢ Transactions/ activities, such as High Sea sales, supply of warehoused goods before their home clearance and supply by the consignee, by the endorsement of document of title, after the goods dispatched from the port of origin located outside India but before clearance for home consumption, are to be treated as neither supply of goods nor supply of services, w.e.f 01.07.2017; ➢ Denial to refund to taxpayers those who have already paid will discourage and frustrate the compliant taxpayers;

Integrated Goods and Services Tax Act, 2017			
17	143	Chapter I, Preliminary / Section 2: Definitions	48th GST Council Recommendation: Amendment in definition of "non-taxable online recipient" under section 2(16) of IGST Act, 2017 and definition of "Online Information and Database Access or Retrieval Services (OIDAR)" under section 2(17) of IGST Act, 2017 so as to reduce interpretation issues and litigation on taxation of OIDAR Services. Proposed changes: Seeks to amend said clause as "non-taxable online recipient" to mean any unregistered person receiving online information and database access or retrieval services (OIDAR) located in the taxable territory." It further seeks to clarify that the persons registered solely in terms of clause (vi) of section 24 of the CGST Act shall be treated as an unregistered person for the purpose of the said clause. It also proposes to amend clause (17) of the said section by removing certain words therein so as to remove the condition of "essentially automated" and "involving minimal human intervention" from the said definition. SKS Comments: ➢ The definition of 'non-taxable online recipient' under section 2(16) and 'Online Information and Database Access and Retrieval Services (OIDAR) under section 2(17) of IGST Act, 2017 has been widened; ➢ A person registered as a TDS deductor u/s 51 shall be considered as an unregistered person; ➢ Also, the definition of "online information and databaseaccess or retrieval services" is being proposed to be amended to remove the condition of rendering of the said supply being essentially automated and involvingminimal human intervention. ➢ This proposal aims to reduce interpretation issues and litigation on taxation of OIDAR Services.

18	144	Chapter V, Place of Supply of Goods or Services or Both / Section 12: Place of supply of services where location of supplier and recipient is in India	48th GST Council Recommendation: Proviso to sub-section (8) of section 12 of the IGST Act, 2017 may be omitted. Proposed changes: Proviso to sub-section (8) of section 12 of the IGST Act is being omitted so as to specify the place of supply, irrespective of the destination of the goods, in cases where the supplier of services and recipient of services are located in India. SKS Comments: ➢ Proviso was introduced to iron out the difference of taxability that arose from receipt of services from foreign shipping line as compared to receipt of services from domestic shipping line. ➢ However, this led to a compliance difficulty in the GST portal as the place of supply was to be mentioned as the destination of goods. ➢ In the case of the export of goods, PoS was to be mentioned as a non-taxable territory which is the destination place, leading to a problem in claiming ITC. Removal of the proviso has addressed the issue appropriately.

TB

BRIEF ANALYSIS ON DIRECT TAX PROPOSALS – UNION BUDGET 2023

CMA Ajith Sivadas
Cost Accountant

Adv Srikanth
Advocate

INTRODUCTION

The Union Budget to envision the Amrit Kaal had a vibrant touch on the multifarious areas of the economy. The Indian economy is on the right fast track heading toward a vision of a Developed India. India's global profile is rising due to world-class digital infrastructure and a proactive role in frontier areas.

The Second time holder of the Indian Sovereign had protruded and put out a non-surreptitious and pellucid budget to India. To achieve the vision of the Amrit Kaal, the Budget lays down seven priority areas- Saptarishi" i.e., Inclusive Development: Sabka Sath Sabka Vikas, Reaching the Last Mile, Infrastructure & Investment, Unleashing the Potential, Green Growth, Youth Power, and finally and a very important boost to the Financial Sector.

The budget also is in augmenting the benefits and upliftment of the MSMEs in India, creating PAN as the Common Identifier for the Digital System, Jan Vishwas Bill whereby it amended 42 Acts and enhanced the Ease of Doing Business as envisioned by the World Bank, more than 39,000 compliances have been reduced and more than 3,400 legal provisions had been decriminalized, further boosting the Green Energy to align India with the Nationally Determined Contribution, improve the Science and Technology field to have the catch-hold on the impending opportunities for India.

In this article, we are trying to throw light towards some of the major proposals on Income Tax regime.

1. Personal Taxation

- With an intention to increase the acceptability towards a new regime system of taxation, changes are proposed in the same. New Regime System under Section 115 BAC shall be the default system of filing returns.

- There are no changes in the old regime taxation system.

- The rebate under section 87A has been extended from Rs. 12,500/- to Rs. 25,000 who opt for the New Regime System and thereby total income up to 7 Lakhs would be tax free. There is a change in slab rates also for the New Regime Holders wherein the maximum exemption limit shall be Rs. 3,00,000.

- The salaried persons now can avail of a standard deduction of Rs. 50,000 by opting for new regime also, thereby effectively a salaried person using this enhanced rebate and standard deduction limits, tax free salary would be up to Rs. 7,50,000.

- The Non-govt employees shall be getting the maximum limit of Rs. 15 lakhs compared to the existing Rs. 3 lakhs exemption on leave encashment benefits.

The proposed new slab rate:

Sl.No	Income (in INR)	Tax Liability (in INR)
	Up to Rs. 3,00,000	Nil
	Between Rs. 3,00,001 to 6,00,000	5% of Income in excess of Rs. 3,00,000
	Between Rs. 6,00,001 to 9,00,000	Rs. 15,000 plus 10% of the amount by which the income exceeds Rs. 6,00,000
	Between Rs. 9,00,001 to 12,00,000	Rs. 45,000 plus 15% of the amount by which the income exceeds Rs. 9,00,000
	Between Rs. 12,00,001 to 15,00,000	Rs. 90,000 plus 20% of the amount by which the income exceeds Rs. 12,00,000
	Above Rs. 15,00,000	Rs. 1,50,000 plus 30% of the amount by which the income exceeds Rs. 15,00,000

For the new regime taxpayers, there is a reduction in higher surcharges from 37% to 25%, resulting in a maximum marginal rate (Personal Income Tax) from 42% to 39%

Normal Tax Regime (No Change) :

Sl.No	Income (in INR)	Tax Liability (in INR)
	Up to Rs. 2,50,000	Nil
	Between Rs. 2,50,001 to 5,00,000	5% of income in excess of Rs. 2,50,000
	Between Rs. 5,00,001 to 10,00,000	Rs. 12,500 plus 20% of the amount by which the income exceeds Rs. 5,00,000
	Above Rs. 10,00,000	Rs. 1,12,500 plus 30% of the amount by which the income exceeds Rs. 10,00,000

2. Relief to Cooperative Sector

✪ A new section 115 BAE was introduced to cooperative societies doing manufacturing and production activities incorporated after 01st April 2023 commencing production before 31st March 2024 at an attractive rate of 15%, subject to the conditions.

✪ Section 194N, the cash withdrawal threshold limit for cooperatives enhanced to Rs. 3 crores.

✪ Moreover, by amending Section 269SS and 269T the cash deposit and loan limit for Primary Agricultural Credit Societies or PCARDB has been enhanced to Rs. 2 lakhs without penalty.

✪ Some relief has been pronounced to the sugar cooperative society regarding the deduction claimed for purchasing of sugar prior to Assessment Year 2016-17.

3. Computation of Income

✪ Section 28(iv) regarding the value of any benefit or perquisites has been amended by including 'cash or in kind or partly of both'. This may be to increase the scope of section 194R also.

✪ Regarding payment to MSMEs, the payment due to them shall be on an actual cash payment basis beyond 45 days from the date of invoice or as per the written agreement whichever is earlier.

✪ For those assesses having cash receipts 5% or less of the total receipts Section 44AD would be extended to Rs. 3 crores and Section 44ADA limit to Rs. 75 Lakhs.

✪ Conversion of gold into electronic gold receipt (Digi-Gold) or vice versa shall not be a transfer and thereby no capital gain on such transaction. By inserting a proviso to Section 48 it has been provided that the interest on the home loan deducted under section 24(b) or under Section 80EE, 80EEA shall not be treated as the cost of improvement and thereby interest not taken as deduction aforesaid may be taken as cost of improvement of a capital asset.

✪ While reinvesting the proceeds under sections 54 and 54F in a house property the maximum threshold limit for deduction shall be restricted to Rs. 10 crores in other words the investment in excess of Rs. 10 crores shall not be eligible for deductions.

✪ Winning from an online game shall be taxed at 30% under section 115BBJ.

✪ Startups with continuity of 51% of shareholding shall be allowed to carry forward the loss up to 10 years from 7 years and those startups' last date has been extended up to 31st of March 2024, further the eligibility to get registered as the startup has been extended.

✪ In order to ease in claiming the deduction on amortization of preliminary expenses instead of preparing a feasibility report, project report, market survey report, etc. a statement containing the particulars of expenditure shall be the condition to amortize the same.

✪ Budget proposed to extend taxability of the consideration (share application money/ share premium) for shares exceeding the face value of such shares to all investors including non-residents.

4. Opportunity for Cost Accountants

✪ The cost accountants have been entrusted to value inventories , if required by the assessing officer by inserting section 142(2A)(ii). Thereby the assessing officer during various assessments and can direct the assesses to get their inventory valued by a cost accountant nominated by the proper authority with such particulars as may be prescribed.

✪ The remuneration to such cost accountants shall be determined by the Principal Commissioner and shall be paid by the Central Government.

✪ The Assessee shall be given an opportunity to be heard while accepting the value determined by the Cost Accountant.

✪ ICDS 2 relates to the valuation of inventory and Section 148 of the Companies Act, 2013 also mandates the maintenance of Cost records and audits. The report may be submitted within prescribed time limit and such period shall be excluded from the assessment time limit under section 153.

✪ This is a very welcome move for the entire Cost and management Accountant fraternity as Cost Accountants are having the skillsets are being recognised and is the need of the hour.

✪ During assessment procedure inventory valuation being a complex process to get valued and which does have an immense effect on the profitability position, and this amendment would help the department to assess the stock by a proper professional.

5. TDS and TCS

- TCS for the overseas tour package and remittance above Rs. 7 lakhs for any other purpose other than from education loan for medical treatment have been increased to 20%. Reduced rate or nil rate of TDS under section 197 has been extended to Section 194LBA cases also.

- The specified person under section 206AB and Section 206CCA has been amended to exclude a non-resident who is not having a permanent establishment in India and certain persons who are not required to file ITR notified by Central Government.

- TDS at the rate of 30% on winning from online games has been inserted.

- TDS on payment of certain income to a non-resident is currently at the rate of 20 per cent, but the tax rate in treaties may be lower. It is proposed to allow the benefit of tax treaty at the time of TDS on such income under section 196A of the Act.

6. Agnipath Scheme

- This scheme is an unique opportunity to fulfil the dream of youths for joining the Armed Forces & serving the Nation. A fund has been created for this purposes and various proposals mentioned below are being made in the budget regarding this.

- Individuals enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund shall get a deduction of the Government contribution to their Seva Nidhi under the new tax regime.

- Sum received from the Agniveer Corpus Fund by a person enrolled under the Agnipath Scheme 2022 shall be exempt from tax under Section 10(12C).

- Full Deductions for contributions made to the Agniveer Corpus Fund shall be allowed under Section 80CCH in both existing and new tax regimes.

- Contribution by the Central Government to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme shall be considered as a salary under Section 17.

7.Charitable and Religious Trusts.

- The trusts or institutions cannot claim the benefit of exemption provisions by filing an updated return of income u/s 139 (8A).

- Repayment of loan or investment/depositing back into corpus shall be considered an application for charitable or religious purposes only within 5 years of application from the corpus or loan.

- The donations by a trust or institution to another trust or institution shall be treated as the application of up to 85% of such donations.

- Donations to Jawaharlal Nehru Memorial Fund, Indira Gandhi Memorial Trust, and Rajiv Gandhi Foundation have been removed from the list of eligible funds for a deduction under Section 80G.

- The submission of an application for registration containing false or incorrect information, or if it is incomplete, shall be considered a specified violation and result in the cancellation of the registration of trusts or institutions by PCIT/CIT.

- The provisions of accreted tax under Section 115TD are extended to trusts or institutions if they fail to apply for re-registration.

- The trusts or institutions shall file Form 9A and Form 10 at least 2 months before the due date of filing of return of income, to claim accumulation of income.

8.Assessment & Appeals

- An appeal can be filed against penalty orders imposed by the Commissioner (Appeals) under Sections 271AAB, 271AAC, and 271AAD and revision orders passed by the Principal Chief Commissioner or Chief Commissioner under Section 263.

- The amendment also enables the filing of the memorandum of cross-objections in all cases appealable to the Appellate Tribunal.

- The amendment is proposed to Section 132 to allow the authorized officer to seek assistance from approved professionals, such as digital forensic experts and registered valuers, during the search and seizure process.

- The completion of assessment in search cases will be linked to the execution of the last authorization during the search.

- A new appellate authority of the Joint Commissioner (Appeal) is introduced for select categories of assessees, such as individuals and HUFs, to expedite resolution in appeal proceedings.

- The time available with the "Interim Board for Settlement" for disposal of pending rectification applications is extended to provide sufficient opportunity.

- The time available for completion of the assessment is increased from 9 months to 12 months with effect from Assessment Year 2022-23.

- If an assessment or reassessment is pending in search cases, the deadline for completion of the assessment or reassessment shall be extended by 12 months for the assessee for whom the search was initiated or the requisition was made and the assessee to whom any seized or requisitioned money, bullion, jewellery, or other valuable items belong or to whom any seized or requisitioned books of account or documents pertain or contain relevant information.

Other Proposals

- Income Tax returns would be rationalised by merging ITR 1 to ITR 6 as a single form.

- 95 per cent of the forfeited amount relating to bid or performance security, by MSMEs during the covid period will be returned to them by government and government undertakings.

- The PAN will be used as the common identifier for all digital systems of specified government agencies.

- Through Jan Viswas Bill , 42 central acts to be amended to reduce 39,000 compliance procedures and to decriminalise 3400 provisions.

- Insurance policies issued after 1.04.2023, premium up to 5 lakhs per annum only shall be exempt on proceeds received.

Conclusion

The benefits of New Tax regimes and the allocation of the space for the people to move with the Old Tax Regime show the effectiveness of the Union Budget during the period of Amrit Kaal. Though lot of ease of doing business proposals are made to prevent tax evasion and for a better taxation structure various amendments are made. For Cost Accountants fraternity this budget provided better scope and recognition in direct taxes regime also and the entire community would be delighted with this.

The Union Budget seems more of an all-pervasive model to cope with technological development and shall be considered more of a reform model to bring in all the necessary items dealt by the people into the ambit of the proper statutory taxation which shall have the power to improve tax base and tax collections in India.

TB

NOTIFICATIONS & CIRCULARS

Indirect Tax

Notifications
Customs
Notification No. 07/2023-CUSTOMS (N.T)
Dated 31st January, 2023.

The Central Government fixes of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver- Reg.

S.O. ... (E).– In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

TABLE - I

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US $Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	986
2	1511 90 10	RBD Palm Oil	992
3	1511 90 90	Others – Palm Oil	990
4	1511 10 00	Crude Palmolein	999
5	1511 90 20	RBD Palmolein	1002
6	1511 90 90	Others – Palmolein	1001
7	1507 10 00	Crude Soya bean Oil	1267
8	7404 00 22	Brass Scrap (all grades)	5324

2. This notification shall come into force with effect from the 01st February 2023.

For more details, please follow

https://taxinformation.cbic.gov.in/view-pdf/1009619/ENG/Notifications

Notifications
Customs
Notification No. 05/2023-CUSTOMS (N.T)
Dated 19th January, 2023

The Central Government Fixes Exchange rate vide Notification No. 05/2023

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 02/2023-Customs(N.T.), dated 5th January, 2023 except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 20th January, 2023, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods

Schedule I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
1	2	3	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	57.50	55.10
2.	Bahraini Dinar	222.75	209.45
3.	Canadian Dollar	61.30	59.30
4.	Chinese Yuan	12.20	11.85
5.	Danish Kroner	12.00	11.60
6.	EURO	89.45	86.35
7.	Hong Kong Dollar	10.60	10.20
8.	Kuwaiti Dinar	275.10	258.60
9.	New Zealand Dollar	53.70	51.30
10.	Norwegian Kroner	08.30	08.05
11.	Pound Sterling	102.10	98.70
12.	Qatari Riyal	23.05	21.50
13.	Saudi Arabian Riyal	22.35	21.00
14.	Singapore Dollar	62.60	60.55
15.	South African Rand	04.90	04.60
16.	Swedish Kroner	08.00	07.75
17.	Swiss Franc	90.55	87.15
18.	Turkish Lira	04.45	04.20
19.	UAE Dirham	22.85	21.50
20.	US Dollar	82.30	80.55

Schedule II

Sl. No.	Foreign Currency	Rate of exchange of 100 unit of foreign currency equivalent to Indian rupees	
1	2	3	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	64.50	62.40
2.	Korean Won	06.80	06.40

For more details, please follow

https://taxinformation.cbic.gov.in/view-pdf/1009616/ENG/Notifications

Notifications
Central Excise
Notification No. 03/2023- Central Excise
Dated 16th January 2023

The Central Government Seeks to amend No. 18/2022-Central Excise, dated the 19th July, 2022 to reduce the Special Additional Excise Duty on production of Petroleum Crude and export of Aviation Turbine Fuel

G.S.R. .... (E). -In exercise of the powers conferred by section 5A of the Central Excise Act, 1944 (1 of 1944) read with section 147 of Finance Act, 2002 (20 of 2002), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 18/2022-Central Excise, dated the 19th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 584 (E), dated the 19th July, 2022, namely:-

In the said notification, in the Table, -

i. against S. No. 1, for the entry in column (4), the entry “Rs. 1,900 per tonne” shall be substituted;

ii. against S.No.2, for the entry in column (4), the entry “Rs. 3.50 per litre” shall be substituted.

2. This notification shall come into force on the 17th day of January 2023.

For more details, please follow

https://taxinformation.cbic.gov.in/view-pdf/1009615/ENG/Notifications

Notifications
Central Excise
Notification No. 04/2023- Central Excise
Dated 16th January 2023

The Central Government Seeks to further amend No. 04/2022-Central Excise, dated the 30th June, 2022, to reduce Special Additional Excise Duty on Diesel

G.S.R.....(E).-In exercise of the powers conferred by section 5A of the Central Excise Act,1944 (1 of 1944) read with section 147 of Finance Act, 2002 (20 of 2002), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.04/2022 – Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section3, Sub-section(i), vide number G.S.R.492 (E), dated the 30th June, 2022, namely

In the said notification, in the Table, -

against S. No. 2, for the entry in column (4), the entry “Rs. 3.50 per litre” shall be substituted;

2. This notification shall come into force on the 17th day of January 2023.

For more details, please follow

https://taxinformation.cbic.gov.in/view-pdf/1009614/ENG/Notifications

TB

PRESS RELEASE

HIGHLIGHTS OF THE UNION BUDGET 2023-24
Posted On: 01 FEB 2023 1:35PM by PIB Delhi

The Union Minister of Finance and Corporate Affairs Smt. Nirmala Sitharaman presented the Union Budget 2023-24 in Parliament today. The highlights of the Budget are as follows:

PART A

- Per capita income has more than doubled to ₹1.97 lakh in around nine years.
- Indian economy has increased in size from being 10th to 5th largest in the world in the past nine years.
- EPFO membership has more than doubled to 27 crore.
- 7,400 crore digital payments of ₹126 lakh crore has taken place through UPI in 2022.
- 11.7 crore household toilets constructed under Swachh Bharat Mission.
- 9.6 crore LPG connections provided under Ujjwala.
- 220 crore covid vaccination of 102 crore persons.
- 47.8 crore PM Jan Dhan bank accounts.
- Insurance cover for 44.6 crore persons under PM Suraksha Bima and PM Jeevan Jyoti Yojana.
- Cash transfer of ₹2.2 lakh crore to over 11.4 crore farmers under PM Kisan Samman Nidhi.
- **Seven priorities of the budget 'Saptarishi'** are inclusive development, reaching the last mile, infrastructure and investment, unleashing the potential, green growth, youth power and financial sector.
- **Atmanirbhar Clean Plant Program** with an outlay of ₹2200 crore to be launched to boost availability of disease-free, quality planting material for high value horticultural crops.
- 157 new nursing colleges to be established in co-location with the existing 157 medical colleges established since 2014.
- ✔ Centre to recruit 38,800 teachers and support staff for the 740 Eklavya Model Residential Schools, serving 3.5 lakh tribal students over the next three years.
- ✔ Outlay for **PM Awas Yojana** is being enhanced by 66% to over ₹79,000 crores.
- ✔ Capital outlay of ₹2.40 lakh crore has been provided for the Railways, which is the highest ever outlay and about nine times the outlay made in 2013-14.
- ✔ **Urban Infrastructure Development Fund (UIDF)** will be established through use of priority Sector Lending shortfall, which will be managed by the national Housing Bank, and will be used by public agencies to create urban infrastructure in Tier 2 and Tier 3 cities.
- **Entity DigiLocker** to be setup for use by MSMEs, large business and charitable trusts to store and share documents online securely.
- 100 labs to be setup for 5G services based application development to realize a new range of opportunities, business models, and employment potential.
- ✔ 500 new 'waste to wealth' plants under **GOBARdhan** (Galvanizing Organic Bio-Agro Resources Dhan) scheme to be established for promoting circular economy at total investment of ₹ 10,000 crore. 5 per cent compressed biogas mandate to be introduced for all organizations marketing natural and bio gas.
- ✔ Centre to facilitate one crore farmers to adopt natural farming over the next three years. For this, 10,000 **Bio-Input Resource Centres** to be set-up,

creating a national-level distributed micro-fertilizer and pesticide manufacturing network.

- **Pradhan Mantri Kaushal Vikas Yojana 4.0**, to be launched to skill lakhs of youth within the next three years covering new age courses for Industry 4.0 like coding, AI, robotics, mechatronics, IOT, 3D printing, drones, and soft skills.

- 30 **Skill India International Centres** to be set up across different States to skill youth for international opportunities.

- Revamped credit guarantee scheme for MSMEs to take effect from 1st April 2023 through infusion of ₹ 9,000 crore in the corpus. This scheme would enable additional collateral-free guaranteed credit of ₹ 2 lakh crore and also reduce the cost of the credit by about 1 per cent.

- **Central Processing Centre** to be setup for faster response to companies through centralized handling of various forms filed with field offices under the Companies Act.

- The maximum deposit limit for Senior Citizen Savings Scheme to be enhanced from ₹ 15 lakh to ₹ 30 lakh.

- Targeted Fiscal Deficit to be below 4.5% by 2025-26.

- **Agriculture Accelerator Fund** to be set-up to encourage agri-start-ups by young entrepreneurs in rural areas.

- To make India a global hub for 'Shree Anna', the Indian Institute of Millet Research, Hyderabad will be supported as the Centre of Excellence for sharing best practices, research and technologies at the international level.

- ₹20 lakh crore agricultural credit targeted at animal husbandry, dairy and fisheries

- A **new sub-scheme of PM Matsya Sampada Yojana** with targeted investment of ₹6,000 crore to be launched to further enable activities of fishermen, fish vendors, and micro & small enterprises, improve value chain efficiencies, and expand the market.

- **Digital public infrastructure for agriculture** to be built as an open source, open standard and inter operable public good to enable inclusive farmer centric solutions and support for growth of agri-tech industry and start-ups.

- Computerisation of 63,000 Primary Agricultural Credit Societies (PACS) with an investment of ₹2,516 crore initiated.

- Massive decentralised storage capacity to be set up to help farmers store their produce and realize remunerative prices through sale at appropriate times.

- **Sickle Cell Anaemia elimination mission** to be launched.

- Joint public and Private Medical research to be encouraged via select ICMR labs for encouraging collaborative research and innovation.

- New Programme to promote research in Pharmaceuticals to be launched.

- ₹ 10 lakh crore capital investment, a steep increase of 33% for third year in a row, to enhance growth potential and job creation, crowd-in private investments, and provide a cushion against global headwinds.

- **Aspirational Blocks Programme covering 500 blocks** launched for saturation of essential government services across multiple domains such as health, nutrition, education, agriculture, water resources, financial inclusion, skill development, and basic infrastructure.

- ₹ 15,000 crore for implementation of **Pradhan Mantri PVTG Development Mission** over the next three years under the Development Action Plan for the Scheduled Tribes.

- Investment of ₹ 75,000 crore, including ₹ 15,000 crore from private sources, for one hundred critical transport infrastructure projects, for last and first mile connectivity for ports, coal, steel, fertilizer, and food grains sectors.

- **New Infrastructure Finance Secretariat** established to enhance opportunities for private investment in infrastructure.

- **District Institutes of Education and Training** to be developed as vibrant institutes of excellence for Teachers' Training.
- A National **Digital Library for Children and Adolescents** to be set-up for facilitating availability of quality books across geographies, languages, genres and levels, and device agnostic accessibility.
- ₹ 5,300 crore to be given as central assistance to Upper Bhadra Project to provide sustainable micro irrigation and filling up of surface tanks for drinking water.
- **'Bharat Shared Repository of Inscriptions'** to be set up in a digital epigraphy museum, with digitization of one lakh ancient inscriptions in the first stage.
- 'Effective Capital Expenditure' of Centre to be ₹ 13.7 lakh crore.
- Continuation of 50-year interest free loan to state governments for one more year to spur investment in infrastructure and to incentivize them for complementary policy actions.
- Encouragement to states and cities to undertake urban planning reforms and actions to transform our cities into 'sustainable cities of tomorrow'.
- Transition from manhole to machine-hole mode by enabling all cities and towns to undertake 100 percent mechanical desludging of septic tanks and sewers.
- ***iGOT Karmayogi***, an integrated online training platform, launched to provide continuous learning opportunities for lakhs of government employees to upgrade their skills and facilitate people-centric approach.
- More than 39,000 compliances reduced and more than 3,400 legal provisions decriminalized to enhance Ease Of Doing Business.
- Jan Vishwas Bill to amend 42 Central Acts have been introduced to further trust-based governance.
- Three centres of excellence for Artificial Intelligence to be set-up in top educational institutions to realise the vision of ***"Make AI in India and Make AI work for India".***
- **National Data Governance Policy** to be brought out to unleash innovation and research by start-ups and academia.
- One stop solution for reconciliation and updation of identity and address of individuals to be established using DigiLocker service and Aadhaar as foundational identity.
- PAN will be used as the common identifier for all digital systems of specified government agencies to bring in Ease of Doing Business.
- 95 per cent of the forfeited amount relating to bid or performance security, will be returned to MSME's by government and government undertakings in cases the MSME's failed to execute contracts during Covid period.
- Result Based Financing to better allocate scarce resources for competing development needs.
- **Phase-3 of the E-Courts project** to be launched with an outlay of ₹7,000 crore for efficient administration of justice.

- **R & D grant for Lab Grown Diamonds (LGD) sector** to encourage indigenous production of LGD seeds and machines and to reduce import dependency.
- Annual production of 5 MMT under **Green Hydrogen Mission** to be targeted by 2030 to facilitate transition of the economy to low carbon intensity and to reduce dependence on fossil fuel imports.
- ₹35000 crore outlay for energy security, energy transition and net zero objectives.
- Battery energy storage systems to be promoted to steer the economy on the sustainable development path.
- 20,700 crore outlay provided for renewable energy grid integration and evacuation from Ladakh.

- **"PM Programme for Restoration, Awareness, Nourishment and Amelioration of Mother Earth"**

(PM-PRANAM) to be launched to incentivize States and Union Territories to promote alternative fertilizers and balanced use of chemical fertilizers.

- ✔ **'Mangrove Initiative for Shoreline Habitats & Tangible Incomes', MISHTI,** to be taken up for mangrove plantation along the coastline and on salt pan lands, through convergence between MGNREGS, CAMPA Fund and other sources.
- ✔ **Green Credit Programme** to be notified under the Environment (Protection) Act to incentivize and mobilize additional resources for environmentally sustainable and responsive actions.
- ✔ **Amrit Dharohar scheme** to be implemented over the next three years to encourage optimal use of wetlands, enhance bio-diversity, carbon stock, eco-tourism opportunities and income generation for local communities.
- ✔ A **unified Skill India Digital platform** to be launched for enabling demand-based formal skilling, linking with employers including MSMEs, and facilitating access to entrepreneurship schemes.
- ✔ **Direct Benefit Transfer under a pan-India National Apprenticeship Promotion Scheme** to be rolled out to provide stipend support to 47 lakh youth in three years.
- ✔ At least 50 tourist destinations to be selected through challenge mode; to be developed as a complete package for domestic and foreign tourists.
- ✔ Sector specific skilling and entrepreneurship development to be dovetailed to achieve the objectives of the **'Dekho Apna Desh'** initiative.
- ✔ Tourism infrastructure and amenities to be facilitated in border villages through the **Vibrant Villages Programme.**
- ✔ States to be encouraged to set up a **Unity Mall** for promotion and sale of their own and also all others states' **ODOPs (One District, One Product)**, GI products and handicrafts.
- ✔ **National Financial Information Registry** to be set up to serve as the central repository of financial and ancillary information for facilitating efficient flow of credit, promoting financial inclusion, and fostering financial stability. A new legislative framework to be designed in consultation with RBI to govern this credit public infrastructure.
- ✔ Financial sector regulators to carry out a comprehensive review of existing regulations in consultation with public and regulated entities. Time limits to decide the applications under various regulations would also be laid down.
- ✔ To enhance business activities in GIFT IFSC, the following measures to be taken.
- ✔ Delegating powers under the SEZ Act to IFSCA to avoid dual regulation.
- ✔ Setting up a single window IT system for registration and approval from IFSCA, SEZ authorities, GSTN, RBI, SEBI and IRDAI.
- ✔ Permitting acquisition financing by IFSC Banking Units of foreign bank.
- ✔ Establishing a subsidiary of EXIM Bank for trade re-financing.
- ✔ Amending IFSCA Act for statutory provisions for arbitration, ancillary services, and avoiding dual regulation under SEZ Act
- ✔ Recognizing offshore derivative instruments as valid contracts.
- ✔ Amendments proposed to the Banking Regulation Act, the Banking Companies Act and the Reserve of India Act to improve bank governance and enhance investors' protection.
- ✔ Countries looking for digital continuity solutions would be facilitated for setting up of their Data Embassies in GIFT IFSC.
- ✔ SEBI to be empowered to develop, regulate, maintain and enforce norms and standards for education in the National Institute of Securities Markets and to recognize award of degrees, diplomas and certificates.

- ✔ Integrated IT portal to be established to enable investors to easily reclaim the unclaimed shares and unpaid dividends from the Investor Education and Protection Fund Authority.

- ✔ To commemorate Azadi Ka Amrit Mahotsav, a one-time new small savings scheme, **Mahila Samman Savings Certificate** to be launched. It will offer deposit facility upto ₹2 lakh in the name of women or girls for tenure of 2 years (up to March 2025) at fixed interest rate of 7.5 per cent with partial withdrawal option.

- ✔ The maximum deposit limit for Monthly Income Account Scheme to be enhanced from ₹ 4.5 lakh to ₹ 9 lakh for single account and from ₹9 lakh to ₹15 lakh for joint account.

- ✔ The entire fifty-year interest free loan to states to be spent on capital expenditure within 2023-24. Part of the loan is conditional on States increasing actual Capital expenditure and parts of outlay will be linked to States undertaking specific loans.

- ✔ Fiscal Deficit of 3.5% of GSDP allowed for States of which 0.5% is tied to Power sector reforms.

✪**Revised Estimates 2022-23:**

- ✔ The total receipts other than borrowings is Rs 24.3 lakh crore, of which the net tax receipts are Rs 20.9 lakh crore.

- ✔ The total expenditure is ₹41.9 lakh crore, of which the capital expenditure is about ₹7.3 lakh crore.

- ✔ The fiscal deficit is 6.4 per cent of GDP, adhering to the Budget Estimate.

✪**Budget Estimates 2023-24:**

- ✔ The total receipts other than borrowings is estimated at ₹ 27.2 lakh crore and the total expenditure is estimated at ₹45 lakh crore.

- ✔ The net tax receipts are estimated at ₹ 23.3 lakh crore.

- ✔ The fiscal deficit is estimated to be 5.9 per cent of GDP.

- ✔ To finance the fiscal deficit in 2023-24, the net market borrowings from dated securities are estimated at Rs 11.8 lakh crore.

- ✔ The gross market borrowings are estimated at ₹ 15.4 lakh crore.

PART – B

DIRECT TAXES

- ✪ Direct Tax proposals aim to maintain **continuity and stability** of taxation, further **simplify and rationalise** various provisions to **reduce the compliance burden**, promote the **entrepreneurial spirit** and provide tax relief to citizens.

- ✪ Constant endeavour of the Income Tax Department to improve Tax Payers Services by making compliance **easy and smooth.**

- ✪ To further improve tax payer services, proposal to roll out a next-generation **Common IT Return Form** for tax payer convenience, along with plans to strengthen the grievance redressal mechanism.

- ✪ **Rebate limit** of Personal Income Tax to be **increased to ₹7 lakh** from the current ₹5 lakh in the new tax regime. Thus, persons in the new tax regime, with income up to ₹ 7 lakh to not pay any tax.

- ✪ Tax structure in new personal income tax regime, introduced in 2020 with six income slabs, to change by reducing the **number of slabs to five** and **increasing the tax exemption limit to ₹ 3 lakh**. Change to provide major relief to all tax payers in the new regime.

New tax rates

Total Income (Rs)	Rate (per cent)
Up to 3,00,000	Nil

From 3,00,001 to 6,00,000	5
From 6,00,001 to 9,00,000	10
From 9,00,001 to 12,00,000	15
From 12,00,001 to 15,00,000	20
Above 15,00,000	30

- Proposal to **extend the benefit of standard deduction** of ₹ 50,000 to salaried individual, and deduction from family pension up to ₹15,000, in the new tax regime.

- **Highest surcharge rate to reduce** from 37 per cent to 25 per cent in the new tax regime. This to further result in reduction of the maximum personal income tax rate to 39 per cent.

- The limit for tax exemption on **leave encashment** on retirement of non-government salaried employees to increase **to ₹ 25 lakh**.

- The new income tax regime to be made the **default tax regime**. However, citizens will continue to have the option to avail the benefit of the old tax regime.

- **Enhanced limits for micro enterprises and certain professionals** for availing the benefit of presumptive taxation proposed. Increased limit to apply only in case the amount or aggregate of the amounts received during the year, in cash, does not exceed five per cent of the total gross receipts/turnover.

- Deduction for expenditure incurred on payments made to MSMEs to be allowed only when payment is actually made in order to support MSMEs in timely receipt of payments.

- **New co-operatives** that commence manufacturing activities till 31.3.2024 to get the **benefit of a lower tax rate of** 15 per cent, as presently available to new manufacturing companies.

- Opportunity provided to sugar co-operatives to claim payments made to sugarcane farmers for the period prior to assessment year 2016-17 as expenditure. This expected to provide them a relief of almost ₹ 10,000 crore.

- Provision of a **higher limit of ₹2 lakh per member** for cash deposits to and loans in cash by Primary Agricultural Co-operative Societies (PACS) and Primary Co-operative Agriculture and Rural Development Banks (PCARDBs).

- **A higher limit of ₹ 3 crore for TDS** on cash withdrawal to be provided to co-operative societies.

- **Date of incorporation** for income tax benefits to start-ups to be extended from 31.03.23 to 31.3.24.

- Proposal to provide the benefit of carry forward of losses on change of shareholding of start-ups from seven years of incorporation to ten years.

- Deduction from capital gains on investment in residential house under sections 54 and 54F to be capped at Rs. 10 crore for better targeting of tax concessions and exemptions.

- Proposal to **limit income tax exemption** from **proceeds of insurance policies with very high value**. Where aggregate of premium for life insurance policies (other than ULIP) issued on or after 1st April, 2023 is above ₹5 lakh, income from only those policies with aggregate premium up to ₹5 lakh shall be exempt.

- Income of authorities, boards and commissions set up by statutes of the Union or State for the purpose of housing, development of cities, towns and villages, and regulating, or regulating and developing an activity or matter, proposed to be exempted from income tax.

- **Minimum threshold of ₹ 10,000/-** for **TDS to be removed** and taxability relating to online gaming to be clarified. Proposal to provide for TDS and taxability on net winnings at the time of withdrawal or at the end of the financial year.

- Conversion of gold into electronic gold receipt and vice versa not to be treated as capital gain.

- TDS rate to be reduced from 30 per cent to 20 per cent on taxable portion of EPF withdrawal in non-PAN cases.

- Income from Market Linked Debentures to be taxed.

- Deployment of about 100 Joint Commissioners for disposal of small appeals in order to reduce the pendency of appeals at Commissioner level.

- Increased selectivity in taking up appeal cases for scrutiny of returns already received this year.

- Period of **tax benefits** to funds relocating to **IFSC, GIFT City** extended till 31.03.2025.

- Certain acts of omission of liquidators under section 276A of the Income Tax Act to be **decriminalized** with effect from 1st April, 2023.

- Carry forward of losses on strategic disinvestment including that of IDBI Bank to be allowed.

- **Agniveer Fund** to be provided **EEE status**. The payment received from the Agniveer Corpus Fund by the Agniveers enrolled in Agnipath Scheme, 2022 proposed to be exempt from taxes. Deduction in the computation of total income is proposed to be allowed to the Agniveer on the contribution made by him or the Central Government to his Seva Nidhi account.

INDIRECT TAXES

- Number of basic customs duty rates on goods, other than textiles and agriculture, reduced to 13 from 21.

- **Minor changes in the basic custom duties, cesses and surcharges on** some items including toys, bicycles, automobiles and naphtha.

- Excise duty exempted on **GST-paid compressed bio gas** contained in blended compressed natural gas.

- Customs Duty on specified capital goods/machinery for manufacture of **lithium-ion cell for use in battery of electrically operated vehicle (EVs)** extended to 31.03.2024

- Customs duty exempted on vehicles, specified automobile parts/components, sub-systems and tyres when imported by notified testing agencies, for the purpose of testing and/ or certification, subject to conditions.

- Customs duty on **camera lens and its inputs/parts** for use in manufacture of **ca**mera module of cellular mobile phone **reduced to zero** and concessional duty on lithium-ion cells for batteries extended for another year.

- Basic customs duty reduced on **parts of open cells of TV panels** to 2.5 per cent.

- Basic customs duty on **electric kitchen chimney increased** to 15 per cent from 7.5 per cent.

- Basic customs duty on **heat coil for manufacture of electric kitchen chimneys** reduced to 15 per cent from 20 per cent.

- **Denatured ethyl alcohol** used in chemical industry exempted from basic customs duty.

- Basic customs duty reduced on **acid grade fluorspar** (containing by weight more than 97 per cent of calcium fluoride) to 2.5 per cent from 5 per cent.

- Basic customs duty on crude glycerin for use in manufacture of epicholorhydrin reduced to 2.5 per cent from 7.5 per cent.

- Duty reduced on key inputs for domestic manufacture of **shrimp feed.**

- Basic customs duty reduced on seeds used in the manufacture of **lab grown diamonds**.

- Duties on articles made from dore and bars of gold and platinum increased.

- Import duty on silver **dore, bars and articles increased**.

- Basic Customs Duty exemption on raw materials for manufacture of CRGO Steel, ferrous scrap and nickel cathode continued.

- Concessional BCD of 2.5 per cent on copper scrap is continued.

- Basic customs duty rate on **compounded rubber** increased to 25 per cent from 10 per cent or 30 per kg whichever is lower.

- National Calamity Contingent Duty (NCCD) on **specified cigarettes** revised upwards by about 16 per cent.

Legislative Changes in Customs Laws

- Customs Act, 1962 to be amended to specify a time limit of nine months from date of filing application for passing final order by Settlement Commission.

- Customs Tariff Act to be amended to clarify the intent and scope of provisions relating to Anti-Dumping Duty (ADD), Countervailing Duty (CVD), and Safeguard Measures.

CGST Act to be amended

- to raise the **minimum threshold of tax amount** for launching prosecution under GST from one crore to two crore;

- to reduce the **compounding amount** from the present range of 50 to 150 per cent of tax amount to the range of 25 to 100 per cent;

- **Decriminalise Certain Offences;**

- To **restrict filing of returns/statements** to a maximum period of three years from the due date of filing of the relevant return/statement; and

- to enable unregistered suppliers and composition taxpayers to make intra-state supply of goods through E-Commerce Operators (ECOs).

TB

JUDGEMENT INDIRECT TAX

Time for issuance of SCN also stands extended if the time period for issuance of order is extended: HC

Facts of case :

Pappachan Chakkiath v. Assistant Commissioner, CTO North Paravur - [2023] (Kerala)

The petitioner challenged the order passed by GST department under Section 73 and contended that time-limit for issuance of adjudication order had been extended for financial year 2017-18 but time-limit for extension of show cause notice had not been extended. It filed writ petition and argued that unless show cause notice is issued within time specified in sub-section (2) of Section 73 of CGST Act, the entire proceedings have to be declared as one without jurisdiction.

Decision of the case :

The Honorable High Court noted that the liability imposed by the impugned order on petitioner was in respect of financial year 2017- 2018. As per Section 73(2) and Section 73(10), show cause notice is required to be issued at least three months prior to the time specified for issuance of order. However, the time period for issuance of order has been extended and therefore, the time limit for issuance of show cause notice also stands extended with reference to such date. Since, the due date for issuing order for 2017-2018 has been extended till 30-9-2023, the same would apply for computation of time limit for issuance of show cause notice. Thus, the impugned order could not be said to be issued without jurisdiction and writ petition was dismissed.

HC remanded matter back as procedure adopted by authority while cancelling registration was thoroughly flawed

Facts of the case :

Rohit Verma v. Assistant Commissioner - [2023] (Calcutta)

A show cause notice was issued to the appellant to show cause as to why the registration should not be cancelled as it has been obtained by means of fraud, wilful misstatement or suppression of facts. The appellant did not avail the remedy granted and did not appear before the authority and therefore, the registration was cancelled. It filed revocation application which was rejected on ground that appellant was not carrying on business from declared place and appeal was also dismissed. Thereafter, it filed writ petition but learned single Bench dismissed the petition by stating that disputed questions of facts cannot be gone into in a writ petition. It filed appeal against the order.

Decision of the case :

The Honorable High Court noted that the authority while cancelling registration solely relied upon statement made by receptionist of building and merely because she could not recognise appellant's photograph, the registration was cancelled. The Court noted that the procedure adopted by authority while cancelling registration was thoroughly flawed and proper course would have been to issue notice directing appellant and his power of attorney agent to be personally present and summon landlord of premises to bring correct facts to light. Therefore, it was held that matter would be remanded to original authority for conducting fresh enquiry.

Petitioner should approach competent authority as goods seized for carrying fake invoice of non-existent purchaser firm: HC

Facts of the case :

Shiv Scrap Sales v. State of U.P. - [2023] (Allahabad)

The petitioner was engaged in the business of supplying mixed scrap to dealers at different places. It transported goods with valid tax invoices and e-way bill by driver. The goods were detained in transit without assigning any reason and seized by the department. It filed writ petition against the detention and seizure of goods and contended that the detention order was illegal.

Decision of the case:

The Honorable High Court noted that the Authority passed detention order and seized goods in transit for non-existence of purchaser firm and for carrying fake invoice by driver. The notice was issued in name of driver and there was remedy available before the petitioner to approach competent authority as goods belonged to it. Therefore, the Court disposed of the petition by directing petitioner to approach competent officer by moving a proper application along with copy of order.

Petitioner have to request IT Grievance Redressal Committee as Form ITC-02A was not allowed to be filed within stipulated time: HC

Facts of the case :

Ramaraju Surgical Cotton Mills Ltd. v. Additional Commissioner of CGST and Central Excise - [2023] (Madras)

The GST portal did not allow petitioner to file Form GST ITC- 02A for transferring ITC to its newly registered unit as prescribed time limit of 30 days expired. The writ petition was filed for a writ of mandamus directing the department to accept the FORM GST ITC 02A either by opening the common portal or by accepting it in the physical form or to allow the transfer of credit through GSTR-3B Returns as permitted by Rule 41 A of the Central Goods and Services Tax Rules, 2017.

Decision of the case :

The Honorable high Court observed that the GST portal did not allow petitioner to file Form GST ITC-02A within 30 day time period. The petitioner relied on the judgment rendered by High Court of Rajasthan in the case of Pacific Industries Limited v. Union of India. Therefore, the Court was of the considered opinion that the petitioner would be entitled to the relief and the petitioner was directed to file fresh petition before IT Grievance Redressal Committee. The Court also held that the Committee shall consider the petitioner's claim and pass orders within a period of six weeks from the date of receipt of copy of this order.

High Court erred in entertaining writ petition against SCN alleging evasion of tax and quashing & setting aside the same: SC

Facts of the case :

State of Punjab v. Shiv Enterprises - [2023] (SC)

A show cause notice was issued to assessee as to why the goods and the conveyance used to transport such goods shall not be confiscated under the provisions of Section 130 of the Punjab GST Act, 2017 and IGST Act, 2017 and CGST Act, 2017. The assessee approached the High Court and challenged the notice and the Court held that the notice was wrongly issued under Section 130 by alleging the wrongful claim of input tax credit. The department filed appeal against the order of the High Court.

Decision of the case :

The Honorable Supreme Court observed that there was a specific allegation with respect to evasion of duty, which was yet to be considered by appropriate authority who issued notice. However, in exercise of powers under Article 226 of Constitution of India, the High Court entertained writ petition against show cause notice and set aside said show cause notice under Section 130.

Since, it was premature for High Court to opine anything on whether there was any evasion of the tax or not, therefore the High Court had materially erred in entertaining writ petition against show cause notice and quashing & setting aside same. Thus, it was held that the impugned judgement passed by High Court was liable to be set aside and the matter was remanded to appropriate authority. TB

JUDGEMENT
DIRECT TAX

Dividend received by FII on Indian Depository Receipts in its UK bank can't be taxed in India: ITAT

Facts of the case -

Barclays Capital Mauritius Ltd. v. ACIT - [2023] (Mumbai - Trib.)

Assessee-FII based in Mauritius was carrying on investment activities in the Indian capital market. The assessee claimed that the dividends received on equity shares from SC Plc UK, which was first distributed to an overseas custodian bank and then transferred to a domestic depository in foreign currency before being transferred to the assessee's bank account in Indian INR.

Dividends on IDRs declared by SC Plc, should be considered as income from a foreign company (SC Plc) and paid abroad. Hence, it was income that was accruing or arising outside India.

However, the Assessing Officer (AO) held that the dividend received by the assessee was taxable under the provisions of the Act as well as under article -10 of the India-Mauritius treaty. Aggrieved-assessee filed the instant appeal before the Tribunal.

Decision of the case :

- The Tribunal followed the view taken in the case Morgan Stanley Mauritius Co. Ltd. [2021] (Mum. - Trib.). Tribunal held that insofar as the fact that dividend income is received by assessee in India is not in dispute, the findings of authorities below cannot be faulted in holding that the money received by the assessee from the Indian depository in respect of dividend paid by bank Plc UK is taxable in India.
- Further, as per Article 10 of the Indo-Mauritius tax treaty, it is clear that dividend being paid "by a company which is resident of a Contracting State" to the resident of the other Contracting State is a sine qua non for application of Article 10.
- In the given case, the dividends can be treated as having been paid either by the SCB-UK itself or by the SCB-India. Whichever way one looks at it, none of these payments can be treated by an Indian resident, i.e. one of the Contracting States.
- None of these entities, i.e., the foreign company or the Indian depository, can be treated as 'residents of a Contracting State' for the purpose of the Indo-Mauritius tax treaty. Accordingly, the dividend income in question cannot be brought to tax in India under article 10 of the treaty.
- Additionally, as per the Indo-Mauritius tax treaty, which is more favorable to the assessee and overrides domestic laws, the dividends on IDRs are not taxable. Without any opposing evidence, the only conclusion is to follow the said ruling.

No Sec. 68 additions solely based on MOU found during search if assessee wasn't even remotely connected to MOU: HC

Facts of the case :

PCIT v. Trilok Chand Choudhary - [2023] (Delhi)

Assessee, an individual, filed its return of income for the relevant assessment year. A search operation was carried out on the premises of the assessee. During the search proceedings, a Memorandum of Understanding (MOU) for investment in property between two parties was found in which one party made a payment of Rs. 20 crores in cash. AO summoned the parties to MOU wherein one party admitted in his statement that he had signed the seized MOU at the direction of the assessee in exchange for commission income. However later, he changed his statement and stated that a cash transaction of Rs. 20 crores occurred at the assessee's office in the presence of the assessee, and the cash was given to the parties in this office.

Relying upon the second statement, the Assessing Officer (AO) added Rs. 20 crores to the income of the assessee and computed the tax liability accordingly.

On appeal, CIT (A) confirmed the additions made by AO but subsequently deleted them by the Delhi Tribunal. Aggrieved by the order, an appeal to Delhi High Court was filed.

Decision of the case :

- The Delhi High Court held that the MOU was recovered from the premises of the assessee but as per the terms of the MOU, the assessee was not a party or a witness to the transaction. Also, no cash was found or seized during the search operation. Tribunal also noted that the assessee was not even remotely connected to MoU.
- Further, the second statement changed by the party to the transaction was not corroborated by any evidence. Thus, the subsequent statement cannot be considered reliable. Thus, AO committed an error in framing the opinion.
- Accordingly, there was no infirmity in the order of the Tribunal deleting addition and the same was to be upheld.

Notice issued in name of struck off Co. is valid if NCLT restored its name after issue of notice: HC

Facts of the case :

Ravinder Kumar Aggarwal v. ITO - [2023] (Delhi)

Petitioner was a promoter and director of a private limited company. Said company was struck off by the Registrar of Companies (ROC), Delhi in 2017 due to the defaults in filing the statutory return with ROC.

The Assessing Officer (AO) observed that the company had not filed its return of income for the Assessment Year (AY) 2012-13 despite having a huge amount of income. Thus, AO issued notice for reassessment under section 148.

Subsequently, AO obtained an affidavit from the National Company Law Tribunal (NCLT), wherein the petition for restoration of the name of the company in the Register of Companies was allowed as per section 252 of the Companies Act, 2013.

Since the notice was issued in the name of the struck-off company and subsequent order for restoring the company was obtained after issuing such notice, the petitioner filed a writ petition with the Delhi High Court for quashing the impugned order.

Decision of the case :

- The Delhi High Court emphasized section 252 of the Companies Act, 2013 which states that the company can be restored by the NCLT on application by a person feeling aggrieved by the order of striking off the company's name. The restoration will be given effect as if the name was never struck off. Therefore, even on the date of issuing notice, although not restored, the company will be deemed to be in existence.
- In the instant case, ROC struck off the company's name as it defaulted in its statutory filings but was restored by NCLT upon realizing that it was prejudicial to the interest of the Income-tax Department. Since the name was restored to enable the Income-tax department to recover its dues, notice under section 148 issued in name of the company before its restoration was valid and justified.

Exp. incurred to obtain legally enforceable agreement with Ministry of Civil Aviation is to be capitalised: HC

Facts of the case :

Bangalore International Airport Ltd. v. DCIT - [2023] (Karnataka)

Assessee was an airport company, executed various agreements with Central Government, and State Government etc. for acquisition of certain rights and incurred certain expenditures.

Assessee claimed depreciation on such expenditure by treating it as capital expense. During the assessment proceedings, the Assessing Officer (AO) discovered that the payment was made towards legal, technical and management fees and denied to treat such expense as capital expenditure.

On appeal, the CIT(A) confirmed AO's order which was subsequently ratified by the Tribunal. Aggrieved by the order, assessee preferred an appeal to the Karnataka High Court.

Decision of the case :

The Court held that the assessee acquired business & commercial rights and licenses rendering it to be in the nature of intangible assets. Under these agreements, assessee was required to pay a fixed percentage i.e., 4% of the Gross Revenue as a concession fee every year to the Central Government. The lower authorities recorded that the said amount payable every year was a revenue expenditure. To this extent, CIT(A) was correct.

However, the assessee's claim of depreciation is to be allowed on expenditure incurred to get the Concession Agreement and respective expenditure to obtain other agreements. These expenses were mostly legal in nature and were incurred only to obtain legally enforceable agreements.

A concession or benefit that arises over a period of time as per the agreement will constitute an intangible asset and the assessee is entitled to claim depreciation on it. This finding had not been challenged by revenue before Tribunal and thus the assessee was entitled for the benefit.

Sec. 41(1) can't be invoked for liability against purchase of defective machinery that was never put to use: ITAT

Facts of the case :

Marvelore Mining & Allied Industries (P.) Ltd. v. ITO - [2023] (Surat-Trib.)

Assessee was a private limited company. It was engaged in the business of Calcium Carbonate powder and trading of Calcium Bauxite. The assessee has filed its return of income for the Assessment Year 2016-17 declaring total income of Rs. Nil.

During the scrutiny assessment, the Assessing Officer (AO) noted outstanding sundry creditors against machinery that was purchased in Assessment Year 2011-12. The assessee was shown cause as to why the said amount should not be added to the total amount.

The assessee contended that the machinery was defective and was never put to use. The assessee had not claimed depreciation on this machinery in any of the assessment years and the supplier was also instructed to take back the machinery. In absence of any claim of expenditure, the provision of section 41(1) cannot be applied.

AO didn't accept the assessee's contention and made additions under section 41(1). On appeal, the CIT(A) upheld the order of AO. Aggreived-assessee filed the instant appeal before the Tribunal.

Decision of the case :

- The Tribunal held that AO added the amount to the assessee's income as per provisions of section 41(1) by holding that assessee had not demonstrated that liability was on account of capital expenditure. It was noted that lower authorities had not disputed the purchase of machinery and no adverse evidence was brought on record that liability was other than the purchase of machinery (Capital asset).
- It was also noted that machinery was not put to use and the assessee had never claimed depreciation thereon. Therefore, the amount shown by the assessee could not be taxed as a remission of liability under section 41(1). TB

Tax Calendar

Indirect tax

Returns	Due Date
GSTR-1 (Jan, 2023)	Feb 11, 2023
GSTR-5 (Jan, 2023)	Feb 13th, 2023
GSTR-6 (Jan, 2023)	Feb 13th, 2023
GSTR-8 (Jan, 2023)	Feb 10th, 2023
IFF (Optional) (Jan,2023)	Feb 13th, 2023
GSTR-7 (Jan, 2023)	Feb 10th, 2023
RFD-10	18 Months after the end of quarter for which refund is to be claimed

Tax Calendar

Direct tax

Returns	Due Date
7 February 2023	Due date for deposit of Tax deducted/collected for the month of January, 2023. However, all the sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
14 February 2023	Due date for issue of TDS Certificate for tax deducted under section 194-IA **in the month of December, 2022**
14 February 2023	Due date for issue of TDS Certificate for tax deducted under section 194-IB **in the month of December, 2022**
14 February 2023	Due date for issue of TDS Certificate for tax deducted under section 194M **in the month of December, 2022**
15 February 2023	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of January, 2023 has been paid without the production of a challan
15 February 2023	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2022

E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Impact of GST on Real Estate	Handbook on GST on Service Sector
Insight into Customs - Procedure & Practice	Handbook on Works Contract
Input Tax Credit & In depth Discussion	Handbook on Impact of GST on MSME Sector
Exemptions under the Income Tax Act, 1961	Insight into Assessment including E-Assessment
Taxation on Co-operative Sector	Impact on GST on Education Sector
Guidance Note on GST Annual Return & Audit	Addendum_Guidance Note on GST Annual Return & Audit
Sabka Vishwas-Legacy Dispute Resolution Scheme 2019	An insight to the Direct Tax- Vivad se Vishwas Scheme 2020
Guidance Note on Anti Profiteering	International Taxation and Transfer Pricing
1,08,160 Advance Rulings in GST	Handbook on E-Way Bill
Handbook on Special Economic Zone and Export Oriented Units	Taxation on Works Contract

For E-Publications, Please visit Taxation Portal - https://icmai.in/TaxationPortal/

"BUDGET DISCUSSION: 2023"

- ANALYSIS OF THE UNION BUDGET 2023

The Tax Research Department organised a webinar titled Budget Discussion:2023 on the day of the budget ie 01.02.2023 and the eminent dignitaries joined in to contribute their views and analyse the Union Budget, 2023 as presented by our Hon'ble Finance Minister, Smt Nirmala Sitharaman Madam.

The webinar started with CMA Chittaranjan Chattopadhay, Chairman – Indirect Taxation Committee and CMA Dr. Ashish P Thatte, Chairman – Direct Taxation Committee, explaining the importance of this budget and the meaning of 'inclusive growth' as discussed in the budget. Their vision on the roadmap as stated by the government for the coming 10 years was explained. The budget focuses on many important sectors which includes the Agriculture, Infrastructure, Finance among others. Post this value addition, the Technical sessions commenced.

The technical session included deliberations from eminent finance and economic stalwarts like **CMA B. M. Gupta**, an SME, Speaker & Author on Indian GST being the moderator for the session and **Dr. Simontini Das,** Professor, Department of Economics, Jadavpur University, Dr. Sudakshina Gupta, Professor, Department of Economics, University of Calcutta, **CMA Manmohan Daga**, Practicing Cost Accountant and GST Expert, **CMA Amit Sarker**, Partner, Indirect Taxation, Deloitte Touche Tohmatsu India LLP, **CMA Vishwanath Bhat**, Practicing Cost Accountant, **CMA Mritunjay Acharjee**, General Manager (Finance), Numaligarh Refinery **Shri Tapas Majumder**, Advocate and Tax Practitioner and **CMA Ajit Sivadas**, Cost Accountant were the major partcipants who provided their insights on the budget.

CMA B M Gupta started by acknowledging the efforts for the introduction of sec 142 (2A) in the Income Tax Act, 1961 which deals with 'Inquiry before Assessment' and wherein the practicing cost accountants can support the work of the Assessing Officers of Income Tax through the certification of inventory valuation. He added that the Budget, 2023 – 24, is more of an economic budget as the country is overcoming form pandemic. He spoke about 'Amrit Kaal' and the seven pillar for the budget. He stressed that infrastructure is in the focused so as to reduce the supply chain cost which would indeed help in providing a more competitive price to the products and thus boost our exports.

Dr. Simontini Das also provided glimpses of inclusive growth, and stated that the economic growth should happen from every corner of the country. She pointed out some of the major problems that our country is facing are high inflation rate, high unemployment rate, and devaluation of Indian currency and offered some solutions as well. She explained how job opportunities could be created through MSME Sector and was optimistic that the new education policy, as introduced by the Government which will be more focused on industry's manpower demand. The infrastructural development in terms of development in airport, railways and digitization would save time and money as well as create job opportunities. The income tax exemption that has been given in the budget will be quite beneficial to the middle class salaried people. She also hoped that the budget would have included some concrete steps to control the current account deficits.

CMA Manmohan Daga explained how the government is looking for increasing the revenue by extending various plans.

CMA Vishwanath Bhat, focused on the GST issues of taking credit of Input Tax. He clarified that ITC credit for CSR expenditure is not available in certain cases. He further clarified that the amendment made in this regard are not made from retrospective effect, which could have been further beneficial.

Advocate Tapas Majumder clarified the government has intention to transit the assesses into the new tax regime. The budget proposes a tax free income till Rs. 7,00,000 in the new tax regime. The old tax regime stands at no alteration. He also calculated and showed the participants that, a person with income upto Rs 900,000 in new tax regime has to pay Rs 45,000 as against Rs 92,500 in the old tax regime. The new tax regime is more attractive due to the lower tax rates but at the same time various investments based deduction are not available in the new tax rate. So one can shift from old tax regime to new tax regime keeping in mind that the once new regime is chosen he cannot return back to the old regime, further the deduction and low tax rate in new tax regime can be changed subsequently.

CMA Ajit Sivadas explained the benefit that the budget has extended to the start-ups. The welcome moves include time extension from time from 7 years to 10 years for carrying forward of the losses subject to no changes in the shareholding patterns. The other changes he walked through were, Increase of Tax Rebate limit to Rs. 7 Lakh, Common Income Tax

Return (ITR) Form, Concessional Tax. The budget brings down the maximum marginal rate of tax, which stands at 42.744%, to 39% by lowering the surcharge on incomes over Rs 5 crore to 25%. People with incomes over Rs 5 crore will now consider shifting to the new concessional tax regime. Leave Encashment Exemption, the non-government employees who cannot use their leaves have something to cheer about. The budget proposed to raise the limit for tax exemption on leave encashment on retirement for non-government salaried employees to Rs 25 lakh, TDS Rate reduced For Non-PAN Cases, The TDS rate has been proposed to reduce the taxable portion of EPF withdrawals in non-PAN cases from 30% to 20%. This reduction will help those whose PAN still needs to be updated in the EPFO records, No Capital Gains on Conversion of Gold, to encourage electronic gold buying, the budget laid down that there would be no capital gains tax if physical gold is converted to an Electronic Gold Receipt (EGR). Gold is an asset, and many Indian households continue to possess physical gold. The idea is to promote electronic gold and give a tax rebate to people looking to transfer their physical gold into electronic receipts.

Prof. Dr. Sudakshina Gupta took the participants through the knowledge on how the budget is made taking care of the economy as a whole. Stress are given to the low earning group people, agriculture and infrastructure group. She pointed out the thing that changes proposed in the budget could be really beneficial if the credit is actually received by the beneficiaries. She also gave some idea that even though the budget does not specifically talk about dis-investment it says the economy will be private sector driven. She further added that growth driven economy is good but the growth must be distributed evenly in every sector and class of people.

In this discussion anotherb point was rasied on woman participation in GDP to which **Dr. Simontini Das** clarified that the woman participation has decreased drastically since 2010. **Prof. Dr. Sudakshina Gupta** discussed that as a whole the family income is increases with women participation.

The discussion session ended with the positive Takeways from the budget and how professionals can contribute more in the progress of the economy. The session was viewed by more than 600 participants and it was highly appreciated as it was bang on time. Just after the close of the Budget speech, such an important discussion session was arranged.

Notes

Notes

TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

1. Successfully conduct all Taxation Courses.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/ registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.

Contact Details:

Tax Research Department
12, Sudder Street, KolKata - 700016

Phone: +91 33 40364717/ +91 33 40364798/ +91 33 40364711

E-mail: trd@icmai.in

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

Headquarters: CMA Bhawan, 12 Sudder Street, Kolkata - 700016
Ph: 091-33-2252 1031/34/35/1602/1492
Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003
Ph: 091-11-24666100