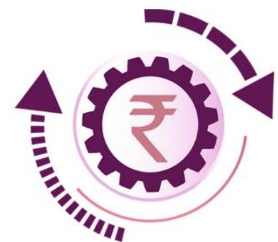
BUDGET ASSAYER

Union Budget 2024 - 2025



FOREWORD

The Hon'ble Finance Minister ("**FM"**) delivered the first budget of the present BJP-led NDA government got reinstated in the recently concluded general elections. This budget was presented at the backdrop of Indian economy doing extremely well and India continuing with her admirable tag of being the fastest growing large economy in the world with 7% GDP growth and the retail inflation at 5.4%.

In terms of budgetary announcements, the FM has proposed an increased capex outlay of INR 11.11 trillion for the financial year ending March 2025. In furtherance to the *Viksit Bharat* motto coined just before the general elections, the FM had presented a detailed roadmap for the same wherein priorities were given to nine sectors, which include agriculture, employment and skilling, manufacturing and services, urban development, energy security and infrastructure.

FM had proposed to implement three schemes under the Prime Minister's Employment Linked Incentive package to focus on first time employees. These schemes provide various benefits to first time employees as well as their employers, direct payment of first month wage up to INR 15,000 to all persons newly entering the workforce and reimbursement to employers up to INR 3,000 per month for two years for each additional employee. FM had also focused on extending various credit facilities MSME sectors. These are expected to provide a strong impetus to the employment of youth and development of MSMEs.

From the direct tax perspective, the headline seems to be reintroducing a complete overhaul of direct tax legislation which is expected to be completed in the next six months. However, surprisingly, she also introduced a number of amendments to simplify the present legislations, which seemed a bit counterintuitive! Among the headline changes, abolishment of angel taxation, simplification and rationalisation of assessment and reassessment procedures, introduction of a new Vivad se Vishwas Scheme 2024 including the headline grabbing initiative of increasing the standard deduction and rationalization of tax ceilings, are the most important changes. Rationalisation of the capital gains scheme of taxation and simplification of the rates applicable and increasing the scope and ambit of safe harbour rules are a couple of other important changes.

From the indirect tax law perspective, significant benefits were provided in the form of exemption from customs duty with respect to import of medical equipment and critical minerals. Further, the customs duty on mobile phones, marine products and precious metals have been substantially reduced.

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We have put together our analysis of the changes proposed to be introduced through the budget along with our analysis for your kind perusal and comments. We hope you will find this useful and thought provoking.

We look forward to receiving your comments about this publication.

Regards,

Cyril Shroff
Managing Partner
Cyril Amarchand Mangaldas
July 2024

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SECTION A:

ANALYSIS OF THE PROPOSED CHANGES IN DIRECT TAXES

RATES OF TAXATION

1. Change in tax rate for foreign companies

The tax rate applicable to foreign companies has been proposed to be reduced from 40% to 35%. The rates of surcharge and health and education cess remain unchanged.

2. Changes to the personal income tax regime

a) Revising the slab rates under the new personal income tax regime

Section 115BAC of the IT Act provides an option to individual and HUF taxpayers to opt for lower income tax rates provided the individual taxpayer forgoes certain tax exemptions and deductions.

The Finance Bill proposes to reduce tax liability under this regime by increasing the upper limit in some of the slabs. The changes to the tax slabs proposed under the Finance Bill can be summarised as below:

New Tax Regime		
Current Tax Slab	**Proposed New Tax Slab**	**Tax Rate***
Up to INR 300,000	Up to INR 300,000	Nil
From INR 300,001 to INR 600,000	From INR 300,001 to INR 700,000	5%
From INR 600,001 to INR 900,000	From INR 700,001 to INR 1,000,000	10%
From INR 900,001 to INR 1,200,000	From INR 1,000,001 to INR 1,200,000	15%
From INR 1,200,001 to INR 1,500,000	From INR 1,200,001 to INR 1,500,000	20%
Above INR 1,500,000	Above INR 1,500,000	30%

** Excluding applicable surcharge and cess*

b) Relief to salaried individuals and family pensioners under the new tax regime

- Standard deduction for salaried individuals under the new tax regime has been proposed to be increased from INR 50,000 to INR 75,000. This change (along with changes in the upper slab limits as mentioned above) shall provide a relief of INR 17,500 to salaried individuals under the new tax regime.

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- The deduction for family pension for individuals under the new tax regime has been proposed to be increased from INR 15,000 to INR 25,000.

BUSINESS TAXATION

1. Overhauling capital gains tax regime

The Finance Bill proposes significant changes to the taxation of capital gains in India. These changes aim to simplify the tax structure, rationalize the applicable rates for various assets, and enhance compliance for taxpayers. Below, is an overview of the same:

a) Simplification of Holding Periods

The present scheme of calculating capital gains and applying different rates for different types of income has been extremely complicated. The holding period (for determining whether capital gains is taxed as short-term or long-term) depends on the nature of the asset. For instance, the minimum period of holding to qualify for long-term capital gains taxation is 12 months in case of listed equity shares, 24 months in case of unlisted shares, and 36 months in case of bonds, debentures, and gold, etc.

The proposed changes propose to simplify this and suggests to have only two holding periods for capital gains:

(i) 12 months for listed securities.
(ii) 24 months for all other assets.

This adjustment means that units of listed business trusts will now be treated the same as listed equity shares, reducing the holding period from 36 months to 12 months. Similarly, the holding period for bonds, debentures, and gold will be reduced from 36 months to 24 months, while unlisted shares and immovable property will remain at 24 months.

It may be noted that unlisted debt securities continue to be taxed as short-term capital assets, irrespective of period of holding, under section 50AA of the IT Act.

b) Rationalisation of Capital Gains Tax Rates

The Finance Bill includes an increase in the short-term capital gains tax rate on sale of listed shares. This has been done to ensure that the benefits of lower rates are not disproportionately enjoyed by high-net-worth individuals. Further, a uniform long-term capital gains tax rate of 12.5% is proposed for all asset categories. This replaces the previous rates, which varied significantly. The impact of change in the tax rates has been summarised here:

Long-term Capital Gains			
S. No.	**Nature of Asset**	**Existing Rate***	**Proposed Rate***(*from July 23, 2024)*
1.	Listed securities (without indexation)	10%	12.5%
2.	Sale of unlisted shares by non-residents	10%	
3.	Sale of unlisted shares by residents	20%	
4.	Others (immoveable property, unlisted securities (other than debt securities), etc.), etc.)	20%	

Short-term Capital Gains			
S. No.	**Nature of Asset**	**Existing Rate***	**Proposed Rate*** *(from July 23, 2024)*
1.	On-market sale of listed equity shares or units of an equity-oriented fund or units of a business trust	15%	20%
2.	Other	Applicable rates	No change

Additionally, the exemption limit for long-term capital gains on STT-paid assets will increase from INR 100,000 to INR 125,000, providing some relief to taxpayers. Furthermore, beneficial long-term capital gains tax rates available to various categories of taxpayers (such as Offshore Funds, Foreign Institutional Investors, etc.) have also been revised to 12.5% (from the current 10%). It is pertinent to note that while non-resident taxpayers will continue to claim foreign exchange currency fluctuation benefits, indexation available to resident taxpayers have been taken away.

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The aforementioned proposals will significantly simplify the capital gains tax regime and also bring parity of taxation between residents and non-residents.

c) Removal of Indexation Benefits

The Finance Bill also proposes to completely remove the indexation benefits for calculating long-term capital gains.

The aforementioned changes are proposed to apply from July 23, 2024.

2. STT on F&O hiked

In light of the exponential growth in trade of futures and options, the Finance Bill proposes to increase the rate of levy of STT on such derivatives. The proposed changes can be summarized as follows:

Particulars	Current STT rates	Proposed STT rates
Sale of options in securities	0.0625% of option premium	0.1% of trade price
Sale of futures in securities	0.0125% of trade price	0.02% of trade price

This amendment is proposed to take effect from October 1, 2024.

3. No exemption for gifts from corporates

In the past few years, the government has added various anti-avoidance provisions to its quiver to eliminate avoidance of tax. However, despite such efforts, the taxpayers continued with several corporate reorganisations wherein taxpayers claimed that gift of capital assets by such corporate entities is exempt from capital gains tax pursuant to section 47(iii) of the IT Act, which exempts transfer of a capital asset under a gift or will or an irrevocable trust.

The FM has now sought to clarify that in absence of a natural love and affection, any transfer by a corporate cannot be regarded as a gift. Accordingly, the Finance Bill proposes to amend section 47(iii) to clarify that transfer of a capital asset by way of a gift, will or an irrevocable trust, would be exempt from capital gains tax only if it is made by an individual or a HUF.

It would be relevant to note that while this change has been introduced with effect from April 1, 2024, its impact on the proceedings already pending before various judicial fora would need to be considered.

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4. Proceeds from buyback of shares deemed to be taxable as dividend

Currently, distribution of proceeds on buyback of shares undertaken as per section 68 of the Companies Act, 2013 were subject to tax at the rate of 20% under Section 115QA of the IT Act. The said income was then exempt in the hands of shareholders under section 10(34A) of the IT Act. This regime was similar to taxation of dividend as dividend distribution tax, which was abolished by the government in 2020, with the resultant taxation brought directly in the hands of the shareholders.

The Finance Bill notes that as dividend as well as buyback of shares are both methods of distribution of accumulated reserves, their taxation should also be made in a similar manner. Accordingly, similar to the abolishment of dividend distribution tax, the Finance Bill proposes abolish taxation under buyback of shares in the hands of the company.

Resultantly, the Finance Bill proposes that the income received on buyback of shares shall be deemed to be taxable as dividend income by way of introduction of section 2(22)(f) of the IT Act and shall be taxable as Income from Other Sources.

Further, it has also been proposed that the deduction for cost of acquisition shall be available as capital loss for setting up in the future when the assessee sells or transfers the remaining assets, at which time, the sale consideration received against buyback of shares shall be deemed as NIL.

This may lead to delay in availment of cost of acquisition of shares bought back by a company, as the sale of shares by the investor may be made much later than the buyback of shares undertaken by the company. Further, while the dividend shall be taxable at the applicable rate (say 30%), the taxability under capital gains would have arisen at a lower rate of ~12.5% if held for long term or at the applicable rate if held for short term. The government's intention appears to be to ensure that the companies do not end up in preferring buyback over payment of dividend.

The aforementioned amendment is proposed to be applicable from October 01, 2024.

5. Abolishing the angel tax provisions

Section 56(2)(viib) of the IT Act taxes the premium payable on issuance of shares of closely held companies, by resident investors. The excessive premium, i.e. premium paid over and above the fair market value of such unquoted shares is subject to tax in the hands of the company. These provisions were introduced to prevent circulation of unaccounted money through share premium received from resident shareholders. This was further extended to issuance of unquoted shares to non-residents as well, vide Finance Act 2023. This provision has been a matter of concern since its introduction.

In a major relief to companies issuing shares to investors, the Finance Bill proposes to totally remove this provision from FY 2024-25.

6. Withdrawal of e-commerce equalization levy of 2%

The equalisation levy of 2% introduced in the year 2020 is applicable in the case of consideration received by non-resident e-commerce operator rendering e-commerce supply or services. While the law provided the definition of the various relevant terms like e-commerce operator, e-commerce supply, there were a lot of confusion and ambiguities which were leading to issues being faced by companies regarding the applicability of the provisions.

Finance Bill now proposes to withdraw the levy of 2% equalisation levy effective from August 1, 2024.

Further, the exemption provided under section 10(50) of the IT Act for the amounts which were subject to equalisation levy has also been proposed to be removed. However, the analysis of the taxability of the said amounts as royalty or fee for technical services shall continue to be relevant. This move shall be welcomed by foreign companies.

The aforementioned amendment is proposed to be applicable from August 01, 2024.

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7. Amount paid to settle proceedings not allowable as tax deductible expense

Section 37 of the IT Act provides that an expense is allowed as a deduction while calculating taxable income provided it is incurred for the purpose of business. The Explanation further provides that an expense incurred towards an offence or an expense prohibited by law shall not be deemed to have been incurred for the purposes of business and hence, is disallowed.

The Finance Bill proposes to enlarge the scope of such expenses prohibited by law by including settlement amount incurred to settle proceedings initiated in relation to contravention under applicable laws, which to be notified by the government separately.

This amendment proposes to make the position of law clear that in addition to any amount paid for compounding or making good for any contravention of law, even the settlement amount shall also not be allowed while calculating taxable income. This may prevent corporates to settle any disputes as this will lead to no incentive in settlement of the disputes. However, the actual impact of the amendment shall be clearer once the list of the laws to be covered are notified.

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ASSESSMENT AND APPELLATE PROCEEDINGS

1. Re-introduction of block assessments for search and seizure related cases

The search and seizure related provisions have only been recently amended vide the Finance Act 2021. Originally, search related cases were assessed through a block assessment wherein a block of six assessment years were scrutinized together in a consolidated manner. Thereafter, Finance Act 2003 replaced the block assessments with special assessments under section 153A to 153D, wherein each of the six assessment years was individually assessed. The Finance Act 2021 removed the applicability of 153A to 153D by stating that both block assessments as well special assessments under section 153A to 153D to be highly litigation prone and therefore, there was an urgent need to completely reform the assessments pertaining to search cases. Accordingly, it merged search related assessments with regular assessment and reassessment proceedings. It is worthwhile to highlight the amendments made in Finance Act 2021 had also resulted in innumerable litigations across the country, including several writ petitions filed before several High Courts and the Supreme Court.

This Finance Bill proposes to once again revamp the provisions relating to assessments of search cases. It proposes to reintroduce block assessments because in the absence of any legal requirement for consolidated assessments in search cases, it has led to a situation where every year only the time-barring year is reopened in the case of searched taxpayer.

In view of the same, Chapter XIV-B of the IT Act is proposed to be amended in the following manner:

a) The ‘block period’ shall consist of previous years relevant to six assessment years preceding the previous year in which the search was initiated under section 132 or section 132A of the IT Act and the assessment shall be made under section 158BA to 158BD of the IT Act.

b) Regular assessments for the block period shall abate. There will be one consolidated assessment for the block period. Till block assessment is complete, no further assessment/reassessment proceeding shall take place in respect of the period covered in the block.

c) The undisclosed income falling within the block period shall be computed on the basis of evidence found during search or survey and such other materials or information as are available.

d) The assessment in respect of any other person shall be governed by the provisions of section 158BD, which provides that where the assessing officer is satisfied that any undisclosed income belongs to or pertains to or relates to any person, other than the

person with respect to whom search was made, then the information related to the other person shall be handed over to the assessing officer having jurisdiction over such other person and that Assessing Officer shall proceed under section 158BC against such other person.

e) The tax shall be charged at sixty per cent for the block period as per section 113 of the IT Act. Penalty on the undisclosed income of the block period shall be levied at fifty per cent of the tax payable on such income. No such penalty shall be levied if the assessee offers undisclosed income in the return furnished in pursuance of search and pays the tax along with the return.

f) The time-limit for completion of block assessment of the searched assessee shall be twelve months from the end of the month in which the last of the authorisations for search under section 132 was executed and the time-limit for completion of block assessment of any other person shall be twelve months from the end of the month in which the notice under section 158BC in pursuance of section 158BD was issued to such other person. However, an exclusion of upto six months shall be available for the period from the date of the search till the date on which the seized material is available to the assessing officer.

These amendments were proposed to take effect from September 01, 2024.

2. Revamp of reassessment related provisions

Finance Act 2021 had overhauled the reassessment related provisions on account of several judicial precedents quashing the reassessment proceedings initiated by the tax department as null and void on various grounds viz. including non-application of independent mind by the jurisdictional assessing officer, not providing the copy of reasons for reopening to the taxpayer, approval provided by the senior officer in a mechanical manner, failure to dispose-off the objections raised by the taxpayer through a speaking order, etc. To address these issues, Finance Act 2021 had incorporated detailed procedure to be followed by the assessing officer in conducting the reassessment proceedings. However, the same has also resulted in multiple litigations.

Finance Bill proposes to amend the reassessment related provisions, once again, in the following manner:

a) The assessing officer shall issue show cause notice under the new section 148A(1) along with the copy of information suggesting that income chargeable to tax has escaped assessment. Upon receipt of the response from the taxpayer, the jurisdictional assessing officer can dispose-off the objections through a speaking order with the prior approval of specified authority under section 148A(3) of the IT Act.

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b) The procedure mentioned in the section 148A of the IT Act in cases where the assessing officer received information under the scheme notified under section 135A of the IT Act. It may be noted that section 135A deals with faceless collection of information for the purposes of section 133, 133B and 133C of the IT Act, which empowers the tax authorities to collect information regarding third parties from a taxpayer.

c) No notice under section 148A of the IT Act can be issued beyond five years from the end of relevant assessment year, where the income escaping assessment is likely to be more than INR 5 Million. It must be noted that as per the existing provisions, the said time limit was 10 years from the end of relevant assessment year.

d) Search operations initiated prior to September 01, 2024 shall continue to be governed by the existing provisions. Further, the cases wherein order under section 148A(d) had been passed prior to September 01, 2024 shall also continue to be governed under the existing provisions.

These amendments were proposed to take effect from September 01, 2024.

3. Rationalization of time-limit for completion of assessment

a) The existing section 119(2)(b) of the IT Act empowers the tax authorities to grant relief (in the form of exemption, deduction, refund, etc.) in genuine cases even after the expiry of time-limit prescribed under the IT act to furnish the return of income. It may be noted that under section 153 of the IT Act, the time-limit to complete the assessment expires by 12 months from the end of the relevant assessment year. Therefore, in cases where benefits are provided to the taxpayer under section 119(2)(b) of the IT Act, the limitation to complete the assessment under section 153 of the IT Act may have already expired.

The Finance Bill proposes to extend the time-limit in such cases by 12 months from the end of financial year in which such return is filed under section 119(2)(b) of the IT Act.

b) The Finance Bill provides time-limit for completion of remand back assessments from the CIT(A) within 12 months from the end of financial year in which the order will be passed.

c) In furtherance to the re-introduction of block assessments, this Finance Bill provides that the revived assessments or reassessments as a consequence of annulment of block assessments shall be completed within 12 months from the end of the month of such revival.

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d) The Finance Bill proposes to extend the timeline to the end of month in cases where the computation of limitation period falls before the end of month after excluding the period between date of commencement of search and the ending on the date in which the books of accounts are handed over to the jurisdictional assessing officer.

These amendments were proposed to take effect from September 01, 2024.

4. Board for Advance Ruling ("BAR") to allow for withdrawal of advance ruling applications

Owing to non-functioning of the Authority for Advance Ruling (**"AAR"**), BAR was set up dispose-off the cases pending before AAR and consequentially, all the cases pending before the AAR were transferred to BAR.

The AAR was originally constituted to provide rulings in a time-bound manner to enable the taxpayer to decide the tax implications before undertaking the transactions. The non-functioning of AAR for several years had defeated this purpose and the taxpayers were asking to withdraw their applications.

The Finance Bill proposes to enable the taxpayers to withdraw their applications for advance ruling in cases where their application has not yet been admitted under section 245R(2) of the IT Act.

5. CIT(A) to remit back the appeals against best judgement orders

Under the existing provisions, the CIT(A) did not have the power to remit back the matter to assessing officer in best judgement cases. The Finance Bill proposes to enable the CIT(A) to remit such cases back to assessing officer if the assessments were completed under best judgement assessments under section 144 of the IT Act. The time-limit for the assessing officer to complete the remand back assessments is proposed to be 12 months from the end of the financial year in which the order was passed by the CIT(A).

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SPECIAL REGIMES

1. Tax incentives to IFSC

Last year the budget brought in various benefits to the IFSC set up in GIFT city, including streamlining of regulatory approvals and expansion of beneficial pass-through regime to Category I and Category II Alternative Investment Funds ("**AIFs**") regulated under FME Regulations. This provided a huge impetus for relocation of investment funds from outside India to the GIFT city. This year, the Finance Bill proposes to make the following additional tax incentives for units setup in the IFSC.

a) Retail funds and Exchange Traded Funds ("ETF") to enjoy tax exemption similar to specified funds under 10(4D) of the IT Act.

As per Section 10(4D) of IT Act, various incomes such as capital gains from the transfer of specified capital assets on a recognised stock exchange in IFSC, income from transfer of securities (other than shares of a company resident in India), etc. arising to specified funds like Category-III AIF in Gift City are exempt, to the extent where such income is attributable to units held by a non-resident. This Budget proposes to extend similar benefit to retail funds and ETFs in the IFSC regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022.

The proposed amendment will be effective from FY 2024-25 onwards.

b) Exemption to income derived by Core Settlement Guarantee Fund of a recognised clearing corporation extended to such corporations setup in IFSC.

Section 10(23EE) of IT Act provides exemption to specified income such as contribution received from specified persons, income from investments etc. in the hands of Core Settlement Guarantee Fund setup by a recognised clearing corporation under the extant regulations of SEBI. This Budget proposes to extend such benefit to Core Settlement Guarantee Fund of a RCC setup in IFSC as per Section 2(1)(n) of the International Financial Services Centres Authority ((Market Infrastructure Institutions) Regulations, 2021.

The proposed amendment will be effective from FY 2024-25 onwards.

c) Relaxations available to a Venture Capital Fund ("VCF") or Venture Capital Company ("VCC") registered under SEBI laws, extended to IFSC

As per Section 68 of IT Act, any unexplained sum found credited in the books of a taxpayer shall be deemed as his income and taxable under the IT Act. An additional requirement was incorporated, *vide* Finance Act 2023, wherein loan, borrowing or any other liability credited in the books of the taxpayer would be treated as explained, only if the source of funds is also explained in the hands of the creditor or entry provider. This additional onus of proof of satisfactorily explaining the source in the hands would

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not apply if the creditor is a well regulated entity such as a VCF or VCC registered with SEBI. It may also be noted that Section 10(23FB) of the IT Act provides an exemption to such VCFs and VCCs for any income earned by them from investment in a venture capital undertaking. This Budget proposes to extend the scope of entities covered under Section 10(23FB) of IT Act to VCFs in the IFSC. Thus, the relaxation in Section 68 and Section 10(23FB) of IT Act would get extended to VCFs in India's IFSC in Gift City.

The proposed amendment will be effective from FY 2024-25 onwards.

d) Relaxation from thin capitalisation norms extended to finance company located in IFSC

Section 94B of the IT Act places a restriction on the deduction of interest expense with respect to any debt provided to an Indian company (or PE of a foreign company in India) by a non-resident, subject to certain restrictions, to avoid thin capitalisation of a corporate entity. As per Section 94B of IT Act, where such interest expense incurred by a company exceeds INR 10 Million, such deduction shall be allowed only to the maximum extent of 30% of its earnings before interest, taxes or depreciation and amortisation. However, such provision is not applicable in case of those Indian companies (or PE of a foreign company in India) which are engaged in banking or insurance business. The Finance Bill proposes to extend such similar relaxation to finance companies located in India's IFSC as defined under Section 2(1)(e) of the IFSCA (Finance Company) Regulations, 2021, upon satisfaction of prescribed conditions.

The proposed amendment will be effective from FY 2024-25 onwards.

2. Charitable institutions

a) Single tax regime applicable for charitable institutions

The government through Finance Act 2020 amended the provisions of the IT Act such that the going forward only one mode of exemption will be available to charitable institutions at a time i.e. those registered either under Section 10(23C) of IT Act or Section 12AB of IT Act. Therefore, charitable institutions got registered under either of the two regimes. The procedure and conditions under these two regimes were mostly similar. In the past few years, certain differences between the two regimes were also aligned by the government.

In order to further simplify the procedures and reduce administrative burden, the Finance Bill proposes to put an end to the first regime such that the existing charitable institutions shall be shifted to the second regime in a gradual manner.

The proposed amendment will be effective from October 1, 2024.

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b) Rationalisation of timelines for application and grant of approval to charitable funds or institutions under Section 80G of IT Act

Section 80G(5) of the IT Act provides that donation made to any charitable fund or institution referred to in Section 80G(2)(a)(iv) shall be eligible for deduction, subject to satisfaction of certain conditions.

The first proviso to Section 80G(5) of IT Act provides the timelines for making application for approval in case of such charitable fund or institution and such timelines. The Finance Bill 2023 has provided certain relaxations in such timelines such that now an application needs to be filed:

(i) atleast 6 months prior to expiry of their existing approval;
(ii) atleast 6 months prior to expiry of their provisions approval or within six months of commencement of their activities whichever is earlier;
(iii) where its activities have not yet commenced, atleast 1 month prior to commencement of previous year for which approval is sought; or
(iv) where its activities have commenced, at any time after the commencement of such activities.

Further, the Finance Bill also proposes to rationalise the existing timelines for registration of charitable trusts or institutions provided under Section 12AB of IT Act and Section 80G(2)(a)(iv) of IT Act i.e. six months from end of month in which application is received. In order to ease the administrative burden, the Finance Bill proposes to increase these timelines to six months from the end of the quarter in which the application was received.

These changes are proposed to be effective from October 1, 2024.

c) Relaxation from taxability of accreted income in case of merger of two charitable institution

Under the existing provisions, in case a charitable institution registered under the first or second regime merges with another charitable institution, the provisions related to taxability of accreted income under Chapter XII-EB of IT Act can get triggered.

In this regard, the Finance Bill proposes to introduce a new provision i.e. Section 12AC of IT Act that would allow merger of two such charitable institutions without triggering the provisions of Chapter XII-EB of IT Act, upon fulfilling the necessary conditions. This will enable two charitable organisations merge with each other without inviting any unnecessary tax incidence.

These amendments will take effect from April 1, 2025.

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3. Vivad se Vishwas Scheme

Leaning on the success of the 'Vivad se Vishwas Act, 2020' and in an effort to reduce pendency of litigation, the Central Government proposes to introduce 'The Direct Tax Vivad se Vishwas Scheme, 2024' ("**VsV Scheme**"). VsV Scheme is a voluntary dispute resolution scheme that allows, taxpayers to settle their pending disputes by paying the disputed amounts before specified dates and reduce their exposure on account of interest and penalty.

The amounts payable for resolution for disputes are determined based on the nature of arrears (i.e., payment of tax, interest, penalty, or fee), and the date of declaration and payment. High level summary of the same has been provided below:

Date when the declarant becomes an appellant *	Nature of tax arrears	Amount payable on or before December 31, 2024	Amounts payable on or after January 1, 2025, but on or before the last date
On or before January 31, 2020	Disputed Tax + interest chargeable/charged + penalty leviable/ levied on the disputed tax	Aggregate Amount of disputed tax + 10% of disputed tax	Aggregate amount of disputed tax + 20% of disputed tax
	Disputed penalty or interest or fee	30% disputed penalty or interest or fee	35% disputed penalty or interest or fee
After January 31, 2020	Disputed Tax + interest chargeable/charged + penalty leviable/ levied on the disputed tax	Only the amount of disputed tax	Aggregate amount of disputed tax + 10% of disputed tax
	Disputed penalty or interest or fee	25% of disputed penalty or interest or fee	30% of disputed penalty or interest or fee

** Certain additional condition may also be required to be satisfied*

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As per the proposed VsV Scheme, once a dispute is settled, the designated authority is barred from initiating any legal action or imposing penalties or interest under the IT Act for the resolved tax arrears. Additionally, if the declarant provides false information or breaches any conditions outlined in this scheme, all previously withdrawn proceedings and claims will be reinstated automatically.

It's worth noting that this scheme provides a list of exclusions such as disputes involving undisclosed income or assets abroad, or cases where legal action has already commenced under specific laws (such as the Prevention of Corruption Act, 1988, and the Bharatiya Nyaya Sanhita, 2023)

The VsV Scheme 2024 will take effect from a date to be notified by the Central Government. The Central Government would also notify the last date of the VsV Scheme.

4. Amendments proposed in the Black Money Act

Finance Bill proposes the following changes in the Black Money Act.

a) Threshold for levying penalty under Black Money Act increased

Section 42 of the Black Money Act provides for levy of penalty of INR 1 million for failure to report in the return of income filed by a resident and ordinarily resident, regarding the asset located outside India or being a beneficiary of any such asset or income earned from source located outside India, held as the owner or the beneficial owner. Section 43 of the Black Money Act also provides for a penalty of INR 1 million for providing inaccurate particulars regarding the above information in the return form, as mentioned above. The only exemption from the applicability of such penalty was where the bank balance in the account not disclosed is less than INR 0.5 million during the financial year.

Finance Bill proposes to provide that such a penalty shall not be levied where the aggregate value of assets (other than immovable property) is less than INR 2 million.

b) Recovery of taxes under Black Money Act post search from seized assets

Finance Bill proposes to amend Section 132B of the IT Act to ensure that the assets seized under section 132 / requisitioned under section 132A of the IT Act can be utilized to recover liability existing under Black Money Act.

c) Black Money Act included in ambit of tax clearance certificate

Finance Bill proposes to amend section 230(1A) of the IT Act to provide that Black Money Act shall also be added in the list of laws against which tax clearance certificate shall be required for an Indian domicile or a specified person before leaving India.

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The aforementioned amendments are proposed to be applicable from October 01, 2024.

5. Amendments in the Benami Act

Finance Bill proposes the following changes in the Benami Act:

a) Sub-section (2A) to be introduced in section 24 of the Benami Act to provide a maximum time of 3 months from the end of the month in which notice is issued to the benamidar or the beneficial owner to file their explanations or submissions.

b) Sub-section (3) and (4) of section 24 of the Benami Act to be amended to increase the time period given to Initiating Officer to provisionally attach the property or to pass any other order like revokation, extension, etc. from 90 days to four months from the month in which notice was issued in sub-section (1) of the Benami Act.

c) Sub-section (5) of the Benami Act has been proposed to be amended to increase the time period to the Initiating Officer to draw up a statement of the case and refer it to the relevant authority, from 15 days from the date of attachment order to 1 month from the end of the month in which the relevant order has been passed.

d) New section 55A has been proposed to be introduced in the Benami Act to enable the Initiating Officer to provide immunity from penalty and prosecution prescribed under the Benami Act to the benamidar in order to encourage the benamidar to assist the process of prosecuting the beneficial owner of such benami transaction, provided the benamidar makes full and true disclosure of the whole circumstances relating to the benami transaction.

The aforementioned amendment is proposed to be applicable from October 01, 2024.

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Changes to the TDS and TCS framework

1. Change in rates

Revision in TDS rates: The Finance Bill proposes to revise the TDS rates for the below listed items:

Sr No	Section	Present TDS Rate	Proposed TDS Rate	With effect from
1.	Section 194D - Payment of insurance commission (in case of person other than company)	5%	2%	April 01, 2025
2.	Section 194DA - Payment in respect of life insurance policy	5%	2%	October 01, 2024
3.	Section 194G – Commission etc on sale of lottery tickets	5%	2%	October 01, 2024
4.	Section 194H - Payment of commission or brokerage	5%	2%	October 01, 2024
5.	Section 194-IB - Payment of rent by individual or HUF	5%	2%	October 01, 2024
6.	Section 194M - Payment of certain sums by certain individuals or Hindu undivided family	5%	2%	October 01, 2024
7.	Section 194-O - Payment of certain sums by e-commerce operator to e-commerce participant (This seeks to bring parity between TDS/TCS on online transactions under section 194-O and offline transactions under section 194Q and 206C(1H))	1%	0.1%	October 01, 2024
8.	Section 194F relating to payments on account of repurchase of units by Mutual Fund or Unit Trust of India	Proposed to be omitted		October 01, 2024

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2. Rationalisation of provisions related to TDS and TCS

a) Extending scope of lower deduction / collection certificate of tax at source

Section 197 and section 206C(9) of the IT Act provide for certificates for deduction of tax and for collection of tax at lower rate respectively. The Finance Bill has proposed to amend section 197 to include section 194Q within its ambit so that lower deduction certificate is available for TDS on payment for purchase of goods under section 194. It further proposes to amend section 206C(9) to bring section 206C(1H) within its ambit so that lower collection certificate of tax is available for TCS on receipt of sale of goods under section 206C(1H).

b) TCS on notified luxury goods

Section 206C(1F) of the IT Act prescribes TCS to be collected at the rate of 1% on the sale of motor vehicles where such sale consideration exceeds INR 10 lakh. The Finance Bill has proposed to amend this provision to include sale of other goods, as may be notified by the government, where the value of such goods exceeds INR 10 lakh. This amendment seeks to bring certain luxury goods, as may be notified by the government from time to time, under the ambit of applicability of TCS.

c) TDS on sale of immovable property

The extant section 194-IA of the IT Act exempts applicability of TDS if consideration paid by the buyer of immovable property is less than INR 50 lakhs. The Finance Bill seeks to address the cases of wrongful interpretation of the section wherein TDS is not being deducted in the case of multiple buyers where each buyer pays a consideration of less than the threshold amount, even though the aggregate value of the immovable property exceeded INR 50 lakhs. Hence, the proposed amendment seeks to clarify that in case of multiple buyers, the sale consideration of the immovable property shall be aggregate of amounts paid by all the buyers for the purposes of deducting TDS.

d) TDS on Floating Rate Savings (Taxable) Bonds 2020 (“FRSB”) or other notified securities

Section 193 of the IT Act provides for deduction of tax at source on payment of any income to a resident by way of interest on securities. The Finance Bill has proposed that this provision is amended to allow TDS at the time of payment of interest, where such interest exceeds INR 10,000 on FRSB or any other securities that may be notified by the government from time to time.

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e) Credit of TCS and TDS against deductions to salary

Section 192 of the IT Act prescribes TDS applicable on salary income. Section 192(2B) further prescribes that certain income other heads is taken into consideration while computing the deduction against salary. If such credit is not allowed to be deducted, then the same will have to be claimed later as refund. This deceases the available cash in hand as well as adds an extra step for compliance.

The Finance Bill has proposed to amend section 192(2B) such that a credit of TCS paid or TDS deposited by the taxpayer is allowed while calculating the TDS applicable on his salary.

f) Alignment of interest rates for delay

Currently, section 206C(7) prescribes a rate of interest of 1% simple interest per month for a delay in collection or depositing of TCS, whereas section 201(1A) prescribes 1.5% simple interest per month for a delay in deducting or depositing of TDS. The Budget proposes to amend section 206C(7) and increase the prescribed rate of interest from1% to 1.5% in order to align the interest rates for delay in deposit of both TDS and TCS.

g) Claiming credit for TCS of minor in the hands of parent

Section 206C of the IT Act provides for the collection of TCS on business of trading in alcoholic liquor, forest produce, scrap etc. The Finance Bill has proposed to introduce a new provision under the section that empowers the Central Board of Direct Taxes to frame rules in order to allow credit of tax collected to a person other than collectee. This change is proposed to cover cases in which TCS is collected by a parent or guardian on behalf of a minor. It is also proposed that this provision shall only be allowed where the income of the minor is being clubbed with the parent’s income in order to prevent any misuse of the same.

h) Exclusion of certain payments from section 194C

Section 194C of the IT Act provides for TDS on payments to contractors at the rate of 1% in case of individual or HUF and 2% in other cases. On the other hand, section 194J of the IT Act prescribes TDS on fees for professional or technical services, ranging from rates of 2% or 10% depending on the nature of payment being made. The Finance Bill has proposed to explicitly state that any sum referred to in sub-section (1) of section 194J does not constitute “work” as defined under section 194C for the purposes of TDS. This change has been proposed as certain payments that are covered under section 194J are being taxed under section 194C, applying lower TDS rates due to the expansive definition of “work” under the section.

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i) Exemption of certain persons or class of persons from TCS

Section 206C of the IT Act provides for the collection of tax at source on business of trading in alcoholic liquor, forest produce, scrap etc. The Finance Bill proposes to amend the section to include a provision empowering the government to notify persons or class of persons from whom no collection of tax shall be made or collection of tax shall be made at a lower rate in respect of specified transactions. This change is primarily proposed to cover entities whose income is exempt from tax and who are not required to furnish income returns as they are often required to pay TCS despite being exempt.

j) Time limits to file correction statements

Section 200 and 206C of the IT Act have provisions for submitting correction statements for rectification of any mistake or to update any information furnished in the TDS or TCS statements respectively. There is no time limit prescribed for filing of such correction statements. Hence, the Finance Bill has proposed to prescribe a time limit of 6 years from the end of the financial year in which the TDS or TCS statements were required to be delivered respectively.

k) Penalty for failure to furnish statements

Section 271H of the IT Act prescribes penalty for failure to file TDS or TCS statements within the prescribed time. However, it provides that penalty shall not be leviable if the person proves that he has paid the TDS/TCS along with fees and interest for the delay within 12 months from the prescribed time. The Finance Bill has proposed to provide for penalty on late furnishing of TDS or TCS statement beyond one month instead of the existing period of 12 months.

l) TDS on payment by partnership firm to its partners

Currently there is no provision for deduction of tax at source for payments made by partnership firm to its partners. The Finance Bill has proposed to introduce a new provision, viz section 194T for TDS to be collected on payment of salary, remuneration, commission, bonus and interest, etc by a partnership firm to its partner at the rate of 10% for amounts aggregating to more than INR 20,000 in a financial year.

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FEW OTHER PROCEDURAL CHANGES

1. Provisions to enable disallowance of certain expenses claimed by life insurance business

Finance Bill proposes to amend Rule 2 of the First Schedule read with Section 44 of the IT Act to provide that any expenditure which is not admissible under section 37 of the IT Act shall be added back to the profits and gains of the life insurance business. This has been done to ensure that the non-business expenses are not claimed by the life insurance companies.

2. Presumptive tax scheme for non-resident cruise operators

Section 44BBC of the IT Act has been introduced to provide a presumptive taxation scheme for non-resident cruise operators, in order to promote domestic cruise market. If the conditions to be prescribed in this regard are satisfied, the Finance Bill proposes that 20% of the amount received/ receivable by or paid/ payable to such non-resident cruise operator on account of carriage of passengers shall be deemed as taxable income, which shall then be subject to tax at the rate of 35%.

Further, the Finance Bill also proposes an exemption has been introduced under section 10(15B) of the IT Act, upto AY 2030-31, for lease rentals received from group company which has opted for the presumptive scheme under section 44BBC of the IT Act.

3. Increase in limit of remuneration to working partners of a firm

The limit of remuneration allowed under section 40(b)(v) of the IT Act to working partners of a firm has been proposed to be increased from INR 300,000 to INR 600,000.

4. Relaxation of prosecution provisions for default in depositing the TDS

Section 276B of the IT Act provides for prosecution on taxes deducted by an assessee, if there is failure to deposit the same with the government treasury within the prescribed time period (i.e. 7 days from the end of the month for other months and May 31 for the amount deducted in the month of March). The prosecution has been prescribed for a period of 3 months to 7 years, and with fine.

Finance Bill proposes to amend the section whereby the time limit to deposit the TDS amount with the government treasury would be relaxed till the due date of filing of TDS returns for the relevant quarter.

The aforementioned amendment is proposed to be applicable from October 01, 2024.

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5. Time limit for assessee deemed to be in default

Section 201 of the IT Act provide for the consequences of failure to deduct TDS or collect TCS or for failure to pay with the government treasury after such deduction/ collection. Further, the provision provided the time limit of 7 years from the end of relevant financial year in which payment or credit made, for passing an order in this regard by a resident defaulter. However, no time limit was prescribed for a non-resident, which lead to different inferences by various Courts.

Finance Bill proposes to reduce the time limit available for passing an order in this regard from 7 years from the end of the relevant financial year to 6 years. Further, it also specifies that the said limit shall be applicable to all assessees, including non-residents.

6. TDS deducted outside India shall also be deemed as income

Section 198 of the IT Act has been proposed to be amended to specifically include TDS outside India deemed to be income of the taxpayer, in case credit for such TDS is being availed by the taxpayer, so as to ensure that double benefit is not availed by the taxpayer in this respect.

7. Increasing the power of TPOs w.r.t. specified domestic transactions

Currently, TPOs are empowered to determine arm's length price of transactions which come to their notice during the course of proceedings referred to them by AO, even though the said transaction was not specifically referred by the AO. Further, if a transaction is not mentioned in the report under section 92E (transfer pricing form), then the TPO would still have the power to determine the arm's length price for the same.

Finance Bill proposes to extend the same powers to the TPO with respect to specified domestic transactions defined under section 92BA of the IT Act.

8. Penalty introduced for liaison office for delay in filing their statement

Currently, the non-resident entities having liaison offices in India are required to file a statement under section 285 of the IT Act in prescribed form (Form 49C) within 60 days from the end of financial year. However, there is no specific penalty for delay/ failure to file the same.

Finance Bill proposes to introduce section 271GC of the IT Act to provide for penalty of INR 1000 for each day of delay, provided the delay is upto 3 months; and INR 0.1 million in other cases.

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SECTION B:

ANALYSIS OF THE PROPOSED CHANGES IN INDIRECT TAXES

SUBSTANTIVE CHANGES IN CGST ACT

1. Extra-neutral alcohol excluded from ambit of GST

Section 9 of the CGST Act and Section 5 of IGST Act provided for levy and collection of GST on supplies of goods or services. The said provision also specified certain categories of goods which are outside the ambit of GST.

The Finance Bill proposes to amend the list to include undenatured extra neutral alcohol or rectified spirit used for the manufacture of alcoholic liquor, for human consumption.

The applicability of GST vis-à-vis VAT has been a bone of contention between the Centre and the State(s), as center claimed that supply is exigible to GST and States claim levy of VAT as its undiluted alcohol for human consumption. The proposed amendment appears to settle the dust on dual taxability on rectified spirit or extra neutral alcohol which is one of the key ingredients in manufacture of alcohol for human consumption. However, as the proposed amendment is prospective in nature, the fate of pending disputes pertaining to past period remain ambiguous.

2. Power to Government to forgo GST

The Finance Bill proposes to insert new section 11A in CGST Act and section 6A of the IGST Act to empower to notify certain supplies, basis recommendation from GST Council, not to recover GST not levied or short levied as a result of generally prevalent practice.

The proposed amendments on the face of it may seem to be a relief, as it would reduce litigation in industry wide issues where there is strong belief regarding non-applicability of GST or applicability of concessional rate. However, for proper execution of the said amendment and not to increase interpretative litigation, definition or scope of 'general practice' needs to be provided. The said provision is similar to provisions such as section 11C of the Central Excise Act, 1944, and Section 28A of the Customs Act. However, there is one key difference that no refund option is available for overpaid duties present in the proposed amendment which existed in other tax regimes.

3. Time of supply of services under RCM

Section 13(3) of the CGST Act provides the different time of supply of services depending on conditions.

The Finance Bill proposes to include specific scenarios for time of supply in case where recipient is liable to issue to invoice. In other words, the date of issuance of invoice in case

of service attracting GST under reverse charge mechanism has been notified.

The proposed amendment is clarificatory in nature. This would prevent dispute where the date of commercial invoice or bill of supply raised by foreign party is different from the date of invoice raised by recipient (for compliance under GST).

4. Eligibility to claim ITC in respect of debit notes

The Finance Bill proposes to insert section 16(5) of the CGST Act to extend the time limit to avail ITC in respect of any invoice or debit note for the period FY 2017-18, 2018-19, 2019-20 and 2020- to November 30, 2021, by a retrospective amendment w.e.f. July 1, 2017. It is in line with the recommendation of the 53rd GST Council meeting.

The Finance Bill also proposes to insert section 16(6) of the CGST Act to allow availment of ITC for the duration when registration was cancelled, provided the returns starting from the period from the date of cancellation till the date of revocation of such cancellation is filed within 30 days of order of revocation, subject to the condition that the time-limit to avail ITC has not expired by a retrospective amendment w.e.f. July 1, 2017.

Further, it is proposed that in cases where ITC has been reversed or tax has been paid, no refund will be permissible.

5. ITC restriction removed in case of detention or confiscation of goods

The Finance Bill proposes to amend Section 17(5) of the CGST Act which deals with goods and services on which ITC is restricted. Earlier ITC was not available where tax was paid post issuance of SCN under Section 74 of the CGST Act, which delas with scenario like fraud, suppression and willful mis-statement. As per proposed amendment, the ITC will not be available in such case only for demands upto FY 2023-24.

The provision also omits scenario where goods are detained, seized or confiscated.

The said proposal may provide a relaxation in future, where the taxpayer is willing to close the proceedings by paying GST as the recipient may be eligible to claim ITC.

6. Refund of unutilized ITC

Section 54(3) of the CGST Act provides for situations wherein refund for the unutilized ITC can be claimed subject to conditions. The Bill proposes to omit second proviso to section 54(4) which provided that no refund of unutilised ITC shall be allowed in cases where the goods exported out of India are subjected to export duty.

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The Finance Bill has re-introduced the deletion by proposing to insert section 54 (15) of the CGST Act to disallow refund of unutilized ITC or integrated tax in cases of zero rated supply of goods when they are subject to export duties.

The aforesaid proposed amendment has widened the scope of exclusion for claiming refund, as earlier only refund of unutilized ITC was covered. However, even IGST paid at time of export is disallowed for refund.

7. Overhaul of SCN related provisions

The Finance Bill proposes to limit the applicability of section 73 and section 74 of the CGST for determination of tax upto FY 2023-24.

For the subsequent FYs, i.e. FY 2024-25 onwards, the Bill proposes to introduce new section 74(A) to CGST Act to streamline the process of issuance of SCN for determination of tax not paid or short paid or erroneously refunded or ITC wrongly availed or utilized. The provision provides for a common timeline of 3.5 years (i.e. 42 months) from the due date for furnishing of the annual return, for issuance of SCN, irrespective of whether the charges of fraud, willful misstatement or suppression of facts to evade tax are invoked or not. Therefore, it aims to remove the concept of extended period limitation for issuance of SCN. The provision also introduces a common timeline of issuance of order within 1 year from date of SCN (extendable by additional 6 months).

However, the penalty amount in case of fraud, will-misstatement and suppression of remain same. The period to avail concessional penalty in case the assessee wants to discharge the amount after SCN or Order has been extended from 30 to 60 days, which may reduce the financial strain and provide more time to take an informed decision by the taxpayer.

Consequently, the Finance Bill proposes to amend multiple sections where Section 73 and 74 were mentioned to include Section 74A as well:

a) composition levy [Section 10(5) of CGST Act];
b) manner for recovery of excess ITC distributed [Section 21 of CGST Act];
c) accounts and records [Section 35(6 of CGST Act)];
d) payment of tax, interest and penalty [Section 49(8)(c) of CGST Act];
e) levy of interest [Section 50(1) of CGST Act];
f) TDS [Section 51(7) of CGST Act];
g) Redetermination of penalty under section 75 of the CGST in absence of fraud, willfull-misstatement and suppression; etc.

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8. Reduction in mandatory pre-deposit amount to file an appeal

Section 107 of the CGST Act provides for the manner and procedure to file appeal to the Appellate Authority. The Bill proposes to lower the cap for pre-deposit to be deposited for filing an appeal before commissioner (appeals) by the appellant to INR 200 Million from earlier 250 Millions. (in effect from INR 500 Millions to INR 400 Millions, considering the amendment is made in State GST act as well.) The Bill also proposes to reduce the pre-deposit to be deposited for filing an appeal before GST Appellate Tribunal from 20% to 10% of tax amount involved. It also provides the cap for pre-deposit to INR 200 Million from the earlier cap of INR 500 Million (in effect from INR 1,000 Million to INR 400 Million, considering the amendment is made in State GST act as well.) Corresponding change has been introduced in IGST Act as well.

The said amendment will provide relief to litigating taxpayers as it will not burn a hole in their working capital or adversely impact the day-to-day operations of the business.

9. Conditional waiver of interest and penalty.

The Finance Bill proposes to insert a new section 128A in the CGST Act to allow for a conditional waiver of interest and penalty for demand notices issued under section 73 of the CGST Act for the financial years 2017-18, 2018-19, and 2019-20, excluding those related to erroneous refunds and no appeal order has been passed. However, if interest and penalty have already been paid for any demand for these financial years, no refund will be granted.

The proposed amendment will be a relief for those taxpayers who have pending demand notices for the aforementioned FYs thereby easing financial burden, reducing litigation and encouraging compliance. However, clarity in relation to multiple financial year notices received by the taxpayer, whether partial waiver for notice pertaining to one financial year and litigation for the rest notices is permissible, may be required.

10. Amendment to Schedule III

The Finance Bill proposes an amendment to Schedule III of the CGST Act, which provides for activities and transactions not considered as supply of goods or services. The Bill proposes to specify that the apportionment of co-insurance premiums by the lead insurer to the co-insurer—when insurance services are jointly supplied to the insured under co-insurance agreements—will be considered neither a supply of goods nor a supply of services, provided that the lead insurer pays the tax on the full premium amount received from the insured.

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Additionally, the Finance Bill proposes that services provided by the insurer to the re-insurer, where the ceding or reinsurance commission is deducted from the reinsurance premium paid by the insurer to the reinsurer, will also be treated as neither a supply of goods nor a supply of services. This is contingent on the reinsurer paying the tax on the total reinsurance premium, including the reinsurance or ceding commission.

The proposed amendment implies that the apportionment of co-insurance premiums by the lead insurer to co-insurers for GST purposes, will be neutral. However, this neutrality is contingent upon the lead insurer paying GST on the entire premium amount collected from the insured. This helps in simplifying compliance and preventing multiple tax liabilities within the co-insurance arrangement. This helps in avoiding disputes or complications related to the taxation of commissions within reinsurance arrangements.
Overall, these changes aim to clarify the GST treatment of complex insurance and reinsurance transactions, streamline tax compliance, and avoid double taxation or gaps in GST liability.

SUBSTANTIVE CHANGES IN IGST ACT

1. Changes for refund of IGST on zero-rated supplies

The Finance Bill proposes to amend section 16(4) of the IGST Act, 2017, which deals with refund of IGST on account of zero-rated supplies. The Bill proposes to authorize the Government to notify the categories of persons or types of goods and services eligible for zero-rated supplies and specify the conditions, safeguards, and procedures for claiming a refund of integrated tax under section 54 of the CGST Act. Additionally, the Bill proposes to introduce a new sub-section (5) to state that refunds of unutilized ITC or integrated tax paid on zero-rated goods will not be granted if the goods are subject to export duty.

The impact of amendment would depend on the class and procedure notified and would potentially influence how businesses manage their tax credits and refunds related to zero-rated supplies.

SUBSTANTIVE CHANGES IN CUSTOMS ACT

1. Relaxing the condition to furnish certificate of origin

Section 28DA of the Customs Act provides for submission of certificate of origin by the importer in order to claim preferential duty for goods imported under the applicable trade agreements.

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The Finance Bill proposes to replace the word “certificate” with “proof”. The proposed amendment seems to relax the onerous condition of submitting a certificate of origin which may be contrary to the terms of trade agreement signed by India with other countries. Thus, it provides an option to the importer to either submit a certificate or a declaration in accordance with the trade agreements. This amendment will enable acceptance of different types of proof of origin and also align the same with International Standards.

2. **Delegated power to notify category ineligible for the manufacturing and other operations process in a warehouse**

Section 65 of the Customs Act provides for manufacture and other operations in relation to goods in a warehouse by availing the duty deferral benefit.
The Finance Bill proposes to add a proviso to Section 65 (1) of Customs Act, to provide power for notifying certain class of goods which may not be permitted be covered within scope of permitted manufacturing and other operations in a warehouse.

The said amendment appears to nullify the Delhi High Court decision in the case of ***ACME Heergarh Powertech Private Limited v. Central Board of Indirect Taxes and Customs & Anr., 2024 (5) TMI 480 - DELHI HIGH COURT***, wherein the validity of instructions dated July 9, 2022, was challenged. The said instruction provided that the generation of solar power was not covered within MOOWR scheme.

The said amendment may impact manufacturing industry as it may deny the opportunity to avail duty deferral benefit under the MOOWR scheme post such permission has already been obtained by the importer. The current provision fails to segregate if it would distinguish between class of persons who have already registered as MOOWR licensee vis-à-vis new applicants.

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ANCILLARY CHANGES

1. GST related changes

a) Revocation of cancellation of registration: The Finance bill proposes to revise section 30(2) of the CGST Act empowering the Government to prescribe conditions and restrictions under the order for revocation of cancellation of registration.
b) Tax invoices in case of RCM: The Finance Bill proposes to empower the Government to provide for a manner and time period for issuance of invoices for goods or services under RCM.
c) Return filing for TDS: The Finance Bill proposes to amend section 39(3) of the CGST Act to provide that every registered person deducting TDS under section 51 of the CGST Act will be mandatorily required to electronically furnish returns for every calendar month, including the months where no deductions have been made, as per the prescribed manner and format.
d) Mandatory appearance under a summon: The Finance Bill proposes to insert section 70 (1A) of the CGST Act to allow an authorized representative to appear before the proper officer on behalf of summoned person.
e) Widening the scope of GST Appellate Tribunal: The Finance Bill proposes to empower principal bench of GST Appellate Tribunal to examine and adjudicate anti-profiteering matter.
f) Limiting the applicability of penal provisions for e-commerce operators: The Finance Bill proposes to amend section 122 (1B) of the GST Act to restrict the applicability of the penalty provisions to those e-commerce operators who are required to collect tax at source. The said amendment is effective retrospectively from October 1, 2023.
g) Eligibility of Transitional Credit by an Input Service Distributor: The Finance Bill proposes to amend sub-section (7) of section 140 of the CGST Act, so as to enable availment of the transitional credit of eligible CENVAT credit on account of input services received by an Input Services Distributor prior to the appointed day (i.e. July 1, 2017), for which invoices were also received prior to the appointed date. The proposed amendment would reduce the pending disputes.
h) Time limit for accepting anti-profiteering applications: The Finance Bill proposes to amend subsection (2) of section 171 of the CGST Act. The said amendment proposes authorise the Government to specify the date post which no application for anti-profiteering would be accepted.

2. Customs related changes

a) Widening the powers of the CBIC to facilitate trade: Section 143AA and 157(2) (m) of the Customs Act has been amended to include “another category i.e. any other person” apart from importer or exporter. This would now empower CBIC to undertake measures or prescribe procedures, compliance requirements for any person involved in import/export channel.
b) Non-levy of compensation cess for SEZ units: Vide Notification No. 27/2024- Customs dated July 12, 2024, exemption from levy of GST compensation cess on goods

imported by SEZ units for authorized operations was notified. The said notification was effective from July 15, 2024. The Bill proposes to give retrospective effect to the said notification i.e. effective from July 1, 2017.

c) Omission of protective duties: The Finance Bill proposes omit section 6 of the CT Act, which empowered the Central Government to levy protective duties on import of goods in order to protect the interest of the specific industry.
d) Extension of time period for submission of the final Mega Power Project certificate from 120 to 156 months.
e) The Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 have been amended to insert a provision for 'New Shipper Review'. The same will be effective from July 24, 2024.

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CHANGES IN RATES OF CUSTOMS DUTY ON VARIOUS GOODS

1. Extension of concessional entries and notifications

The Finance Bill has extended applicability of various entries providing for concessional rate under Notification No. 50/2017 Customs dated June 30, 2017, till March 31, 2029. For example: medicines/drugs/vaccines supplied free by UNICEF; lifesaving drugs/medicines for personal use; spare parts and consumables for repairs of ocean going vessels registered in India, etc.

The Bill has also extended various concessions till March 31, 2029 for:

a) Goods supplied freely under warranty as replacement for defective ones in lieu of earlier imported goods.;
b) Specified imports relating to Defence, internal security forces and Air Force
c) Import of Aviation Turbine Fuel in the tanks of the aircrafts of an Indian Airline or of the Indian Air Force) etc.

2. Rate changes

a) The First Schedule to the CT Act has been amended to revise the BCD rates on various goods. The changes in the tariff schedule shall commence from July 24, 2024 except those specifically mentioned below. Item wise changes in rates of duty of certain items have been tabularized as below:

Sr. No.	Description	Pre-Budget rate	Post-Budget rate	Change
Critical Minerals				
1.	Minerals such as Antimony, Beryllium, Bismuth, Cobalt, Copper, Gallium, Germanium, Hafnium, e.	Applicable rate	Nil	↓
2.	Graphite, Silicon, Quartz and Silicon Dioxide	Applicable rate	2.5%	↓
Chemicals				

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Sr. No.	Description	Pre-Budget rate	Post-Budget rate	Change
1.	Ammonium Nitrate	7.5%	10%	↑
Textile and Leather				
1.	MDI for manufacture of spandex yarn1	7.5%	5%	↓
2.	Real Down Filling material from duck or goose for use in manufacture of textile or leather garments for export	30%	10%	↓
Electronic goods and equipments				
1.	Cellular Mobile phones	20%	15%	↓
2.	PCBA of cellular mobile phone	20%	15%	↓
3.	Charger/adapter of cellular mobile phone	20%	15%	↓
4.	Oxygen Free Copper (OFC) Strip for use in manufacture of resistors[2]	5%	Nil	↓

[1] subject to IGCR condition
[2] subject to IGCR condition

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Sr. No.	Description	Pre-Budget rate	Post-Budget rate	Change
5.	PCBA of specified telecom equipment	10%	15%	↑
Precious Metals[3]				
1.	Gold Bars	10%	5%	↓
2.	Gold Dore	10%	5%	↓
3.	Platinum	10%	5%	↓
4.	Silver Bar	10%	5%	↓
5.	Silver Dore	10%	5%	↓
6.	Platinum and Palladium used in the manufacture of noble metal solutions, noble metal compounds and catalytic convertors	7.5%	5%	↓
7.	Platinum and rhodium alloy when imported in exchange of worn out or damaged bushings exported out of India	7.5%	5%	↓
Other Metals[4]				

[3] Consequential changes have also been carried out in S. Nos. 357, 357A, 357B, 364A, 364B, 364C, 415, 415A and 442 of Notification No. 50/2017 dated 30.06.2017, Notification No. 22/2022, dated 30.04.2022 and Notification No. 57/2000, dated 08.05.2000 accordingly

[4] The BCD exemption on Ferrous Scrap has been continued upto March 31, 2026 and the concessional

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Sr. No.	Description	Pre-Budget rate	Post-Budget rate	Change
1.	Ferro-Nickel	2.5%	Nil	↓
2.	Blister Copper	5%	Nil	↓

Capital Goods

a) Certain specified capital goods such as solar Cell Tabber and Stringer Machine with or without automation; automation line for solar module and/or cell manufacturing; EVA (Ethylene Vinyl Acetate) sheets or backsheet, which are used in the manufacture of solar cells or modules has been added to the list of exempted goods.

b) b) Certain specified goods such as drilling bits for earth boring and rock drilling tools; Fire fighting vehicles; high temperature valves used in petroleum exploration operations have been added in the exemption entry (S.No 404 of 50/2017 Customs dated June 30, 2017).

Export duties

The Bill proposes to reduce export duty on specific leather goods such as wet blue chrome leather, Crust leather and tanned fur skin.

BCD rate of 2.5% on Copper scrap has been continued.

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GLOSSARY

ABBREVIATION	MEANING
AO	Learned Assessing Officer
AY	Assessment Year
Black Money Act	Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015
Benami Act	Prohibition of Benami Property Transactions Act, 1988
BCD	Basic Customs Duty
BEPS	Base Erosion and Profit Shifting
Bill/ Finance Bill	Finance Bill (No. 2), 2024
CA, 2013	Companies Act, 2013
CBDT	Central Board of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CCIT	Learned Chief Commissioner of Income Tax
CEA	Central Excise Act, 1944
CENVAT	Central Value Added Tax
CESTAT	Hon’ble Customs, Excise and Service Tax Appellate Tribunal
CGST Act	Central GST Act, 2017
CIT	Learned Commissioner of Income Tax
CIT(A)	Learned Commissioner of Income Tax (Appeal)
CT Act	Customs Tariff Act, 1975
Customs Act	The Customs Act, 1962
FY	Financial Year
FM	Finance Minister
GST	The Goods and Service Tax
HC	Hon’ble High Court
HUF	Hindu Undivided Family
IFSC	International Financial Services Centre

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ABBREVIATION	MEANING
IGST Act	Integrated GST Act, 2017
INR	Indian Rupees
InvIT	Infrastructure Investment Trust
IRA	Indian Revenue Authorities
ITC	Input Tax Credit
IT Act	Income Tax Act, 1961
IT Rules	Income Tax Rules, 1962
ITAT	Hon'ble Income Tax Appellate Tribunal
MOOWR	Manufacturing and Other Operations in Warehouse
NBFC	Non-Banking Financial Companies
OECD	Organisation for Economic Co-operation and Development
PAN	Permanent Account Number
PCIT	Learned Principal Commissioner of Income Tax
PE	Permanent Establishment
REIT	Real Estate Investment Trust
RBI	Reserve Bank of India
SEZ	Special Economic Zone
SC	Hon'ble Supreme Court
STT	Securities Transaction Tax
TDS	Tax Deduction at Source
TCS	Tax Collection at Source
TPO	Learned Transfer Pricing Officer
UOI	Union of India
UTGST	Union Territory Goods and Services Tax
UTGST Act	Union Territory Goods and Services Act, 2017
VAT	Value Added Tax

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Key Contacts

Cyril Shroff

Managing Partner
cyril.shroff@cyrilshroff.com

S. R. Patnaik

Partner and Head-Taxation
sr.patnaik@cyrilshroff.com

Kunal Savani

Partner (Taxation & Private Client)
kunal.savani@cyrilshroff.com

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Disclaimer

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www.cyrilshroff.com
www.cyrilshroff.com/blogs

mumbai
Peninsula Chambers, Peninsula Corporate Park, GK Marg,
Lower Parel, Mumbai – 400 013, India
T +91 22 6660 4455 F +91 22 2496 3666
E cam.mumbai@cyrilshroff.com

bengaluru
3rd Floor, Prestige Falcon Tower, 19, Brunton Road,
Off M G Road, Bengaluru – 560 025, India
T +91 80 6792 2000
E cam.bengaluru@cyrilshroff.com

chennai
Office No. 823 & 824, 8th Floor,
Regus KRM Plaza, Old Harrington Road,
Chetpet, Chennai – 600 031, India
T: +91 44 4904 2874
E cam.chennai@cyrilshroff.com

gift city
Cyril Amarchand Mangaldas – OFC,
415, Pragya Tower, GIFT City, Gandhinagar - 382 355,
Gujarat, India
T +91 79 4903 9900 F +91 79 4903 9999
E cam.giftcity@cyrilshroff.com

abu dhabi
Al Sila Tower, Abu Dhabi Global Market Square,
Al Maryah Island, Abu Dhabi, United Arab Emirates
(CAM Middle East)
E cam.abudhabi@cyrilshroff.com

delhi-ncr
Level 1 & 2, Max Towers, C-001/A, Sector 16 B,
Noida – 201 301, Uttar Pradesh, India
T +91 120 669 9000 F +91 120 669 9009
E cam.delhi@cyrilshroff.com

ahmedabad
Block A-1512, 15th Floor, Navratna Corporate Park,
Ambli Bopal Road, Bodakdev, Ahmedabad – 380 058, India
T +91 79 3503 9999
E cam.ahmedabad@cyrilshroff.com

hyderabad
Office No. 226, 2nd Floor, Regus Ilabs Oval,
Gate No. 6, Inorbit Mall Road, Madhapur
Hyderabad – 500 081, India
T: +91 40 4433 4323
E cam.hyderabad@cyrilshroff.com

singapore
61 Robinson Road,
#11-03, Singapore - 068 893
T +65 6329 2260
E cam.singapore@cyrilshroff.com
(CAM Singapore Pte Ltd., UEN: 202137213R)