

# **HIGHLIGHTS OF UNION BUDGET**

**An insight into the fine print by CA VINOD JAIN**

**2018-19**

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# CA Vinod Jain - Chairman

B.Com (Hons.), LL.B., FCA, FCS, FICWA, DISA (ICAI)



Mr. VINOD JAIN is a commerce graduate from Shri Ram College of Commerce, has qualified with merit as a Chartered Accountant (1979), Company Secretary (1979), Cost Accountant (1983) and a Law Graduate (1979), has been a sitting elected member of Central Council (National Board) of The Institute of Chartered Accountants of India for 12 years till Feb 2013.

He is Senior Partner of **Vinod Kumar & Associates, Chartered Accountants** a member of INMACS GLOBAL, Hong Kong. Mr. Vinod Jain is Chairman of **INMACS Management Services Limited**, a leading Project & Financial consultant and Provider of Business set up and support services.

Mr. Jain is a leading expert on, International Taxation, Corporate Laws, FEMA, Fund raising and strategic planning/ structuring. Most complex issues are handled by him professionally re regulatory compliance, Project planning, project structuring, infrastructure development, Financial modeling, business agreements and techno-economic feasibility study of more than 500 projects including infrastructure projects and legal drafting/vetting is another expertise of Mr. Jain. Estate planning with balancing of Love-money-control is a special expertise of CA Vinod Jain. National and international tax laws are considered while framing wealth management and trust structures in and outside India.

He was also elected as a Member, **National Council, Confederation of Indian Industry (CII)** during 1997-99. He has served on several committees of Securities and Exchange Board of India (SEBI), Central Board of Direct Taxes (CBDT) and Ministry of Corporate Affairs (MCA).

Mr. Jain had been nominated as a **member** by Department of Revenue, Ministry of Finance, Government on the **Expert Committee for Tax Simplification**. Mr. Jain has been appointed as a Director on **Coal India Limited (CIL)** on behalf of Government of India.

Mr. Jain has also been appointed as a member of Advisory Committee to GST Council of India



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**CA Pardeep Diwan - Senior Consultant, Finance**

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**CA Rishabh Sawansukha - Executive Director – Taxation**

Rishabh Sawansukha , B.Com , CA , MBF , 18+ years of Taxation ( Direct & Indirect) in Oil & Gas , IT/ITES, FMCG & Ecommerce . Managing global ERP projects as change leader & Taxation Advisor. Earlier worked with Indian Oil Corporation , Schlumberger , Oracle , Hindustan Coca-Cola, Snapdeal. Founder GSTstreet & VATStreet



**CA Shweta Jain - Senior Consultant - IndAS Advisory**

She is a Fellow Member of the Institute of Chartered Accountants of India having a professional experience of over 15 years. A Tech-savvy Chartered Accountant with a diverse background with exposure to Accounts, Audit, Budgeting, MIS, Secretarial work, RBI, Taxation, T.D.S., Payroll and Excise. She has been working on IFRS & IndAS Convergence engagements.



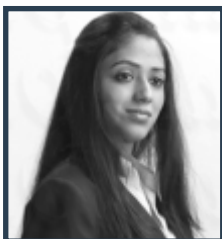
**Mr. Ravi Mediratta - Senior Counsel**

He is a practicing Advocate with over 21 years of experience behind him. He began his career as a Company Secretary and a chartered Accountant and then in 2007, he graduated from Law school and formally entered into the Legal profession. He has established a considerable set of experiences of over 18 years. He has vast experience in Direct and Indirect Taxes, has also worked as Legal & Taxation Head in the company Marks and Spencer, after it's Joint Venture with Reliance Retail Ltd. in 2008.



**CA Vaibhav Jain - Associate Director – GST & Indirect Taxes**

He is commerce graduate from Sri Guru Gobind Singh College of Commerce (2007) is a qualified Chartered Accountant (2009), Company Secretary (2012), and Law Graduate (2015). He has done Masters in Business Finance Certificate Course by ICAI in the year 2010. He has also done a Certificate Course in Indirect Taxes from ICAI. He specializes in the field of GST Advisory, Compliance & Litigations and Financial Valuations and Advisory. He is a visiting faculty on various forums including ICAI, CII, PHDCCI, ANMI, ICSI etc. He has worked with PwC from 2007-10. He has deep understanding of International Economies.



**CA Aastha Jain - Associate Director – GST & Indirect Taxes**

Ms. Aastha Jain, a commerce graduate from Delhi University, is a qualified Chartered Accountant (2011), Company Secretary (2012), and Masters in Business Finance (2013). She is an Associate Director with Inmacs Management Services Limited, a consulting company, Gurgaon since August, 2011, Partner at Vinod Kumar & Associates. She has worked for 3 years in Audit & Assurance of Deloitte Haskins & Sells from 2007-2010. She has also done Certificate Course in Indirect Taxes from ICAI in 2015. She specializes in the field of Direct and International Taxation and Risk Advisory. She is also co-founder of an e-commerce start up named Gocompany.in.

**CA Mukesh Dadhich Vice President – Assurance**

Mr. Mukesh Dadhich, a commerce graduate from Commerce College, Bundi is a fellow member of The Institute of Chartered Accountants of India.

He specializes in the field of Statutory Audit, Designing, Implementation and testing of Internal Financial Controls, Risk Advisory, Internal Audit and Financial Advisory. He has a post qualification experience of more than 10 years in practice.

**CA Garima Srivasatava Executive Director GSS**

Garima holds a Bachelors degree in Commerce from Delhi University and is a qualified Chartered Accountant. She has an extensive experience of over 15 years in various industries in establishment of start up entities, shared service entities in India, establishment of end to Finance, Accounts, Treasury, Taxation Functions for organisations. She has worked with various organizations like Coca-Cola, PwC, Deloitte & Honda.

**Ms. Sugandha Kaushal Head – Corporate Strategy**

Sugandha Kaushal, B.Tech, MBA and CFA is a seasoned industry professional with an overall 17 years of corporate experience. She has worked with various organizations like Unilever, Coke, Indus Towers, HT Media Perfetti and Electrolux.

**CS Yugesh Verma - Deputy Manager – Corp Legal**

An associate member of Institute of Company secretaries of India having expertise and experience in the areas of FEMA, SEZ Laws, Secretarial Audits, Due Diligence, Corporate Laws, Legal Advisory and Mergers & Acquisitions. He has the ability to analyse and develop agreements, contracts and other formalization of arrangements at all levels.

**CA Lakshay Gupta Deputy Manager – Taxation**

Mr. Lakshay Gupta, a B.com(Hons) graduate from Delhi University (2014), is a qualified Chartered Accountant (2017), possess rich experience in Direct Taxation, GST and Transaction Advisory Service. Currently he is working with INMACS Management Services Limited a Gurgaon based Consultancy firm as Deputy Manager.

**CA Arvind Pugalia Deputy Manager – GST**

Mr. Arvind Pugalia, a Commerce graduate from Maharaja GangaSingh University (2015), is a qualified Chartered Accountant (2016), possess rich experience in Audit, Excise, GST and Transaction Advisory Service. Currently he is working with INMACS Management Services Limited a Gurgaon based Consultancy firm as Deputy Manager.

**CA Gaurav Soni Assistant Manager – GST**

Mr. Gaurav Soni, a B.com(Hons) graduate from Delhi University (2014), is a qualified Chartered Accountant (2017), possess rich experience in Direct Taxation, GST and Transaction Advisory Service. Currently he is working with INMACS Management Services Limited a Gurgaon based Consultancy firm as Assistant Manager.

# Direct Tax

## Tax Rate

- All Tax Rates have remained same while Education Cess has been increased by 1%
  - Lower Corporate Tax Rate of 25% benefit extended w. e. f. FY 2018-19 (AY 2019-20) to companies with turnover up to Rs. 250 Crores in FY 2016-17.
- a) No Change has been made in Slab Rates of Income tax for Individuals, HUF, AOP, BOI and firms.
  - b) "Education Cess on income-tax" and "Secondary and Higher Education Cess on income-tax" shall be discontinued. New cess, by the name of "**Health and Education Cess**" shall be levied at the rate of **four per cent** of income tax including surcharge from AY 2019-20
  - c) The Corporate tax rate for Domestic companies shall be 25% of the total income, if turnover or gross receipts for the FY 2016-17 do not exceed 250 Crores. The tax rate shall continue to be 30% of the total income for other assesses.

## Benefits to senior citizen in respect of health insurance premium and medical treatment

- Special Incentives to Senior Citizens in terms of Higher Health Insurance Cover, Medical treatment allowance and higher deduction on Interest earned

Section	Particulars	Amount of Deduction
80D	Payment in respect of Health insurance policy or preventive health or medical expenditure for senior citizen	Rs. 50,000/- (Earlier Rs. 30,000/-)
	Payment in respect of Health insurance policy or preventive health or medical expenditure other than senior citizen	Rs. 25,000/-
80DDB	Payment in respect of medical treatment of specified diseases of Senior Citizens	Rs. 1,00,000/- (Earlier Rs. 80,000/- for very senior citizen and Rs. 60,000/- for senior citizen)
80TTB	Interest income from deposits maintained by senior citizens with: <ol style="list-style-type: none"> <li>a) Scheduled Banks,</li> <li>b) Co-operative Banks,</li> <li>c) Post Offices</li> </ol>	Rs. 50,000/- (In place of earlier deduction of Rs. 10,000/- u/s 80TTA)

**Applicable from A.Y. 2019-20)**

## Standard Deduction for salaried persons

- Standard deduction of Rs. 40,000/- introduced and Transport Allowance and Reimbursement of Medical Expenses withdrawn. This shall reduce the hassle for employees and employers for management of proofs and reduce TDS Litigation

It is proposed to amend Section 16 of the Income Tax Act to provide a standard deduction of lower of Rs. 40,000/- or actual salary paid, whereas deduction in respect of transport allowance upto Rs. 19,200/- and reimbursement of medical allowance upto Rs. 15,000/- (other than hospitalisation) are proposed to be withdrawn. However, Transport allowance exemption for differently abled person will continue.

**(Applicable from A.Y. 2019-20)**

## Additional Requirement for application of PAN

- All Entities having aggregate financial transactions more than Rs. 2,50,000/- in a year shall be required to obtain PAN.
- All persons connected (in various capacities as detailed below) with such entity shall also be required to obtain PAN.

It is proposed that every person, other than individual, which enters into a **financial transaction** of an amount aggregating to **two lakh and fifty thousand rupees** or more in a financial year and the MD, director, partner, trustee, author, founder, karta, CEO, principal officer or office bearer or any person competent to act on behalf of the aforementioned entity (including a person holding any power of attorney or to whom any power is delegated) shall be required to apply for PAN.

**(Applicable from FY 2018-19)**

## Imposition of tax on LTCG from Equity Shares and/or Equity Oriented Fund

- Capital gain Tax @ 10% has been introduced on sale of Equity Shares & Equity Oriented Mutual Fund held for period of more than one year with an exemption up to Rs. 1 Lacs.
- Grandfathering effect has been granted on capital gain earned up to 31st January 2018.

It is proposed to withdraw the exemption u/s 10(38) and introduce new section 112A to tax LTCG arising from transfer of a long-term capital asset being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust on which STT has been paid shall be taxed at 10 per cent of such capital gains **exceeding one lakh rupees**.

**(Applicable from AY 2019-20)**

Similar provision in respect of LTCG is also proposed in case of Foreign Institutional Investors by amending section 115AD.

The cost of acquisitions in respect of the long term capital asset acquired by the assessee before the 1st day of February, 2018, shall be deemed to be the **higher of –**

- a) the actual cost of acquisition of such asset; and
- b) the **lower of**
  - I. The fair market value of such asset (i.e. highest price quoted on 31<sup>st</sup> January 2018) and
  - II. The full value of consideration received or accruing as a result of the transfer of the capital asset.

**Note:-** The benefit of deduction under chapter VIA and rebate under section 87A shall not be allowed on tax payable on such capital gains.

## Tax on distribution of income by Equity-oriented Mutual Fund @ 10%

It is proposed to impose tax at the rate of 10% on income distributed by equity oriented mutual funds to its unit holders by amending section 115R.

(Amendment applicable for FY 2018-19 i.e. transactions entered into after 1st April, 2018)

## To curb cash expenses in Trusts and other specified institutions

Trusts and other entities registered u/s 10(23C) and 12AA, have been mandated to deduct tax at source and are also prohibited to make Cash payment above Rs 10,000/-.

## Amendment to definition of 'Business Connection'

- Amendment in definition of PE to incorporate a person (i.e. agent) who habitually plays the principal role leading to conclusion of contracts by the non-resident.

With an intent to align the scope of 'business connection' defined in Income Tax Act u/s 9(1)(i) with modified Permanent Establishment (PE) Rules prescribed under DTAA as modified by Multilateral Instruments based on recommendation of BEPS Action Plan 7, explanation 2 to Section 9(1)(i) has been proposed to be amended to incorporate a person who habitually plays the principal role leading to conclusion of contracts by the non-resident where the contract should be:

- a) Entered in the name of non-resident, or
- b) For the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use; or
- c) For the provision of services by that non-resident.

(Applicable from A.Y. 2019-20)

Further, 'Significant economic presence' is also proposed to be included in the definition of 'Business Connection'.

### Taxability of compensation in connection to business or employment

- Compensation received, or receivable will be taxable under the head PGBP or other sources as applicable
  - a) It is proposed to amend **section 28** of the Act to provide that any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as **business income**.
  - b) It is further proposed that any compensation received or receivable, whether in the nature of revenue or capital, in connection with the termination or the modification of the terms and conditions of **any contract** relating to its employment shall be taxable under **section 56** of the Act.

(Applicable from AY 2019-20)

### Presumptive income under section 44AE in case of goods carriage

- Change in Presumptive Income Limits for Transporters

S. No.	Description of goods carriage	Presumptive Income
1	Heavy goods Vehicle (i.e. more than 12MT gross vehicle weight)	Rs.1,000 per ton of gross vehicle weight or unladen weight per month or part of month for each goods carriage.
2	Others goods vehicle (i.e. up to 12MT gross vehicle weight)	Rs.7,500 per month or part of month for each goods carriage.

(Applicable from A.Y. 2019-20)

### 100% Deduction to Farm Producer Companies

- Benefits of Deduction equivalent to 100% Income attributable to agricultural produce, seeds, etc with turnover up to Rs. 100 Crores.

It is proposed to introduce Section 80PA of the Income Tax Act to extend the benefits of 100% deduction to Farm Producer Companies having turnover up to Rs. 100 Crores deriving income from any of the following activities:

- (i) the marketing of agricultural produce grown by its members, or
- (ii) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or
- (iii) the processing of the agricultural produce of its members.

The benefit shall be available for a period of five years from the financial year 2018-19.

However, MAT is applicable to Farm Producer Company u/s 115JB of the act.

(Applicable from A.Y. 2019-20)

### Relief to Sick Companies admitted under Insolvency & Bankruptcy Code

#### MAT

- In cases of companies whose matter has been admitted under Insolvency and Bankruptcy Code by NCLT then while computing MAT instead of lower of Unabsorbed Depreciation or brought forward loss a deduction of both shall be allowed.

To facilitate rehabilitation of companies seeking insolvency resolution, amendment has been proposed in section 115JB in respect of MAT, whereby deduction of both unabsorbed depreciation and brought forward losses shall be allowed to be reduced from the book profits if the application for corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 has been admitted by the Adjudicating Authority (NCLT). This will facilitate deduction of all carried forward losses and unabsorbed depreciation and will not attract MAT taxation based on book profit tax.

**(Applicable from AY 2018-19)**

### **Carry Forward of Losses permitted despite change in majority shareholding**

- In cases of companies whose matter has been admitted under Insolvency and Bankruptcy Code by NCLT then carry forward of losses shall be allowed despite change in majority shareholding.

An amendment is proposed in section 79 of the act wherein carry forward of losses shall be allowed even if at least 51% of beneficial shareholding (carrying voting power) is not same as at the last day of the year in which loss was incurred, for a company seeking resolution under Insolvency and Bankruptcy Code, 2016 after providing reasonable opportunity of being heard to jurisdictional Pr. CIT or CIT. Further, an amendment in section 140 is proposed to provide that during the course of resolution proceedings, return of income tax filed by aforesaid company shall be verified by insolvency professional appointed by Adjudicating Authority.

**(Applicable from AY 2018-19)**

### **Extended benefits to new start-ups**

- The Companies approved under the scheme of STARTUP INDIA has been extended to companies which shall be incorporated after 1 April 2016 and before 31 March 2021 (earlier this period was ending on 31 March 2019)
- The definition of companies which shall qualify as Start Up under this scheme has been expanded to cover many new sectors and businesses.

It is proposed to amend Section 80-IAC of the Income Tax Act to extend the benefits of 100% deduction to start-ups being incorporated upto 31<sup>st</sup> March 2021 subject to annual turnover not exceeding Rs. 25 crore for seven years from the date of incorporation. Aforesaid **deductions shall be allowed in respect of consecutive three years at the choice of assessee out of the initial seven years.**

Further definition of 'Eligible Business' is proposed to be amended as under:

“eligible business” means a business carried out by an eligible start up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation;”

**(Amendment applicable from A.Y. 2018-19)**

### **Extended benefits to new start-ups**

- This is a procedural amendment enabling the government to notify procedures and compliances in relation to e-assessment.

In order to implement E-Assessment, new clause (3A), (3B) and (3C) are proposed to be introduced to empower the government to prescribe new scheme of E-Assessment vide notifications in Official Gazette. A limitation of period is imposed in this regards that after 31<sup>st</sup> March, 2020, any amendment brought through notification shall be required to be placed before the houses of parliament.

This will enable the Government to ensure that there is no person to person contact at the time of assessment between the assessee and the income tax assessing officer and entire process is undertaken electronically. This provision also permits team based assessment rather than individual officer undertaking assessment. This is expected to significantly reduce corruption and harassment.

**(Applicable from 1<sup>st</sup> April, 2018)**



## Incentive for Employment Generation

- Relaxation in requirements for 30% Deduction to entities employing additional employees.

Section 80JJAA provides additional deduction of 30% to any assessee for three assessment years for incurring additional employee cost by appointing new employees. It is proposed to amend the provisions of section 80JJAA to allow the benefit of additional 30% deduction to apparel, foot ware and leather industry with liberalised condition in respect of remuneration paid to new employees being employed for minimum of 150 days in place of 240 days. Further, the deduction will be available in the current year, if new employee doesn't complete the minimum period of employment of 150 or 240 days in current year but such employee remains in the employment for minimum of 150 or 240 days as the case may be in succeeding year.

**(Applicable from AY 2019-20)**

## Tax Benefit on withdrawal from NPS extended to all

The provisions of section 10(12) is proposed to be amended to allow exemption of 40% of total withdrawal from NPS is extended to all the subscribers whether employed or not.

**(Applicable from AY 2019-20)**

## Rationalisation of Section 43CA, 50C and 56

- Relaxation in requirements for 30% Deduction to entities employing additional employees.

In order to rationalise the provisions of deeming stamp duty value of the immovable property as sales consideration while calculating business profits u/s 43CA, capital gains u/s 50C and/or income from other sources u/s 56, it has been proposed that if the difference between sales consideration declared by the assessee and prevailing stamp duty value is not more than 5%, then no adjustment in respect of stamp duty value is to be made.

## Amendments To eliminate Mal-practices

- To eliminate Tax Planning of Deemed Dividend in cases where companies plan their swap ratios.

Widening the scope of word 'Accumulated Profits' in the definition of Dividend given u/s 2(22) of the act by inserting Explanation 2A with an intent to eliminate arrangement of amalgamation of companies to reduce the accumulated profits in the hands of amalgamated company and to do away with the tax liability in respect of provisions of deemed dividend.

It is proposed that the accumulated profits of amalgamated company will include accumulated profits whether capitalised or not of amalgamating company as on date of amalgamation.

**(Amendment applicable for AY 2018-19)**

## Applicability of DDT on deemed dividend

- To ease the collection of Tax on Deemed Dividend it has been taxed using Dividend Distribution Tax provisions while the rate to be adopted for such deemed dividend shall be 30% instead of 15%

It is proposed to increase the scope of provisions of dividend distribution tax to the provisions of deemed dividend u/s 2(22)(e) of the act. The company paying deemed dividend shall be liable to pay DDT on such payments at the rate of 30% without grossing up.

**(Amendment applicable for FY 2018-19 i.e. transactions entered into after 1st April, 2018)**

## Rationalisation of provisions for applicability of tax on conversion of stock In trade into capital asset

- On conversion of Stock in Trade into Capital Asset the difference of FMV and Cost shall be considered as Gain (or Loss) in PGBP income of same year.

An amendment is proposed to section 28 of the act to treat gain on conversion of stock in trade into capital asset as business income and for this purpose, FMV of inventory is to be considered as sale value.

Further, amendment to section 49 and 2(42A) is proposed to consider the FMV of inventory as on date of conversion to be cost of acquisition and period of holding shall begin from the date of conversion for the purpose of

calculating capital gain on such transfer.

(Amendment applicable for FY 2018-19 i.e. transactions entered into after 1st April, 2018)

### **Amendment to provisions on 54EC**

- The assets other than land and building excluded from Section 54EC
- The lock in period has been enhanced to 5 years.

An amendment to section 54EC is proposed to restrict the tax benefits only in case of transfer of land or building or both instead of any Long Term Capital Assets allowed earlier. Further, the lock in period had been increased from 3 years to 5 years.

### **Amendment to Section 47 to promote IFSC**

- To clear ambiguity in understanding of Transfer definition there has been amendment in Section 47.
- AMT has been introduced for Non-Corporate Assessee @ 9% in IFSC.

With intent to promote International Financial Service Centres in India, it is proposed amend the section 47 of the act to exclude the transaction made by non-resident in respect of following securities registered on recognised stock exchanges located in such IFSC:

- a. Bond or Global depository receipts u/s 115AC of the act, or
- b. Rupee denominated bonds of an Indian Co., or
- c. Derivatives

That is the transfer of aforesaid specified securities shall not be regarded as transfer.

Further, the provisions of section 115JC in respect of Alternative Minimum Tax are proposed to be amended to reduce the tax rate of AMT to 9% from 18.5% for non-corporate units located in an IFSC.

**(Applicable from AY 2019-20)**

### **Agricultural Commodity Derivative to be considered as Non-Speculative Transaction**

In order to promote trading of agricultural commodity derivative, section 43(5) of the act is proposed to be amended to recognise the agricultural commodity derivative, being transacted through recognised commodity exchange and no Commodity Transaction Tax is paid on such transactions, as non-speculative transaction.

**(Applicable from AY 2019-20)**

### **Rationalisation of Provisions of section 115BBE**

An amendment is proposed to section 115BBE to clarify that no expense or allowance or set off of loss shall be allowed in respect of undisclosed income determined by AO.

### **Amendments in relation to ICDS**

- This has empowered ICDS Introduction with retrospective effect from 1st April 2017 i.e. AY 2017-18
  - a. An amendment to section 36 is proposed to allow deduction of Marked to Market Losses or other expected losses calculated in manner prescribed under ICDS notified u/s 145(2) of the act while calculating business profits. No other Marked to Market losses or other losses shall be allowed as deduction.
  - b. A new section 43AA is proposed to be inserted to treat any gain or loss on fluctuation in foreign exchange calculated in accordance with ICDS notified u/s 145(2) of the act in respect of specified transactions as business income or loss. Specified transactions shall include monetary or non-monetary items, translation of FST of foreign operations or forward exchange contracts or foreign currency translation reserve.
  - c. A new section 43CB is proposed to be inserted to prescribe percentage completion method as method for calculation of profits in case of construction contracts and service contracts being calculated in accordance with ICDS notified u/s 145(2) of the act. For aforesaid calculation, contract revenue shall include retention money and contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gain. However, in respect of service contracts with duration upto 90 days, project completion

shall be employed and in respect of service contracts involving indeterminate number of act over a specific period of time, straight line method shall be employed.

- d. Further, section 145A is proposed to be amended to incorporate provisions of valuation of inventory in accordance with ICDS notified u/s 145(2) of the act.

**(Applicable from 1<sup>st</sup> April, 2017 i.e. AY 2017-18)**

## **Other Miscellaneous Amendments**

### **Increase in amount of penalty for non-filing of SFTRA i.e. Statement of financial transactions or reportable account**

Amendment to section 271FA is proposed to increase the penalty leviable in following cases:

- a. Failure to file SFTRA in time limit prescribed u/s 285BA – Penalty increased from 100 to 500 per day
- b. Failure to file SFTRA in response to notice issued u/s 285BA(5) - Penalty increased from 500 to 1000 per day

### **Penalty orders passed by CIT (Appeals) u/s 271J shall be appealable before tribunal.**

Section 253 of the act is proposed to be amended to allow penalty orders passed by CIT (Appeals) u/s 271J will also be appealable before Income Tax Appellate tribunal.

### **Introduction of 7.75% GOI Savings (Taxable) Bonds, 2018 in place of 8% Savings (Taxable) Bonds, 2003**

#### **Exemption of Income from Sale of Crude Oil for foreign Company**

An amendment is proposed in exemption u/s 10(48B) of the act, exempting the income earned by foreign company from sale of stock of crude oil lying at the time of termination of arrangement or agreement if such agreement or arrangement is terminated in accordance with the conditions mentioned therein.

**(Applicable from AY 2019-20)**

A new clause had been proposed in section 10 of the act namely clause (6D) to exempt the income in nature of royalty or Fees for technical services earned by non-resident not being a foreign company rendered in or outside India to National Technical Research Organisation (NTRO).

**(Applicable from AY 2018-19)**

Where a foreign company had paid the tax in accordance with the provisions of section 44B or section 44BB or section 44BBA or section 44BBB, section 115JB shall have no applicability in such case.

**(Applicable with retrospective effect from 1<sup>st</sup> April, 2001 i.e. AY 2001-02)**

An amendment to Finance Act, 2013 is proposed to be made for imposing Commodity Transaction Tax on 'options in commodity futures'.

**(Applicable from 1<sup>st</sup> April, 2018)**

The companies not filing returns will be subject to prosecution in case where return is not filed for any year irrespective of whether tax is payable or not. This will make filing of return mandatory for all companies.

**(Applicable from 1<sup>st</sup> April, 2018)**

An amendment in section 143(1) of the act is proposed to eliminate the adjustment made at the time of processing of return, in respect of incomes appearing in the Form 26AS or Form 16/16A which had not been included in the total income declared in the return.

**(Applicable from AY 2018-19)**

Amendment in section 80AC is proposed to extend the provisions to all the deductions allowed under heading C 'deductions in respect of certain incomes' of Chapter VIA such as 80-IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, 80-IC, 80-ID, 80-IE i.e. no deduction shall be allowed under all these sections if the assessee fails to file return of income on or before the due date.

**(Applicable from AY 2018-19)**

# Indirect Tax

## Proposed Amendments in Custom Act, 1962

### Proposed Amendment in Definitions

- **Section 2 is being amended for the following:**

- i) The definition of assessment is substituted by a detailed definition.
- ii) The limit of 'Indian Customs Waters' into the sea extended from the existing 'Contiguous zone of India' to the 'Exclusive Economic Zone (EEZ)' of India in sub-section (28); **i.e. the Indian Custom waters are now 24 Nautical miles instead of earlier limit of 12 Nautical miles.**
- iii) The 'notification' would mean a 'notification published in the Official Gazette' and the word 'notify' would be construed accordingly.

- **Section 28E is being amended the following:**

- i) The existing definition of advance ruling is substituted to cover subjects beyond mere determination of duty  
 "Advance ruling" means a written decision on any of the questions referred to in section 28H raised by the applicant in his application in respect of any goods prior to its importation or exportation;
- ii) The existing definition of 'applicant' is substituted the definition of in order to make it broad based;  
 "Applicant" means any person: –
  - ( holding a valid Importer-exporter Code Number granted under section 7 of the Foreign Trade (Development and Regulation) Act, 1992; or
  - exporting any goods to India; or
  - with a justifiable cause to the satisfaction of the Authority,
 who makes an application for advance ruling under section 28H;

### Proposed Amendment to expand the scope of the Act

- **For restricting Import of Prohibited articles or goods a Notification under Customs Act shall be mandatory and mere prohibition under any other law shall not restrict importation or exportation of such articles or goods. (Section 11(2))**

Prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force shall be executed only if such prohibition or restriction or obligation is notified under the provisions of Customs Act subject to such exceptions, modifications or adaptations as the Central Government may deem fit.

- **Scope of verification extended**

The scope of verification of bill of entry and shipping bill beyond self-assessment to all the entries made under section 46 (BOE) or section 50 (Shipping Bill).

- **Inclusion of export and import details in manifest**

The section 30 has been proposed to be amended to include export goods in addition to imported goods as part of the information provided in the manifest.

The section 41 has been proposed to be amended to include imported goods in addition to Exported goods as part of the information provided in the manifest. Further penalty for late filing of manifest is proposed to be prescribed up to Rs.50000.

- **Controlled Delivery**

A new section 109A is proposed to be introduced which seeks to authorize the proper officer to undertake Controlled Delivery of any consignment of goods to any destination in India or a foreign country.

Controlled Delivery means the procedure of allowing consignment of such goods to pass out of, or into, the territory of India with the knowledge and under the supervision of proper officer for identifying the persons involved in the commission of an offence or contravention under this Act.

## **Proposed amendment in Advance Ruling Provisions**

- **Representation before advance ruling authority**

It is proposed to insert sub-section (5) under section 28H to provide that an applicant may be represented by a duly authorized person who is a resident in India.

- **Reduction in time limit for pronouncement of advance ruling**

Sub-section (6) of section 28-I is being amended to reduce the time from six months to three months within which the authority shall pronounce its advance ruling.

- **Exclusion while computing time limit for recovery**

A new provision is proposed to be inserted under section 28K(1) stating that for the purpose of calculation of time limit under section 28 time between period beginning of advance ruling and order under section 28K shall be excluded.

- **Appeal against the order of advance ruling**

A new section 28KA [relating to Appeal provisions in respect of Advance Ruling] is proposed to be inserted so as to empower any officer authorised by the Board or the applicant to file an appeal to the Appellate Authority against any ruling or order passed by the Authority, within sixty days from the date of the communication of such ruling or order, in such form and manner as may be prescribed.

## **Proposed to introduction of new Chapter XIIA of Audit**

A new chapter XIIA has been introduced for audit of assessment of imported goods or export goods or of an importer or exporter or custodian, licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods by proper officer.

A new chapter XIIA has been introduced for audit of assessment of imported goods or export goods or of an importer or exporter or custodian, licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods by proper officer.

## **Proposed amendment in Demand and Recovery Provisions**

- **Pre-Notice Consultation & Supplementary Show Cause Notice**

i) A provision is proposed to be inserted in clause (a) of section 28(1) to provide pre-notice consultation in cases not involving collusion, willful mis-statement, suppression before issue of demand notice.

ii) A new sub-section (7A) of section 28 has been inserted to provide for issuance of supplementary show cause notice in circumstances and in such manner as may be prescribed through regulations within the existing time period.

- **Amendments in recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.**

a) A definite time frame of six months and one year for adjudication of demand notices depending upon whether charges of collusion, wilful misstatement, and suppression have been invoked. These time periods shall be extendable by the officer senior to adjudicating authority for a further period of six months and one year respectively.  
If the demand notice is not adjudicated even within the extended period, it would be deemed as if no demand had been issued.

b) It is proposed to insert a new sub-section (9A) to provide following grounds on account of which the time limit of six months or one year shall remain suspended:-

- an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or
  - an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or
  - the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or
  - the Settlement Commission has admitted an application made by the person concerned,
- c) It is proposed to insert a new sub-section (10A) of section 28 to provide that where an order for refund sub-section (2) of section 27 is modified in appeal and the amount of refund so determined is less than the amount refunded, the excess amount so refunded shall be recovered along with interest thereon at the applicable rate, from the date of refund up to the date of recovery, as a sum due to the Government.
- d) It is proposed to insert a new sub-section (10B) of section 28 to provide a safeguard to assessee whereby if a demand notice issued under sub-section (4) is held not sustainable in any proceeding, including at any stage of appeal for the reason that the charges of collusion, willful mis-statement etc. have not been established against the person to whom the demand notice has been issued, then the said notice shall be deemed to have been issued under subsection (1) of 28 and the duty and interest shall be computed accordingly.

## Proposed Technical Amendments

### • **Provisional Assessment for Export Consignment**

- a) In section 18(1), in the opening portion, after the word and figures “section 46”, the words and figures “and section 50” has been inserted so that the benefit of the provisional assessment can be extended to the export consignment.
- b) As per new section inserted 18(1A), time limit will be prescribed by Board for submitting documents for finalization of the provisional assessment.

### • **Empowering CG to issue notification related to exemption of goods imported and exported for repairs**

- i) A new section 25A is being inserted, so as to empower the Central Government to exempt goods imported for repair, further processing or manufacture ['Inward Processing of Goods'] from payment of whole or any part of duty of customs, leviable thereon subject to certain conditions.
- ii) A new section 25B is being inserted so as to empower Central Government to exempt good re-imported after export for repair, further processing or manufacture ['Outward Processing of Goods'] from payment of whole or any part of duty of customs, leviable thereon subject to certain conditions.

### • **Electronic Cash Ledger**

It is proposed to insert Chapter VIIA on payments through electronic cash ledger with governing provisions in Section 51A to have a provision for advance deposit which would enable payment of duties, taxes, fee, interest, and penalty through electronic cash ledger.

### • **Time-period specified for payment of fine in case of confiscation of goods**

A provision has been added in section 125 stating that if proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply. Subsection (3) has been inserted under section 125 stating that if fine imposed under section 125(1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

- **Determination of value of goods sold to any person before clearance for home consumption or export**

It is proposed to introduce new sub-section (8A) of section 3 to determine the value of goods when they are sold within the warehousing period for calculation of integrated tax shall be the transaction value of such goods or the value determined as per the Valuation rules.

- **Power to remand back by Commissioner (Appeals)**

The section 128A is proposed to be amended to empower Commissioner (Appeals) to remand back the matters to original adjudicating authority in specified categories of cases, namely:

- i. where an order or decision has been passed without following the principles of natural justice; or
- ii. where no order or decision has been passed after re-assessment under section 17; or
- iii. where an order of refund under section 27 has been issued crediting the amount to the Fund without recording any finding on the evidence produced by the applicant.

### **Other Amendments**

- **Arrival Manifest and Departure Manifest**

Reference to import manifest and export manifest, wherever they occur in the Customs Act, to include Arrival Manifest and Departure Manifest respectively.

- **Reciprocal arrangement for exchange of information facilitating trade.**

New section 151B has been inserted that provides for agreement or any other arrangement with the Government of any country outside India for facilitation of trade, enforcing the provisions of this Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention of offences under the provisions of this Act.

- **Electronically communication**

A provision has been inserted under section 60, 68, 69 and 51 stating that order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

- In the entire Custom Act, 1962 Post will also include Courier and Postal Authorities will include authorised courier.

### **Changes in rates**

#### **Levy Of Social Welfare Surcharge, As A Duty Of Customs On Imported Goods**

- A Social Welfare Surcharge @ 3% on Petrol and High speed oil, Silver and Gold and @ 10% of aggregate duties of custom on other items except goods specified in NN 11/2018 is levied, and
- Education Cess and Secondary and Higher Education Cess on imported goods are abolished.
- However, Social Welfare Surcharge will not be considered while calculating IGST.

### **Changes in rates**

- **LEVY OF SOCIAL WELFARE SURCHARGE, AS A DUTY OF CUSTOMS ON IMPORTED GOODS**

- A Social Welfare Surcharge @ 3% on Petrol and High speed oil, Silver and Gold and @ 10% of aggregate duties of custom on other items except goods specified in NN 11/2018 is levied, and
- Education Cess and Secondary and Higher Education Cess on imported goods are abolished. However, Social Welfare Surcharge will not be considered while calculating IGST.

## LEVY OF ROAD AND INFRASTRUCTURE CESS, AS AN ADDITIONAL DUTY OF CUSTOMS ON IMPORTED GOODS

Particulars/Items	Rate of Duty
On imported motor spirit commonly known as petrol and high speed diesel oil	Rs. 8 per litre
Exemption from additional duty of customs leviable under section 3(1) of the Customs Tariff Act, 1975 in lieu of the proposed Road and Infrastructure cess on domestically produced motor spirit commonly known as petrol and high speed diesel oil	Nil
Abolition of Additional Duty of Customs [Road Cess] on imported motor spirit commonly known as petrol and high speed diesel oil	Reduced from Rs. 6/- per ltr. to Nil
Additional duty of customs under sections 3(1) of the Customs Tariff Act, 1975 in lieu of basic excise duty	(i)Rs. 6.48/- To Rs.4.48/- Per Ltr
i. Motor spirit commonly known as petrol	(ii) Rs. 8.33/- To Rs.6.33/- Per Ltr
ii. High Speed Diesel Oil	

## PROPOSALS INVOLVING CHANGES IN RATES OF DUTY

APPLICABLE WITH EFFECT FROM 02.02.2018

### • FOOD PROCESSING

Particulars/Items	Rate of Basic Custom Duty
Fruit juices and vegetable juices including Cranberry juice	Increased from 30% to 50 %

### • PERFUMES AND TOILETRY PREPARATIONS

Particulars/Items	Rate of Basic Custom Duty
Perfumes and toilet waters	Increased from 10% to 20 %
Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or suntan preparations; manicure or pedicure preparations	Increased from 10% to 20 %

Preparations for use on the hair	Increased from 10% to 20 %
Preparations for oral or dental hygiene, including denture fixative pastes and powders; yarn used to clean between the teeth (dental floss), in individual retail packages	Increased from 10% to 20 %
Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included, prepared room deodorizers, whether or not perfumed or having disinfectant properties	Increased from 10% to 20 %



- AUTOMOBILE AND AUTOMOBILE PARTS**

Particulars/Items	Rate of Basic Custom Duty
Specified parts/accessories of motor vehicles, motor cars, motor cycles	Increased from 7.5% /10% to 15%
CKD imports of motor vehicle, motor cars, motor Cycles	Increased from 10% to 15 %
CBU imports of motor vehicles	Increased from 20% to 25 %
Truck and bus radial tyres	Increased from 10% to 15 %

- FOOTWEAR**

Particulars/Items	Rate of Basic Custom Duty
Footwear	Increased from 10 to 20%
Parts of footwear	Increased from 10% to 15%

- JEWELLERY**

Particulars/Items	Rate of Basic Custom Duty
Imitation Jewellery	Increased from 15% to 20%

- ELECTRONICS/HARDWARE**

Particulars/Items	Rate of Basic Custom Duty
Cellular mobile phones	Increased from 15% to 20%
Specified parts and accessories including lithiumion battery of cellular mobile phones	Increased from 7.5/10% to 15%
Smart watches/wearable devices	Increased from 10% to 20%
LCD/LE D/OLED panels and other parts of LCD/LED/OLED TVs	Increased from 7.5/10% to 15%

- FURNITURE**

Particulars/Items	Rate of Basic Custom Duty
Seats and parts of seats [except aircraft seats and parts thereof]	Increased from 10% to 20%
Other furniture and parts	Increased from 10% to 20%
Mattresses supports; articles of bedding and similar furnishing	Increased from 10% to 20%
Lamps and lighting fitting, illuminated signs, illuminated name	Increased from 10% to 20%
plates and the like [except solar lanterns or solar lamps]	Increased from 10% to 20%

• **WATCHES AND CLOCKS**

Particulars/Items	Rate of Basic Custom Duty
Wrist watches, pocket watches and other watches, including stop watches	Increased from 10% to 20%
Clocks with watch movements	Increased from 10% to 20%
Other clocks, including alarm clocks	Increased from 10% to 20%

• **TOYS AND GAMES**

Particulars/Items	Rate of Basic Custom Duty
Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; puzzles of all kinds	Increased from 10% to 20%
Video game consoles and machines, articles for funfair, table or parlor games and automatic bowling alley equipment	Increased from 10% to 20%
Festive, carnival or other entertainment articles	Increased from 10% to 20%
Articles and equipment for sports or outdoor games, swimming pools and paddling pools [other than articles and equipment for general physical exercise, gymnastics or athletics]	Increased from 10% to 20%
Fishing rods, fishing-hooks and other line fishing tackle; fish landing nets, butterfly nets and similar nets; decoy birds and similar hunting or shooting requisites	Increased from 10% to 20%
Roundabouts, swings, shooting galleries and other fairground amusements; travelling circuses, traveling menageries and travelling theatres	Increased from 10% to 20%

• **MISCELLANEOUS ITEMS**

Particulars/Items	Rate of Basic Custom Duty
Candles, tapers and the like	Increased from 10% to 25%
Kites	Increased from 10% to 20%
Sunglasses	Increased from 10% to 20%
Date, sealing or numbering stamps, and the like	Increased from 10% to 20%
Cigarette lighters and other lighters, whether or not mechanical or electrical, and parts thereof other than flints and wicks	Increased from 10% to 20%
Scent sprays and similar toilet sprays, and mounts and heads therefor; powder-puffs and pads for the application of cosmetic or toilet preparations	Increased from 10% to 20%

## APPLICABLE WHEN NOTIFIES

### • FOOD PROCESSING

Particulars/Items	Rate of Basic Custom Duty
Orange fruit juice	Increased from 30% to 35 %
Miscellaneous Food preparations (other than soya protein)	Increased from 30% to 50 %

### • FOOD PROCESSING-RAW MATERIAL

Particulars/Items	Rate of Basic Custom Duty
Cashew nuts in shell [Raw cashew]	Reduced from 5% to 2.5%

### • CAPITAL GOODS AND ELECTRONIC

Particulars/Items	Rate of Basic Custom Duty
Bell screws, linear motion guides, CNC systems for manufacture of all types of CNC machine tools falling under headings 8456 to 8463	Reduced from 7.5% to 2.5%
Solar tempered glass or solar tempered [anti-reflective coated] glass for manufacture of solar cells /panels/modules	Reduced from 5% to Nil
PCBA of charger/adapter and moulded plastics of charger/adapter of cellular mobile phones	Increased from Nil to 10%
Inputs or parts for manufacture of: a) PCBA, or b) Moulded plastics of charger/adapter of cellular mobile phones	From applicable Rate to Nil
Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables	Increased from Nil to 5%
12 specified parts for manufacture of LCD/LED TV panels	Increased from Nil to 10%

### • AUTOMOBILE AND AUTOMOBILE PARTS

Particulars/Items	Rate of Basic Custom Duty
CKD imports of motor vehicle, motor cars, motor cycles	Increased from 10% to 15 %
CBU imports of motor vehicles	Increased from 20% to 25 %

• **DIAMONDS, PRECIOUS STONE**

Particulars/Items	Rate of Basic Custom Duty
Cut and polished coloured gemstones	Increased from 2.5% to 5%
Diamonds including lab grown diamonds -semi processed, half -cut or broken; non -industrial diamonds including lab -grown diamonds (other than rough diamonds), including cut and polished diamonds	Increased from 2.5% to 5%

• **MEDICAL DEVICES**

Particulars/Items	Rate of Basic Custom Duty
Raw materials, parts or accessories for the manufacture of Cochlear Implants	Reduced from 2.5% to Nil

• **TEXTILES**

Particulars/Items	Rate of Basic Custom Duty
Silk Fabrics	Increased from 10% to 20%

• **EDIBLE OILS OF VEGETABLE ORIGIN**

Particulars/Items	Rate of Basic Custom Duty
Crude edible vegetable oils like Ground nut oil, Olive oil, Cotton seed oil, Safflower seed oil, Saffola oil, Coconut oil, Palm Kernel/Babassu oil, Linseed oil, Maize corn oil, Castor oil, Sesame oil, other fixed vegetable fats and oils.	Increased from 12.5% to 30%
Refined edible vegetable oils, like Ground nut oil, Olive oil, Cotton seed oil, Safflower seed oil, Saffola oil, Coconut oil, Palm Kernel/ Babassu oil, Linseed oil, Maize corn oil, Castor oil, Sesame oil, other fixed vegetable fats and oils, edible margarine of vegetable origin, Sal fat; specified goods of heading 1518	Increased from 20% to 35%

• **REFRACTORY ITEMS**

Particulars/Items	Rate of Basic Custom Duty
Other articles of stone containing magnesite, dolomite or chromite	Increased from 10% to 7.5%
Bricks, blocks, tiles and other ceramic goods of siliceous fossil meals or of similar siliceous earths	Increased from 10% to 7.5%
Refractory bricks, blocks, tiles and similar refractory ceramic constructional goods, other than those of siliceous fossil meals or similar siliceous earths	Increased from 5% to 7.5%
Other refractory ceramic goods	Increased from 5% to 7.5%

## AMENDMENTS TO THE CUSTOMS TARIFF ACT, 1975 WITH NO CHANGES IN EFFECTIVE RATES OF DUTIES

Particulars/Items	Tariff Rate of Basic Custom Duty
Lithium -ion batteries [The effective rate of import duty on Lithium - ion batteries [except those for cellular mobile phones will, however, remain unchanged at 10%.]	Increased From 10% To 20%
Tariff rate of BCD on medical devices [The effective rates of BCD on such medical devices will, however, remain unchanged.	Increased From 7.5% To 10%
To insert a new Note to specify Nil rate of duty in respect of all other goods which are not covered under column (2) of the Schedule II.	Nil
Electrodes of a kind used for furnaces	
The effective rate of Export duty on such electrodes will, however, remain Nil]	20%

### Proposed Amendments in Service Tax

A few services provided up to 30<sup>th</sup> June, 2017 mentioned below has been proposed to be exempt from the purview of service tax.

- Service provided by the GSTN to the Central Government or State Government or Union Territories are proposed to be exempted from service tax for the period commencing from 28<sup>th</sup> March, 2013 and ending with the 30th June, 2017.
- Services provided or agreed to be provided by the **Naval Group Insurance Fund** by way of **life insurance** to personnel of Coast Guard, under the Group Insurance Schemes of the Central Government, are proposed to be exempted from service tax for the period commencing from the 10th September, 2004 and ending with the 30th June, 2017.
- Consideration paid to the Government in the form of Government's share of profit petroleum in respect of services provided or agreed to be provided by the Government by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, is proposed to be exempted from service tax for the period commencing from 1st April, 2016 and ending with the 30th June, 2017.

### **Amendment in Reserve Bank of India Act, 1934**

- Introduction of the Finance Bill, 2018 has also amended Section 17 of Reserve Bank of India Act, 1934 which authorizes banks to transact certain businesses.
- A new clause, clause (1A) has been inserted under Section 17 after clause (1). The new clause authorizes banks to accept deposits with interest from banks and other persons, for liquidity management, under the Standing Deposit Facility Scheme after getting it approved by the Central Board.

### **Amendments To The Prevention Of Money-Laundering Act, 2002**

- In **section 5(1)** of Prevention Of Money-Laundering Act, 2002, a new proviso has been inserted which provides that if the proceedings under this section are stayed by the High Court, 30 days shall be excluded for computing the period of One Hundred and Eighty Days and a further period of 30 days shall be counted from the date of order of vacation of such stay order.
- Previously, **section 8(3)** provided that the attachment, retention of the property or records shall continue during the pendency of the proceedings. With this Finance Bill, Section 8(3) has been amended and now the attachment, retention of the property or records shall continue during investigation for a period not exceeding **90 days**.
- As per **Section 19**, now a person guilty of offence is arrested under the provisions of this Act, can also be produced before the **Special Courts**.
- **Section 45** has also been amended and now any person who is accused of an offence under this Act will be given a reasonable opportunity of being heard. Earlier, the opportunity was provided to only those person who were convicted of an offence punishable with term not exceeding 3 years.
- Under **Section 50**, the authority regarding summons has been given to Joint Director instead of Director.
- The definition of Scheduled offence has been widen and also covers fraud under section 447 of the Companies Act, 2013.

### **Amendments In Securities Contracts (regulation) Act, 1956**

Securities Contracts (Regulation) Act 1956 is being amended to streamline adjudication procedures and to provide for penalties for certain infractions.

#### **Section 23 E - Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds**

- **Real estate investment trust or infrastructure investment trust or alternative investment fund** shall be liable to **penalty** not be less than five lakh rupees but which may extend to twenty-five crore rupees in case they fail to comply with the **listing conditions or delisting conditions or grounds or commits a breach thereof**.

#### **Section 23JC - Continuance of proceedings.**

- A Legal representative shall be liable to pay any sum which the deceased would have been liable to pay, if he had not died, to the extent to which the estate of the deceased is capable of meeting the liability.

### **Amendments To The Securities And Exchange Board Of India Act, 1992**

Major amendments to the securities and exchange board of India act, 1992 in the Budget 2018 relates to provisions related to penalties and adjudication.

#### **Section 15e:**

- The scope under section 15E has been widened by including Investment Advisor, research analyst or any other person instead of only asset management Company of Mutual Fund for penalty for failure to observe rules and regulations given by SEBI.

#### **Section 15jb**

- Under Section 15 JB Sub section (5) has been inserted saying that all settlement amounts, excluding the disgorgement amount and legal costs shall be credited to the consolidated Fund of India.
- **Section 28A**
- Under Section 28A Section 28B has been inserted according to which if a person dies his legal representative shall become liable to pay any sum which the deceased person would have been liable to pay.

## **Amendments To The Black Money (undisclosed Foreign Income And Assets) And Imposition Of Tax Act, 2015**

Under this act, **various authorities have been appointed and vested with powers** under the below mentioned sections:-

- In section 46, in sub-section (4),—
  - It is proposed to amend the said sub-section so as to provide that the Joint Director (earlier only joint commissioner) shall also be vested with the power to approve an order imposing a penalty.
  - It is also proposed to amend clause (b) of the said sub-section so as to include reference to the Assistant Director and Deputy Director therein.
- In section 55,—
  - In sub-section (2), after the words “the Chief Commissioner”, the words “or the Principal Director General or the Director General” shall be inserted.

Sub-section (2) of the said section provides that the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General may issue such instructions, or directions, to the tax authorities referred to in sub-section (1), as he may think fit for the institution of proceedings.

## **Amendments Related To Trust**

- The income of trusts and institutions is exempt if they utilize their income towards their objects
- However, there is no restriction on these entities for incurring expenditure in cash.
- In order to have audit trail of the expenses incurred by these entities, it is proposed that payments exceeding 10,000/- in cash made by such entities shall be disallowed and the same shall be subject to tax.
- Further, in order to improve TDS compliance by these entities, I propose to provide that in case of non-deduction of tax, 30% of the amount shall be disallowed and the same shall be taxed.

## **Incentive For Real Estate**

- Currently, while taxing income from capital gains, business profits and other sources in respect of transactions in immovable property, the consideration or circle rate value, whichever is higher is adopted.
- Difference is counted as income both in the hands of the purchaser and seller.
- In order to minimize hardship in case of genuine transactions in the real estate sector
- it is proposed to provide that no adjustments shall be made in a case where the variation between stamp duty value and the sale consideration is not more than five percent of the sale consideration

## **Proposed Amendments in Employees Provident Fund and Miscellaneous Provisions Act, 1952**

- Women employee contribution to be reduced to 8% for first three years of their employment against existing rate of 12% or 10% with no change in employer contribution.
- Contribution of 12% to EPF for new employees for three years by the Government in sectors employing large number of people like textile, leather and footwear.

## About INMACS

**INMACS Management Services Limited (INMACS, India)** is a member of “**INMACS Global, Hong Kong**” an international network of Chartered Accountants, Company Secretaries, Lawyers and Management Consultants.

**INMACS Management Services Ltd. (INMACS)** was started by a group of highly qualified and experienced professionals in April, 1984, to offer a full range of services that embrace in its ambit management consulting, corporate finance, audit:- statutory, management, internal, taxation and legal advisory services, risk management, re-engineering, insourcing-outsourcing. Each step in its corporate association has taken it a step closer to the fulfillment of its goal.

In the last 33+ years, **INMACS'** capabilities and performances have won the utmost trust and confidence of a richly varied and strong client base ranging through small & medium enterprises and big league corporate and multinational Business Houses, both in India and abroad. Our Hong Kong partner, Buttar & Associates have achieved an award as Business Advisor Award from HSBC for 3 consecutive years.

**INMACS** team members, while sharing a common vision, belong to diverse technical, business and legal backgrounds. We deploy specialized and multidisciplinary teams to serve assignments requiring specific skills. This enables us to work proactively and closely with clients and respond effectively to their needs in a highly focused manner, which in today's fast changing business environment is quite crucial to a client's success.

## OUR TEAM

Our People are Our Strength

**15**  
**Directors**

**16**  
**Company Secretaries**

**12**  
**Cost Accountants**

**36**  
**Chartered Accountants**

**72**  
**Trainee & Others**

**14**  
**Engineers & MBA**

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