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INDIA BUDGET
2022-23

Building a Resilient India

FOREWORD

The Union Budget 2022-23, has been presented by the Hon'ble Finance Minister based on four priorities –

- PM Gati Shakti initiative,
- inclusive development;
- Productivity enhancement & investment, sunrise opportunities, energy transition, and climate action; and
- financing of investments.

The key policies are pivoted towards fighting climate change with clean energy and moving in the direction of digitisation.

The same is being targeted to be achieved by increasing the Budget for National Mission for Green India, identifying green energy and clean mobility systems as 'sunrise opportunities' and allocating funds for Production Linked Incentive (PLI) for manufacturing of high-efficiency modules, with priority to fully integrated manufacturing units from polysilicon to solar PV modules.

Proposal to introduce the Digital rupee using Block chain concept and bring virtual digital assets within the taxation ambit will bring in the much-needed clarity and may open doors to legal recognition of such transactions.

As far as income tax proposals are concerned, though the Budget Speech did not indicate much and the income tax rate structure remains primarily unchanged, the fine print of the Finance Bill seeks to propose numerous changes. Amongst other significant propositions, many proposals are clarificatory in nature with an aim to reduce litigation. However, certain amendments are proposed to be introduced with retrospective effect, which may open the Pandora's Box of litigation. The taxation of trusts and NGOs will see a complete overhaul and new concept of updated returns have been introduced.

On the indirect tax front, the FM boasted of a Record Collection of GST in the middle of her speech which may not be propelled only by a boosting economy but also by the fact that the availability of the input tax credit has been restricted through Form GSTR 2B leading to higher payments through cash. The budget proposals seek to further restrict the availability of GST Input Tax Credit to the recipient on the grounds of various non-compliances by the supplier, which will further dilute the entire concept of seamless credit which formed the basis of the GST Regime.

With the above key points in mind, we present to you our detailed analysis of the Union Budget 2022-23.

Ashish Rustagi

Tax Partner, GARV & Associates

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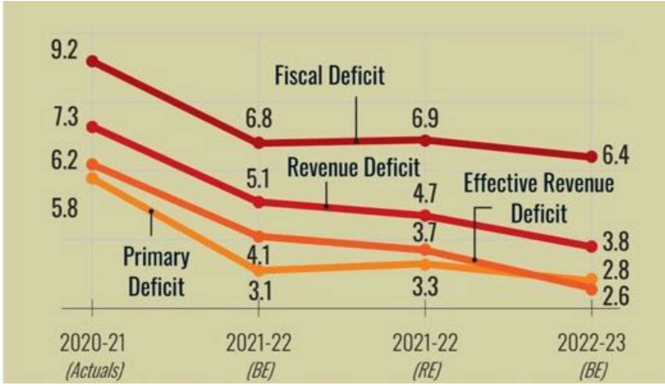
01

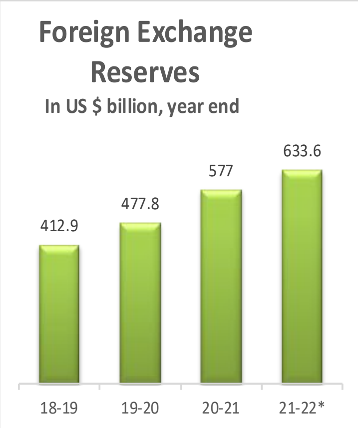
ECONOMIC INDICATORS

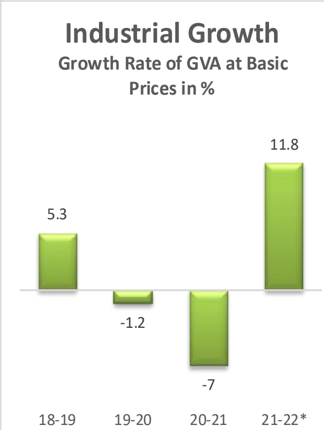
ECONOMIC INDICATORS

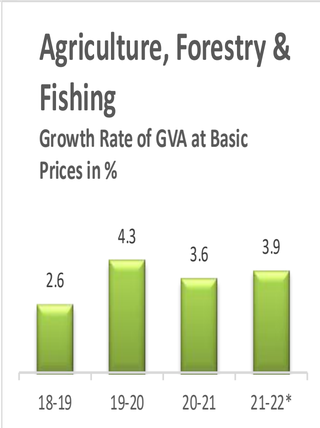
FISCAL DEFICIT

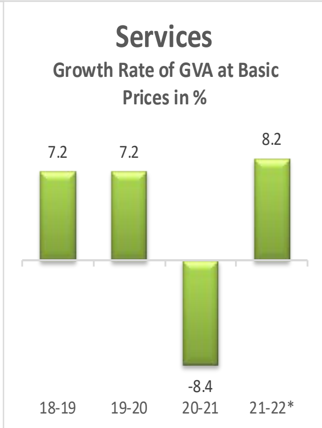
- Revised Fiscal Deficit in the current year is estimated at 6.90 % of GDP as against projections of 6.80 %.
- Fiscal Deficit in 2022-23 is estimated at 6.40 % of GDP, which is consistent with the broad path of fiscal consolidation announced last year to reach a fiscal deficit level below 4.50 % by 2025-26



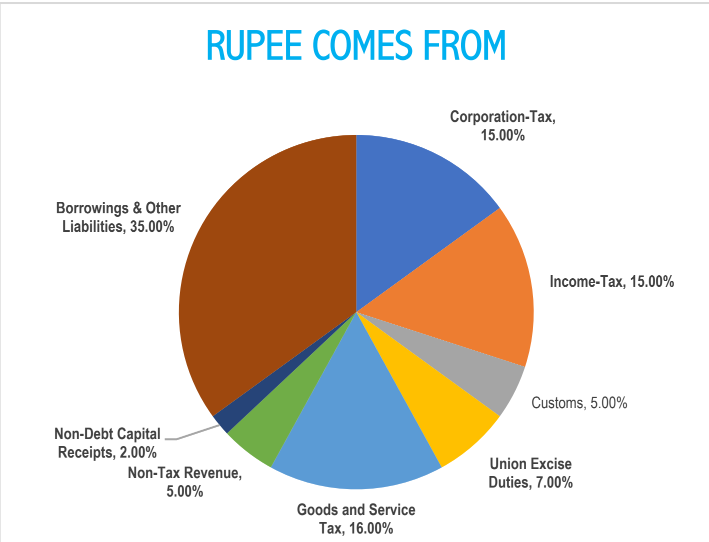


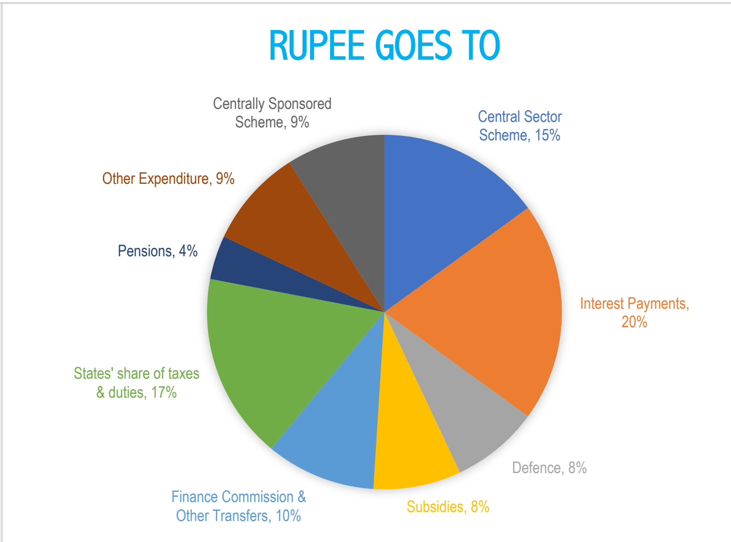




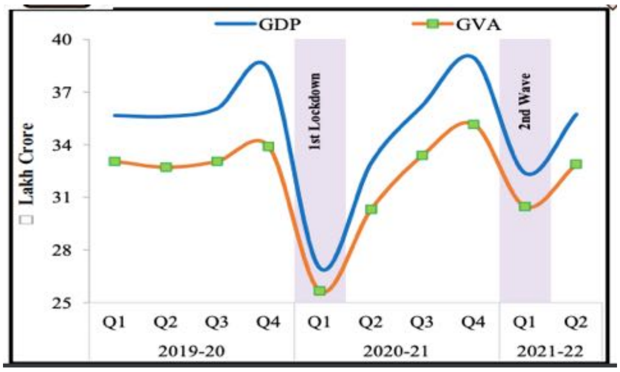


- The economic growth of the country is estimated to be 9.2 percent, highest among all large economies.
- The overall sharp rebound and recovery of the economy from the adverse effects of the pandemic is reflective of our country's strong resilience.
- Almost all indicators show that the economic impact of the second wave was much smaller than that experienced during the full lockdown phase in 2020-21, even though the health impact was more severe.





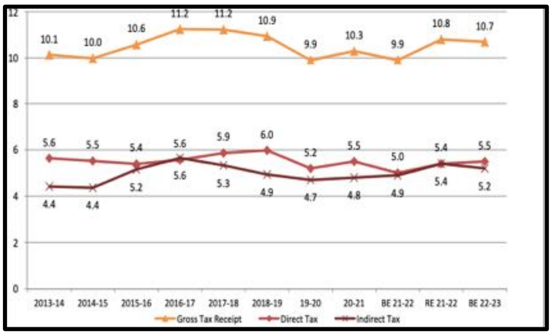
GDP and GVA



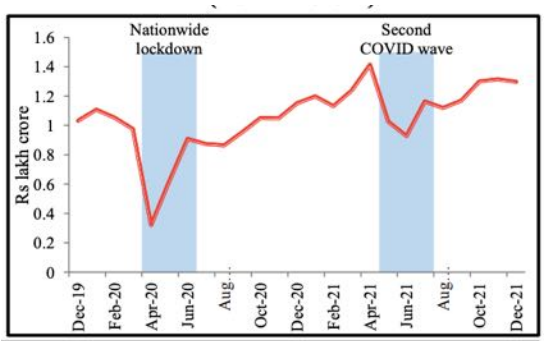
SENSEX

- India's capital markets have done exceptionally well and have allowed record mobilization of risk capital of Indian companies
- Sensex and Nifty scaled up to touch its peak at 61,766 and 18,477 on October 18, 2021.
- Rs 89,066 crore was raised via 75 IPO issues in April- November 2021, much higher than in any year in the last decade.

Tax Receipts (% of GDP)



GST Collections (Rs. Lakh Crore)



- Gross tax revenue is budgeted to increase by 9.6% over the revised estimates of 2021-22, which is lower than the estimated nominal GDP growth of 11.1% in 2022-23. This is mainly on account of a 15% decrease in excise duties.

- Total indirect tax collections are estimated to be Rs 13,30,000 crore in 2022-23. Of this, the government has estimated to raise Rs 7,80,000 crore from GST.

- Collections from taxes on companies are expected to increase by 13% in 2022-23 to Rs 7,20,000 crore. The revised estimates of 2021-22 indicate an increase in corporate tax collections to Rs 6,35,000 crore from budget estimates of Rs 5,47,000 crore

- Collections from income tax are expected to increase by 14% in 2022-23 to Rs 7,00,000 crore. According to the revised estimate for 2021-22, income tax collection will be of Rs 6,15,000 which is 9.6% higher than the budget estimates of Rs 5,61,000.

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02

POLICY UPDATES

POLICY UPDATES

- Focus on Sunrise Sectors and the Digital economy
- Announcement for the PM Gati Shakti National Master Plan
- Allocation of Rs 140367.13 crore to the Railway Ministry - Rs 20,311 crore more than the revised figures of the previous fiscal - India will manufacture 400 new, energy-efficient Vande Bharat trains in the next three years. The rail sector will also develop "One Station One Product", which will leverage local produce carried on the railways.
- Strong swivel towards climate change and clean energy transition
- Boost for EVs with battery swapping policy and laying down infrastructure for charging stations.
- Overhaul of SEZ and expert committee for scaling up PE/VC investments – targeting to make investments in SEZ easier
- More money in Farmers' hands – proposal to improve farmers' income and drive up consumption – Promotion of chemical – free natural farming, oil seed production and millet marketing, and a fund to promote Agri-tech – Introduction of Kisan Drones.
- Introduction of digital rupee using blockchain technology by the RBI in 2022-23 to boost digital economy
- Infrastructure status for data centres
- Focus on infrastructure development through Highway Expansion and Affordable Housing schemes.
- Necessary amendments in IBC Structure to promote cross border insolvency resolutions.
- Boost for domestic defence manufacturers by bringing down imports in defence
- PLI for manufacture of high efficiency modules increased by another INR 19,500 crores
- Establishment of Digital University – 200 TV Channels for education sector
- Boost for exports of Gems and Jewellery

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03

TAX PROPOSALS

- INCOME TAX
- GOODS & SERVICES TAX
- CUSTOMS DUTY

INCOME TAX

Tax Rates

- AMT for co-operative societies has been reduced from 18.5% to **15%** as par with private companies
- Surcharge for cooperative societies has been reduced from 12% to **7%** for those having total income of **more than Rs 1 crore up to Rs 10 crores.**
- No Change in Income Tax rates for Individuals/HUF/AOP/BOI/any artificial juridical person.

TAX RATE CARD

Individuals / HUF

(Other than Senior Citizens and Super Senior Citizens)

Option 1:

Income slab (In Lakhs)	Tax Rate
Total Income <= 2.50	Nil
Total Income > 2.50 – 5.00	5%
Total Income > 5.00 & <=7.50	10%
Total Income > 7.50 & <=10.00	15%
Total Income > 10.00 & <=12.50	20%
Total Income > 12.50 & <=15.00	25%
Total Income > 15.00	30%

Option 2:

Income slab (In Lakhs)	Tax Rate
Total Income <= 2.50	Nil
Total Income > 2.50 – 5.00	5%
Total Income > 5.00 & <=10.00	20%
Total Income > 10.00	30%

Certain exemptions, deduction and set off losses are not available if lower rate of tax is opted for

Individuals / HUF

(Senior Citizens and Super Senior Citizens)

- **Senior Citizen**
  (Above 60 years but below 80 years)

Income Slab (In Lakhs)	Rate of Tax
Total Income <= 3.50	Nil
Total Income >3.00 and <= 5.00	5%
Total Income > 5.00 and <= 10.00	Rs.10,000+20%
Total Income > 10.00	Rs.1,10,000+30%

- **Super Senior Citizen**
  (Above 80 years)

Income Slab (In Lakhs)	Rate of Tax
Total Income <= 5.00	Nil
Total Income > 5.00 & <= 10.00	20%
Total Income > 10.00	Rs.1,00,000 + 30%

Surcharge

Income Slab	Rate
Total Income = 50 Lakhs – 1 Crore	10 % of Tax
Total Income = 1 crore - 2 crore	15% of Tax
Total Income = 1 crore - 2 crore	25% of Tax
Total Income > 5 Crore	37% of Tax

- Rebate U/s 87A,Rs. 12,500/- for individual resident for Total Income <5,00,000
- Health and Education Cess (on Tax plus Surcharge) levied @ 4% to continue.
- **In case total income includes LTCG, the rate of surcharge shall not exceed 15% on such capital gain.**

Corporate tax rate card

Particulars	Income < 1 cr		Income 1 cr to 10 cr		Income above 10 cr	
	Normal prov	MAT	Normal prov	MAT	Normal prov	MAT
Domestic company: normal rate	31.2%	15.6%	33.38%	16.69%	34.94%	17.47%
Domestic company: TO upto 400 cr	26%	15.6%	27.82%	16.69%	29.12%	17.47%
Domestic company: not availing tax incentives/Exemp	25.17%	NA	25.17%	NA	25.17%	NA
Domestic company: new manufacturing co.(set up on or after 1 march 2016) not availing tax incentives	26%	15.6%	27.82%	16.69%	29.12%	17.47%
Domestic company: new manufacturing co.(set up on or after 1 oct 2019) not availing tax incentives	17.16%	NA	17.16%	NA	17.16%	NA
Foreign co.	41.6%	15.6%	42.43%	15.91%	43.68%	16.38%

Firm & LLP - TOTAL INCOME @ 30%

Provisions for filing of updated return

- Tax-payer allowed to file **updated return** of income within 24 months from end of relevant Assessment Year on payment of additional tax as detailed.
  - Within 12 months - 25% of aggregate of tax and interest
  - Subsequent 12 months - 50% of aggregate of tax and interest
- Updated returns can be filed **only once**.
- Any person can file updated returns whether he has filed the return previously for the relevant Assessment Year or not.
- Updated returns cannot be filed if the return is return of loss or has the effect of decreasing the total tax liability on return filed earlier or has the effect of increasing the refund on basis of return filed earlier.
- Return shall be accompanied by the **proof of payment of tax** as required.
- There are **certain circumstances** when updated returns cannot be filed.

With effect from 1st April 2022

GARV INSIGHTS

One of the salient points is updated return cannot be filed if any proceeding for assessment or reassessment or recomputation or revision of income under the Act is pending or has been completed for the relevant assessment year in the assessee's case.

Litigation management

Revenue can now defer filing an appeal before the High Court or appellate Tribunal if an **identical issue of law** is pending before the **jurisdictional** High Court or Supreme Court even in case of another taxpayer. However, such application for deferral can be only filed on receipt of **acceptance from the taxpayer.**

GARV INSIGHTS

A welcome step to reduce litigations.

Procedure provided in the Act to reduce tax demands from the outstanding demand register where such demands have been reduced or waived by NCLT.

With effect From 1st April, 2022

Tax on Virtual Digital Assets

Virtual digital assets have gained tremendous popularity in recent times and the volumes of trading in such digital assets has increased substantially. After countless debates over legality issues, Government has introduced a scheme of taxation for Virtual Digital Assets (VDA).

Definition of VDA

- **Any information or code or number or** token not being a currency generate through cryptographic means or otherwise
- Includes a non-fungible token or any other token of similar nature

Taxation

A new section 115BBH seeks to tax income on transfer of such **VDAs at 30%.** However, no deduction in respect of any expenditure (other than cost of acquisition) or set off of any loss shall be allowed. Further, any such loss shall not be allowed to be set off against any other income nor allowed to be carried forward to subsequent years.

TDS on VDA

A new section 194S is being introduced for deduction of tax at source by the purchaser on payment for transfer of VDA to a resident at the rate of **1 %**.
However, in case the payment for such transfer is–

- wholly in kind or in exchange of another VDA where there is no part in cash; or
- partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax,

then the person before making the payment shall ensure that the tax has been paid in respect of such consideration.
In case of a transaction where TDS is applicable both under section 194-O and 194S, the tax shall be deducted under Section 194S.

Non-applicability of TDS

In case of following specified persons, aforesaid TDS is not applicable if the aggregate consideration paid to a resident is less than Rs.50,000 during the financial year:

- An Individual or HUF payer whose total turnover from the business or profession does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;
- An Individual or HUF payer having income under any head other than Business or Profession income

In case the payer is any person other than above, TDS is not applicable only if the aggregate consideration paid to a resident is less than Rs. 10,000 during the financial year.

With effect from -1st July 2022.

GARV INSIGHTS

In current scenario, there are many digital assets being transacted such as Crypto, Non-Fungible Tokens, Virtual Real Estate, etc.
With the tax being introduced on digital assets, it may seem to be a step towards acceptability of such transactions as legal in the country. However, the FM has stated that the legal status of the same is yet to be decided. With the Government keen to introduce its own digital currency, this seems almost certain that such digital assets will not be legally accepted for use as currency in the country.

Moreover, with the maximum rate of tax imposed on such transactions, these are being viewed as speculative instead of investments. Once the specific guidelines are introduced for such transactions, we expect more clarity to follow.

Gift

Virtual Digital Asset has been included in the definition of property for the purpose of taxation u/s 56(2)(x). So, any transfer of such digital asset without consideration or for inadequate consideration except in specified exempted categories will attract income tax at maximum slab rate of 30 %.
With Effect From – Assessment Year 2023-24

Non-allowability of Cess and Surcharge

Any **cess or surcharge** or any other tax shall **not be allowed as business expenditure**. It has been clarified that tax includes surcharge and cess and hence its payment is not deductible expenditure.

With retrospective effect From Assessment Year 2005-06

GARV INSIGHTS

This has been introduced with retrospective effect from 2005 and hence nullified various judicial pronouncements rendered by High Court but has followed Kolkata Tribunal judgement

Disallowance under section 14A

Disallowance under Section 14A of Income Tax Act, 1961 in respect of expenses incurred to earn exempt income will be made even **though no exempt income has been accrued or arisen or received** during the previous year in which expenditure has been incurred to earn the exempt income.

With effect from Assessment Year 2022-23

Disallowance of expenditure for offence purposes

Explanation to sub-section (1) of section 37 has been inserted to further clarify that the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law", under *Explanation 1*, shall include and shall be deemed to have always included the expenditure incurred by an assessee, —

- for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or
- to provide any **benefit or perquisite**, 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; or to compound an offence under any law for the time being in force, in India or outside India.

With effect from Assessment Year 2023-24

GARV INSIGHTS

This has far reaching effect for assessees as judicial decision rendered by the High Court's overturning the CBDT circular has been negated.

Interest Expenses allowed only on Actual Payment

- Section 43B specifies that if any sum of money is payable as interest on any loan or borrowing from any **public financial institution** or a **State financial corporation** or a **State industrial investment corporation**, such interest expense shall be allowed if the converted interest has actually been paid.
- Conversion of interest payable into debenture or any other instrument by which liability to pay is deferred to a future date, shall also not be deemed to have been actually paid.

Extension of Incentive for New Manufacturing Company

- Section 115BAB provides for an option of concessional rate of taxation @ 15 % for new domestic manufacturing companies provided that they do not avail of any specified incentives or deductions and fulfil certain other conditions.

- In order to provide relief to such companies, it is proposed to amend section 115BAB so as to extend the date of commencement of manufacturing or production of an article or thing, **from 31st March, 2023 to 31st March, 2024**.

With effect from Assessment Year 2022-23

Extension of Tax Holiday for Start Ups

Section 80-IAC provides for a deduction of an amount equal to 100% of the profits and gains derived by an eligible start-up for three consecutive assessment years out of ten years, beginning from the year of incorporation. One of the existing conditions is that such start up is incorporated on or after 1st day of April, 2016 but before 1st day of April 2022.

Owing to Covid pandemic delays, the period of incorporation of eligible start-ups to claim aforesaid tax exemption is **being extended to 31st March, 2023**.

With effect from Assessment Year 2022-23

GARV INSIGHTS

Amidst the Budget expectations, one of the most popular demands by the start-up ecosystem was the extension of the tax holiday. This proposal will give a much-needed impetus to the Start-ups, and comes at a time when the number of recognised start-ups have increased to over 14000 in 2021-22 from only 733 in 2016-17

Exemption of Money Received for COVID Treatment

- If any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject it **shall not be forming part of "perquisite"**.
- Exemption shall be allowed without any limit for the amount received from the employer and the exemption shall be limited to Rs. 10 lakhs in aggregate for the amount received from any other persons. Any amount received **within 12 months** shall only be exempt
- In case of death, amount received by the family member of deceased person shall be exempt.

Retrospectively applicable w.e.f. Assessment Year 2020-21.

GARV INSIGHTS

It will be difficult to give effect for the return filed for the AY 2020-21.

TDS & TCS Proposals

Higher rate of TDS on Specified Persons

- Higher rate of TDS u/s 206AB and TCS u/s 206CCA was earlier applicable if deductee did not furnish income tax return for the previous two Financial Years
- It has been proposed to **reduce the period of two years to one year**.
- Hence, now higher rate of TDS and TCS will be applicable if the deductee does not furnish income tax return for the previous **one** Financial Year immediately before the FY in which tax is required to be deducted, for which the date of furnishing return has expired.

Applicable w.e.f. 1st April, 2022

GARV INSIGHTS

Earlier the default period was 2 years which has been reduced to 1 year.

TDS on Purchase of Immovable Property

Section 194-IA requires deduction of tax at the rate of 1 percent on payment on transfer of certain immovable property where the consideration is Rs.50 lakhs or more.

It has been proposed that TDS is to be deducted at the rate of 1 percent of consideration paid/credited or the stamp duty value of such property, whichever is higher.

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

With effect from 1st April 2022

GARV INSIGHTS

This amendment will have far reaching implications especially in cases where tax is deducted by the Buyer on stamp duty value and actual consideration is less than that.
In such cases, the stamp duty value will be reflected in the Form 26AS of the Seller whereas the amount offered as income will be actual sale consideration, leading to mismatch.

TDS on Benefits and Perquisites

TDS @ 10% has been proposed to be levied u/s 194R on any benefit or perquisite whether convertible into money or not arising from business or profession on amount exceeding Rs.20,000/-

Bonus and Dividend stripping extended to securities and units

It is proposed to amend sub-section (8) of section 94, pertaining to the prevention of tax evasion through bonus stripping, so as to make the said provision applicable to securities and units as well.

With effect From Assessment year 2023-24

Cash Credits

It is proposed to amend the provisions of section 68 of the Act so as to provide that the nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only **if the source of funds is also explained in the hands of the creditor or entry provider.**

However, this additional onus would not apply if the creditor is a well-regulated entity, i.e., it is a Venture Capital Fund, Venture Capital Company registered with SEBI.

With effect From Assessment Year 2023-24.

GARV INSIGHTS

The word 'entry provider' has been used in the Memorandum to the Finance bill explaining this provision. It is unheard of an official document issued by the Ministry using such terminology.

Faceless Proceedings

The date for issuing direction for faceless proceedings before DRP and the tribunal has been deferred to 31 March 2024. The Faceless Assessment scheme is proposed to be revamped, owing to challenges faced by the administration and taxpayers. Key changes to the scheme include the following:

- Regional Faceless Assessment Centre removed
- Re-assessments included within the scope of faceless proceedings
- Functions of the technical unit to include determination of arm's-length price, valuation of property, technical assistance relating to double tax treaty provisions, etc.
- Addition of the review of income determination proposal specifically to the functions of review units

No set off of losses allowed against Search and Survey disclosures

If the total income of any previous year of an assessee includes any undisclosed income, **no set off, against such undisclosed income,** of any loss, whether brought forward or otherwise, or unabsorbed depreciation shall be allowed to the assessee.

With effect From Assessment year 2022-23

Trusts and Institutions

With the intention of rationalizing the provision applicable for Trust registered u/s 12A and the Institutions eligible for exemption u/s 10(23C) of Income Tax Act, 1961, the following provisions are proposed to align tax provisions relating to Trusts and Institutions:

- If total income exceeds the basic exemption limit before giving effect under section 11, Section 12 or section 10 (23C), trust is required to get its books of account audited and **maintain books of account as prescribed.**

- If any **unreasonable benefit is passed on** to the trustee or specified person, a penalty of 100% of such sum (income applied) for the first time and 200% of such sum from the subsequent period has been proposed. Further, the amount applied for the benefit of specified person shall be treated as income of trust or the institution.

- Earlier, under section 143 (3) assessing officer could not deny benefit under section 10 (23) (C) on its own and had to intimate the Prescribed authority regarding the contravention/ Specified violation and the Central Government/ Prescribed authority could deny the exemption. No such provision was there for trust under section 12AA. To address this, amendment has been proposed under section 12AB (4).

GARV INSIGHTS

Stringent provisions have been proposed in respect of maintenance of books; non application of funds for any specified persons; following method of accounting in respect of expenses and income; accumulation of income and taxation of the Trust in case of any violation. In light of these provision, every trust/institution need to review its operation in line above mentioned proposal

- It is proposed that on non-utilization of accumulated fund, the same shall be taxable in the last year of accumulation for trust under both the regimes. Earlier it was taxable for Trust u/s 12AA in the 6th year and no such specific provision was there for institute u/s 10(23C).

- Provisions of **EXIT TAX now applicable to Institutions** eligible for exemption under section 10(23C) as well.

- Voluntary contribution received towards property held under trust including Mosque, temple, Gurudwara, church or other notified places for repair or renovation purpose may be treated as Corpus donation subject to certain conditions.

With Effect From Assessment Year 2023-24

Liability of Directors of Private Companies

- As per provisions of Section 179, where any tax due from a private company cannot be recovered, then, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.
- As per the proposed amendment in the section title, the words “in liquidation” are removed to clarify that the section is applicable to private companies whether in liquidation or not.

Penal Provisions

Levy of penalty where income of charitable trusts and approved educational institu tions/hospitals, etc.,

- is applied for the benefit of the trustees or other specified persons
- CIT(A) enabled to levy penalty in relation to undisclosed income, unexplained credits or expenditures, or deliberate falsification or omission in the books of accounts.

Conditions for restricting Input Tax Credit expanded

- Clause (ba) has been proposed to be inserted in Section 16(2) to provide that input tax credit with respect to a supply can be availed only if such credit has not been restricted in GSTR-2B.
- Newly proposed section 38 prescribes Form GSTR-2B as the basis on which Input Tax Credit can be availed.
- Form GSTR-2B shall be auto generated on the basis of GSTR-1 and other statements filed by suppliers.
- This form GSTR-2B shall contain details of supplies on which input tax credit is available to the recipient.
- GSTR-2B shall also contain details of supplies on which input tax credit is wholly or partly not available and the grounds for ITC being restricted includes-
    - Supplies received from suppliers obtaining new registration upto specified period.
    - Default in payment of tax by the supplier
    - Output tax liability disclosed in GSTR-1 exceeds the taxes paid under GSTR-3B filed by the supplier
    - Excess availment of Input Tax Credit by the supplier
    - Payment of taxes by the supplier by utilizing ITC instead of paying through cash ledger in violation of newly inserted sub-section 12 of section 49.
- Section 49(12) is proposed to be inserted to specify such maximum proportion of output tax liability which may be discharged through the electronic credit ledger.
- Section 41(2) is proposed to be substituted to provide that where the tax on the outward supply is not paid by the supplier, the recipient of ITC will have to reverse the ITC along with interest. Same may be reclaimed after the tax has been paid by the supplier.

GARV INSIGHTS

The newly proposed sections clearly aim to restrict availment of all input tax credit in respect of supplies made by any supplier who has defaulted the GST provisions in any manner.
Therefore, even if a supplier has a genuine mismatch between GSR-1 and GSTR-3B the credit flowing out of their outward supplies will be shown as blocked in the GSTR-2B and the recipient of such supplies would be unable to take the credit.
To make matters worse, there is no option to communicate or report or raise grievance or any other method of redressal against the genuine ITC which may be reflected as unavailable in GSTR-2B.
In our considered opinion these provisions would lead to significate unnecessary harassment and significate blocking of working capital to the taxpayer and is definitely a deterrent to ease of doing business and compliance.
Section 49(12) proposes to restrict utilization of Input Tax Credit for payment of output tax liability and gives power to CBIC to mandate payment of certain percentage of output tax liability through cash even if there is unutilized ITC available with the taxpayer.
The newly amended section 41 proposes that the recipient of ITC has to reverse the ITC availed in case the supplier doesn’t pay the tax on the outward supply.

Extension of time limit for availing ITC and issue of debit notes or credit notes

- Earlier the registered tax payer could avail input tax credit in respect of invoices or debit notes pertaining to previous financial year only till due date of furnishing of return for the month of September of the next year i.e., till 20th October or filing of Annual Return whichever is earlier.
  This time limit is proposed to be extended till **30th November**.
- Moreover, time limit for issuance of credit notes in respect of any supply made in a financial year is only till due date of furnishing of return for the month of September of the next year I.e., till 20th October.
  This time limit is also proposed to be extended till **30th November**.
- Amendments in GSTR-1 and GSTR-3B in respect of any supply made in the financial year is allowed only till due date of furnishing of return for the month of September of the next year i.e., till 20th October.
  This time limit is also proposed to be extended till **30th November.**
- Earlier the tax payer registered for collecting TCS under GST was allowed to rectify the errors only till due date of furnishing of return for the month of September of the next year i.e., till 13th October.
  This time limit is also proposed to be extended till **30th November**.

Cancellation of registration

Changes have been proposed in the provisions related to Cancellation provisions. It has been proposed that the registration of a person is liable for cancellation, where

- a person paying tax under Composition scheme has **not furnished the return** for a financial year **beyond three months** from the due date of furnishing of the said return;
  Currently it is specified as three consecutive tax periods.
- a person, other than those paying tax under section 10, has not furnished returns for such continuous tax period **as may be prescribed**.
  Currently it is specified as six consecutive tax periods.

Sequential Filing of GST Returns

It is proposed to insert section 37(4) to provide for **tax period-wise sequential filing** of details of outward supplies.
It is further proposed that GSTR-3B of a particular period will not be allowed to be filed unless GSTR-1 for the same period is filed.

GARV INSIGHTS

It basically implies that the GSTR-1 and GSTR-3B for a subsequent period cannot be filed till both GSTR-1 and GSTR-3B for earlier periods are filed. It is to be noted that the GSTN portal did not allow the filing of subsequent returns unless earlier returns were filed. This proposal will merely regularise the above.

Formal removal of matching concept under GST

- Section 38 has been amended so as to **do away with two-way communication process** in return filing.
- Further reference to **unmatched details under section 42 or section 43** in section 38 is proposed to be removed as the sections themselves are proposed to be omitted.
- Sections 42, 43 and 43A of the Central Goods and Services Tax Act dealing with matching and unmatching concept is proposed to be omitted.

GARV INSIGHTS

At the time of implementation of GST, section 42 was introduced to deal with matching and reversal of input tax credit through form MIS-1 but the form was never introduced to the taxpayers wherein they could communicate mismatches in ITC formally through the GST portal. The Finance Bill now proposes to remove the entire provision and the system of communication and correction of mismatches. Therefore, no formal recourse is now available to the recipient of ITC through the GST Portal.

Levy of Late Fees

Delay in filing of the following returns and statements will lead to levy of late fees of one hundred rupees each for CGST and SGST for every day during which such failure continues subject to a maximum amount of five thousand rupees.

- GSTR-1
- GSTR-3B
- GSTR-10 (Final Return)
- GSTR-8 (TCS Return)

Payment of tax, interest, penalty and other amounts

Any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger can be **transferred to the electronic cash ledger of another GSTIN under same PAN.**

Therefore, units of the same company having separate GST registrations can directly transferred balances in the cash ledger from one unit to the other.

It is important to note that only IGST and CGST balances can be transferred between distinct persons. Provided that no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

Interest on delayed payment of tax

Section 50(3) has been proposed to be amended retrospectively w.e.f 1st July 2017 to state that interest shall be paid on **ITC wrongly availed and utilised**. This implies that mere availment of incorrect/excess ITC will not attract interest unless the same is utilised.

Refund of Tax

Section 54 of the CGST Act is being proposed to be amended so as to provide that t**he relevant date** in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit **shall be the due date for furnishing of return under section 39 in respect of such supplies.**

The proposed amendments will come into effect from a date to be notified, concurrently with the corresponding amendments to the similar Acts passed by the States & Union territories.

CUSTOMS

There have been a host of changes in the Customs Duty including revamping of Tariff Rates and pruning of Exemptions/Concessional rates on several items with a clear focus on Make in India and Atmanirbhar Bharat.

Tariff Rate changes

(Effective from 2nd February 2022)

Here is a quick guide to show you what's cheaper and what's dearer now.

CHEAPER

- ↓ Clothes
- ↓ Frozen mussels
- ↓ Asafoetida
- ↓ Methyl alcohol
- ↓ Steel scrap
- ↓ Gemstones and diamonds
- ↓ Chemicals needed for petroleum products
- ↓ Mobile phone
- ↓ Frozen squids
- ↓ Cocoa beans
- ↓ Acetic acid
- ↓ Mobile phone chargers
- ↓ Camera lens for cellular mobile phones

DEARER

- ↑ Umbrella
- ↑ Smart meters
- ↑ Solar modules
- ↑ Unblended petrol and diesel
- ↑ Single or multiple loudspeakers
- ↑ Imitation Jewellery
- ↑ Solar cells
- ↑ X-ray machines
- ↑ Headphones and earphones
- ↑ Parts of electronic toys

- More than 350 exemptions particularly related to Capital Goods and Project Imports to be gradually phased out and a moderate rate of 7.5% to be applied
- Replacement of SEZ legislation and making it fully IT driven as well as enabling integration with Customs administration
- Rationalization of exemptions on implements and tools for agri sector manufactured in India will be undertaken.
- Customs duty exemption to steel scrap being extended.
- Procedures for claiming exemption benefits notifications on imported goods to be simplified (Effective from 1st March 2022)

CUSTOMS

Other proposed amendments
(Effective from the date of its enactment, unless specified otherwise)

- Provision of Rules enabling additional obligations on Importers to address the issue of undervaluation in imports

- Advance ruling shall be valid for a period of three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.

- Protection of Import/Export data in the declarations submitted to Customs by making the publishing of such data as a punishable offence unless such publication is provided under law.

- Replacement of SEZ legislation and making it fully IT driven as well as enabling integration with Customs administration (Expected to be implemented by 30 Sep 2022)

- Provision of Rules enabling additional obligations on Importers to address the issue of undervaluation in imports

- Advance ruling shall be valid for a period of three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.

- Protection of Import/Export data in the declarations submitted to Customs by making the publishing of such data as a punishable offence unless such publication is provided under law.

- A scheme for duty-free imports for the purpose of use in goods meant for export, based on end-use monitoring is being introduced for bonafide exporters subject to certain conditions.

04

SECTORAL IMPACTS

SECTORAL IMPACT

INFRASTRUCTURE & LOGISTICS

Budget Proposals

- Capital expenditure is increased substantially by 35.4% to INR 7,500 bn
- Announcement for the PM Gati Shakti National Master Plan
- The postal and railways networks are to be integrated for seamless movement of parcels
- National highways are to be expanded by 25,000 km in FY 2022–23
- Under the National Ropeways Development Programme, eight ropeway projects of 60 km are to be awarded in FY 2022-23 under the PPP model

Key Takeaways

- *Continuation of the commitment over the years where capital asset creation is emphasised given its multiplier effect on the economy.*
- *Make logistics connectivity seamless.*
- *Will ensure quality multi-modal transport facilitating overall cost competitiveness*

REAL ESTATE

Budget Proposals

- Constructed & delivery of 80 lakhs affordable houses by the year 2023. These houses will be constructed under "Pradhan Mantri Awas Yojana" (PMAY).
- Allocation of Rs 48,000 crore for the stalled projects under the affordable housing schemes across the country.
- Constitution of a high-powered committee for making suggestions on policy matters and capacity building related to urban infrastructure development
- States will be encouraged to adopt the "Unique Land Parcel Identification Number" (ULPIN).
- Proposal to consider the stamp duty value of the property at the time of withholding 1 % TDS and do the withholding on the higher of the actual consideration paid and stamp duty value.
- Capping of surcharge at 15 % for all LTCGs for individual/HUF/AOP/BOI/any artificial juridical person.
- In addition to bonus stripping, dividend stripping provisions are extended to units of REITs/InVITs, where the REITs/InVITs have invested in SPVs that have not opted for the lower corporate tax rate regime.

Key Takeaways

- *The continued focus on the affordable housing sector will help revive the construction and allied industry related to the real estate sector.*
- *Will bring a paradigm change in the 'Urban Planning'.*
- *Will facilitate seamless and Digital management of land records.*
- *Ensure adopting a seamless linkage with 'National Generic Documents Registration System (NGDRS)'. This will facilitate a 'One Nation-One Registration Software' and a uniform process of 'Anywhere Registration' of Deeds and documents.*
- Considering higher of the stamp duty value vs actual consideration *transaction might attract a higher withholding tax.*
- *Will result in a lower effective tax on transfer of real estate classified as long term in nature.*

SECTORAL IMPACT

INDUSTRIAL PRODUCTS, ENERGY & MINING

Budget Proposals

- Announced a new battery swap policy/ inter-operability standard to encourage electric vehicle (EV) adoption
- The government will facilitate special mobility zones for EVs as well as push for clean tech and electric vehicles in public transport
- To encourage private sector to develop sustainable and innovative business models for 'Battery or Energy as a Service'.
- Open up Defence research and development (R&D) to private players for auto component development.
- The extension of concessional Income tax regime of 15% for new domestic manufacturing facility setup, commencing manufacturing up to 31 March 2024.
- Effective April 2023, proposed to withdraw 5 % basic customs on the import of batteries for electrically operated vehicles.
- Proposed setting up of four pilot projects for coal gasification and conversion of coal into chemicals
- Extension of customs duty exemption on import of steel scrap by another year (up to 31 March 2023) and revocation of anti–dumping and countervailing duty on specified steel products.
- An additional excise duty of Rs. 2 per litre on unblended fuel will be imposed from Oct 1, 2022.
- The national highways network will be expanded by 25,000 km in 2022–23, 8 mn houses will be completed under the Pradhan Mantri Awas Yojana and 400 new-generation Vande Bharat trains will be manufactured in three years.
- Allocation of Rs.19,500 crores for production-linked incentive (PLI) scheme for manufacturing of polysilicon solar modules.

Key Takeaways

- *Announcement is in line with the government's target of making electric vehicles constitute at least 30% of private car sales by the year 2030 - a step that will help reduce pollution as well as lower India's dependency on crude oil imports*
- *Aid in reducing the upfront ownership cost of EVs, thereby driving customer preference towards such vehicles.*
- *Interoperability standards will build efficiency in operation of charging infrastructure for EVs*
- *Will help attract new investment in manufacturing of EVs and its components.*
- *Will boost the transition to a carbon neutral economy. Also improve efficiency in the EV eco-system.*
- *Additional excise duty will encourage blending of fuel and investment by OEM in clean and blended fuel engines*
- *Expansion of highways, Housing development & manufacture of new generation Vande Bharat Trains will increase the demand for sectors such as cement, steel, engineering goods and industrial manufacturing.*
- *Additional incentive for manufacturing of polysilicon solar modules.*

SECTORAL IMPACT

BANKING AND FINANCIAL SERVICES

Budget Proposals

- Focus on CAPEX
- Focus on affordable housing segment
- Post office accounts will be brought under the coverage of core banking.
- The credit guarantee fund trust for micro and small enterprises (CGTMSE) will be revamped with additional credit of Rs. 2 trillion
- Introduction of Special taxing regime prescribed for Virtual digital assets
- RBI to introduce its own Digital Currency (CBDC) in the FY 2022-23

Key Takeaways

- *Credit requirement from industry is expected to boost credit growth of banks & NBFCs*
- *Spending on affordable housing will result in growth in secured portfolio of large banks and HFCs*
- *With 1.5 lakh post offices coming under core banking, more than 35 crore post office deposit accounts will come into the mainline banking and payments system.*
- *Increased employment opportunities.*
- *Provided more clarity on taxing of income earned through Virtual digital assets.*
- *Might discourage small investors from transacting in Virtual digital assets.*
- *New taxing regime denies the right to claim loss, set-off and carry forward losses on transfer of Virtual Digital Assets.*

INDUSTRY SPEAK

SANJIV PURI
Chairman, ITC

"Multi-dimensional interventions to usher in next-gen agriculture via digitalisation, R&D, lever aging strengths of Agri-techs & FPOS, will transform sector."

DINESH KHARA
Chairman, SBI

"The most significant announcements are higher allocation to capex and extension of ECLGS- particularly to hospitality and related sectors."

VENU SRINIVAS
Chairman, TVS Motors

"For Auto sector we welcome PM Gati Shakti master plan focus on building world-class infra and connectivity for commuters."

GAUTAM ADANI
Chairman, ADANI Group

"While the world recovers from the pandemic, India's budget is bold, forward looking and an accelerator for domestic innovation."

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