

O.P. Bagla & Co. LLP
Chartered Accountants

INDIA UNION BUDGET 2022



CONTENTS

- SECTION A : Budget Overview
- SECTION B : Direct Tax Proposals
- SECTION C : Indirect Tax Proposals
- SECTION D : Regulatory Amendments



SECTION A - BUDGET OVERVIEW



BUDGET – OUR VIEW

Budget 2022 came in the backdrop with robust all round growth, buoyant economic scenario, increasing GDP and accelerated direct and indirect tax collections. The Hon'ble Finance Minister had her task cut-out as she had to not only cater to the demands of the growing economy but also tender to the expectations of the families and businesses severely affected by the pandemic. The expected fiscal deficit of 6.9% for Financial Year 2021-22 also highlights the limitation faced by the Hon'ble Finance Minister.

The Hon'ble Finance Minister presented the fiscal budget for the year 2022-23 with the intention of retaining the fiscal deficit to 6.4% backed up by huge intended capital outlay of Rs.7,50,000 Crores towards capital expenditure in various infrastructure and other projects. The Hon'ble Finance Minister has reiterated the need for capital investments as it holds the key to speedy and sustainable revival of the economy. Like in the previous years, this year as well, the Finance Minister kept away from making too many changes in the tax rates and tax laws thus presenting to the world that India is inching towards a stable tax regime. The high growth in the tax collections both direct and indirect is an example of India moving towards the stable tax regime.

Although, there were expectations from some sections of the society for certain tax reliefs or lower tax rates for individuals and partnerships, however the Finance Minister stayed from away from any change in the tax rates across the board except for some change in the rates of surcharge on corporative societies and long term capital gains. The Hon'ble Finance Minister has again stressed on need for rationalisation and removing hardships of the tax payers of the country. The Finance Minister has also made changes to existing provisions to ensure that tax evaders need to pay full tax on income unearthed during search and surveys.

We are happy to share our analysis of tax provisions of Finance Bill 2022. Our analysis for direct tax is divided into various sections as highlighted by the FM and analysis for indirect taxes are as per the relevant law.

BUDGET – BIRD'S EYE VIEW

- No change in tax rates for individuals and companies
- 30% tax on income from transfer of virtual or digitalized assets
- Exemption given for amounts received for COVID treatment from employer
- Reduction in maximum surcharge applicable on long term capital gains
- Extension of sunset clause for manufacturing entities to avail lower tax rate of 15%
- Extension in incorporation date for availing tax holiday for eligible start-ups
- Beneficial tax rate on foreign dividend abolished
- Provision to file updated return for 2 years, requires additional tax payment
- Bonus stripping provisions extended to shares, units of AIFs, REITs and InvITs
- TDS introduces on gifts/ benefits given to dealers/ agents
- Income unearthed during search cannot be adjusted against brought forward losses
- Faceless assessment extended to reassessments
- Extension of time period to avail input tax credit
- Provision for rectification in GST returns introduced

For detailed analysis, please refer to subsequent pages

SECTION B – DIRECT TAX PROPOSALS

RATES OF INCOME TAX

Cooperative Society-Surcharge rate

- The surcharge rate has been reduced from 12% to 7% in case of cooperative society having a total income exceeding Rs 1crore but up to Rs 10 crore.
- Surcharge at 12% shall continue to be levied in case of total income exceeding Rs 10 crore.
- Surcharge remains unchanged @10% in case of cooperative society paying tax @ 22% u/s 115BAD.

Effective from AY 2023-24



Capping on surcharge in case of capital gain

- Capping of surcharge @ 15% is extended to long-term capital gain on transfer of any capital asset taxable u/s 112. Previously it was restricted to capital gain taxable u/s 111A and 112A i.e. capital gain on transfer of capital assets being equity shares, units of an equity-oriented fund or a unit of business trust where securities transaction tax has been paid.
- With this proposed amendment all long term capital gains including sale of shares of unlisted companies and sale of land and building the rate of surcharge shall not exceed 15%

Effective from AY 2023-24

There are no other changes in the tax rates and slabs for corporates and individuals

PROMOTING VOLUNTARY TAX COMPLIANCE AND REDUCING LITIGATION

FURNISHING OF UPDATED INCOME TAX RETURN

- Any person can file updated Income Tax Return of an assessment year with 24 months from the end of the assessment year by paying additional tax @25% or 50% as under:
 - If updated return is filed within 12 months from the end of the relevant assessment year – Additional Tax shall be 25% of aggregate of tax and interest on additional income.
 - If updated return is filed after 1 year from the end of the relevant assessment year but before 24 months – Additional tax shall be 50% of aggregate of tax and interest on additional income.



- An updated Income Tax Return can't be filed if:-
 - search or survey operations has been initiated on such person,
 - assessee has received notice in respect of incriminating documents etc found against him in case of search/ survey in the case of any other person
 - assessment or reassessment is pending or completed for the relevant AY,
 - the AO has information under the Prevention of Money Laundering Act, 2002 or Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 or the Prohibition of Benami Manipulators (Forfeiture of Property) Act, 1976 and the same has been communicated to such person,
 - updated return has the effect of decreasing total tax liability or increasing refund amount,
 - updated return shows a loss.

PROMOTING VOLUNTARY TAX COMPLIANCE AND REDUCING LITIGATION

APPEAL BY REVENUE WHEN AN IDENTICAL QUESTION OF LAW IS PENDING BEFORE JURISDICTIONAL HIGH COURT OR SUPREME COURT

Where an appeal by revenue is pending on a question of law which is identical with a question of law already raised in his case or in the case of any other assessee which is pending before Jurisdictional High Court or Supreme Court, the Income Tax Deptt may decide not to file an appeal before ITAT, High Court or Supreme Court. Later, in case order of High Court or Supreme Court is decided against the assessee, then the appeal may be filed by the Department before the ITAT/High Court/Supreme Court.



AMENDMENT IN SECTION 245MA OF THE ACT RELATED TO DISPUTE RESOLUTION COMMITTEE

A new sub-section to section 245MA has been inserted to enable the assessing officer to pass an order giving effect to the resolution of dispute by the DRC. Such power was not available with the Assessing Officer earlier.



PROMOTING VOLUNTARY TAX COMPLIANCE AND REDUCING LITIGATION

CLARIFICATION REGARDING TREATMENT OF CESS OR SURCHARGE

- Any sum paid on account of any tax levied on the profits or gains of any business or profession shall not be deducted in computing the income chargeable under the head “Profits and gains of business or profession”. Such Tax includes surcharge or cess, by whatever name called.
- This amendment will take effect retrospectively from 1st April, 2005 and will accordingly apply in relation to the assessment year 2005-06 and subsequent assessment years.
- This amendment is proposed to nullify the effect of order of High Court/ITAT which had earlier held that the assessee is entitled to deduction for cess.

PROMOTING VOLUNTARY TAX COMPLIANCE AND REDUCING LITIGATION

AMENDMENTS RELATED TO SUCCESSOR ENTITY SUBSEQUENT TO BUSINESS REORGANIZATION (MERGERS/ DEMERGERS)

Proceedings made on predecessor

- It is proposed to insert a new sub-section to provide that in the case of succession of business under any application before adjudicating authority or any High Court, any assessment or other proceedings pending or completed on the predecessor, shall be deemed to have been made on the successor.

Effective from 1st April 2022

Modified return by successor entity

- It is proposed to insert a new section to enable the successor entity to file the modified return in case of business reorganization through an order of High Court, NCLT or any other Adjudicating Authority.
- Modified return can be filed for the period between the appointed date and the date of issuance of the order, if the return for such period has been filed by the successor entity
- Such modified return can be filed within six months from the end of the month in which such order of reorganization has been issued by the competent authority

Effective from 1st April 2022

Proceedings made on predecessor

- It is proposed to insert a new section to provide for modification of the outstanding tax demands including penalty, where such outstanding demand has been modified pursuant to the order as part of restructuring process under the Insolvency and Bankruptcy Code, 2016.
- The order for modification can be issued either by Adjudicating Authority or NCLAT or Supreme Court

Effective from 1st April 2022

PROMOTING VOLUNTARY TAX COMPLIANCE AND REDUCING LITIGATION

CLARIFICATION IN RESPECT OF DISALLOWANCE UNDER SECTION 14A IN ABSENCE OF ANY EXEMPT INCOME DURING AN ASSESSMENT YEAR

- No deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income that does not form part of the total income even where such exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income.
- This amendment is prepared to nullify the effect of orders passed by various High Courts/Supreme Courts holding that no disallowance u/s 14A can be made if the assessee has not earned exempt income.
- **This amendment is effected from 1st April 2022.**

CLARIFICATIONS ON ALLOWABILITY OF EXPENDITURE U/S 37

Finance Act 2022 has proposed to amend section 37 of the Income Tax Act as under:

- Expenditure incurred for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India shall be disallowed. (Offences outside India now included)
- Expenditure on any benefit or perquisite shall be disallowed, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, governing the conduct of such person. (example – gifts given by Hospital to referring doctors which is debarred by law)
- Any expenditure to compound an offence under any law for the time being in force, in India or outside India shall be disallowed (Offences outside India now included).

This amendment will take effect from 1st April, 2022.

PROMOTING VOLUNTARY TAX COMPLIANCE AND REDUCING LITIGATION

CLARIFICATION REGARDING DEDUCTION ON PAYMENT OF INTEREST ONLY ON ACTUAL PAYMENT

1

As per section 43B, the deduction of a sum, being interest payable on loan or borrowing from specified financial institution / NBFC / scheduled bank or a co-operative bank, shall be allowed if such interest has been actually paid. Earlier it was clarified that conversion of interest into loan or borrowing will not be considered as payment of interest.

2

Finance Act 2022 has further proposed that conversion of such interest payable into debenture or any other instrument by which liability to pay is deferred to a future date shall not be deemed to have been paid and shall also not be allowed.

3

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

SOCIO ECONOMIC WELFARE MEASURES



Extension Of Last Date For Commencement Of Manufacturing

- Section 115BAB: to avail concessional rate of taxation @ 15% for new domestic manufacturing set up, companies were required to commence manufacture / production on or before March 31, 2023. This date has been extended to March 31st, 2024.



Extension Of Last Date Of Incorporation Of Eligible Start-up

- Exemption u/s 80IAC: Earlier eligible startups seeking to avail exemption should have been incorporated before March 31, 2022. This date has been extended to March 31, 2023.

SOCIO ECONOMIC WELFARE MEASURES

RELIEF FROM COVID TAXATION

Section 56(2)(x) to have two new clauses inserted to exclude the following receipts from being considered as income:

- Any sum of money received by individual from any person, in respect of expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf;
- any money received by a member of the family of a deceased person, from the employer of the deceased person (without limit), or from any other person to the extent that such sum/ aggregate of such sums \leq 10 lakhs, where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person (subject to such other conditions as may be notified by the Central Government)

The above is applicable w.r.e.f. AY 2020-21

SOCIO ECONOMIC WELFARE MEASURES

PROMOTING THE GROWTH OF CO-OPERATIVE SOCIETIES

Section 115JC(4) to be amended:

- MAT rate for companies has been reduced to 15%. In order to provide parity between co operative societies and companies, the AMT payable by co operative societies is being reduced from 18.5% to 15%.
- Consequential amendment proposed in section 115JC and 115JF

The above is applicable w.e.f. AY 2023-24

PROMOTING VOLUNTARY TAX COMPLIANCE AND REDUCING LITIGATION

FACILITATING STRATEGIC DISINVESTMENT OF PSUS

- Amendments proposed to section 79
- Change in beneficial shareholding (shares carrying voting power) by more than 49%, will now not result in loss of carry forward and set off of unabsorbed business losses against taxable profits provided that the ultimate holding company of such PSU, immediately after completion of the strategic disinvestment, continues to hold, directly or through its subsidiaries, atleast 51% of the voting power of the PSU in aggregate.

The above is applicable w.e.f. AY 2022-23

TAX INCENTIVES TO INTERNATIONAL FINANCIAL SERVICES CENTRE (IFSC)

- Section 10(4E) to be amended to extend exemption under the section to income accrued/ arising to non-resident from transfer of offshore derivative instruments / OTC derivatives entered into with Offshore banking unit of an IFSC.
- Section 10(4F) to be amended to extend exemption to non-resident's royalty or interest income on account of lease of a ship, paid by an IFSC unit.
- Section 10(4G) to be amended to extend exemption to non-resident's income from portfolio of securities/ financial products as specified.
- Specified fund under section 56(viib) to include Category I or Category II AIF which is regulated.
- Income arising from transfer of a ship, leased by a unit of IFSC to any person, will be eligible for deduction under the specified section 80LA.

The above is applicable w.e.f. AY 2023-24

WIDENING AND DEEPNING OF TAX BASE

PROVISIONS PERTAINING TO BONUS STRIPPING AND DIVIDEND STRIPPING TO BE MADE APPLICABLE TO SECURITIES AND UNITS

- Provisions of Bonus stripping made applicable to all securities including shares (section 94(8)).
- In order to further prevent tax evasion by bonus stripping and dividend stripping, it is proposed to extend the provisions of the said section to the units of AIFs, REITs and InvITs as well (section 94(8)).

Effective from AY 2023-24

RATIONALISATION OF PROVISIONS RELATING TO TDS ON SALE OF IMMOVABLE PROPERTY

- It is proposed to amend section 194IA of the act and provide that Tax is to be withheld at the rate of 1% on the amount paid for purchase of property or the stamp duty value of the property, whichever is higher.
- No Tax is to be deducted where both Amount paid and Stamp value is below 50 Lakhs.

Effective from 1st April, 2022

WIDENING AND DEEPNING OF TAX BASE

TDS ON BENEFIT (GIFT OR TRAVELLING EXPENSES OR CONFERENCES ETC. SECTION 194R)OR PERQUISITE OF BUSINESS & PROFESSION

- It is proposed to insert a new section 194R which provides that where a person responsible to provide any benefit or perquisite arising from business & profession to a resident, such person shall deduct TDS at the rate of 10%.
- This will apply to gifts etc. given to dealers/distributors (whether in cash or in kind).
- Applicable only where value or aggregate value paid exceeds INR 20,000 during the year.
- Person shall include, in case of individual/HUF whose total sales exceeds INR 1 Crore in case of business and INR 50 Lakhs in case of profession.

Effective from 1st July 2022

RATIONALISATION OF PROVISIONS OF SECTION 206AB AND 206CCA

- Finance Act 2021 introduced section 206AB and 206CCA which provides for TDS to be deducted at higher rate if deductee has not filed its income tax return for earlier years.
- “Specified person” was defined as a person who has not filed the ROI for the **two** years immediately preceding the financial year in which tax is to be deducted or collected and the amount of TDS/TCS is INR 50,000 or more. It has been proposed to amend the definition of “specified person” to mean a person who has not filed the ROI for **one** year immediately preceding the financial year.
- Section amended to provide for TDS at higher rate if the deductee has not filed its return of income for the immediately preceding financial year within time prescribed under section 139(1) and the aggregate of TDS and TCS is more than INR 50,000.

Effective from 1st April 2022

REVENUE MOBILISATION

TAXATION OF VIRTUAL ASSETS – SECTION 115BBH

Definition of virtual assets

- Virtual assets to include all kinds of digital currency, information, code, token or number which provides a digital representation of value
- Definition to also include net fungible tokens (NFTs)

Income on sale of virtual asset

- A new section has been introduced to tax the income arising on transfer of virtual assets
- Only cost of acquisition is allowed to be reduced from such income. No other expenses allowed to be reduced. No set-off of other losses possible.
- Proposed rate of tax shall be 30%
- No set off of any loss incurred on transfer of any virtual assets against income under any other provisions of the Act
- No carry forward of loss incurred on the transfer of a virtual asset (***Applicable w.e.f. AY 2023-24***)

REVENUE MOBILISATION

TAXATION OF VIRTUAL ASSETS

Gift of virtual assets – taxable

- Definition of assets for the purpose of section 56(2)(x) to include virtual assets
- Any gift of virtual currency shall thus be taxable in the hands of the recipient
- Exemption contained under the section such as those for relatives, on death etc. continue to apply to virtual assets as well. Exemption of INR 50,000 shall also continue to apply (**Applicable w.e.f. AY 2023-24**)

TDS on purchase of a virtual asset (Section 194S)

- TDS to be applicable on payment made for acquisition of a virtual asset from a resident
- Rate of TDS to be 1% of the amount of consideration paid
- Threshold for applicability –
 - In case of an individual or HUF having no business income or having receipts from business (upto INR 1 crore) or profession (upto INR 50 lakhs) – No TDS upto payment of INR 50,000
 - In all other cases - No TDS upto payment of INR 10,000
- This section to override provisions for TDS on e-commerce transactions (**Applicable w.e.f. 01st April 2022**)

REVENUE MOBILISATION

WITHDRAWAL OF CONCESSIONAL RATE OF TAXATION ON DIVIDEND INCOME

- Section 115BBD provides for a concessional rate of tax @ 15% on dividend received by Indian Company from foreign company (in which Indian company holds more than 26% stake)
- This relaxation is proposed to be withdrawn w.e.f. AY 2023-24
- All dividends shall now be treated at par and taxed at applicable rates.

REVENUE MOBILISATION

WITHDRAWAL OF CERTAIN INCOME EXEMPTIONS OF PROFESSIONALS FROM FOREIGN PROGRAMS

- Currently the Act provides for exemptions to certain individuals earning income from foreign state for technical assistance programmes and projects. Now, the following exemptions under section 10 have been removed.
 - Clause (8): Exemption to the income of an individual who is assigned duties in India and has received remuneration from the foreign state for technical assistance programmes and projects and any income accruing or arising outside India.
 - Clause (8A): Exemption on the fees or remuneration received by a consultant for rendering of technical services in India, out of the funds made available to agency under technical assistance grant agreement.
 - Clause (8B): Exemption provided to the remuneration received by an individual who is an employee of the consultant as referred in Clause (8A)
 - Clause (9): Exemption to the income accruing or arising outside of India to family members of the individual or consultant as referred in Clause (8), (8A) and (8B)

Applicable w.e.f. AY 2023-24

PHASING OUT OF EXEMPTIONS

PARITY BETWEEN POWERS OF AO & CIT (A)

- Penalty under section 271AAB (penalty where search has been initiated), section 271AAC (penalty in respect of undisclosed income and Section 271AAD (penalty for false entry in the books of accounts etc.) can currently be levied only by the Assessing Officer
- It is now proposed to extend these powers to the CIT (A) as well

Applicable w.e.f. 01st April, 2022

INCREASE IN PENALTY ON CERTAIN OMISSIONS

- Penalty has been increased from INR 100 to INR 500 per day in case of in case of failures listed in sub section (2) of section 272A like failure to comply with the notice u/s 94(6) or to give notice of discontinuation of business or profession u/s 176(3) or to allow inspection of register, etc.

Applicable w.e.f. 01st April, 2022

RATIONALISATION MEASURES

SET OFF OF LOSS IN SEARCH CASES- AMENDMENT IN THE PROVISIONS OF SECTION 79A OF THE ACT

- Insertion of section 79A to disallow set- off of any loss/ unabsorbed depreciation, whether brought forward or otherwise, against “undisclosed income” pursuant to search/survey/requisition of books.
- This would mean that the assessee will have to pay full tax on income unearthed during Search & Survey

Effective from AY 2022-23



- “Undisclosed income” means any income represented by money, bullion, jewellery or other valuable things or any entry in books which is found during search or requisition of books or survey conducted which has -
 - Not been recorded in books on or before the date of search or requisition or survey
 - not disclosed before the relevant tax authorities before the date of search or requisition or survey
- Any income represented by any entry in books which relates to an expense entry which is found to be false during the course of search, requisition or survey.

RATIONALISATION MEASURES

ALIGNMENT OF THE PROVISIONS RELATING TO OFFENCES AND PROSECUTIONS UNDER CHAPTER XXII OF THE ACT

- Prosecution provision under section 278A and 278AA, that applied to defaults in payment of Tax deducted at source to the credit of government have been extended to the defaults in payment of Tax collected at source also. It is proposed to apply the provision to offence covered under section 276BB in relation to TCS payment defaults.

Effective from 01st April 2022

LIABILITY OF DIRECTORS IN RESPECT OF TAX DUE FROM A PRIVATE LIMITED COMPANY (SECTION 179)

- Amendment in title of the section from “liability of directors of private company in liquidation” to “liability of directors of private company” to clarify that, subject to conditions, each director of company is jointly and severally liable for the payment of tax due from a private company in all cases whether company is in liquidation or not.

Effective from 01st April 2022

RATIONALISATION MEASURES

REFUND OF TDS

- Insertion of new section 239A
- Any person, who has deducted tax and borne tax liability in a case where no tax deduction was required, may file an application for refund of such tax deducted before the AO (applicable when tax is deducted on income paid to non resident).
- In case the person is not satisfied with the order of the AO, he can go into an appeal before the CIT(A) u/s 246A.

The above is applicable w.e.f. 1st April 2022

UNEXPLAINED CASH CREDIT

- *Any loan or borrowing or any such liability credited in the books of accounts of an assessee can be treated as explained credit only if the source of fund in the hands of creditor or entry provider is also explained.*
- *Section 68 is not applicable if the creditor is a well-regulated entity i.e. a venture capital fund, venture capital company registered with SEBI*

(change to section 68 of the Act)

Effective from A.Y 2023-24

RATIONALISATION MEASURES

RATIONALIZATION OF TAXATION OF CHARITABLE TRUSTS

- Under the current laws, exemption is granted under two regimes on any income earned by a fund or institution or trust or any university or any hospital under two regimes below:
 - Regime for any fund or institution or trust or any university or any hospital referred to in the various sub-clauses of clause (23C) of Section 10; and
 - Regime for the trusts registered under Section 12AA/12AB

Process of approval/registration/cancellation or withdrawal of recognition (*Applicable w.e.f. 01st April, 2022*)

- A PCIT/CIT may call on information from the trust to verify the nature of its activities in the following scenarios –
 - Notice of any specified violation (*detailed definition proposed under the Finance Act*)
 - Reference received from AO
 - Identification through risk management strategy
- An AO shall make a reference to the PCIT/CIT in case of satisfaction of any specified violation by the trust. Following such reference no order under section 143 shall be passed till the order passed by PCIT/CIT is given effect to.
- The time taken by the PCIT/CIT for passing an order shall be excluded for the computation of the limitation period for the proceedings under section 153

RATIONALISATION MEASURES

RATIONALIZATION OF TAXATION OF CHARITABLE TRUSTS

Penalty on application of funds for benefit of specified persons u/s 13(3) –

- First time violation – 100% of the amount of income applied for such benefit
- Subsequent violation – 200% of the amount of income applied for such benefit

TAXATION OF CERTAIN INCOMES AT SPECIAL PRICE

- The following incomes of the trust are proposed to be taxed @ 30% -
 - Amount of income to specified persons for their benefit
 - Amount of income invested in modes other than the prescribed modes
 - Income set aside for a specified period but not applied for charitable purposes (and taxed in the last year of such period of accumulation)
- No expenses shall be allowed as a deduction from the above incomes

VOLUNTARY CONTRIBUTIONS FOR RENOVATION OF RELIGIOUS SITES

- Contributions received for renovations of temples, mosques, gurudwara, churches etc. may be classified as corpus donations subject to the following conditions –
- Contribution is applied for the purpose for which it is received
- Contribution not applied for making any other donation.
- Maintained to be separately identifiable
- Invested in the prescribed modes

RATIONALISATION MEASURES

RATIONALIZATION OF PROVISION RELATING TO ASSESSMENTS AND REASSESSMENTS

Amendments to Section 148

- Assessing Officer shall no longer be required to obtain approval from the specified authority before issuing notice under Section 148 if he has obtained necessary approval before passing order u/s 148A.
- Audit Objections or any information received from foreign jurisdiction or information received under a scheme notified in Section 135A or information which requires action in consequence of the order of tribunal or court has now been included as information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment.

Amendments to Section 148A

- Assessing Officer shall not be required to comply with the procedure prescribed in Section 148A where information has been received under the scheme notified in Section 135A.
- No separate approval required from the specified authority before issuing notice for providing an opportunity of being heard to the assessee under the provision of section 148A(b).

Section 148B – Newly Inserted

- For assessments concluded consequent to search, survey and requisitions, Assessing Officer below the rank of Joint Commissioner shall pass its assessment order u/s 147 only with prior approval of Additional Commissioner or Additional Director or Joint Commissioner or Joint Director.

Amendment to Section 149

- For assessment year beginning on or before 01.04.2021 notice u/s 148 shall not be issued if the time limit for issuance of notice u/s 148 or 153A or 153C had already elapsed as per the provisions of sections 149(1) or 153A or 153C as this stood immediately before the commencement of finance act 2021

RATIONALISATION MEASURES

RATIONALIZATION OF PROVISION RELATING TO ASSESSMENTS AND REASSESSMENTS

- Notice under Section 148 can be issued upto 10 years from the end of the relevant AY where assessing officer has in his possession books of accounts, evidence etc which reveals that income chargeable to tax represented in the form
 - Asset
 - Expenditure in respect of transaction or in relation to an event or occasion
 - Any entries in books of accounts has escaped assessment which amount to or likely to amount of Rs. 50 lakh or more.
- Where income chargeable to tax represented in the form of an asset or expenditure in respect of transaction or in relation to an event or occasion has escaped assessment for an amount exceeding Rs. 50 lacs and the investment in such asset or expenditure has been found to be made or incurred in more than one year within the prescribed period of 10 years, then notice u/s 148 shall be issued for every such year even if escaped income is less than Rs. 50 lacs in any of the assessed year (Section 149(IA))

Amendments to Section 153 – Time limit to completion of assessment

- Time limit for completion of assessment u/s 143(3) or 144 where updated return of income has been filed u/s 139(8A) – Before the expiry of nine months from the end of the Financial Year in which such return was furnished. **Effective from 01st April 2022**
- Where Transfer Pricing Officer (TPO) passes order u/s 92CA giving effect to the directions given by Commissioner in revisionary proceedings u/s 263 – AO shall modify the assessment order within 2 months from the end of the month in which TPO's order is received by him. **Effective from 01st April 2022**
- Period commencing from the date of initiation of search u/s 132 or requisition u/s 132A and ending on the date on which books of accounts etc seized or requisitioned are handed over to the jurisdictional Assessing Officer shall be excluded from the period of limitation prescribed for completion of assessment. This period shall not exceed 180 days. **Effective from 01st April 2021**

RATIONALISATION MEASURES

RATIONALIZATION OF PROVISION RELATING TO ASSESSMENTS AND REASSESSMENTS

Amendment to Section 153B – Time limit for completion of search assessment

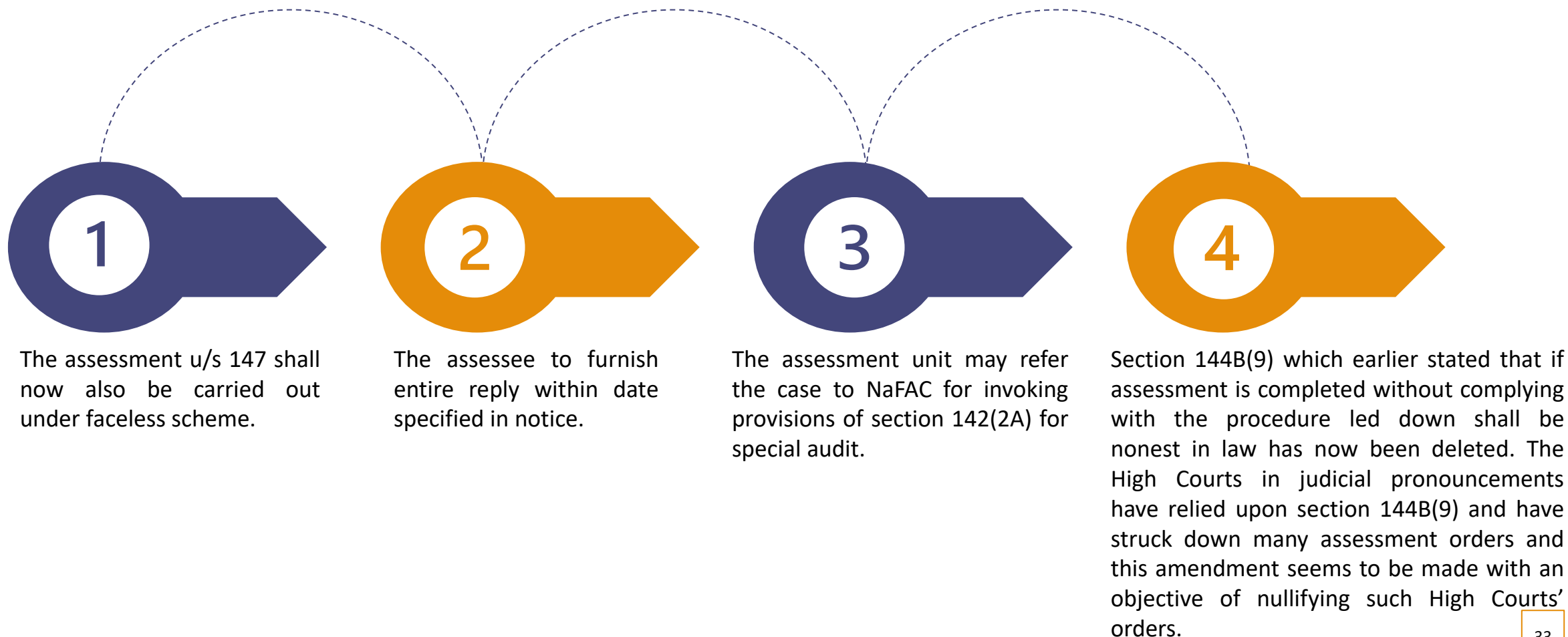
- Provisions of Section 153B prescribing time limit for completion of search assessments u/s 153A shall not be applicable in respect of any search initiated or requisition made on or after 01.04.2021.
- Period commencing from the date of initiation of search u/s 132 or requisition u/s 132A and ending on the date on which books of accounts etc seized or requisitioned are handed over to the jurisdictional Assessing Officer shall be excluded from the period of limitation prescribed for completion of assessment. This period shall not exceed 180 days . ***Effective from 01st April 2021.***

Amendment to Section 271AAB – Penalty where search has been initiated

- Provisions of Section 271AAB also extended in case of assessments/ reassessments concluded u/s 148 pursuant to search initiated ON or after 01.04.2021.

RATIONALISATION MEASURES

SECTION 144B – CLARIFICATION/CHANGES IN FACELESS ASSESSMENT SCHEME



RATIONALISATION MEASURES

AMENDMENTS IN PROVISIONS OF SECTION 263

- Section 263 (revision of Order prejudicial to revenue) to be amended to include revision of TP Orders



AMENDMENTS

SECTION C : INDIRECT TAX PROPOSALS

GOODS & SERVICE TAX

KEY LEGISLATIVE CHANGES

Input tax related changes

- **Additional condition for availment of ITC** - Auto generated statement (AGS)
 - Only eligible ITC appearing in AGS may be claimed
 - AGS to contain details of ineligible ITC such as
 - Supplies reported by tax payment defaulters;
 - Suppliers who have paid short GST in GSTR-3B as compared to GSTR-1;
 - Suppliers claiming ITC in excess of AGS;
 - Suppliers utilizing ITC in excess of prescribed proportion
- ITC for a FY can be availed by **30th November** from end of relevant FY (**earlier due date of return for month of September**);
- Provision for ITC reversal in case of non-payment of GST by supplier to be on self-assessed basis (earlier linked to GSTR 2)

GOODS & SERVICE TAX

KEY LEGISLATIVE CHANGES

Compliance updates

- Amendment/rectification in GST filings (GSTR 1/3B/TCS) allowed **upto 30th November** from end of FY;
- GSTR 1 for a tax period can be filed only after filing of GSTR 1 & 3B for previous tax period;
- GSTR 2 (never formally implemented) related provisions omitted;

Miscellaneous

- Late fee provisions extended to e-commerce operators filing TCS (GSTR 8) returns;
- Balance in **e-cash ledger transferable** among distinct persons;
- Interest @ 18% p.a. in cases where wrong **ITC claimed and utilized** (retrospective w.e.f. 1st July 2017, in line with decision of GST Council);
- Proper officer empowered to withhold/recover demand against all types of refund (earlier restricted upto refund of unutilised ITC);
- 2 years' timeline for refund against supplies to SEZ from due date of relevant tax period GSTR 3B;

CUSTOMS

KEY LEGISLATIVE CHANGES

- Ambit of '**Proper Officer**' **expanded**; DRI, Audit, preventive formation can adjudicate (retrospective application);
 - Supreme Court judgment in Cannon India made ineffective
 - Specific provision inserted to validate previously issued SCNs/Adjudications
- Additional obligations may be imposed upon Importer to ensure proper valuation (in case of risky/sensitive category goods)
- Advance ruling valid for maximum 3 years unless change in law/facts; for existing 3 years timeline to commence from effective date (presidential assent)
- Post enquiry, Investigation/Audit team to transfers matters to Original jurisdictional authority to re-assess/adjudicate duty short paid, excess drawback, erroneous refund etc.
- Automated and simplified scheme of Import of Goods at Concessional rate of Duty (**IGCR**)
 - Standardization of forms, details to be submitted on online portal; followed by monthly statement

TRADE FACILITATION

OTHER CHANGES

Special Economic Zones

- Existing SEZ legislation to be overhauled; ease of doing business through fully automated compliance by 30th Sep 2022

Customs Tariff

- Several duty changes to promote Make in India and make Aatmanirbhar Bharat
- Project Import concessions reduced; duty 7.5% instead of earlier 5% - promote 'Aatmanirbhar Bharat'
- **No Social Welfare Surcharge**, where Basic Customs duty and other customs duties are exempt
- Duty concessions are extended to bonafide exporters of Handicraft, apparel or leather goods, IGCR & value addition norms to be followed
- Exemption from Health Cess and other cesses to Charitable organizations, Red Cross, CARE and GOI
- Concessional duty benefit to EV available even in cases where some parts may be missing in imported EV Kit; essential character test to prevail

CUSTOMS

KEY BCD RATE CHANGES

Sector	Description	Existing rate	New rate
Electronic Goods	<i>Effective from 02.02.2022</i>		
	Single or multiple loudspeakers, chapter heading 8518 21 , 8518 22 , 8518 29	15%	20%
	Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers under Chapter heading 851830	15%	20%
	<i>Effective from 01.04.2022</i>		
	Smart meters chapter heading 90283010	15%	25%
	Printed Circuit Board Assembly of Smart Meters Chapter heading 9028 90 10	7.5%	20%
Solar Energy Sector	Solar Cells under Chapter heading 8541 42 00	NIL	25%
	Solar Modules under Chapter heading 8541 43 00	NIL	40%

CUSTOMS

KEY BCD RATE CHANGES

Sector	Description	Existing rate	New rate
Effective from 02.02.2022			
Toys	Parts of electronics toys for manufacture of electronic toys Chapter heading 9503	15%	25%
Paper	Recovered (waste and scrap) paper or paperboard for use in manufacturing of paper, paperboard or newsprint Chapter heading 4707	Nil	2.5%
Gems and Jewellery Sector	Cut and Polished Diamonds Chapter heading 71	7.5%	5%
	Cut and Polished Natural Gemstones Chapter heading 71 (except 7104 99 00)	7.5%	5%
Project Imports	Projects registered till 30.09.2022 AND imports upto 30.09.2023	Existing concessional rate	
	Projects registered after 30.09.2022 OR imports made after 30.09.2023	7.5%	
	Note: Please note that certain exemptions for advance machineries that are not manufactured domestically shall continue		

SECTION D : REGULATORY AMENDMENTS

REGULATORY PROPOSALS

KEY INITIATIVES - POLICY

- The time frame of Corporate exit for voluntary winding up has been reduced from 2 years to 6 months.
- Amendment to Insolvency and Bankruptcy Code to enhance resolution process.
- Setup of an expert committee to examine holistic regulatory framework for VCs and PEs.
- The Reserve Bank of India (RBI) to issue new digital currency.
- Special economic Zone Policy to be replaced with a new legislation.
- Ease of Doing Business 2.0 & Ease of Living and focus on digital portals in infrastructure, agriculture, health, education

Follow Us on Social Media



Contact Us

 Delhi : 5TH Floor, B-225, Okhla 1, Okhla Industrial Area, Delhi 110048

 Mail : admin@opbco.in

© 2022 O.P Bagla & Co. LLP. All Rights Reserved.

This publication contains information and analysis in summarised manner on the basis of published information and our preliminary understanding. Therefore, this document is intended for general guidance only and therefore should be relied upon. This document cannot be taken as a substitute for detailed research or the exercise of professional judgment. O.P Bagla & Co. LLP nor any other of its partner, director or employee or member can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, a detailed analysis and discussions should be made with the designated team of O.P Bagla & Co. LLP.