

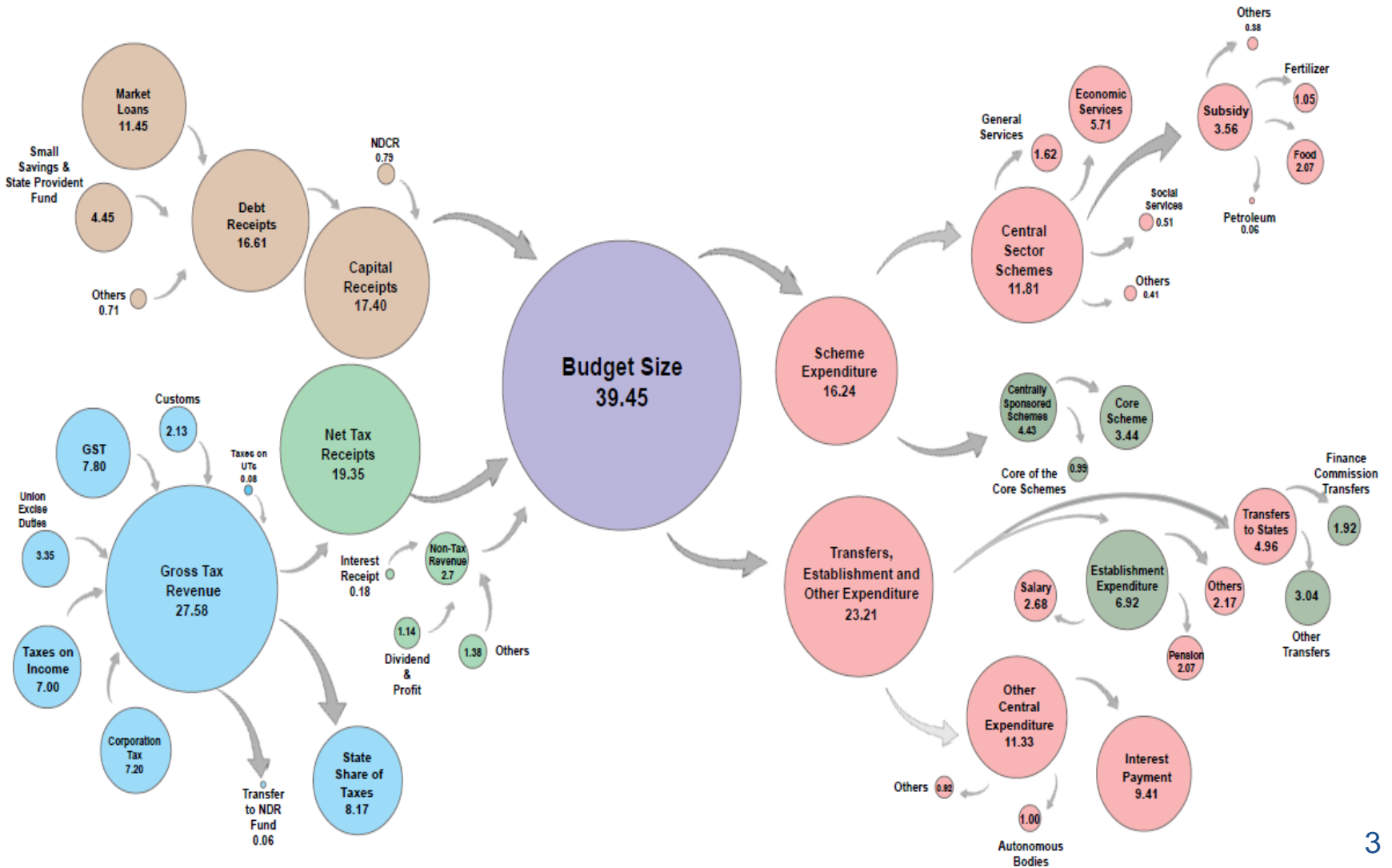
# An overview of Finance Bill, 2022 – Direct Taxes



Prepared by: Team 'Voice of CA'

# (I) Budget at a Glance

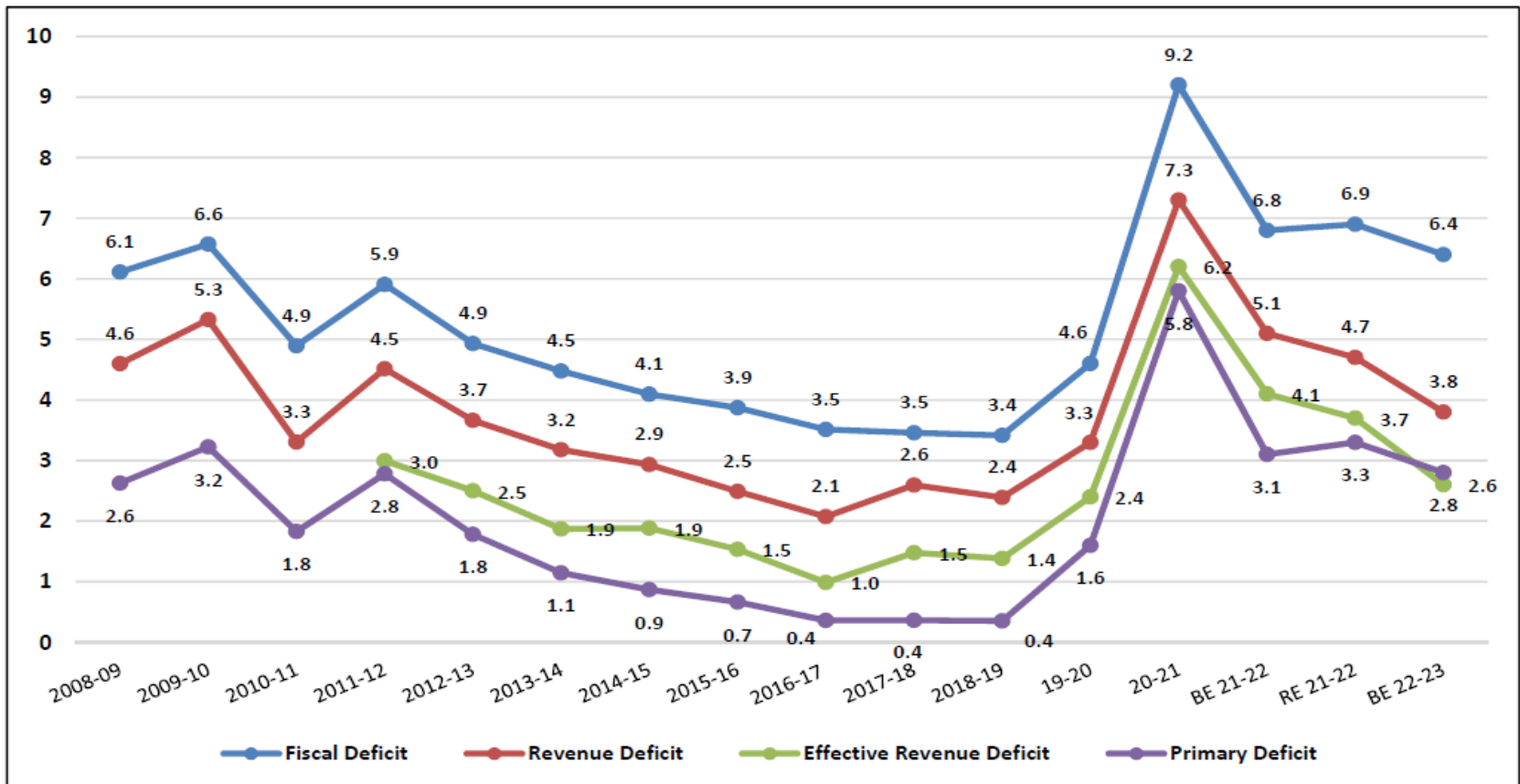
# BUDGET PROFILE



# DEFICIT TRENDS

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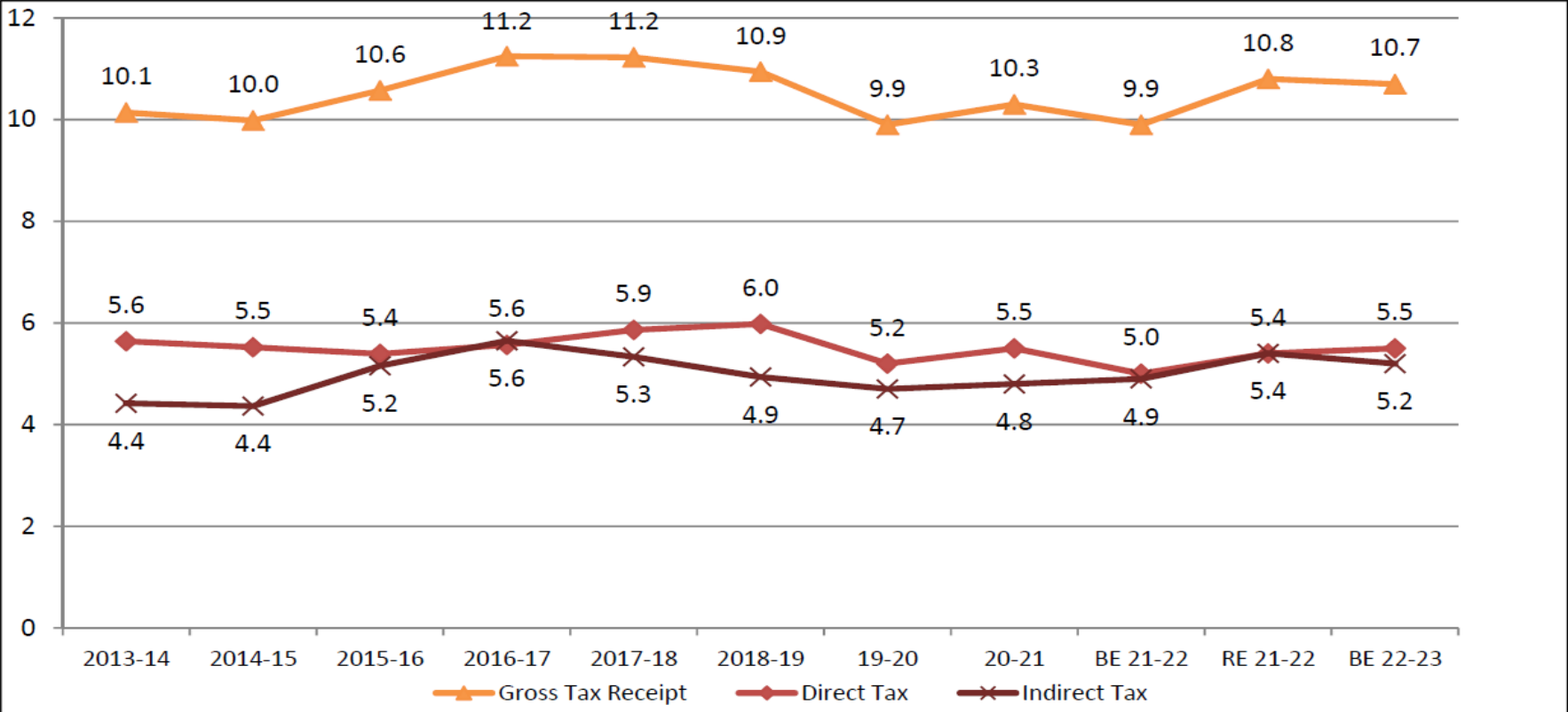
(% of GDP)



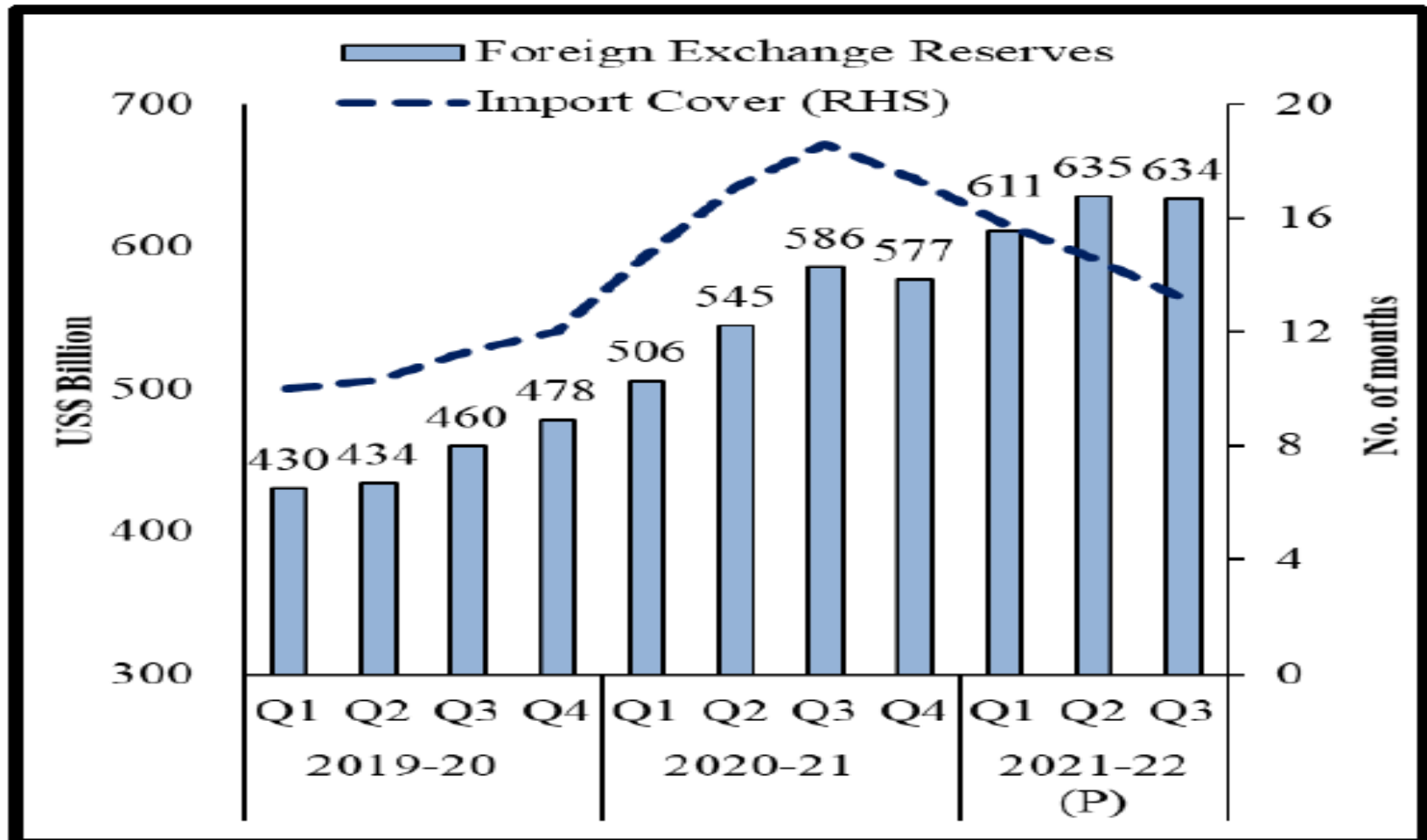
# TREND IN TAX RECEIPTS

## TREND IN TAX RECEIPTS

(% of GDP)

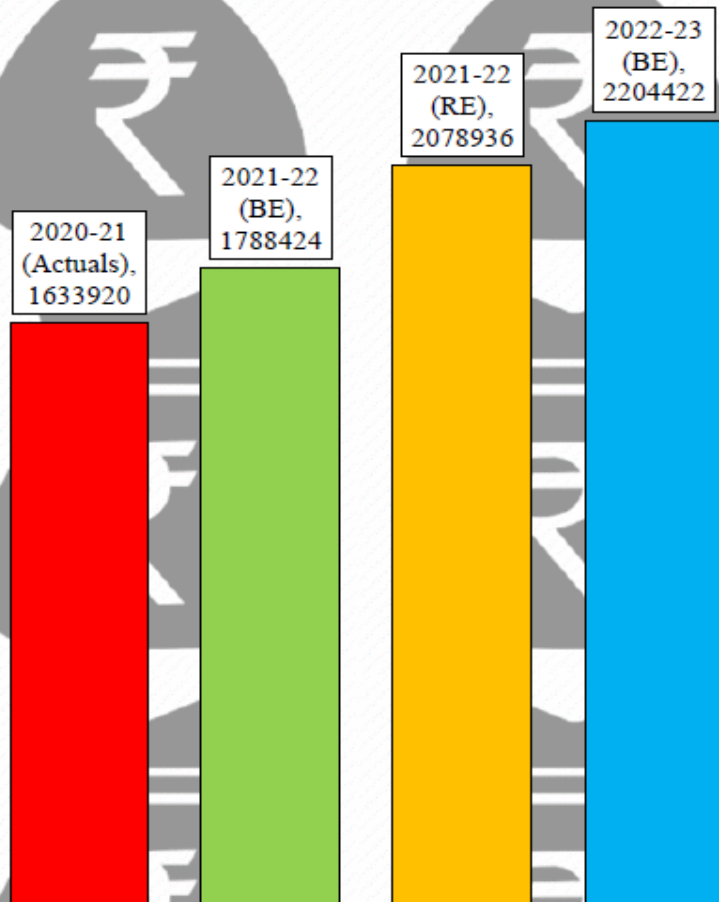


# FOREIGN EXCHANGE RESERVES

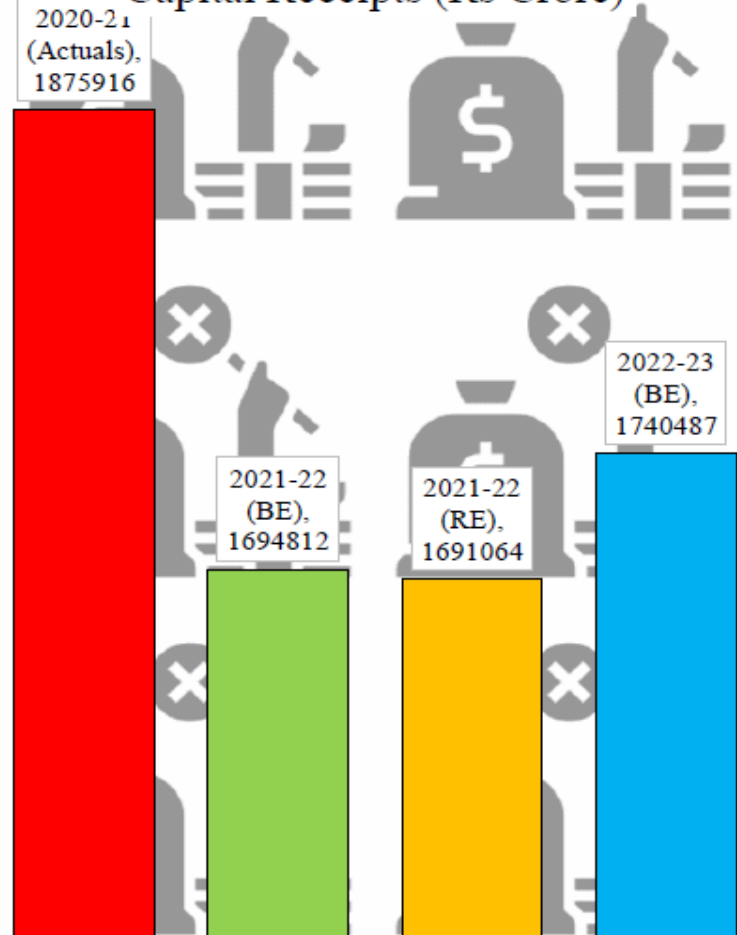


# BUDGET AT A GLANCE

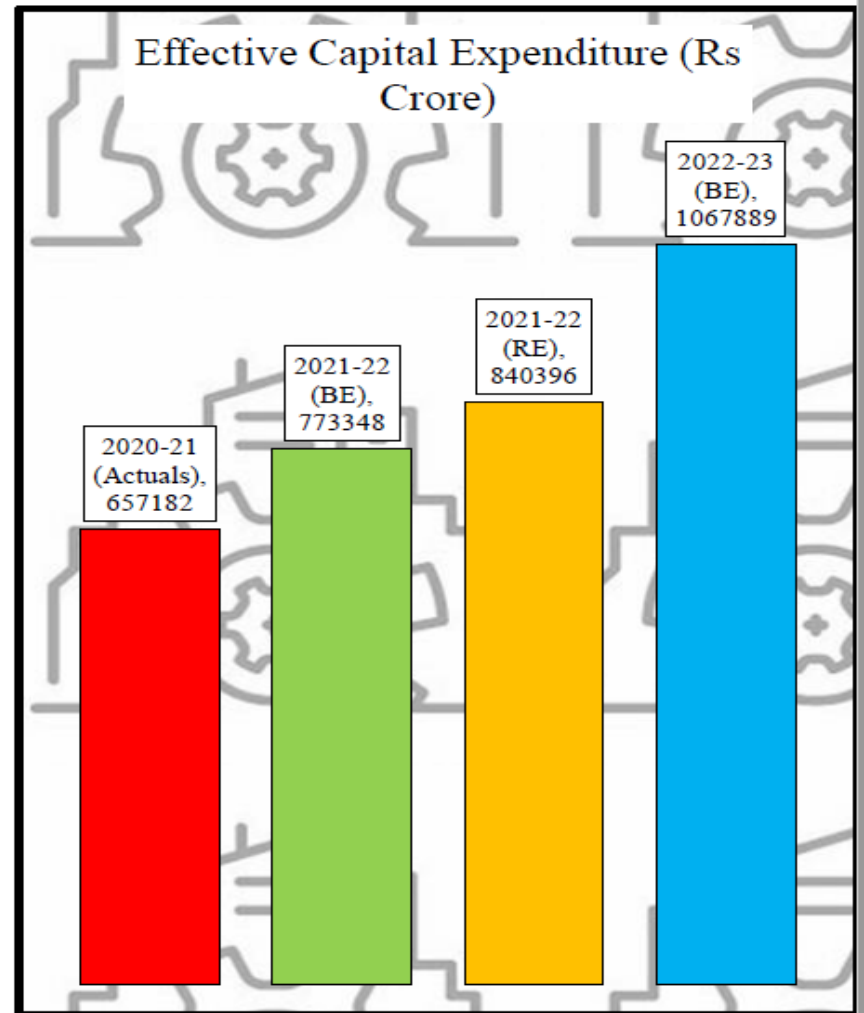
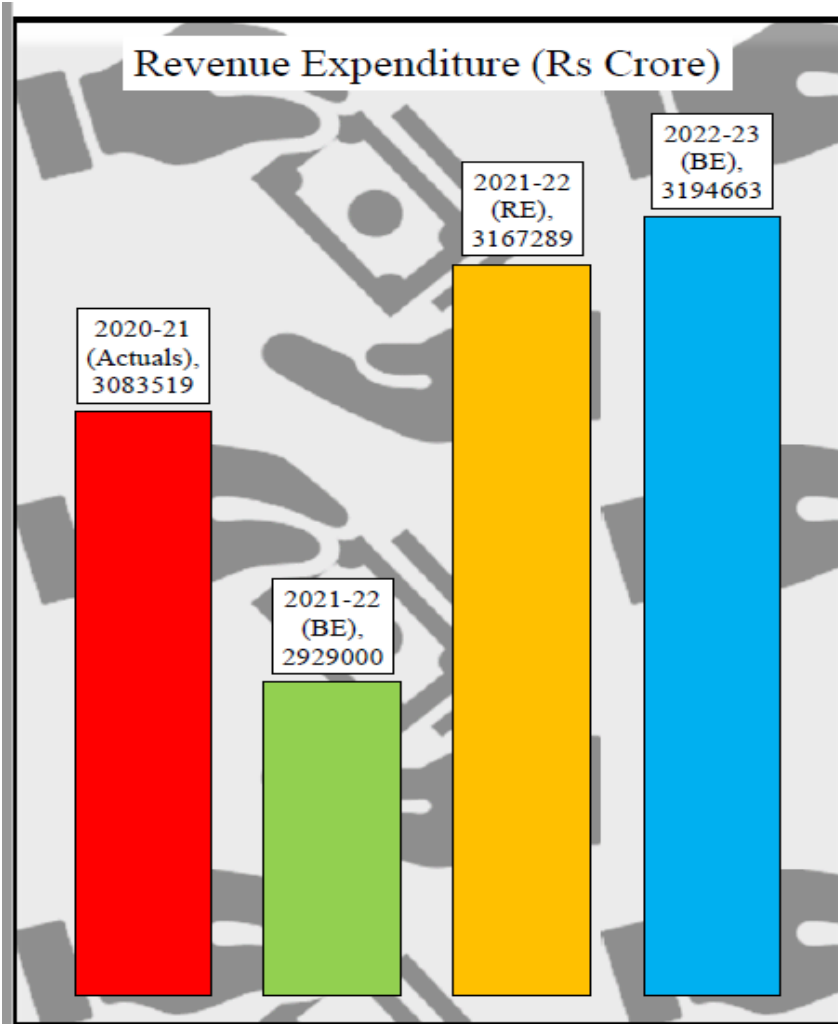
## Revenue Receipts (Rs Crore)



## Capital Receipts (Rs Crore)

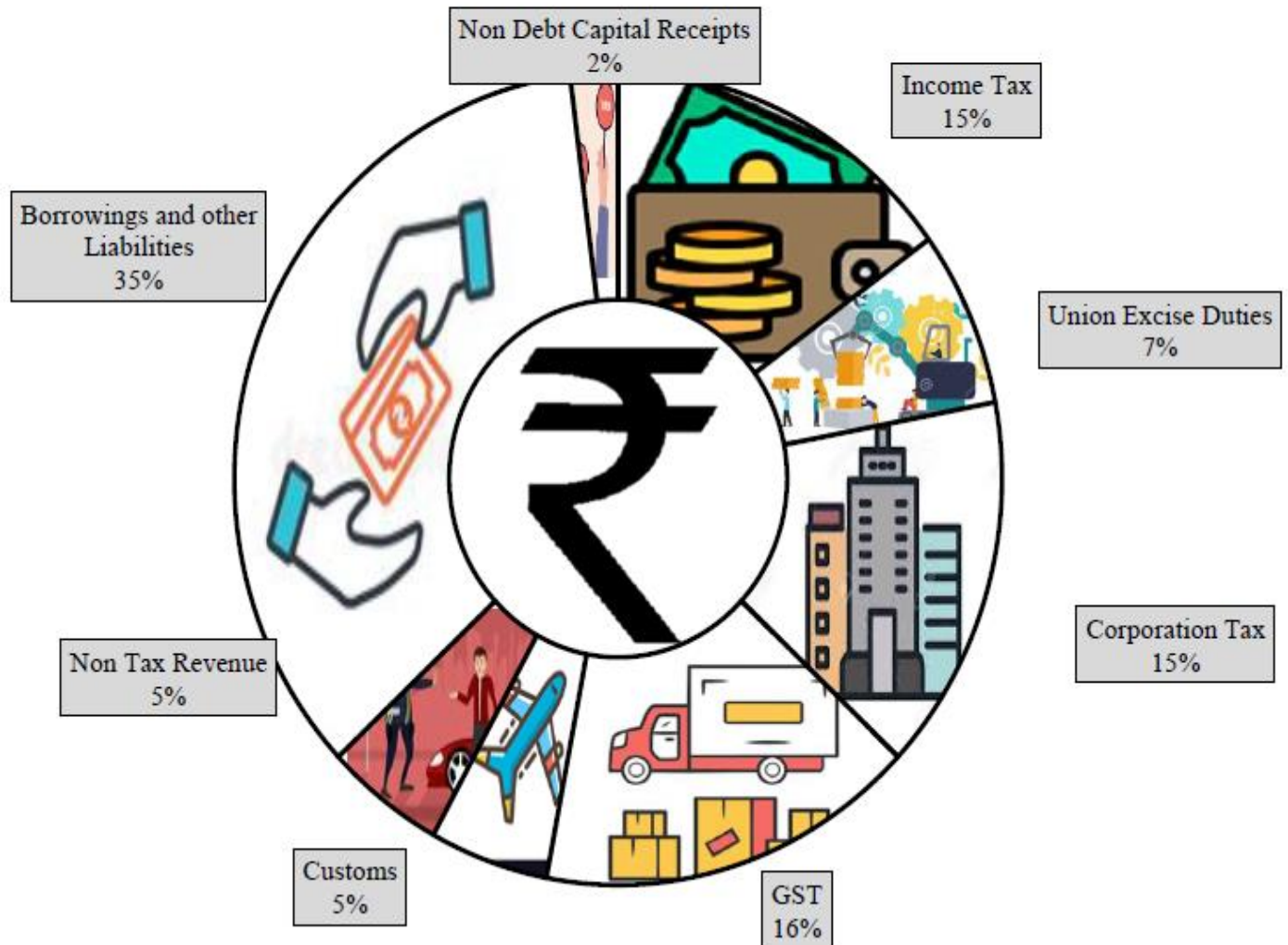


# BUDGET AT A GLANCE

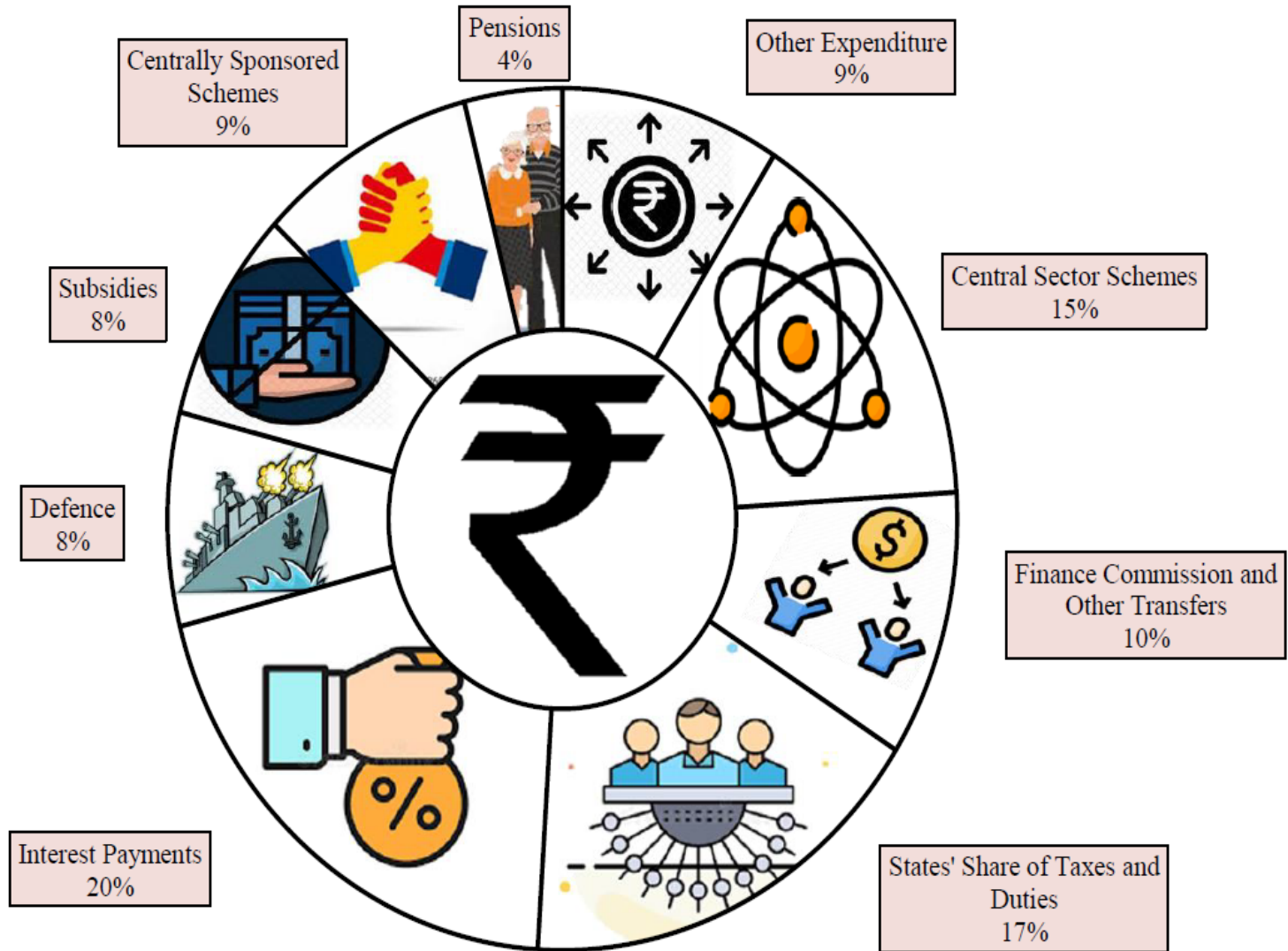




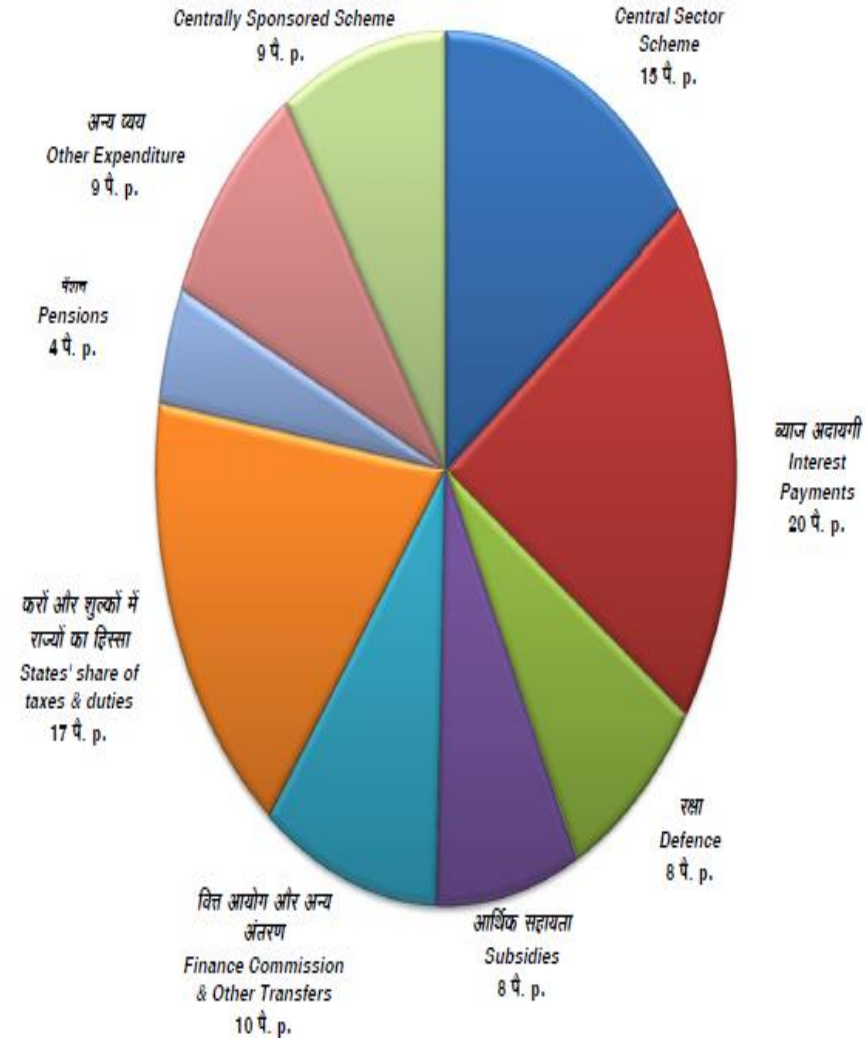
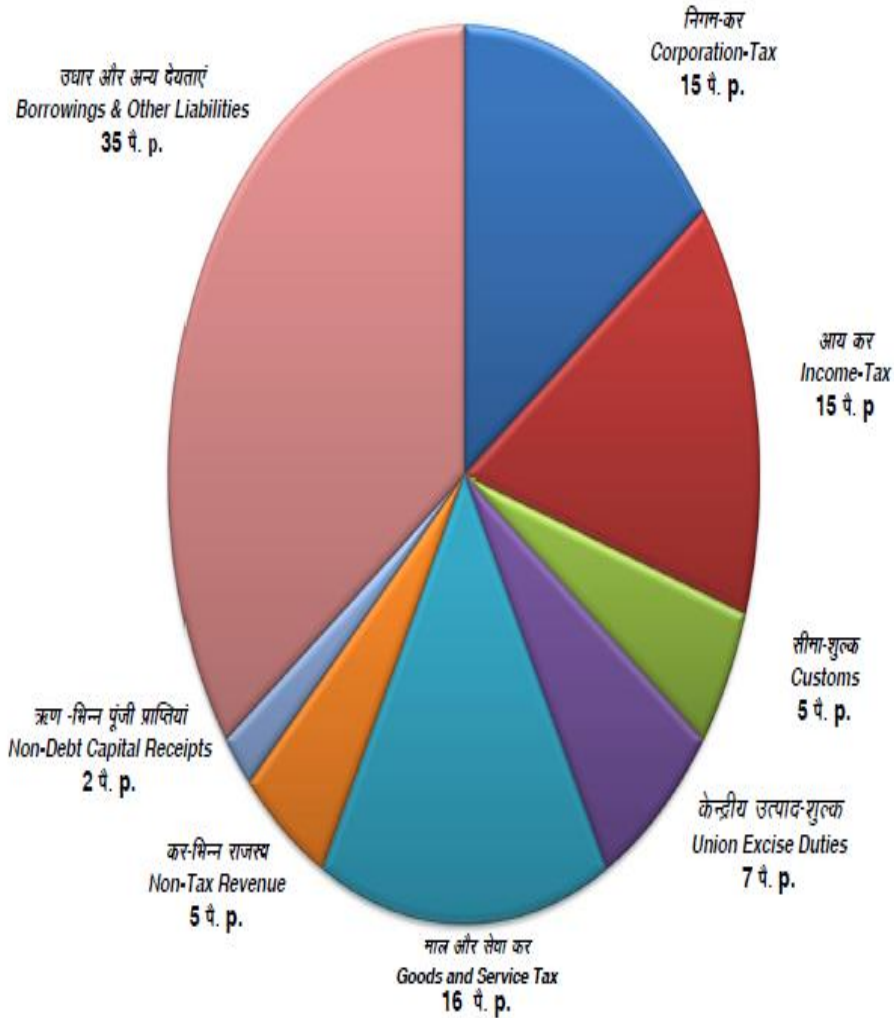
# RUPEE COMES FROM



# RUPEE GOES TO

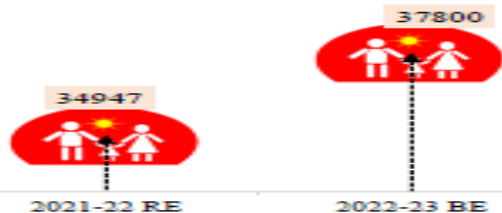


# Rupee Comes in and Rupee Goes Out



# ALLOCATION TO MAJOR SCHEMES

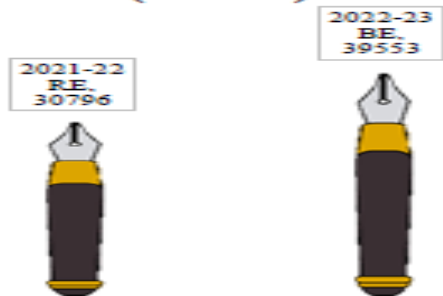
**National Health Mission (in crore)**



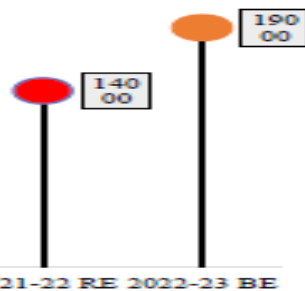
**Jal Jeevan Mission (in crore)**



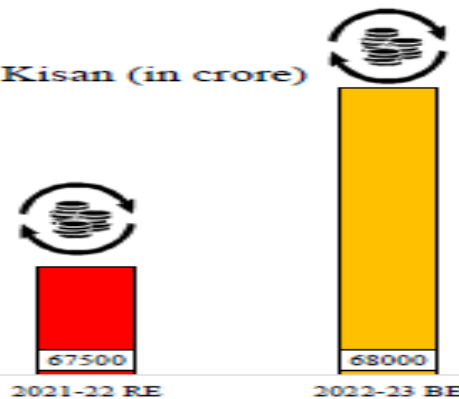
**National Education Mission (in crore)**



**Pradhan Mantri Gram Sadak Yojana (in crore)**



**PM Kisan (in crore)**



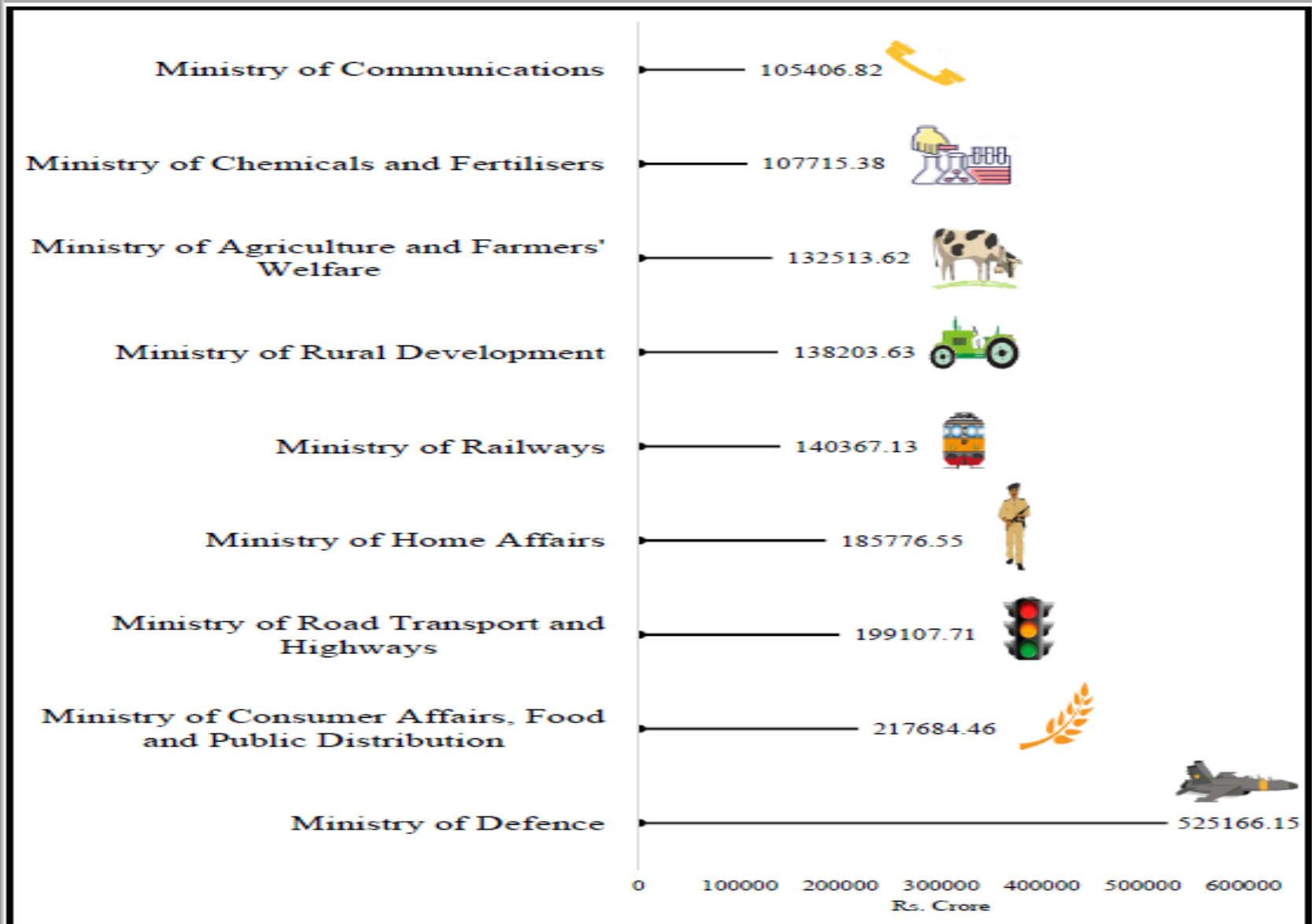
**Aatmanirbhar Bharat Rojgar Yojana (in crore)**



**Pradhan Mantri Swasthya Suraksha Yojana (in crore)**



# MINISTRY WISE ALLOCATIONS



(II) Proposed Amendments under  
Direct Taxes  
in the Finance Bill, 2022

# Proposed Amendments under Direct Taxes in the Finance Bill, 2022

A. Rates of Income-tax

B. Promoting Voluntary Tax Compliance and Reducing Litigation

C. Socio-Economic Welfare Measures

D. Widening and Deepening of Tax Base

E. Revenue Mobilisation

F. Phasing Out of Exemptions

G. Rationalisation Measures

**Note:** The applicable date being 01.04.2023 and 01.04.2022 denotes the amendment is applicable w.e.f. A.Y. 2023-24 and AY 2022-23 respectively.

A. Rates of Income-tax  
(Clause 2 & the First Schedule)



## Brief Impact:

### A. Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person.

I. The rate of income tax is same. Tax slab and rates remain unchanged.

Total income	New tax rate* (AY 2023-24)	Existing tax rate* (AY2022-23)
Up to INR 250,000**	Nil	Nil
INR 250,001 to INR 500,000	5%	5%
INR 500,001 to INR 1,000,000	20%	20%
Above INR 1,000,000	30%	30%

\* Health & Education cess and surcharge as applicable.

\*\* Basic exemption limit for resident individuals above 60 years but less than 80 years of age (i.e. Senior Citizen) at any time during the FY is INR 300,000 and for resident individuals 80 years of age or more (i.e. Super Senior Citizen) is INR 500,000 (unchanged).

# Tax Rates under section 115 BAC for Individual or HUF

If the assessee opted to pay tax in accordance with the provision of the section 115BAC, Tax slab and rates remain unchanged and income tax is calculated at the rate mentioned in the table below:

Total income	Rate of tax*
Up to Rs 2,50,000	Nil
From Rs 2,50,001 to Rs 5,00,000	5 per cent.
From Rs 5,00,001 to Rs 7,50,000	10 per cent.
From Rs 7,50,001 to Rs 10,00,000	15 per cent.
From Rs 10,00,001 to Rs 12,50,000	20 per cent.
From Rs 12,50,001 to Rs 15,00,000	25 per cent.
Above Rs 15,00,000	30 per cent.:

II. The amount of income-tax computed (in accordance with the Provisions of the Income Tax & provisions of the Section 115BAC) shall be increased by a surcharge at the rate of:

Particulars	Surcharge
Taxable Total Income < INR 50 lacs	-
INR 50 lacs < Taxable Income < INR 1 crore	10%*
INR 1 crore < Taxable Income < INR 2 crore	15%*
INR 2 crore < Taxable Income < INR 5 crore	25%**
Taxable Income > INR 5 crore	37%**

\*For A.Y. 2023-24 the total income of the Assessee includes the income earned by way of Dividends or income in accordance with the Provisions of the section 111A, 112 and 112A of the Act.

\*\*The above surcharge rate is applicable only if the total income of the assessee excluding the income in accordance with the provision of the section 111A, 112 and 112A of the Act. But if the total income of the Assessee (included income earned by way of the Dividend or the income in accordance with section 111A, 112 and 112A) of the income tax Act exceeds Rs.2 crore, the rate of the surcharge computed on the dividend income or income chargeable under section 111A, 112 and 112A shall not exceed 15% on that part of the income.

If the association of person consisting of only company as its members, the rate of surcharge shall not be exceeds 15%

## B. Co-operative Societies

- The rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill.
- The rates of income-tax will continue to be the same as those specified for Assessment Year 2022-23.

Total income	Tax rate*
Up to Rs. 10,000	10%
Rs. 10,000 to Rs. 20,000	20%
Above Rs. 20,000	30%

- Surcharge of 12% would be applicable where the total income of a resident Co-operative Society (except a resident co-operative society opting u.s 115BAD) exceeds Rs 10.00 Crore. [Subject to Marginal Relief]. Health & Education cess as applicable. But if the total income of the corporate society exceeds Rs. 1 crore but not exceeding Rs 10 Crore the rate of surcharge is 7% on such income.
- In relation to AY 2023-24, if the corporate society is liable to pay tax in accordance with the provisions of section 115JC(AMT), then the income tax rate is reduced to 15% from 18%.
- A co-operative society resident in India has the option to pay tax in accordance with the provisions of section 115 BAD at the rate of income tax is 22 percent for assessment year 2021-22 or onwards. The surcharge will be paid at the rate of 10%.

## C. Partnership Firms

The rates of income-tax will continue to be the same as those specified for Assessment Year 2022-23 i.e. **a partnership firm (including LLP) is taxable at 30%.**

### Add:

- I. Surcharge of 12% would continue to be applicable where the total income of firm exceeds Rs 1.00 Crore. [**Subject to Marginal Relief\***]
- II. Health & Education cess as applicable.

\*However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

## D. Local Authority (for A.Y. 2023-24)

The rates of income-tax will continue to be the same as those specified for Assessment year 2022-23 i.e. **a local authority is taxable at 30%**

### Add:

Surcharge of 12% would continue to be applicable where the total income of Local Authority exceeds Rs. 1.00 Crore [**Subject to Marginal Relief\***]

Health & Education cess as applicable.

\*However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

## E. Domestic Company

I. **Paragraph E of Part III to the First Schedule:** In the case of domestic companies the rate of income-tax shall be @ 25% (plus applicable surcharge and health & education cess) of the total income **where the total turnover or gross receipts of previous year 2020-21 does not exceed Rs. 400.00** crore and in all other cases the rate of income-tax shall be 30% (plus applicable surcharge and health & education cess) of the total income (Unchanged).

**A. For a domestic company having total turnover/ gross receipts in the previous year (2020-21) not exceeding INR 400 Crores:**

Particulars	Taxable income < INR 1 crore	Taxable income >INR 1 crore and < INR 10 crore	Taxable income > INR 10 crore
Corporate tax	25%	25%	25%
Surcharge	-	7%	12%
Corporate tax + surcharge	25%	26.75%	28%
Health & Education cess	4%	4%	4%
Effective tax rate	26%	27.82%	29.12%

**B. For a domestic company having total turnover/ gross receipts in previous year 2020-21 exceeding INR 400 Crores**

Particulars	Taxable income < INR 1 crore	INR 1 crore < taxable income < INR 10 crore	Taxable income > INR 10 crore
Corporate tax	30%	30%	30%
Surcharge	-	7%	12%
Corporate tax + surcharge	30%	32.10%	33.60%
Health & Education cess	4%	4%	4%
Effective tax rate	31.20%	33.38%	34.94%

However, if the Domestic company opted to pay tax in accordance with the provisions of section 115BAA (rate of tax 22%) or Section 115BAB (rate of tax 15%) of the income tax Act, then Surcharge is 10 % in both cases.



## F. Foreign Company

- I. The rates of income-tax will continue to be the same as those specified for assessment year 2022-23 i.e. **a foreign company is taxable at 40%** [ *Health & Education cess and surcharge as applicable*].

Particulars	Taxable income < INR 10 million	INR 10 million < taxable income < INR 100 million	Taxable income > INR 100 million
Corporate tax	40%	40%	40%
Surcharge	-	2%	5%
Corporate tax + surcharge	40%	40.80%	42.00%
Health & Education cess	4%	4%	4%
Effective tax rate	41.60%	42.43%	43.68%

B. PROMOTING VOLUNTARY  
TAX COMPLIANCE & REDUCING  
LITIGATION

# B. Promoting Voluntary Tax Compliance & Reducing Litigation

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
1.	Provisions for filing of updated return	139(8A), 139(9), 140B, 144, 153, 234A, 234B, 276CC	38.39,41, 48, 64, 65 & 81	01-04-2022
2.	Litigation management when in an appeal by revenue an identical question of law is pending before jurisdictional High Court or Supreme Court	158AB, 158AA(1)	51 & 52	01-04-2022
3.	Amendment in section 245MA of the Act related to Dispute Resolution Committee	245MA, Ch. XIX-AA	67	01-04-2022
4.	Clarification regarding treatment of cess and surcharge	Explanation 3 of 40(a)(ii)	13	01-04-2005 retrospectively

# B. Promoting Voluntary Tax Compliance & Reducing Litigation

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
5.	Amendments related to successor entity subsequent to business reorganization	170(2A), 170A, 156A	50, 53 & 54	01-04-2022
6.	Clarification in respect of disallowance under section 14A in absence of any exempt income during an assessment year	Explanation of 14A, 14A(1)	9	01-04-2022
7.	Clarifications on allowability of expenditure under section 37	Explanation 337(1)	12	01-04-2022
8.	Clarification regarding deduction on payment of interest only on actual payment	Explanation 3C, 3CA, 3D of 43B	14	01-04-2023
9.	Consequence for failure to deduct/collect or payment of tax – Computation of interest	Proviso to 201(1A) & 206C(7)	60 & 62	01-04-2022

# 1. Introduction of filing of Updated ITR

[Clause 38, 39, 41, 48, 64, 65, 81]

## • Introduction of section 139(8A) of the Income-tax Act, w.e.f. 01/04/2022 [Clause 38(1)]

*“(8A) Any person, whether or not he has furnished a return under sub-section (1) or sub-section (4) or sub-section (5), for an assessment year (herein referred to as the relevant assessment year), may furnish an updated return of his income or the income of any other person in respect of which he is assessable under this Act, for the previous year relevant to such assessment year, in the prescribed form, verified in such manner and setting forth such particulars as may be prescribed, at any time within twenty-four months from the end of the relevant assessment year:*

***Provided** that the provision of this sub-section shall not apply, if the updated return,—*

*(a) is a return of a loss; or*

*(b) has the effect of decreasing the total tax liability determined on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5); or*

*(c) results in refund or increases the refund due on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5),*

*of such person under this Act for the relevant assessment year:*

*Provided further that a person shall not be eligible to furnish an updated return under this sub-section, where—*

- (a) a search has been initiated under section 132 or books of account or other documents or any assets are requisitioned under section 132A in the case of such person; or*
- (b) a survey has been conducted under section 133A, other than sub-section (2A) of that section, in the case such person; or*
- (c) a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A in the case of any other person belongs to such person; or*
- (d) a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person,*

*for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and two assessment years preceding such assessment year:*

**Provided also** that no updated return shall be furnished by any person for the relevant assessment year, where—

- (a) an updated return has been furnished by him under this sub-section for the relevant assessment year; or
- (b) any proceeding for assessment or reassessment or recomputation or revision of income under this Act is pending or has been completed for the relevant assessment year in his case; or
- (c) the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 or the Prohibition of Benami Property Transactions Act, 1988 or the Prevention of Money-laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and the same has been communicated to him, prior to the date of furnishing of return under this sub-section; or
- (d) information for the relevant assessment year has been received under an agreement referred to in section 90 or section 90A in respect of such person and the same has been communicated to him, prior to the date of furnishing of return under this sub-section; or
- (e) any prosecution proceedings under the Chapter XXII have been initiated for the relevant assessment year in respect of such person, prior to the date of furnishing of return under this sub-section; or
- (f) he is such person or belongs to such class of persons, as may be notified by the Board in this regard.”

**In Explanation to section 139(9), clause (c) has been introduced w.e.f. 01.04.2022 [Clause 38(2)]**

(ca) the return is accompanied by the proof of payment of tax as required under section 140B, if the return of income is a return furnished under sub-section (8A);

**Introduction of section 140B of the Income-tax Act, w.e.f. 01/04/2022 [Clause 39]**

(1) Where no return of income under sub-section (1) or sub-section (4) of section 139 has been furnished by an assessee and tax is payable, on the basis of return to be furnished by such assessee under sub-section (8A) of section 139, after taking into account,—

- (i) the amount of tax, if any, already paid as advance tax;
- (ii) any tax deducted or collected at source;
- (iii) any relief of tax claimed under section 89;
- (iv) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;
- (v) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and
- (vi) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD, the assessee shall be liable to pay such tax together with interest and fee payable under any of the provisions of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional income-tax computed in accordance with subsection (3), before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee<sup>32</sup>



(2) Where, return of income under sub-section (1) or subsection (4) or sub-section (5) of section 139 (referred to as earlier return) has been furnished by an assessee and tax is payable on the basis of return to be furnished by such assessee under sub-section (8A) of section 139,—

(a) after taking into account,—

- (i) the amount of relief or tax referred to in subsection (1) of section 140A, the credit for which has been taken in the earlier return;
- (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;
- (iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return;
- (iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;
- (v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return; and

(b) as increased by the amount of refund, if any, issued in respect of such earlier return, the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax along with the payment of additional income-tax, as computed in accordance with sub-section (3), as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return and the return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(3) For the purposes of sub-sections (1) and (2), the additional income-tax payable at the time of furnishing the return under sub-section (8A) of section 139 shall be equal to,—

(i) twenty-five per cent. of aggregate of tax and interest payable, as determined in sub-section (1) or subsection (2), as the case may be, if such return is furnished after expiry of the time available under sub-section (4) or sub-section (5) of section 139 and before completion of the period of twelve months from the end of the relevant assessment year; or

(ii) fifty per cent. of aggregate of tax and interest payable, as determined in sub-section (1) or sub-section (2), as the case may be, if such return is furnished after the expiry of twelve months from the end of the relevant assessment year but before completion of the period of twenty-four months from the end of the relevant assessment year.

*Explanation.*—For the purposes of computation of “additional income-tax”, tax shall include surcharge and cess, by whatever name called, on such tax.

(4) Notwithstanding anything contained in Explanation 1 to section 234B, for the purposes of sub-section (2), interest payable under section 234B shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax, where, “assessed tax” means the tax on the total income as declared in the return to be furnished under sub-section (8A) of section 139,—

(a) after taking into account,—

- (i) the amount of relief or tax referred to in subsection (1) of section 140A, the credit for which has been claimed in the earlier return;
- (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income, which has not been included in the earlier return;
- (iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return;
- (iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;
- (v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return; and

(b) as increased by the amount of refund, if any, issued in respect of such earlier return.

(5) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the approval of the Central Government, by notification in the Official Gazette, issue guidelines for the purpose of removing the difficulty.

(6) Every guideline issued under sub-section (5) shall be laid before each House of Parliament.

Explanation.—For the purposes of this section,—

(i) interest payable under section 234A, for the purposes of sub-section (1), shall be computed on the amount of tax on the total income as declared in the return, under sub-section (8A) of section 139, in accordance with the provisions of sub-section (1A) of section 140A;

(ii) interest payable under section 234C, for the purposes of sub-section (2), shall be computed after taking into account the total income furnished in the return under sub-section (8A) of section 139 as the returned income;

(iii) interest payable, for the purposes of subsection (3), shall be the interest chargeable under any provision of this Act, on the income as per return furnished under sub-section (8A) of section 139, as reduced by interest paid, in accordance with the earlier return, if any:

Provided that for the purposes of this clause, the interest paid in the earlier return shall be nil if such return is an updated return referred to in sub-section (1).

**Amendment in provisions of section 144 of Income tax Act w.e.f. 01.04.2022  
[Clause 41]**

*In section 144 of the Income-tax Act, in sub-section (1), in clause (a), after the words, brackets and figure “or sub-section (5)”, the words, brackets, figure and letter “or an updated return under sub-section (8A)” shall be inserted.*

**Amendment in provisions of section 153 of Income Tax Act w.e.f.  
01.04.2022 [Clause 48]**

*In section 153 of the Income-tax Act,—*

*(a) after sub-section (1), the following sub-section shall be inserted, namely:—*

*“(1A) Notwithstanding anything contained in subsection (1), where a return under sub-section (8A) of section 139 is furnished, an order of assessment under section 143 or section 144 may be made at any time before the expiry of nine months from the end of the financial year in which such return was furnished.”;*

(b) in sub-section (3),—

- (i) after the words “fresh assessment”, the words, figures and letters “**or fresh order under section 92CA, as the case may be,**” shall be inserted;
- (ii) after the words “cancelling an assessment,”, the words, letters and figures “**or an order under section 92CA, as the case may be**” shall be inserted;

(c) in sub-section (5),—

- (i) after the words “Assessing Officer” wherever they occur, the words “**or the Transfer Pricing Officer, as the case may be,**” shall be inserted;
- (ii) after the words “fresh assessment or reassessment”, the words, figures and letters “**or fresh order under section 92CA, as the case may be,**” shall be inserted;

(d) after sub-section (5), the following sub-section shall be inserted, namely:—

**“(5A) Where the Transfer Pricing Officer gives effect to an order or direction under section 263 by an order under section 92CA and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or recomputation, in conformity with such order of the Transfer Pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him.”;**

(e) in sub-section (6), for the words, brackets and figures “sub-sections (3) and (5)”, the words, brackets, figures and letter “**sub-sections (3), (5) and (5A)**” shall be substituted;

(f) in Explanation 1,—

(I) in clause (iii), for the words, brackets, figures and letters “or sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, under clause (i) of the proviso”, the words, brackets and figure “, **under clause (i) of the first proviso**” shall be substituted;

(II) in clause (xi), for the words “Assessing Officer,”, the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2021, namely:—

**“Assessing Officer; or**

**(xii) the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee,—**

**(a) in whose case such search is initiated under section 132 or such requisition is made under section 132A; or**

**(b) to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to; or**

**(c) to whom any books of account or documents seized or requisitioned pertains or pertains to, or any information contained therein, relates to; or”;**

(III) after clause (xii), before the longline, the following clause shall be inserted, namely:—

**“(xiii) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer,”**

(III) after clause (xii), before the longline, the following clause shall be inserted, namely:—

*“(xiii) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer,”*

### **Amendment in provisions of section 234A of Income Tax Act w.e.f. 01.04.2022 [Clause 64]**

64. In section 234A of the Income-tax Act, in sub-section (1),—

(i) after the words, brackets and figure “or sub-section (4)”, the words, brackets, figure and letter “or sub-section (8A)” shall be inserted;

(ii) for Explanation 2, the following Explanation shall be substituted, namely:—

*‘Explanation 2.—In this sub-section,—*

(i) “tax on total income as determined under subsection (1) of section 143” shall not include the additional income-tax, if any, payable under section 140B or section 143; and

(ii) tax on the total income determined under regular assessment shall not include the additional income-tax payable under section 140B.’



**Amendment in provisions of section 234B of Income Tax Act w.e.f. 01.04.2022 [Clause 65]**

65. In section 234B of the Income-tax Act, in sub-section (1), for Explanation 3, the following Explanation shall be substituted, namely:—

*‘Explanation 3.—In Explanation 1 and in sub-section (3),—*

*(i) “tax on total income as determined under subsection (1) of section 143” shall not include the additional income-tax, if any, payable under section 140B or section 143; and*

*(ii) tax on the total income determined under such regular assessment shall not include the additional income-tax payable under section 140B.’*

**Amendment in provisions of section 276CC of Income Tax Act w.e.f. 01.04.2022 [Clause 81]**

81. In section 276CC of the Income-tax Act, in the proviso, in clause (ii), in sub-clause (a), after the words “expiry of the assessment year”, the words, brackets, figures and letter “or a return is furnished by him under sub-section (8A) of section 139 within the time provided in that sub-section” shall be inserted.

**Brief Analysis:**

**Section 139(8A)**: Under the existing provisions of section 139 of the act, assessee was allowed to file belated or revised return of income tax for any number of times till 31.12.20XX of relevant assessment year. This provision provides an additional time of approximately 5 months to an individual assessee, 2 months to a company/auditable case and 1 month to an assessee who enters into an international transaction or specified domestic transaction respectively, in a financial year to file belated or revised return. However, such additional timeline for filing a revised/belated return was found not to be adequate for the tax payers to factor in utilization of huge information and is working against the desired objective of voluntary tax compliance, starting with filing of correct tax returns.

**Thus, vide proposed section 139(8A), upon payment of additional tax, the tax payers have been allowed an additional one time opportunity to file updated ITR within 24 months from the end of relevant assessment year, irrespective of the fact that whether any ITR has already been filed u/s 139 or not for the relevant assessment year.**

The taxpayer shall not be allowed to avail this one time opportunity to file updated return in following cases:

- where the updated return is a **loss return**, or
- where the original **total tax liability is reduced in such updated return** in comparison with original return or revised return or belated return, as the case may be; or
- where the updated return **results in refund or increase in amount of refund** in comparison to amount of refund as per original return or revised return or belated return, as the case may be.
- where in case of assessee, **search operation has been initiated u/s 132 or requisition of books of accounts and other documents has been initiated u/s 132A or a survey operation has been initiated u/s 133A** (*except in case of TDS Survey*) or a notice has been issued to affect that assets seized or requisitioned u/s 132 or 132A from third person belongs to such taxpayer or a notice has been issued to affect that material seized or requisitioned u/s 132 or 132A from third person or information mentioned therein pertains to such taxpayer, taxpayer is prohibited to filed updated return for assessment year relevant to previous year in which search operation or survey operation has been initiated or requisitionis made and two assessment year preceding such assessment year.

- where in case of assessee, any proceeding u/s 143(3) or 147 or 153A or 153C or 263 or 264 of the act is pending or has been completed for said assessment year.
- where in case of assessee, a notice under BMA or PMLA or Benami Transaction Act or Smuggler and Foreign Exchange Manipulators (Forfeiture of Property) Act has been issued by adjudicating authority in respect of said assessment year.
- where in case of assessee, a communication has been issued regarding any information received by assessing officer u/s 90 or 90A i.e. Exchange of Information under DTAA with foreign authorities in respect of said assessment year.
- where a prosecution proceeding has been initiated against the assessee in respect of said assessment year.

Further, vide amendment in section 139(9) of the act, the assessee is required to accompany to updated return with proof of payment of additional tax payable under newly inserted section 140B.

## **Additional Tax to be paid u/s 140B:**

If the updated return is to be filed after 31.12.20XX but **before expiry of 12 months from end of relevant assessment year, additional tax is 25% of following amounts** whereas, if the updated return of income is to be filed **after expiry of 12 months from the end of relevant assessment year, additional tax is 50% of following amounts:**

- In case of no original return, total tax liability for the year (*including interest, fee etc. whereas tax includes surcharge and cess*) after claiming credit of TDS and TCS, Advance Tax paid, Relief u/s 89, Relief u/s 90 or 90A or 91 on account of tax paid in foreign country, tax credit u/s 115JAA or 115JD.
- In case of original return filed u/s 139 by the assessee, total tax liability for the year (*including interest, fee etc. whereas tax includes surcharge and cess*) after claiming credit of TDS and TCS, Advance Tax paid, Self Assessment Tax paid, Relief u/s 89, Relief u/s 90 or 90A or 91 on account of tax paid in foreign country, tax credit u/s 115JAA or 115JD. Also, the interest already paid alongwith original return, is allowed to be reduced from total tax liability.

In case of assessee, where return has been filed u/s 139, while computing interest u/s 234B in respect of updated return, the interest shall be computed on the differential tax amount between assessed tax after adjusting credit of TDS and TCS, Self Assessment Tax paid, Relief u/s 89, Relief u/s 90 or 90A or 91 on account of tax paid in foreign country, tax credit u/s 115JAA or 115JD and the advance tax paid.

In case of assessee, where no return has been filed u/s 139, while computing interest u/s 234A and 234C in respect of updated return, considering total income to be income reported in ITR filed u/s 139(8A) instead of income reportable in ITR to be filed u/s 139(1)/139(4)/139(5).

In view of the proposed sub-section (8A) of section 139 and new section 140B, consequential amendments in section 144, section 153, section 234A and section 234B and 276CC have also been made.

## 2. Litigation management when in an appeal by revenue an identical question of law is pending before jurisdictional High Court or Supreme Court. [Clause 51 & 52]

### Proviso to Section 158AA(1) inserted w.e.f. 1st April, 2022

*“Provided that no such direction shall be given on or after the 1st day of April, 2022.”*

### Section 158AB ‘Procedure where an identical question of law is pending before High Courts or Supreme Court’ inserted w.e.f. 1st April, 2022

*“(1) Notwithstanding anything contained in this Act, where the collegium is of the opinion that—*

- (a) any question of law arising in the case of an assessee for any assessment year (such case being herein referred to as the relevant case) is identical with a question of law arising,—*
  - (i) in his case for any other assessment year; or*
  - (ii) in the case of any other assessee for any assessment year; and*
- (b) such question is pending before the jurisdictional High Court under section 260A or the Supreme Court in an appeal under section 261 or in a special leave petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, as the case may be, which is in favour of such assessee (such case being herein referred to as the other case),*

*the collegium may, decide and inform the Principal Commissioner or Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under sub-section (2) of section 253 or to the jurisdictional High Court under sub-section (2) of section 260A in the relevant case against the order of the Commissioner (Appeals) or the Appellate Tribunal, as the case may be.*

*(2) The Principal Commissioner or the Commissioner shall, on receipt of a communication from the collegium under sub-section (1), direct the Assessing Officer to make an application to the Appellate Tribunal or the jurisdictional High Court, as the case may be, in such form as may be prescribed within a period of sixty days from the date of receipt of the order of the Commissioner (Appeals) or within a period of one hundred and twenty days from the date of receipt of the order of the Appellate Tribunal, as the case may be, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on such question of law becomes final in the other case.*

*(3) The Principal Commissioner or Commissioner shall direct the Assessing Officer to make an application under subsection (2) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and in case no such acceptance is received, the Principal Commissioner or Commissioner shall proceed in accordance with the provisions contained in sub-section (2) of section 253 or in sub-section (2) of section 260A.*



*(4) Where the order of the Commissioner (Appeals) or the order of the Appellate Tribunal, as the case may be, referred to in sub-section (1) is not in conformity with the final decision on the question of law in the other case, as and when such order is received, the Principal Commissioner or Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, as the case may be, against such order and save as otherwise provided in this section all other provisions of Part B of Chapter XX shall apply accordingly.*

*(5) Every appeal under sub-section (4) shall be filed within a period of sixty days from the date on which the order of the jurisdictional High Court or the Supreme Court in the other case is communicated, in accordance with the procedure specified by the Board in this behalf, to the Principal Commissioner or Commissioner.*

*Explanation.—For the purposes of this section, “collegium” means a collegium comprising of two or more Chief Commissioners or Principal Commissioners or Commissioners, as may be specified by the Board in this behalf.”*

## Brief Impact:

1. Section 158AA of the Act provides that where the CIT or PCIT is of the opinion that any question of law arising in the case of an assessee (relevant case) is identical with a question of law arising in his case for another AY (other case) which is pending in appeal before the Supreme Court against an order of High Court which was in favour of assessee, he may direct the AO to make an application to the ITAT stating that an appeal on the question of law in the relevant case may be filed when the decision on the question of law becomes final in the other case, subject to the acceptance of the same by the assessee. The Finance Bill proposes to insert a sunset clause in the section to provide that no direction shall be given under the said subsection on or after 1st April, 2022.
2. Further, the Finance Bill proposes to insert a new Section 158AB to provide that where the collegium (comprising of two or more CCIT or PCIT or CIT, as specified by the Board in this regard) is of the opinion that any question of law decided against the revenue by CIT(A) or ITAT in the case of an assessee for any AY (“relevant case”) is identical with a question of law already raised in his case or in the case of any other assessee for an AY, which is pending to be decided by jurisdictional High Court u/s 260A or the Supreme Court in an appeal u/s 261 or in a SLP under Article 136 of the Constitution, against the order of the ITAT or the jurisdictional High Court, as the case may be, the collegium may, decide and intimate the CIT or PCIT not to file any appeal, at this stage before ITAT or the High Court against said order of CIT(A) or ITAT, as the case may be subject to compliance with following procedure:<sup>50</sup>

## Contd.....

- a. Firstly, the collegium shall recommend the jurisdictional PCIT or CIT, as the case may be, to not to file appeal in such case being the question of law involved therein is identical to any question of law pending before Jurisdictional HC or SC.
- b. Then, the jurisdictional PCIT or CIT, as the case may be, shall direct the Ld. AO to seek acceptance from the assessee regarding the fact that the question of law arising out of decision of CIT(A) or ITAT is pending to be decided by jurisdictional HC or SC and to avoid repetitive litigation, the department is not filing appeal at that point of time but if the question of law pending before Jurisdictional HC or SC is decided in favour of revenue, they may proceed to file appeal thereafter and no objection regarding expiry of time limit to file appeal shall be available with the assessee.
- c. Thereafter, if assessee accepts the aforesaid proposition of revenue, the Ld. AO shall file an application with ITAT or HC that being the identical question of law is pending to be decided by Jurisdictional HC or SC, no appeal in respect of said order of CIT(A) or ITAT is being filed for the sake of avoiding repetitive appeals and reserve its right to file the same if the question of law is decided in there favour.

## Contd.....

- d. The aforesaid application before ITAT or Jurisdictional HC can be moved within 60 days from the receipt of the order of CIT(A) or within 120 days from the date of receipt of the order of the ITAT stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case.
- e. Now, in case, the question of law is decided by Jurisdictional HC or SC against the assessee and in favour of revenue, the CIT or PCIT may direct the AO to appeal to the ITAT or the jurisdictional High Court, as the case may be, against such order of CIT(A) or ITAT.

These amendment are proposed to be applicable in AY 2022-23 and onwards.

### 3. Amendment in section 245MA of the Act related to Dispute Resolution Committee [Clause 67]

#### Sub-section (2A) of Section 245MA inserted w.e.f 1st April, 2022

*“(2A) Notwithstanding anything contained in section 144C, upon receipt of the order of the Dispute Resolution Committee under this section, the Assessing Officer shall,—*

- (a) in a case where the specified order is a draft of the proposed order of assessment under sub-section (1) of section 144C, pass an order of assessment, reassessment or recomputation; or*
- (b) in any other case, modify the order of assessment, reassessment or recomputation, in conformity with the directions contained in the order of the Dispute Resolution Committee within a period of one month from the end of the month in which such order is received.”*

#### **Brief Impact:**

Finance Act, 2021 introduced a new chapter XIX-AA in the Act consisting of section 245MA for constituting Dispute Resolution Committee (DRC) for specified persons who may opt for dispute resolution under the said section & who fulfil specified conditions mentioned in the said section.

It is proposed to insert a new sub-section to enable the AO to pass an order giving effect to the resolution of dispute by DRC. However, since DRC is an alternate dispute resolution mechanism itself, a taxpayer may opt for approaching either the Dispute Resolution Panel u.s 144C or the DRC u.s 245MA, and the AO shall pass the final order in conformity with the order by the DRC even in the case of an eligible assessee. This amendment is proposed to be applicable from AY 2022-23 and onwards.

## 4. Clarification regarding treatment of cess and surcharge

[Clause 13]

### Explanation 3 to Section 40(a)(ii) inserted w.r.e.f. 1st April, 2005

*“Explanation 3.— For the removal of doubts, it is hereby clarified that for the purposes of this sub-clause, the term “tax” shall include and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax.”*

#### **Brief Impact:**

Section 40(a)(ii) provides that any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains shall not be deducted in computing the income chargeable under the head PGBP.

The Finance Bill proposes to clarify by way of an Explanation that any surcharge or cess levied by the Central Government shall be deemed to have always included under the term “tax” for the purpose of this clause. Education Cess and Health & Education Cess are included under the same. However, the cess levied by the State Governments are not intended to be disallowable under the said section.

This amendment seeks to nullify, some judgments, notably in favour of the assessee by the decision of the **Hon'ble Rajasthan High Court** in case of CIT vs Chambal fertilizers and chemicals Ltd (ITA No.52 of 2018 dt 31 July 2018 as well as of the decision of the **Hon'ble Bombay High Court** in case of Seas Goa Ltd in TA No. 17 & 18 of 2013 dt 28 Feb 2020.

This amendment is proposed to be applicable retrospectively from AY 2005-06 and onwards.

## 5. Amendments related to successor entity subsequent to business [Clause 50, 53 & 54]

### Section 156A ‘Modification and revision of notice in certain cases’ inserted w.e.f. 1st April, 2022

- (1) *Where any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued under section 156, is reduced as a result of an order of the Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, the Assessing Officer shall modify the demand payable in conformity with such order and shall thereafter serve on the assessee a notice of demand specifying the sum payable, if any, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall accordingly, apply in relation to such notice.*
- (2) *Where the order referred to in sub-section (1) is modified by the National Company Law Appellate Tribunal or the Supreme Court, as the case may be, the modified notice of demand as referred to in sub-section (1), issued by the Assessing Officer shall be revised accordingly.*



**Sub-section (2A) to Section 170 inserted w.e.f. 1st April, 2022**

*“(2A) Notwithstanding anything contained in subsections (1) and (2), where there is a business reorganisation, the assessment or reassessment or other proceedings, made on the predecessor during the course of pendency of such reorganisation, shall be deemed to have been made on the successor and all the provisions of this Act shall, so far as may be, apply accordingly.*

*Explanation.— For the purposes of this sub-section, the expressions,—*

- (i) “business reorganisation” means the reorganisation of business involving the amalgamation or de-merger or merger of business of one or more persons;*
- (ii) “pendency” means the period commencing from the date of filing of application for such reorganisation of business before the High Court or tribunal or the date of admission of an application for corporate insolvency resolution by the Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016 and ending with the date on which the order of such High Court or tribunal or such Adjudicating Authority, as the case may be, is received by the Principal Commissioner or the Commissioner.”*

**Section 170A ‘Effect of order of tribunal or court in respect of business reorganization’ inserted w.e.f. 1st April, 2022**

*“Notwithstanding anything to the contrary contained in section 139, in a case of business reorganisation, where prior to the date of order of a High Court or tribunal or an Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, as the case may be, any return of income has been furnished by the successor under the provisions of section 139 for any assessment year relevant to the previous year to which such order applies, such successor shall furnish, within a period of six months from the end of the month in which the said order was issued, a modified return in such form and manner, as may be prescribed, in accordance with and limited to the said order.*

*Explanation.—In this section, “business reorganisation” shall have the same meaning as assigned to it in clause (i) of the Explanation to sub-section (2A) of section 170.”*

## **Brief Impact:**

1. The Finance Bill proposes to insert sub-section (2A) in Section 170 to provide that the assessment/other proceedings pending/completed on the predecessor in the event of a business reorganization, shall be deemed to have been made on the successor and not the predecessor.
2. It is further proposed to insert a new section 170A to the Act, to enable for the entities going through such business reorganization, for filing of modified returns for the period between the date of effectivity of the order & the date of issuance of final order of the competent authority, within six months from the end of the month in which the said order was issued.
3. Judgment of Hon'ble Supreme Court dt 02.11.2017 passed in C.I.T. Vs. M/s. Spice Entertainment Ltd & in the case of Pr. CIT vs Maruti Suzuki India Limited dt 25/07/2019 nullified.
4. It is also proposed to insert a new section 156A to the Act to give effect to the orders of the competent authority i.e. Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016, National Company Law Appellate Tribunal or the Supreme Court and to modify such demands in accordance with such directions

These amendments are proposed to be applicable in AY 2022-23 and onwards.

## 6. Clarification in respect of disallowance u.s. 14A in absence of any exempt income during an assessment year [Clause 9]

### Sub-section (1) of Section 14A amended w.e.f 1st April, 2022

*“(1) ~~For the purposes of~~ Notwithstanding anything to the contrary contained in this Act, for the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act.”*

### Explanation to Section 14A inserted w.e.f 1st April, 2022

*“Explanation.—For the removal of doubts, it is hereby clarified that notwithstanding anything to the contrary contained in this Act, the provisions of this section shall apply and shall be deemed to have always applied in a case where the income, not forming part of the total income under this Act, has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such income not forming part of the total income.”*

**Brief Impact:**

1. Section 14A of the Act provides that no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income that does not form part of the total income as per the provisions of the Act (exempt income).
2. The Finance Bill proposes to amend the provision of Section 14A to clarify that notwithstanding anything to the contrary contained in this Act, the provisions of this section **shall apply and shall be deemed to have always applied** in a case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income.
3. It has been held in various judicial pronouncements that where no exempt income is earned or received by the assessee during an assessment year, no disallowance under section 14A is warranted. The following notable judgments have been nullified :
  - PCIT-3 vs. Ballarpur Industries Limited (Bombay High Court Income Tax Appeal No. 51 of 2016)
  - Cheminvest Ltd. v. CIT (61 taxmann.com 118) Delhi High Court

- CIT vs. Chetnad Logistics (P.) Ltd. [2017] 80 taxmann.com 221 (Madras/ [2017] 248 Taxmann 55 (Madras)
- PCIT vs. IL&FS Energy Development Company Ltd. ([2017] 84 taxmann.com 186 (Delhi))
- Hon'ble Punjab & Haryana High Court in the case of CIT vs. Winsome Textile Industries Ltd. reported at (2009) 319 ITR 204(P&H)
- The Hon'ble Supreme Court in April 2019 dismissed the Revenue's Special Leave Petition (SLP) in case of Cheminvest Ltd. v. CIT [2015] 378 ITR 33 (Delhi HC), against the decision of the Delhi High Court holding that no question of law arose from the order of the Income-tax Appellate Tribunal (Tribunal), thereby deleting the disallowance under section 14A of the Income-tax Act, 1961 (Act), in the absence of any exempt income during the year.
- In 2018, the Hon'ble Supreme Court had previously dismissed SLP in case of CIT vs. Chettinad Logistics (P.) Ltd filed by the Revenue and thus, deleting the disallowance of expense under section 14A of the Act in the absence of exempt income.

This amendment is proposed to be applicable in AY 2022-23 and onwards.

# 7. Clarifications on allowability of expenditure under section 37 [Clause 12]

## Explanation 3 to Section 37 inserted w.e.f 1st April, 2022

*“Explanation 3.—For the removal of doubts, it is hereby clarified that the expression “expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law” under Explanation 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee,—*

- (i) for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or*
- (ii) to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person; or*
- (iii) to compound an offence under any law for the time being in force, in India or outside India.”*

## **Brief Impact:**

Section 37 provides for allowability of revenue & non-personal expenditure (other than those failing under sections 30 to 36) laid out or expended wholly & exclusively for the purposes of business or profession.

In the light of CBDT Circular No. 5/2012 dt 1.8.2012, it is stated that the legal position is clear that the claim of any expense incurred in providing various benefits in violation of provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 shall be inadmissible under section 37(1) being an expense prohibited by the law. Such expenditure shall not be allowable in the hands of pharmaceutical/ allied health sector Industries/ other assessee which has provided aforesaid benefits & claimed it as a deductible expense in its accounts.

Therefore, a clarificatory Explanation is proposed to be inserted in the Section 37 that any expenses incurred

- (i) for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or
- (ii) to provide any benefit/ perquisite, in whatever form, to a person and acceptance of such benefit/ perquisite by such person is in violation of any law/ rule/ regulation/ guideline for the time being in force, governing the conduct of such person; or
- (iii) to compound an offence under any law for the time being in force, in India or outside India.



## 8. Clarification regarding deduction on payment of interest only on actual payment [Clause 14]

### Amendment in Explanation 3C, 3CA & 3D of Section 43B w.e.f 1st April, 2023

*Explanation 3C.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (d) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or borrowing **or debenture or any other instrument by which the liability to pay is deferred to a future date** shall not be deemed to have been actually paid.*

*Explanation 3CA.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (da), shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or borrowing **or debenture or any other instrument by which the liability to pay is deferred to a future date** shall not be deemed to have been actually paid.*

*Explanation 3D.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (e) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or advance **or debenture or any other instrument by which the liability to pay is deferred to a future date** shall not be deemed to have been actually paid.*

## **Brief Impact:**

Section 43B of the Act provides for certain deductions to be allowed only on actual payment. The amendment in the mentioned Explanations proposes to clarify that conversion of the outstanding interest liability into debentures is not an actual payment and cannot be claimed as deduction under section 43B of the Act. It proposes to clarify that a mercantile system of accounting cannot be looked at when a deduction is claimed under this section, as actual payment would have to be made.

Accordingly, the decision in the case of M.M. Aqua Technologies Ltd vs. CIT [SLP (Civil) Nos. 35883-35884 of 2016 dated 11/08/2021] is proposed to be nullified.

This amendment is proposed to be applicable in AY 2023-24 and onwards.

## 9. Consequence for failure to deduct/collect or payment of tax – Computation of interest [Clause 60 & 62]

### Amendment in Section 201(1A) [Clause 60]

#### **Second Proviso to Section 201(1A) inserted w.e.f 1st April, 2022**

*“Provided further that where an order is made by the Assessing Officer for the default under sub-section (1), the interest shall be paid by the person in accordance with such order.”*

### Amendment in Section 206C(7)[Clause 62]

#### **Second Proviso to Section 206C(7) inserted w.e.f. 1st April, 2022**

*“Provided further that where an order is made by the Assessing Officer for the default under sub-section (6A), the interest shall be paid by the person in accordance with such order.”*

### **Brief Impact:**

The Finance Bill has proposed to insert clarificatory provision in Section 201(1A) and 206C(7) of the Act. It proposes that where an order is made by the Assessing Officer for any default under section 201(1) or 206C(6A) of the Act, the interest shall be paid by the person in accordance with such order only.

# C. SOCIO-ECONOMIC WELFARE MEASURES

# C. Socio-Economic Welfare Measures

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
1.	Extension of the last date for commencement of manufacturing or production u/s 115BAB, from 31.03.2023 to 31.03.2024	115BAB	26	01-04-2022
2.	Extension of date of incorporation for eligible start up for exemption	Explanation to 80-IAC(4)(ii)(a)	22	01-04-2022
3.	Rationalization of provisions of the Act to promote the growth of co-operative societies	115JC(4), 115JF(b)(i) & (ia)	29 & 30	01-04-2023
4.	Tax Incentives to International Financial Services Centre (IFSC)	10(4E), (4F) & (4G), 56(2)(viib), 80LA(2)(d)	4, 16 & 23	01-04-2023

# C. Socio-Economic Welfare Measures

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
5.	Incentives to National Pension System (NPS) subscribers for state government employees	80CCD(2)	20	01-04-2020
6.	Condition of releasing of annuity to a disabled person	80DD(2)(a), 80DD(3A)	21	01-04-2023
7.	Exemption of amount received for medical treatment and on account of death due to COVID-19	17(2), 56(2)(x)	10 & 16	01-04-2020
8.	Facilitating strategic disinvestment of public sector companies	79(2)(f), 79(3), explanation (ia) & (ib)	18	01-04-2022

# i. Extension of date for commencement of manufacturing or production (Clause 26)

## Amendment in section 115BAB w.e.f. 1<sup>st</sup> day of April 2022:-

### Substitution of word in clause (a) of sub-section (2) to section 115BAB

(a) the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, ~~2023~~ 2024;

### Brief Impact:

Hon'ble Finance Minister Smt. Nirmala Sitharman in her budget speech said that *“...to attract investment, create jobs and trigger overall economic growth. However, the cumulative impact of the persistence of the COVID-19 pandemic has resulted in some delay in setting up/registration of new domestic companies and the commencement of manufacturing or production by such companies...”*

To provide relief to such companies, it is proposed to extend the date of commencement of manufacturing or production of an article or thing, from 31st March, 2023 to **31st March, 2024**.

## 2. Extension of date of incorporation for eligible start up for exemption and for investment in eligible start-up (Clause 22)

### Amendment in section 80-IAC w.e.f. 1<sup>st</sup> day of April 2022:-

#### Substitution of word in explanation to section 80-IAC

- (ii) “eligible start-up” means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:—
- (a) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, ~~2022~~ 2023;

### Brief Impact:

The above amendments in section 80-IAC of the Act has been made with a view to encourage the start up and investments in them and provide relief in delays in setting up and promote such eligible start-ups due to COVID pandemic, the time limit to set such eligible business & invest in such businesses has been extended till 31<sup>st</sup> March, 2023. This amendment will also boost the vision of “Make in India” & “Aatmanirbhar Bharat”.



### 3. Rationalisation Rationalization of provisions of the Act to promote the growth of co-operative societies [Clause 29, 30]

- **Amendment in section 115JC of the Income-tax Act, w.e.f. 01/04/2023 [Clause 29]**

*In section 115JC, sub-section (4) has been substituted as under:*

*‘(4) Notwithstanding anything contained in sub-section (1), where the person referred to therein, is a—*  
*(i) unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the provisions of sub-section (1) shall have effect as if for the words “eighteen and one-half per cent.”, the words “nine per cent.” had been substituted;*  
*(ii) co-operative society, the provisions of sub-section (1) shall have effect as if for the words “eighteen and one half per cent.”, the words “fifteen per cent.” had been substituted.’*

- **Amendment in section 115JF of the Income-tax Act, w.e.f. 01/04/2023 [Clause 30]**

*In section 115JF, in clause (b), sub clause (i) is proposed to be substituted with following:*

*‘(i) in case of an assessee being a unit referred to in clause (i) of sub-section (4) of section 115JC, at the rate of nine per cent.;*  
*(ia) in case of an assessee, being a co-operative society referred to in clause (ii) of sub-section (4) of section 115JC, at the rate of fifteen per cent.;*’

#### **Brief Analysis:**

In order to bring parity between AMT tax rate applicable for companies and Co-Operative Societies, the provisions of section 115JC and 115JF has been proposed to be amended to reduce applicable tax rate of 18.50% to 15% w.e.f. 01.04.2023 i.e. AY 2023-24.

# 4. Tax incentives for units located in International Financial Services Centre (IFSC) [Clause 4,16 & 23]

## Amendment in Section 10 [Clause 4]

- Amendment in clause (4E) to section 10 [Clause 4]

*After the words “non-deliverable forward contracts”, the words “or offshore derivative instruments or over-the-counter derivatives,” shall be inserted;*

- Amendment in clause (4F) to section 10 [Clause 4]

*After the words “aircraft”, the words “a ship,” shall be inserted;*

- Insertion of new Explanation to Clause 4F to Section 10 [Clause 4]

*“ship” to mean a ship or an ocean vessel, an engine of a ship or an ocean vessel, or any part thereof;*

- **Insertion of Clause 4G to Section 10 [Clause 4]**

**10(4G):** *“any income received by a non-resident from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident, in an account maintained with an offshore banking unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India;”*

- **Insertion of Explanation to Clause 4G to Section 10 [Clause 4]**

*“portfolio manager” shall have the same meaning as assigned to it in clause (z) of sub-regulation (1) of regulation (2) of International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019;*

## Amendment in Section 56 [Clause 16]

- Amendment in Explanation in clause (aa) to clause (viib) to sub-section (2) to section 56 [Clause 21]

**Explanation (aa):** *After the words and figures “Securities and Exchange Board of India Act, 1992”, the words and figures “or regulated under the International Financial Services Centres Authority Act, 2019” shall be inserted;*

## Amendment in Section 80LA [Clause 23]

- Amendment in clause (d) to sub-section (2) to section 80LA [Clause 23]

**80LA(2)(d):** *After the words “being an aircraft”, the words “or a ship” shall be inserted;*

- Amendment in Explanation to clause (d) to sub-section (2) to section 80LA [Clause 23]

**Explanation:** *For the words ‘this clause, “aircraft” shall’, the words ‘this clause, “aircraft” and “ship” shall’ shall be substituted*

**Brief Impact:** Government has establishment a world class financial services centre. Units located in IFSC enjoy some concession. In order to make location in IFSC more attractive, it is proposed to provide the following additional incentives:

**Section 10(4E):** As per the current provision of section 10(4E) of the Act, any income accrued or arisen to, or received by a non-resident as a result of transfer of non- deliverable forward contracts entered into with an offshore banking unit of International Financial Services Centre which commenced operations on or before the 31st day of March, 2024 and fulfils prescribed conditions. Now government has widened the scope of this section by amendment and included **offshore derivative instruments or over-the-counter derivatives.**

**Section 10(4F):** As per the current provision of section 10(4F) of the Act, any income of a non-resident by way of royalty, on account of lease of an aircraft in a previous year, paid by a unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, if the unit has commenced its operations on or before the 31st day of March, 2024. Now government has widened the scope of this section by amendment and included **lease of a ship.**

Further explanation to section 10(4F) is also inserted wherein definition of “ship” is provided which is as under:

“a ship or an ocean vessel, an engine of a ship or an ocean vessel, or any part thereof”

**Section 10(4G):** New section 10(4G) is inserted to provide exemption to any income received by a non-resident from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident, in an account maintained with an offshore banking unit, in any International Financial Services Centre, referred to in subsection (1A) of section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

**Definition of “Portfolio Manager”**

“portfolio manager” shall have the same meaning as assigned to it in clause (z) of sub-regulation (1) of regulation (2) of International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019;

**Section 56(2)(viib)**: As per the current explanation (aa) to this section, "specified fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992). Now the government has widened the scope of this section by amendment and included **Category I or a Category II Alternative Investment Fund which is regulated under the International Financial Services Centres Authority Act, 2019.**

**Section 80LA**: Following amendment are made to section 80LA of the Act:

- Income arising from transfer of an asset, being an aircraft or aircraft engine or **a ship** which was leased by a unit referred to in clause (d) of sub-section (2) of section 80LA to a domestic company engaged in the business of operation of aircraft or **ship** before such transfer shall also be eligible for 100% deduction subject to condition that the unit has commenced operation on or before the 31st March 2024.

## 5. Incentives to National Pension System (NPS) subscribers for state government employees (Clause 20)

Amendment in section 80CCD w.e.f. 1<sup>st</sup> day of April 2020:-

Substitution of word in section 80CCD(2)

(2) Where, in the case of an assessee referred to in sub-section (1), the ~~Central Government~~ Central Government or the State Government or any other employer makes any contribution to his account referred to in that sub-section, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the ~~Central Government~~ Central Government or the State Government or any other employer as does not exceed—

a) fourteen per cent, where such contribution is made by the ~~Central Government~~ Central Government or the State Government;

(b) ten per cent, where such contribution is made by any other employer, of his salary in the previous year;



## **Brief Impact:**

The above amendments in section 80CCD of the Act has been made with a view to provide benefit of deduction u/s 80CCD of Rs. 50,000/- from the total income to the State Government employees also.

In order to ensure that the State Government employees also get full deduction of the enhanced contribution by the State Government, it is proposed to amend the provision of section 80CCD of the Act from the existing 10% to 14% in respect of contribution made by the State Government to the account of its employee.

## 6. Condition of releasing of annuity to a disabled person [Clause 21]

### Amendment in Section 80DD [w.e.f 1st April 2023]

- Amendment in clause (a) to sub-section (2) to section 80DD [Clause 21]

**80DD(2)(a):** *The scheme referred to in clause (b) of sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability, —*

- *in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made;*
- *on attaining the age of sixty years or more by such individual or the member of the Hindu undivided family, and the payment or deposit to such scheme has been discontinued;*

- Insertion of sub-section (3A) to section 80DD [Clause 21]

**80DD(3A):** *“The provisions of sub-section (3) shall not apply to the amount received by the dependant, being a person with disability, before his death, by way of annuity or lump sum by application of the condition referred to in sub-clause (ii) of clause (a) of sub-section (2);”*

**Brief Impact:**

As per the Writ Petition No. 1107 of 2017 Ravi Agrawal versus Union of India and Another, Justice A.K. Sikri observed that that there could be harsh cases where handicapped dependants may need payment of annuity or lump sum basis even during lifetime of their parents/guardians.

Therefore, in order to remove genuine hardship, it is proposed to allow the deduction under section 80DD also during the lifetime, i.e., upon attaining age of 60 years or more of the individual or the member of the HUF in whose name subscription to the scheme has been made and where payment or deposit has been discontinued.

Further, it is also proposed that the provisions of section 80DD(3) shall not apply to the amount received by the dependant, before his death, by way of annuity or lump sum by application of the condition referred to in the proposed amendment.

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

# 7. Amendment in Section-56 w.e.f. 1st April 2020 [Clause 10 & 16]

## Clause (XII) & (XIII) to sub-clause(c) to section 56(2)(x) inserted w.r.e.f. 1st April, 2020.

*‘(XII) by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to such conditions, as the Central Government may, by notification in the Official Gazette, specify in this behalf;*

*(XIII) by a member of the family of a deceased person—*

*(A) from the employer of the deceased person;*

*or*

*(B) from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees,*

*where the cause of death of such person is illness related to COVID-19 and the payment is—*

*(i) received within twelve months from the date of death of such person; and*

*(ii) subject to such other conditions, as the Central Government may, by notification in the Official Gazette, specify in this behalf.*

*Explanation.—For the purposes of clauses (XII) and (XIII) of this proviso, “family”, in relation to an individual, shall have the same meaning as assigned to it in Explanation 1 to clause (5) of section 10.*

*(ii) for the Explanation, the following Explanation shall be substituted with effect from the 1st day of April, 2023, namely:—‘*

*Explanation.—For the purposes of this clause,*

*(a) the expressions “assessable”, “fair market value”, “jewellery”, “relative” and “stamp duty value” shall have the same meanings as respectively assigned to them in the Explanation to clause (vii); and*

*(b) the expression “property” shall have the same meaning as assigned to it in clause (d) of the Explanation to clause (vii) and shall include virtual digital asset.’.*

**Sub-Clause (C) to clause(ii) first proviso to sub-section(2) to section 17 inserted w.e.f. 1st April, 2020.**

*(c) in respect of any illness relating to COVID-19 subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf:”.*

**Brief Impact:**

Further, it is proposed to add the proviso to Clause (x) of sub-section (2) of section 56 and insert two new clauses in the proviso so as to provide that-

1. any sum of money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person;
2. any sum of money received by a member of the family of a deceased person, from the employer of the deceased person (without limit), or from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees, where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person, and subject to such other conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person.

In order to provide the relief as stated in the press statement dated 25.06.2021 released by the Finance Ministry, it is proposed to insert a new sub-clause in the proviso to Section 17(2) that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject to such conditions, as may be notified by the Central Government, shall not be forming part of “perquisite”.

# 8. Amendment in Section-79 w.e.f. 1st April 2022

## [Clause 18]

### Clause (f) to section 79 (2) inserted w.e.f. 1st April, 2022

*“(f) to an erstwhile public sector company subject to the condition that the ultimate holding company of such company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least fifty-one per cent. of the voting power of such company in aggregate.”*

### Sub-section (3) to section 79 inserted w.e.f. 1st April, 2022

*“(3) Notwithstanding anything contained in subsection (2), if the condition specified in clause (f) of the said sub-section is not complied with in any previous year after the completion of strategic disinvestment, the provisions of sub-section (1) shall apply for such previous year and subsequent previous years.”*

### Clause (ia) & (ib) in the Explanation to section 79 inserted w.e.f. 1st April, 2022

*“(ia) “erstwhile public sector company” shall have the same meaning as assigned to it in clause (ii) of the Explanation to clause (d) of sub-section (1) of section 72A;*

*“(ib) “strategic disinvestment” shall have the same meaning as assigned to it in clause (iii) of the Explanation to clause (d) of sub-section (1) of section 72A;*

**Brief Impact:**

1. Section 79 provides special provision for carry forward & Setoff of losses in case of certain closely held Companies. The losses incurred in earlier years shall be carried forward and set-off in the previous year only if at least 51% of the voting power held by the same shareholder as on the last day of year in which losses is incurred & on last day of the previous year in which losses will be setoff.
2. In order to promote strategic disinvestment, the Finance Bill proposes to amend section 79 to provide that the provisions of section 79(1) shall not apply to an erstwhile public sector company subject to the condition that the ultimate holding company of such erstwhile public sector company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least 51% of the voting power of the erstwhile public sector company in aggregate.
3. It is further proposed to provide that if the above condition is not complied with in any previous year after the completion of strategic disinvestment, the provisions of sub-section (1) shall apply for such previous year and subsequent previous years.



D. WIDENING AND DEEPENING  
OF TAX BASE

# D. Widening and Deepening of Tax Base

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
1.	Rationalization of provisions of section 206AB and 206CCA to widen and deepen tax-base	206AB (1)&(3), 206CCA(1)&(3), 194-IB(4)	57, 61 & 63	01-04-2022
2.	Rationalization of provisions of TDS on sale of immovable property	194-IA(1), (2), explanation (c) to 194-IA	56	01-04-2022
3.	TDS on benefit or perquisite of a business or profession	194R	58	01-07-2022
4.	Widening the scope of reporting by producers of cinematograph films or persons engaged in specified activities	285B	84	01-04-2022
5.	Provisions pertaining to bonus stripping and dividend stripping to be made applicable to securities and units	94(8), explanation (aa) & (d) to 94	25	01-04-2023

# 1. Rationalization of provisions of section 206AB and 206CCA to widen and deepen tax-base [Clause 57, 61, 63]

## • Amended section 194-IB, 206AB, 206CCA of the Income-tax Act, w.e.f. 01/04/2022:

*In section 194-IB of the Income-tax Act, in sub-section (4), the words, figures and letters “~~or section 206AB~~” shall be omitted.*

*In section 206AB of the Income-tax Act,—*

*(a) in sub-section (1),—*

*Notwithstanding anything contained in any other provisions of this Act, where tax is required to be deducted at source under the provisions of Chapter XVIIIB, other than section 192, 192A, 194B, 194BB, ~~194LBC or 194N~~ 194-IA, 194-IB, 194LBC, 194M or 194N on any sum or income or amount paid, or payable or credited, by a person (~~hereafter referred to as deductee~~) to a specified person, the tax shall be deducted at the higher of the following rates, namely*

*(b) in sub-section (3), for the portion beginning with the words “filed the returns of income” and ending with the words “each of these two previous years:”, the following shall be substituted, namely:—*

*“furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year:”.*

*In section 206CCA of the Income-tax Act,—*

*(a) Notwithstanding anything contained in any other provisions of this Act, where tax is required to be collected at source under the provisions of Chapter XVII-BB, on any sum or amount received by a person (~~hereafter referred to as collectee~~) from a specified person, the tax shall be collected at the higher of the following two rates, namely:-*

*(b) in sub-section (3), for the portion beginning with the words “filed the returns of income” and ending with the words “each of these two previous years:”, the following shall be substituted, namely:—*

*—*

*“furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year:”.*

**Brief Impact:**

1. The reference to section 206AB have been omitted in sub section (4) to section 194-IB, meaning there by where the tax is required to be deducted as the provision of section 206AA such deduction shall not exceed the amount rent payable for the last month of the previous year/ last month of the tenancy, as the case may be.

In the nutshell there is no requirement to deduct tax :

- (i) at twice the rate specified in the relevant provision of the Act; or
- (ii) at twice the rate or rates in force; or
- (iii) at the rate of five per cent.

Presently, as per Sec 206AB(1) of the Act, no TDS at higher rate is required to be deducted w.r.t cases referred under Sections 192, 192A, 194B, 194BB, 194LBC or 194N.

As per proposed amendment, Sections 194-IA, 194-IB and 194M have also been included in the list of sections for which higher TDS would not be required.

Further, as Per Section 206AB(3) , the rate of TDS/TCS shall be at the double of the normal rate or double the rate in force or at the rate of 5%, whichever is higher for all the payments to be made to the vendors who has not filed Income Tax Return for the immediately two previous years and total tax Deducted (TDS) and tax Collected (TCS) for each year was Rs. 50000 or more.

The definition of 'specified person' has been proposed to refer to the non-filing of ITR for assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted. This limit was earlier for 2 preceding previous years.

AS per proposed amendment the reference to expression "hereafter referred to as collectee" as per Section 206CCA(1) has been omitted;

Further, as per Section 206CCA(3), The definition of 'specified person' has been proposed to refer to the non-filing of ITR for assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted. This limit was earlier for 2 preceding previous.

## 2. Rationalization of provisions of TDS on sale of immovable property [Clause 56]

### • Amended section 194-IA of the Income-tax Act, w.e.f. 01/04/2022:

*(1) Any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), shall, at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent of such sum **or the stamp duty value of such property, whichever is higher** as income-tax thereon.*

*(2) No deduction under sub-section (1) shall be made where the consideration for the transfer of an ~~immovable property~~ immovable property and the stamp duty value of such property, are both is less than fifty lakh rupees.*

*(iii) in the Explanation, after clause (b), the following clause shall be inserted, namely:—*

*(c) “stamp duty value” shall have the same meaning as assigned to it in clause (f) of the Explanation to clause (vii) of sub-section (2) of section 56.’*

**Brief Impact:**

It is proposed that the TDS at the rate of 1 % deducted by the buyer on the stamp duty value (value adopted or assessed or assessable by any authority of the central government or a state government for the purpose of payment of stamp duty in respect of immovable property) OR actual sales consideration which ever is higher in case of transfer of immovable property.



### 3. TDS on benefit or perquisite of a business or profession [Clause 58]

- New section 194-R inserted in Income-tax Act, w.e.f. 01/04/2022:

*Any person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession, by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax*

*has been deducted in respect of such benefit or perquisite at the rate of ten per cent. of the value or aggregate of value of such benefit or perquisite:*

*Provided that in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite:*

*Provided further that the provisions of this section shall not apply in case of a resident where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed twenty thousand rupees:*

*Provided also that the provisions of this section shall not apply to a person being an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person.*

*Explanation.—For the purposes of this section, the expression “person responsible for providing” means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof.’.*

**Brief Impact:**

Deduction of TDS w.r.t. benefit or perquisite conferred on other person during the course of business or profession

As per clause (iv) of section 28 of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of profession is to be charged as business income in the hands of the recipient of such benefit or perquisite. On the scope of this section, there is a judgment of the **Hon'ble Madras High Court** in the case Boeing vs. CIT [250 ITR 667].

However, the assessee were not offering the value of benefit in their ITR. So in order to capture the details and to bring to tax, the corresponding value of benefit or perquisite would be subjected to tds @ 10% of the corresponding value. However, no TDS is required for and wrt value of benefits not exceeding Rs. 20,000/-.

Further, in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite.

## 4. Widening the scope of reporting by producers of cinematograph films or persons engaged in specified activities [Clause 58]

### • Substituted 285B of the Income-tax Act, w.e.f. 01/04/2022:

*Any person carrying on the production of a cinematograph film or engaged in any specified activity, or both, during the whole or any part of any financial year shall, in respect of the period during which such production or specified activity is carried on by him in such financial year, furnish within the prescribed period, a statement in the prescribed form to the prescribed income tax authority in the prescribed manner, containing particulars of all payments of over fifty thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production or specified activity.*

*Explanation.—For the purposes of this section, “specified activity” means any event management, documentary production, production of programmes for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.’*

**Brief Impact:**

Under section 285B, the producer of cinematographic films is obliged to furnish within 30 days from the end of the financial year or from the date of completion of the film, whichever is earlier, a statement containing particulars of all payments over Rs. 50,000/- in the aggregate made by him or due from him to each person engaged by him.

It is proposed to widen the scope of section 285B to include persons engaged in specified activities to expand the reporting requirements in Form 52A. "Specified Activities" would mean event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.

## 5. Provisions pertaining to bonus stripping and dividend stripping to be made applicable to securities and units [Clause 29, 30]

### Section 94(8) amended w.e.f. 1st April 2023

(8) Where—

- (a) any person buys or acquires any ~~units~~ **securities or units** within a period of three months prior to the record date;
- (b) such person is allotted additional ~~units~~ **securities or units** without any payment on the basis of holding of such ~~units~~ **securities or units** on such date;
- (c) such person sells or transfers all or any of the ~~units~~ **securities or units** referred to in clause (a) within a period of nine months after such date, while continuing to hold all or any of the additional ~~units~~ **securities or units** referred to in clause (b),
- then, the loss, if any, arising to him on account of such purchase and sale of all or any of such ~~units~~ **securities or units** shall be ignored for the purposes of computing his income chargeable to tax and notwithstanding anything contained in any other provision of this Act, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional ~~units~~ **securities or units** referred to in clause (b) as are held by him on the date of such sale or transfer.

*Explanation.—For the purposes of this section,—*

*(a) "interest" includes a dividend ;*

*~~(aa) "record date" means such date as may be fixed by—~~*

*~~(i) a company for the purposes of entitlement of the holder of the securities to receive dividend; or~~*

*~~(ii) a Mutual Fund or the Administrator of the specified undertaking or the specified company as referred to in the Explanation to clause (35) of section 10, for the purposes of entitlement of the holder of the units to receive income, or additional unit without any consideration, as the case may be;~~*

*(aa) "record date" means such date as may be fixed by—*

*(i) a company;*

*(ii) a Mutual Fund or the Administrator of the specified undertaking or the specified company referred to in the Explanation to clause (35) of section 10; or*

*(iii) a business trust defined in clause (13A) of section 2; or*

*(iv) an Alternative Investment Fund defined in clause (b) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992.*

*for the purposes of entitlement of the holder of the securities or units, as the case may be, to receive dividend, income, or additional securities or units without any consideration, as the case may be,*



*(b) "securities" includes stocks and shares ;*

*(c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or in the manner in which they can be transferred;*

~~*(d) "unit" shall have the meaning assigned to it in clause (b) of the Explanation to section 115AB.*~~

**(d) "unit" shall mean,—**

**(i) a unit of a business trust defined in clause (13A) of section 2;**

**(ii) a unit defined in clause (b) of the Explanation to section 115AB; or**

**(iii) beneficial interest of an investor in an Alternative Investment Fund, defined in clause (b) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992, and shall include shares or partnership interests.**

**Brief Impact:**

1. The current provisions of sub-section (8) of section 94 of the Act do not apply to bonus stripping undertaken in case of securities. It is also not applicable to units of Infrastructure Investment Trust (InvIT) or Real Estate Investment Trust (REIT) or Alternative Investment Funds (AIFs) as the definition of the term "unit" has not been modified subsequent to introduction of provisions relating to RETIs, InvITs etc. Further, the current provisions of sub-section (7) of section 94 of the Act, i.e. provisions pertaining to dividend stripping, are not applicable to the units of new pooled investment vehicles such as InvIT or REIT or AIFs.
2. It is proposed to amend 94(8), pertaining to the prevention of tax evasion through bonus stripping, so as to make the said provision applicable to securities as well. Similarly, Section 94(7) pertaining to dividend stripping has been enlarged by amending the definition of unit as provided under Explanation to the said section so as to include units of business trusts such as InvIT, REIT and AIF.

# E. REVENUE MOBILISATION

# E. Revenue Mobilisation

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
1.	Scheme for taxation of virtual digital assets	115BBH, 194S, explanation to 56(2)(x), 2(47A)	3, 16, 28 & 59	01-04-2023 for 115BBH & 56(2)(x), 01-07-2022 for 194S, 01-04-2022 for 2(47A)
2.	Withdrawal of concessional rate of taxation on dividend income under section 115BBD	115BBD(4)	27	01-04-2023

# 1. Scheme for taxation of virtual digital assets

[Clauses 3, 16, 28 and 59]

## Clause (47A) to Section 2 inserted w.e.f. 1<sup>st</sup> April 2022

“(47A) “virtual digital asset” means—

- (a) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;
- (b) a non-fungible token or any other token of similar nature, by whatever name called;
- (c) any other digital asset, as the Central Government may, by notification in the Official Gazette specify:

**Provided that** the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.

Explanation.—For the purposes of this clause,—

- (a) “non-fungible token” means such digital asset as the Central Government may, by notification in the Official Gazette, specify;
- (b) the expressions “currency”, “foreign currency” and “Indian currency” shall have the same meanings as respectively assigned to them in clauses (h), (m) and (q) of section 2 of the Foreign Exchange Management Act, 1999.”

### **Explanation to Section 56(2)(x) amended w.e.f. 1<sup>st</sup> April 2023**

*‘Explanation.—For the purposes of this clause,— (a) the expressions “assessable”, “fair market value”, “jewellery”, “relative” and “stamp duty value” shall have the same meanings as respectively assigned to them in the Explanation to clause (vii); and (b) the expression “property” shall have the same meaning as assigned to it in clause (d) of the Explanation to clause (vii) and shall include virtual digital asset.’.*

### **Section 115BH ‘Tax on income from virtual digital assets’ inserted w.e.f. 1st April 2023**

*“(1) Where the total income of an assessee includes any income from the transfer of any virtual digital asset, the income-tax payable shall be the aggregate of—*

- (a) the amount of income-tax calculated on the income from transfer of such virtual digital asset at the rate of thirty per cent.; and*
- (b) the amount of income-tax with which the assessee would have been chargeable, had the total income of the assessee been reduced by the income referred to in clause (a).*

*(2) Notwithstanding anything contained in any other provision of this Act,—*

- (a) no deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the income referred to in clause (a) of sub-section (1); and*
- (b) no set off of loss from transfer of the virtual digital asset computed under clause (a) of sub-section (1) shall be allowed against income computed under any other provision of this Act to the assessee and such loss shall not be allowed to be carried forward to succeeding assessment years.”*

## Section 194S ‘Payment on transfer of virtual digital asset’ inserted w.e.f. 1st July 2022

*“(1) Any person responsible for paying to a resident any sum by way of consideration for transfer of a virtual digital asset, shall, at the time of credit of such sum to the account of the resident or at the time of payment of such sum by any mode, whichever is earlier, deduct an amount equal to one per cent. of such sum as income-tax thereon:*

*Provided that in a case where the consideration for transfer of virtual digital asset is—*

- (a) wholly in kind or in exchange of another virtual digital asset, where there is no part in cash; or*
- (b) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer,*

*the person responsible for paying such consideration shall, before releasing the consideration, ensure that tax has been paid in respect of such consideration for the transfer of virtual digital asset.*

*(2) The provisions of sections 203A and 206AB shall not apply to a specified person.*

*(3) Notwithstanding anything contained in sub-section (1), no tax shall be deducted in a case, where— (a) the consideration is payable by a specified person and the value or aggregate value of such consideration does not exceed fifty thousand rupees during the financial year; or*

*(b) the consideration is payable by any person other than a specified person and the value or aggregate value of such consideration does not exceed ten thousand rupees during the financial year.*

*(4) Notwithstanding anything contained in this Chapter, a transaction in respect of which tax has been deducted under sub-section (1) shall not be liable to deduction or collection of tax at source under any other provisions of this Chapter.*

- (5) *Where any sum referred to in sub-section (1) is credited to any account, whether called “Suspense Account” or by any other name, in the books of account of the person liable to pay such sum, such credit of the sum shall be deemed to be the credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.*
- (6) *If any difficulty arises in giving effect to the provisions of this section, the Board may, with the prior approval of the Central Government, issue guidelines for the purposes of removing the difficulty.*
- (7) *Every guideline issued by the Board under sub-section (6) shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person responsible for paying the consideration on transfer of such virtual digital asset.*
- (8) *Notwithstanding anything contained in section 194-O, in case of a transaction to which the provisions of the said section are also applicable along with the provisions of this section, then, tax shall be deducted under sub-section (1).*

*Explanation.—For the purposes of this section “specified person” means a person,—*

- (a) *being an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;*
- (b) *being an individual or a Hindu undivided family, not having any income under the head “Profits and gains of business or profession”.’.*



**Brief Impact:**

1. The expression “virtual digital asset” has been defined as under:
  - a. any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;
  - b. a non-fungible token or any other token of similar nature, by whatever name called;
  - c. any other digital asset, as the Central Government may, by notification in the Official Gazette specify:
2. Provided that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.
3. In order to provide for taxing the gifting of virtual digital assets, it is also proposed to amend Explanation to clause (x) of sub-section (2) of section 56 of the Act to inter-alia, provide that for the purpose of the said clause, the expression “property” shall have the meaning assigned to it in Explanation to clause (vii) and shall include virtual digital asset.

4. This section provides for taxation of income from virtual digital assets (VDA).
5. The following are the salient features of the Scheme of taxation:
  - the amount of income-tax on the income from transfer of virtual digital asset shall be 30%.
  - no deduction in respect of any expenditure (other than cost of acquisition of (VDA) or allowance or set off of any loss shall be allowed to the assessee under any provision of this Act in computing the income referred to in clause (a) of sub-section (1); and
  - no set off of loss from transfer of the virtual digital asset computed under clause (a) of sub-section (1) shall be allowed against income computed under any other provision of this Act to the assessee and such loss shall not be allowed to be carried forward to succeeding assessment years.
6. The Act is completely silent on taxation of VDA received by way of Self-mining of these assets. Also, there is no distinction between capital asset or stock in trade of VDA which is contrary of Global practices. It is also not clear as to whether the VDA (other than CBDC) have been recognized as valid/legal or otherwise. Further, it is not clear as to whether VDA would be required to be declared in the ITR.

7. As per Section 194S to provide for deduction of tax on payment for transfer of virtual digital asset to a resident at the rate of one per cent of such sum. However, in case the payment for such transfer is—
  - (i) wholly in kind or in exchange of another virtual digital asset where there is no part in cash; or
  - (ii) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer,the person before making the payment shall ensure that the tax has been paid in respect of such consideration.
8. In case of specified persons, the provisions of section 203A and 206AB will not be applicable.
9. Further, no tax is to be deducted in case the payer is the specified person and the value or the aggregate of such value of consideration to a resident is less than Rs. 50,000 during the financial year. In any other case, the said limit is proposed to be Rs. 10,000 during the financial year.

## 2. Withdrawal of concessional rate of taxation on dividend income under section 115BBD [Clause 27]

### Sub-section (4) to Section 115BBD inserted w.e.f. 1<sup>st</sup> April 2023

*“(4) The provisions of this section shall not apply to any assessment year beginning on or after the 1st day of April, 2023.”*

#### **Brief Impact:**

As per Section 115BBD, income by way of dividends declared, distributed or paid by a specified foreign company received by an Indian company are subjected to income tax @ 15%.

The provisions of this section shall not apply to any assessment year beginning on or after the 1st day of April, 2023.

## F. PHASING OUT OF EXEMPTIONS

# F. Phasing Out of Exemptions

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
1.	Withdrawal of exemption under clauses (8), (8A), (8B) and (9) of section 10 of the Income-tax Act, 1961- reg	10(8),(8A),(8B),(9)	4	01-04-2023

# i. Withdrawal of exemption under clauses (8), (8A), (8B) and (9) of section 10 of the Income-tax Act, 1961- reg (9) w.e.f. 1st April 2023 [Clause 4]

## Proviso after sub- clause (b) to clause (8), (8A), (8B), (9) to section 10 inserted w.e.f. 1<sup>st</sup> April 2023

*“Provided that nothing contained in this clause shall apply to such remuneration, fee and income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2023”*

### Brief Impact:

1. Section 10 deals with the various exemptions available to the assessee from his total Income. The clause 8, 8A, 8B, 9 of the said section deals with the exemption regarding remuneration, fee or any other income received by the assessee in relation to works for any Co-operative technical assistance programme and projects (CTAPP) entered between Govt of India and Foreign Government.
2. Clause 8 deals with the exemption of remuneration received from foreign government in connection with CTAPP and any other income accure arise outside India on which the tax is paid to foreign govt.

3. Clause 8A deals with the exemption to consultant of amount received as remuneration or fee received out of the funds made available to any international organisation and any other income which accrues or arises outside India and any taxes is paid to foreign govt on that Income.
4. Clause 8B deals with the exemption to the employee of the consultant received as remuneration for duties related to CTAPP or any other income which accrues or arises outside India and any taxes is paid to foreign govt on that Income.
5. Clause 9 deals with the exemption of income of family members who accompanying to India with the persons mentioned in above clause which accrues or arises outside India and any taxes is paid to foreign govt on that income.

### **Condition**

In case of individual, the residential status of the said person should be Non-Resident or Not Ordinarily resident. In other cases, the person should be Non-Resident.

**The Finance Bill, 2022 proposes to phase out the said exemption as a matter of stated policy of the Government w.e.f 1<sup>st</sup> April 2023.**



# G. RATIONALISATION MEASURES

# G. Rationalisation Measures

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
1.	Amendment in the provisions of section 248 of Income-tax Act and insertion of new section 239A	239A, 246A(1)(ia), proviso to 248	66, 68 & 69	01-04-2022
2.	Cash credits under section 68 of the Act	Proviso to 68	17	01-04-2023
3.	Alignment of the provisions relating to Offences and Prosecutions under Chapter XXII of the Act	271C(1)(b)(ii), Proviso to 276AB, 276B(b)(ii), 278A, 278AA	77,79, 80, 82 & 83	01-04-2022
4.	Faceless Schemes under the Act	Proviso to following: 92CA(9),144C(14C) 253(9), 255(8)	24, 43, 70 & 71	01-04-2022

# G. Rationalisation Measures

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
5.	Amendment in Faceless Assessment u/s 144B	144B(1) to (8), 144B(9)	42	01-04-2022 for 144B(1) to (8) 01-04-2021 for 144B(9)
6.	Set off of loss in search cases - Amendment in the provisions of section 79A of the Act	79A	19	01-04-2022

# G. Rationalisation Measures

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
7.	Rationalization of provisions relating to assessment and reassessment	132(8), 132B(1)(i) & (4)(b), Proviso to 148, Explanation 1 & 2 of 148, 148A(b),(c),(d), 148B, 149(1)(b)& 1 <sup>st</sup> proviso, 149(1A), 153(1A), 153B(4), explanation (x), (xi) of 153B, explanation(a) to 271AAB	35, 36, 44, 45, 46, 47, 48, 49 & 73	01-04-2022 for 132(8), 132B(1)(i) & (4)(b), 148, 148A, 148B, 149, 271AAB.  01-04-2021 for 153, 153B
8.	Rationalization of the provisions of sections 271AAB, 271AAC and 271AAD of the Act	271AAB(1), (1A), 271AAC(1), 271AAD(1),(2)	73, 74 & 75	01-04-2022

# G. Rationalisation Measures

S.No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
9.	Amendment in the provisions of section 272A of the Act	272A(2)	78	01-04-2022
10.	Amendment in the provisions of section 179 of the Act	179	55	01-04-2022
11(3)	Rationalisation of the provision of Charitable Trust and Institutions: <u>Ensuring effective monitoring and Implementation of two exemption regimes</u> -			

# G. Rationalisation Measures

S.No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
11(3) (3.1)	Books of account to be maintained by the trusts or institutions under both the regimes	12A(1)(b), 10 <sup>th</sup> proviso to 10(23C)	4 & 6	01-04-2023
11(3) (3.2)	Penalty for passing on unreasonable benefits to trustee or specified persons	271AAE	76	01-04-2023
11(3) (3.3)	Reference to the Principal Commissioner or Commissioner (PCIT/CIT) for the cancellation of registration/approval	15 <sup>th</sup> proviso to 10(23C) and explanation 2&3, 12AB(4) & (5), 1 <sup>st</sup> , 2 <sup>nd</sup> & 3 <sup>rd</sup> provisos 143(3), explanation 1 (iii) & (xiii) to 153	4, 7, 40 & 48	01-04-2022
11(4)	<u>Bringing consistency in the provisions of two exemption the regimes</u>			

# G. Rationalisation Measures

S.No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
11(4) (4.1)	Accumulation provisions	11(3), explanation 3, 4, 5 to 3 <sup>rd</sup> proviso 10(23C)	4 & 5	01-04-2023
11(4) (4.2)	Bringing consistency in the provisions relating to payment to specified person	21 <sup>st</sup> proviso to 10(23C)	4	01-04-2023
11 (4) (4.3)	The provisions of section 115TD to apply to any trust or institution under the first regime.	115TD(1)to (7) and explanation, 115TE & 115TF	31, 32 & 33	01-04-2023
11 (4) (4.4)	Filing of return by person claiming exemption under clause (23C) of section 10 of the Act	20 <sup>th</sup> proviso to 10(23C)	4	01-04-2023
11(5)	<u>Providing clarity on taxation in certain circumstances</u>			

# G. Rationalisation Measures

S.No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
11(5) (5.1)	Allowing certain expenditure in case of denial of exemption	13(10) & its explanation, 13(11), 22 <sup>nd</sup> & 23 <sup>rd</sup> proviso to 10(23C)	4 & 8	01-04-2023
11(5) (5.2)	Taxation of certain income of the trusts or institutions under both the regimes at special rate	13(1)(c), (d), 21 <sup>st</sup> proviso to 10(23C), explanation 4 to 3 <sup>rd</sup> proviso of 10(23C), 115BBI	4, 8 & 28	01-04-2023
11(5) (5.3)	Voluntary Contributions for the renovation and repair of temples, mosques, gurudwaras, churches etc notified under clause (b) of sub-section (2) of section 80G	Explanation 3A & 3B in 11(1), explanation 1A & 1B in 3 <sup>rd</sup> proviso to 10(23C)	4 & 5	01-04-2021 retrospectively



# G. Rationalisation Measures

S.No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
11(5) (5.4)	Clarifying that application will be allowed only when its actually paid	Explanation 3 to 10(23C), explanation to 11	4 & 5	01-04-2022
11(6)	<u>Consequential Amendments</u>			
11(6) (6.1)	Reference to prescribed authority under clause (23C) of section 10	19th proviso of 10(23C) (iv), (v), (vi) & (via)	4	01-04-2022
11(6) (6.2)	Amendment to sub-section (1A) of section 35	35(1A)	11	01-04-2021 retrospectively
12	Amendment in the provisions of section 263 of the Act	72(1), 153(3), (5), (5A), (6)	48 & 72	01-04-2022
13	Amendment in the provisions of section 119 of Income-tax Act	119(2)(a)	34	01-04-2022

# G. Rationalisation Measures

S.No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
14	Income-tax authorities for the purposes of section 133A of the Act	Explanation to 133A	37	01-04-2022
15	Reduction of Goodwill from block of assets to be considered as 'transfer'	Explanation to 50	15	01-04-2021 retrospectively
16	Definition of the term "slump sale"	2(42C)	3	01-04-2021 retrospectively

# i. Amendment in Section 248 and Insertion of new Section 239A of the Income Tax Act [Clauses 66, 68 and 69]

## Insertion of new Section 239A after section 239 w.e.f. 01.04.2022 [Clause 66]

*239A.(1) Where under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government claims that no tax was required to be deducted on such income, may, within a period of thirty days from the date of payment of such tax, file an application before the Assessing Officer for refund of such tax in such form and such manner as may be prescribed.*

*(2) The Assessing Officer shall, by an order in writing, allow or reject the application:*

*Provided that no application under sub-section (1) shall be rejected unless an opportunity of being heard has been given to the applicant.*

*(3) The Assessing Officer may, before passing an order under sub-section (2), make such inquiry as he considers necessary.*

*(4) The order under sub-section (2) shall be passed within six months from the end of the month in which application under sub-section (1) is received*

## **Insertion of clause (ia) in sub- clause (1) in section 246A [Clause 68]**

*Appealable orders before Commissioner (Appeals).*

*246A. (1) Any assessee or any deductor or any collector aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against—*

**“(ia) an order made under section 239A”**

## Insertion of proviso in section 248 [Clause 69]

- *Appeal by a person denying liability to deduct tax in certain cases.*
- *248. Where under an agreement or other arrangement, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government, claims that no tax was required to be deducted on such income, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income.*
- *“Provided that no appeal shall be filed where tax is paid to the credit of the Central Government on or after the 1st day of April, 2022.”.*

**Brief Impact:**

(a) Section 239A is proposed to be inserted to provide an option to a person for obtaining refund by filing application before Assessing officer in cases where tax has been deducted on any income paid to a nonresident, other than interest, under section 195 of the Act under any agreement or arrangement and the tax liability was borne by such person, however no tax deduction was required.

(b) The Assessing Officer shall, by an order in writing, allow or reject the application of refund within six months from the end of the month in which application has been received.

(c) In case the person is not satisfied with the disposal order of the Assessing Officer, an appeal can be filed against the same before Commissioner (Appeals) under section 246A of the Act in situations where tax has been paid to the credit of Central Government on or after 1<sup>st</sup> Day of April 2022.

## 2. Amendment in Section 68 of the Income Tax Act [Clause 17]

### Amendment in proviso to section 68 w.e.f. 01.04.2023 [Clause 17]

~~Provided that~~ Provided that where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such assessee shall be deemed to be not satisfactory, unless—

(a) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory..... ~~Provided further that~~...

~~Provided further~~ “~~Provided also~~” that nothing contained in the ~~first proviso~~ “first proviso or second proviso” shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause.

**Brief Impact:**

(a) Certain judicial pronouncements in relation to applicability of section 68 on sum which is credited as loan or borrowing have created doubts about the onus of proof under this section. In order to clarify the doubts proviso to section 68 of the Act is proposed to be amended so as to provide that the nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider

(b) However, this additional onus of proof of satisfactorily explaining the source in the hands of the creditor, would not apply if the creditor is a well regulated entity, i.e., it is a Venture Capital Fund, Venture Capital Company registered with SEBI

It is to be noted that the amendment will apply in relation to section 2023-24 and subsequent assessment years.



### 3. Alignment of the provisions relating to offences and prosecution under Chapter XXII of the Act [Clauses 77, 79, 80, 82 and 83]

- **Omission in sub-section (1), in clause (b), in sub-clause (ii) of Section 271C**  
*271C. (1) If any person fails to—*
  - (a) deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B; or*
  - (b) pay the whole or any part of the tax as required by or under—*
    - (i) sub-section (2) of section 115-O; or*
    - (ii) the ~~second~~ proviso to section 194B,**then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid.*
- **Insertion in Section 278AA**
- *Punishment not to be imposed in certain cases.*
- *278AA. Notwithstanding anything contained in the provisions of section 276A, section 276AB, or section 276B or **“section 276BB”**, no person shall be punishable for any failure referred to in the said provisions if he proves that there was reasonable cause for such failure*
- **Insertion of proviso in Section 276AB**  
*276AB. Whoever fails to comply with the provisions of section 269UC or fails to surrender*

*or deliver possession of the property under sub-section (2) of section 269UE or contravenes the provisions of sub-section (2) of section 269UL shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine :*

*Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months.*

**“Provided further that no proceeding under this section shall be initiated on or after the 1st day of April, 2022.”.**

- **Omission in clause (b), in sub-clause (ii) of Section 276B**

*276B. If a person fails to pay to the credit of the Central Government,—*

*.... (b) the tax payable by him, as required by or under—*

*(i) sub-section (2) of section 115-O; or*

*(ii) the ~~second~~ proviso to section 194B,*

- **Insertion in Section 278A**

- *Punishment for second and subsequent offences.*

- *278A. If any person convicted of an offence under section 276B or **“section 276BB”** or sub-section (1) of section 276C or section 276CC or section 276DD or section 276E or section 277 or section 278 is again convicted of an offence under any of the aforesaid provisions,.....*

**Brief Impact:**

(a) Sections 269UC/UE/UL along with other provisions of Chapter XX-C have been made inapplicable with effect from 01.07.2002 as a natural consequence prosecution provisions u/s 276AB are not relevant as more than 20 years have elapsed. However as such cases involved transfer of immovable properties there might be certain cases which are still ongoing. Therefore it is proposed to amend section 276AB to align it with the provisions of the Act that have been made inapplicable, by providing a sunset clause that no fresh prosecution proceedings shall be initiated under the section on or after 01.04.2022.

(b) Section 194B was amended vide Finance Act 1999 w.e.f. 01.04.2000 by which the first proviso to the section was omitted and the section currently has only one proviso. Therefore, to avoid ambiguity among the sections 276B and 194B, it is proposed to substitute the sub-clause (ii) of clause (b) of section 276B and 271C with “proviso to section 194B”

(c) As the nature of offences that are punishable under section 276B and section 276BB are similar, section 276BB has been included under section 278A and 278AA.

## 4. Faceless Scheme under the Act

[Clauses 24,43,70,71]

- Insertion in sub-section (9), in the proviso to section 92CA

.... (9) *The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:*

*Provided that no direction shall be issued after the 31st day of March, ~~2022~~ “2024”.*

- Insertion in sub-section (14C), in the proviso to section 144C

- (14C) *The Central Government may, for the purpose of giving effect to the scheme made under sub-section (14B), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:*

- *Provided that no direction shall be issued after the 31st day of March, ~~2022~~ “2024”.*

- **Insertion in sub-section (9), in the proviso to section 253**

*(9) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:*

*Provided that no direction shall be issued after the 31st day of March, ~~2022~~ “2024”.*

- **Insertion in sub-section (8), in the proviso to section 255**

- *(8) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (7), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply to such scheme or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification:*

- *Provided that no such direction shall be issued after the 31st day of March, ~~2023~~ “2024”*

**Brief Impact:**

(a) Section 92CA and section 144C are principally related to the transfer pricing functions and international taxation which are presently out of the regime of faceless assessment. The date of limitations under the aforesaid sections was 31.03.2022.

(b) Section 253 relates to Faceless appeal to Appellate Tribunal and Section 255 relates to Faceless procedure of Appellate Tribunal. The date of limitations under the aforesaid sections was 31.03.2022 and 31.03.2023 respectively.

(c) Due to procedural limitations it is proposed to extend the date for issuing directions for the purposes of these sections 92CA, 144C, 253 and 255 till 31st March, 2024

# 5. Amendment in Faceless Assessment under Section 144B of the Act [Clause 42]

## • Substitution of existing sub-sections (1) to (8) of section 144B:

*(1) Notwithstanding anything to the contrary contained in any other provision of this Act, the assessment, reassessment or recomputation under subsection (3) of section 143 or under section 144 or under section 147, as the case may be, with respect to the cases referred to in sub-section (2), shall be made in a faceless manner as per the following procedure, namely:—*

*(i) the National Faceless Assessment Centre shall assign the case selected for the purposes of faceless assessment under this section to a specific assessment unit through an automated allocation system;*

*(ii) the National Faceless Assessment Centre shall intimate the assessee that assessment in his case shall be completed in accordance with the procedure laid down under this section;*

*(iii) a notice shall be served on the assessee, through the National Faceless assessment Centre, under sub-section (2) of section 143 or under subsection (1) of section 142 and the assessee may file his response to such notice within the date specified therein, to the National Faceless Assessment Centre which shall forward the same to the assessment unit;*

- (iv) where a case is assigned to the assessment unit, under clause (i), it may make a request through the National Faceless Assessment Centre for—*
- (a) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;*
  - (b) conducting of enquiry or verification by verification unit;*
  - (c) seeking technical assistance in respect of determination of arm's length price, valuation of property, withdrawal of registration, approval, exemption or any other technical matter by referring to the technical unit;*
- (v) where a request under sub-clause (a) of clause (iv) has been initiated by the assessment unit, the National Faceless Assessment Centre shall serve appropriate notice or requisition on the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit and the assessee or any other person, as the case may be, shall file his response to such notice within the time specified therein or such time as may be extended on the basis of an application in this regard, to the National Faceless Assessment Centre which shall forward the reply to the assessment unit;*



- (vi) where a request,—*
- (a) for conducting of enquiry or verification by the verification unit has been made by the assessment unit under sub-clause (b) of clause (iv), the request shall be assigned by the National Faceless Assessment Centre to a verification unit through an automated allocation system; or*
- (b) for reference to the technical unit has been made by the assessment unit under sub-clause (c) of clause (iv), the request shall be assigned by the National Faceless Assessment Centre to a technical unit through an automated allocation system;*
- (vii) the National Faceless Assessment Centre shall send the report received from the verification unit or the technical unit, as the case may be, based on the request referred to in clause (vi) to the concerned assessment unit;*
- (viii) where the assessee fails to comply with the notice served under clause (v) or notice issued under sub-section (1) of section 142 or the terms of notice National Faceless Assessment Centre shall intimate such failure to the assessment unit issued under sub-section (2) of section 143, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;*

- ix) the assessment unit shall serve upon such assessee, as referred to in clause (viii), a notice, through the National Faceless Assessment Centre, under section 144, giving him an opportunity to showcause on a date and time as specified in such notice as to why the assessment in his case should not be completed to the best of its judgement;*
- (x) the assessee shall, within the time specified in the notice referred to in clause (ix) or such time as may be extended on the basis of an application in this regard, file his response to the National Faceless Assessment Centre which shall forward the same to the assessment unit;*
- (xi) where the assessee fails to file response to the notice served under clause (ix) within the time specified therein or within the extended time, if any, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;*
- (xii) the assessment unit shall, after taking into account all the relevant material available on the record, prepare, in writing,—*
- (a) an income or loss determination proposal, where no variation prejudicial to assessee is proposed and send a copy of such income or loss determination proposal to the National Faceless Assessment Centre; or*

- (b) in any other case, a show cause notice stating the variations prejudicial to the interest of assessee proposed to be made to the income of the assessee and calling upon him to submit as to why the proposed variation should not be made and serve such show cause notice, on the assessee, through the National Faceless Assessment Centre;*
- (xiii) the assessee shall file his reply to the show cause notice served under sub-clause (b) of clause (xii) on a date and time as specified therein or such time as may be extended on the basis of an application made in this regard, to the National Faceless Assessment Centre, which shall forward the reply to the assessment unit;*
- (xiv) where the assessee fails to file response to the notice served under sub-clause (b) of clause (xii) within the time specified therein or within the extended time, if any, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;*
- (xv) the assessment unit shall, after considering the response received under clause (xiii) or after receipt of intimation under clause (xiv), as the case may be, and taking into account all relevant material available on record, prepare an income or loss determination proposal and send the same to the National Faceless Assessment Centre;*

- (xvi) upon receipt of the income or loss determination proposal, as referred to in sub-clause (a) of clause (xii) or clause (xv), as the case may be, the National Faceless Assessment Centre may, on the basis of guidelines issued by the Board,—*
- (a) convey to the assessment unit to prepare draft order in accordance with the income or loss determination proposal, which shall thereafter prepare a draft order; or*
- (b) assign the income or loss determination proposal to a review unit through an automated allocation system, for conducting review of such proposal;*
- (xvii) the review unit shall conduct review of the income or loss determination proposal assigned to it by the National Faceless Assessment Centre, under sub-clause (b) of clause (xvi), whereupon it shall prepare a review report and send the same to the National Faceless Assessment Centre;*
- (xviii) the National Faceless Assessment Centre shall, upon receiving the review report under clause (xvii), forward the same to the assessment unit which had proposed the income or loss determination proposal;*
- (xix) the assessment unit shall, after considering such review report, accept or reject some or all of the modifications proposed therein and after recording reasons in case of rejection of such modifications, prepare a draft order;*

*(xx) the assessment unit shall send such draft order prepared under sub-clause (a) of clause (xvi) or under clause (xix) to the National Faceless Assessment Centre;*

*(xxi) in case of an eligible assessee, where there is a proposal to make any variation which is prejudicial to the interest of such assessee, as mentioned in sub-section (1) under section 144C, the National Faceless Assessment Centre shall serve the draft order referred to in clause (xx) on the assessee;*

*(xxii) in any case other than that referred to in clause (xxi), the National Faceless Assessment Centre shall convey to the assessment unit to pass the final assessment order in accordance with such draft order, which shall thereafter pass the final assessment order and initiate penalty proceedings, if any, and send it to the National Faceless Assessment Centre;*

*(xxiii) upon receiving the final assessment order as per clause (xxii), the National Faceless Assessment Centre shall serve a copy of such order and notice for initiating penalty proceedings, if any, on the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;*

*(xxiv) where a draft order is served on the assessee as referred to in clause (xxi), such assessee shall,—*

*(a) file his acceptance of the variations proposed in such draft order to the National Faceless Assessment Centre; or*

*(b) file his objections, if any, to such variations, with—*

*(I) the Dispute Resolution Panel, and*

*(II) the National Faceless Assessment Centre,*

*within the period specified in the sub-section (2) of section 144C;*

*(xxv) the National Faceless Assessment Centre shall,—*

*(a) upon receipt of acceptance from the eligible assessee; or*

*(b) if no objections are received from the eligible assessee, within the period specified in sub-section (2) of section 144C, intimate the assessment unit to complete the assessment on the basis of the draft order;*

*(xxvi) the assessment unit shall, upon receipt of intimation under clause (xxv), pass the assessment*

*order, in accordance with the relevant draft order, within the time allowed under sub-section (4)*

*of section 144C and initiate penalty proceedings, if any, and send the order to the National Faceless Assessment Centre;*

*(xxvii) where the eligible assessee files objections with the Dispute Resolution Panel, under sub-clause (b) of clause (xxiv), the National Faceless Assessment Centre shall send such intimation along with a copy of objections filed to the assessment unit;*

*(xxviii) the National Faceless Assessment Centre shall, in a case referred to in clause (xxvii), upon receipt of the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, forward such directions to the assessment unit;*

*(xxix) the assessment unit shall, in conformity with the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, complete the assessment within the time allowed in sub-section (13) of section 144C and initiate penalty proceedings, if any, and send a copy of the assessment order to the National Faceless Assessment Centre;*

*(2) The faceless assessment under sub-section (1) shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.*

*(3) The Board may, for the purposes of faceless assessment, set up the following Centre and units and specify their functions and jurisdiction, namely:—*

*(i) a National Faceless Assessment Centre to facilitate the conduct of faceless assessment proceedings in a centralised manner;*

*(ii) such assessment units, as it may deem necessary to conduct the faceless assessment, to perform the function of making assessment, which includes identification of points or issues material for the determination of any liability (including refund) under this Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making faceless assessment, and the term “assessment unit”, wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board;*

*• (iii) such verification units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of account, examination of witnesses and recording of statements, and such other....*



*(2) functions as may be required for the purposes of verification and the term “verification unit”, wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board:*

*Provided that the function of verification unit under this section may also be performed by a verification unit located in any other faceless centre set up under the provisions of this Act or under any scheme notified under the provisions of this Act; and the request for verification may also be assigned through the National Faceless Assessment Centre to such verification unit;*

*(iv) such technical units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter under this Act or an agreement entered into under section 90 or 90A, which may be required in a particular case or a class of cases, under this section and the term “technical unit”, wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board;*

*(v) such review units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of review of the income determination proposal assigned under sub-clause (b) of clause (xvi) of sub-section (1), which includes checking whether the relevant and material evidence has been brought on record, relevant points of fact and law have been duly incorporated, the issues requiring addition or disallowance have been incorporated and such other functions as may be required for the purposes of review and the term “review unit”, wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board;*

*(4) The assessment unit, verification unit, technical unit and the review unit shall have the following authorities, namely:—*

*(i) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;*

*(ii) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;*

*(iii) such other income-tax authority, ministerial*

*(staff, executive or consultant, as may be considered necessary by the Board.*

*(5) All communications,—*

*(i) among the assessment unit, review unit, verification unit or technical unit or with the assessee*

*or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the National Faceless Assessment Centre;*

*(ii) between the National Faceless Assessment Centre and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode; and*

*(iii) between the National Faceless Assessment Centre and various units shall be exchanged exclusively by electronic mode:*

*Provided that the provisions of this sub-section shall not apply to the enquiry or verification conducted by the verification unit in the circumstances as may be specified by the Board in this behalf.*

*(6) For the purposes of faceless assessment—*

*(i) an electronic record shall be authenticated by—*

*(a) the National Faceless Assessment Centre by way of an electronic communication;*

*(b) the assessment unit or verification unit or technical unit or review unit, as the case may be, by affixing digital signature;*

*(c) assessee or any other person, by affixing his digital signature or under electronic verification code, or by logging into his registered account in the designated portal;*

*(ii) every notice or order or any other electronic communication shall be delivered to the addressee,*

*being the assessee, by way of—*

*(a) placing an authenticated copy thereof in the registered account of the assessee; or*

*(b) sending an authenticated copy thereof to the registered email address of the assessee or his authorised representative; or*

*(c) uploading an authenticated copy on the Mobile App of the assessee, and followed by a real time alert;*

- (iii) every notice or order or any other electronic communication shall be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real time alert;*
- (iv) the assessee shall file his response to any notice or order or any other electronic communication, through his registered account, and once an acknowledgement is sent by the National Faceless Assessment Centre containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated;*
- (v) the time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the Information Technology Act, 2000; 21 of 2000.*
- (vi) a person shall not be required to appear either personally or through authorised representative in connection with any proceedings before any unit set up under this section;*
- (vii) in a case where a variation is proposed in the income or loss determination proposal or the draft order, and an opportunity is provided to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per such income or loss determination proposal, the assessee or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income-tax authority of the relevant unit;*

*(viii) where the request for personal hearing has been received, the income-tax authority of relevant unit shall allow such hearing, through National Faceless Assessment Centre, which shall be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board;*

*(ix) subject to the proviso to sub-section (5), any examination or recording of the assessee or any other person (other than the statement recorded in the course of survey under section 133A) shall be conducted by an income-tax authority in the relevant unit, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board;*

*(x) the Board shall establish suitable facilities for video conferencing or video telephony including telecommunication application software which supports video conferencing or video telephony at such locations as may be necessary, so as to ensure that the assessee, or his authorised representative, or any other person is not denied the benefit of faceless assessment merely on the consideration that such assessee or his authorised representative, or any other person does not have access to video conferencing or video telephony at his end;*

*(xi) the Principal Chief Commissioner or the Principal Director General, as the case may be, in charge of the National Faceless Assessment Centre shall, with the prior approval of the Board, lay down the standards, procedures and processes for effective functioning of the National Faceless Assessment Centre and the units set up, in an automated and mechanised environment.*

*(7) (a) The Principal Chief Commissioner or the Principal Director General, as the case may be, in charge of the National Faceless Assessment Centre shall, in accordance with the procedure laid down by the Board in this regard, if he considers appropriate that the provisions of sub-section (2A) of section 142 may be invoked in the case,—*

*(i) forward the reference received from an assessment unit under clause (xxxii) of sub-section (1) to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such case, and inform the assessment unit accordingly;*

*(ii) transfer the case to the Assessing Officer having jurisdiction over such case in accordance subsection (8); (b) where a reference has been received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner under subclause*

- (i) of clause (a), he shall direct the Assessing Officer, having jurisdiction over the case, to invoke the provisions of sub-section (2A) of section 142;*
- (c) where a reference has not been forwarded to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, having jurisdiction over the case, in a case referred to in subclause (i) of clause (a), the assessment unit shall proceed to complete the assessment in accordance with the procedure laid down in this section.*
- (8) Notwithstanding anything contained in subsection (1) or sub-section (2), the Principal Chief Commissioner or the Principal Director General, as the case may be, in charge of National Faceless Assessment Centre may, at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.”;*
- (b) sub-section (9) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 2021;*



*(c) sub-section (10) shall be omitted;*

*(d) in the Explanation,—*

*(i) after clause (l), the following clause shall be inserted, namely:—*

*‘(1a) “electronic verification code” means a code generated for the purpose of electronic verification as per the data structure and standards specified by the Principal Director General or Director General, as the case may be, in charge of information technology;’*

*(ii) clause (q) shall be omitted.*

**Brief Impact:**

(I) To further the motto of faceless assessments and as per the inputs of taxpayers on the difficulties being faced section 144B is proposed to be amended, as follows:

- (a) Faceless procedure now applicable on assessments, reassessment or recomputations u/s 143(3) or 144 or 147.
- (b) the National Faceless Assessment Centre (NaFAC) shall assign every case to a specific Assessment Unit (AU) and intimate assessee the same.
- (c) The step-by-step process of assessment/re-assessment remains the same including service of notice, reply by assessee, further document etc. requirement posed by department, request by department for conducting enquiry or verification by Verification Unit (VU) , Request by AU for determination of arm's length price, valuation of property, withdrawal of registration, approval, exemption or any other technical matter to Technical Unit (TU) etc. However, all the process will be done via NaFAC and all requests shall be routed to respective VU, TU, AU through automated processes.

(d) If assessee fails to comply with notice seeking information or earlier notice u/s 143(2) or 142(1), NaFAC shall intimate the same to the AU. The AU shall serve upon the assessee, through NaFAC, SCN u/s 144 'to explain as to why the assessment should not be completed to the best of its judgement'.

The filing of response by assessee is similarly via NaFAC and failure to respond is also intimated to respective AU.

(e) Any report received by NaFAC from VU or TU shall also be forwarded to respective AU.

(f) The AU shall, after taking into account all the relevant material available on the record, prepare in writing, an income or loss determination proposal where no variation prejudicial to assessee is proposed and send the same to the NaFAC. If a variation is being proposed then SCN via NaFAC.

(g) The filing of response by assessee is similarly via NaFAC and failure to respond is also intimated to respective AU. After considering the response of the assessee or intimation of failure to respond & all relevant material available on record, AU shall prepare an income or loss determination proposal, in writing, and send the same to the NaFAC.

(h) Upon receipt of income or loss determination proposed to income of the assessee, the NaFAC may convey to AU to prepare draft order or assign the income/loss determination proposal to Review Unit (RU) for conducting a review of such order.

- (i) The NaFAC shall forward the review report received from the RU to the respective AU. The AU may accept or reject some or all of the modifications proposed, prepare a draft order and send it to NaFAC. The AU shall record reasons in writing if it is rejecting the modifications proposed by the RU.
- (j) The NaFAC shall serve draft order to the eligible assessee when proposal to make any variation which is prejudicial to the interest of such assessee u/s 144C(1) for reference to DRP.
- (k) In case other than that of eligible assessee, NaFAC shall convey to AU to complete the assessment and to pass final assessment order and initiate penalty proceedings, if any. The final assessment order, notice for initiating penalty proceedings, if any and the demand notice shall be served to the assessee via NaFAC.
- (l) An eligible assessee, as referred to in section 144C, shall, upon receiving the draft order as served on him above, shall file his acceptance of the variations proposed in such draft order or file objections, if any, to such variations, with the DRP u/s 144C and NaFAC.
- (m) In case the variations proposed are accepted by the assessee or not objected then NaFAC shall intimate to AU to complete the assessment on the basis of the draft order and initiate penalty proceedings, if any, and send the order to NaFAC.

- (n) Where the eligible assessee files objections with DRP and DRP shall issue directions, NaFAC shall send such intimation along with a copy of such objections/directions to the AU. Thereafter, AU shall complete the assessment and initiate penalty proceedings as per directions of DRP and send a copy of such order to NaFAC.
- (o) The NaFAC shall serve a copy of such order, notice for initiating penalty proceedings, if any, along with demand notice, on the assessee.
- (p) The NaFAC shall, after completion of assessment, transfer all the electronic records of the case to the AO having jurisdiction over the said case for any further action required.
- (q) The Board may, for the purposes of faceless assessments, set up the following Centre and units and specify their functions and jurisdiction, namely:—
- (i) a National Faceless Assessment Centre to facilitate the conduct of faceless assessment proceedings in a centralised manner;
  - (ii) assessment units (AU) to conduct the faceless assessment;
  - (iii) verification units (referred to as VU) to perform the function of verification.
  - (iv) technical units (TU) to perform the function of providing technical assistance.
  - (v) review units (RU) to perform the function of review of the income determination proposal.

(r) It is also proposed that the AU, VU, TU and the RU shall have the following authorities, namely:—

- (i) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;
- (ii) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;
- (iii) such other income-tax authority, ministerial staff, executive or consultant, as considered necessary by the Board.

(s) All communication, among the AU, RU, VU or TU or with the assessee or any other person for the purposes of making a faceless assessment shall be through NaFAC, exclusively by electronic mode, except to the enquiry or verification conducted by the verification unit in the circumstances as may be specified by the Board in this regard.

(t) An electronic record shall be authenticated by NaFAC by way of an electronic communication, by the AU or VU or TU or RU, by affixing digital signature and by the assessee or any other person, by affixing DSC or EVC or by logging into his registered account in the designated portal.

(u) It is also proposed that every notice or order or any other electronic communication shall be delivered to the assessee, by way of placing an authenticated copy in the registered account of the assessee or by sending an authenticated copy to the registered email address of the assessee or his authorised representative or by uploading an authenticated copy on the assessee's Mobile App, and followed by a real time alert.

(v) The submission shall be deemed to be authenticated on receiving an acknowledgement of the submission made via registered account.

(w) Further, it is proposed that in a case where a variation is proposed in the income or loss determination proposal or the draft order, and an opportunity is provided to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per such income or loss determination proposal, the assessee or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income-tax authority of the relevant unit. Where the request for personal hearing has been received, the income-tax authority of relevant unit shall allow such hearing, through NaFAC, which shall be conducted exclusively through video conferencing or video telephony.

(x) Any examination or recording of the statement of the assessee or any other person (other than the statement recorded in the course of survey under section 133A) shall be conducted by an income-tax authority in the relevant unit, exclusively through video conferencing or video telephony.

(y) The proposed section also seeks to provide that if at any stage of the proceedings before it, the AU having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of accounts, multiplicity of transactions in the accounts or specialized nature of business activity of the assessee, and the interests of the revenue, is of the opinion that it is necessary to do so, it may, upon recording its reasons in writing, refer the case to the NaFAC stating that the provisions of 142(2A) may be invoked in the case. The Principal Chief Commissioner or the Principal Director General if consider appropriate may forward the reference received from the AU to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such case with the approval of the Board.

(z) It is also proposed to provide that the Principal Chief Commissioner or the Principal Director General, as the case may be, in charge of National Faceless Assessment Centre may, at any stage of the assessment, if considered necessary, transfer the case, in addition to a case referred to in (y) to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.

(II) Omission of section 144B(9)



## 6. Insertion of new Section 79A after Section 79 of the Income Tax Act [Clause 19]

### Insertion of section 79A w.e.f. 01.04.2022 [Clause 19]

*79A. Notwithstanding anything contained in this Act, where consequent to a search under section 132 or a requisition under section 132A or a survey under section 133A other than under sub-section (2A) of that section, the total income of any previous year of an assessee includes any undisclosed income, no set off, against such undisclosed income, of any loss, whether brought forward or otherwise, or unabsorbed depreciation under sub-section (2) of section 32, shall be allowed to the assessee under any provision of this Act in computing his total income for such previous year.*

*Explanation.—For the purposes of this section, the expression “undisclosed income” means,—*

- *(i) any income of the previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132 or a requisition under section 132A or a survey under section 133A other than under sub-section (2A) of that section, which has—*
  - *(A) not been recorded on or before the date of search or requisition or survey, as the case may be, in the books of account or other documents maintained in the normal course relating to such previous year; or*
  - *(B) not been disclosed to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner before the date of search or requisition or survey, as the case may be; or*
- *(ii) any income of the previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the previous year which is found to be false and which would not have been found to be so, had the search not been initiated or the survey not been conducted or the requisition not been made.’.*

**Brief Impact:**

- (a) A new section 79A has been proposed to provide that notwithstanding anything contained in the Act, where consequent to a search initiated under section 132 or a requisition made under section 132A or a survey conducted under section 133A, other than under sub-section (2A) of section 133A, the total income of any previous year of an assessee includes any undisclosed income, no set off, against such undisclosed income, of any loss, whether brought forward or otherwise, or unabsorbed depreciation under sub-section (2) of section 32 shall be allowed to the assessee under any provision of this Act in computing his total income for such previous year.
- (b) The provision of non-adjustment of loss or unabsorbed depreciation against undisclosed income detected as a result of search or requisition or survey is expected to act as a deterrence against tax evasion.

## 7. Rationalization of provisions relating to assessment and reassessment [Clauses 35, 36, 44, 45, 46, 47, 48, 49 and 73]

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
35	132(8)	01.04.2022 A.Y. 2022-23	In order to amend the scope of Section 132(8), and to make the provisions of that section also applicable to assessment or reassessment or re-computation under sub-section (3) of 143 or section 144 or section 147, as the case may be, a reference to these sections have been made under.
36	132B(1) & 132(4)	01.04.2022 A.Y. 2022-23	In order to amend the scope of Section 132B, and to make the provisions of that section also applicable to assessment or reassessment or re-computation under sub-section (3) of 143 or section 144 or section 147, as the case may be, a reference has been made to the expression completion of the assessment or reassessment or re-computation.

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
44	148	01.04.2022 A.Y. 2022-23	<p>Presently, before issuance of a notice under Section 148 of the Act, the AO is required to obtain prior approval of the specified authority to issue such notice.</p> <p>It is proposed that no such approval shall be required where the Assessing Officer, with the prior approval of the specified authority, has passed an order under clause (d) of section 148A to the effect that it is a fit case to issue a notice under this section.</p> <p>This way a second administrative approval is sought to be dispensed with.</p> <p>The aforesaid Explanation referred to two cases where the information with the Assessing Officer would suggests that the income chargeable to tax has escaped assessment.</p>

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
			<p>This list is sought to be expanded by including following cases also within the ambit of income chargeable to tax which has escaped assessment:</p> <ul style="list-style-type: none"> <li>(ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or</li> <li>(iii) any information received under an agreement referred to in section 90 or section 90A of the Act; or</li> <li>(iv) any information made available to the Assessing Officer under the scheme notified under section 135A; or</li> <li>(v) any information which requires action in consequence of the order of a Tribunal or a Court.</li> </ul> <p>Further, in existing clause (i) the reference to expression “flagged would be omitted.</p>

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
44	148	<b>01.04.2021</b> <b>Retrospective</b>	<p>In clause (ii), the reference to Section 133A(5) of the Act would be omitted. The said sub-section pertained to incurrance of ostensible expense at functions, ceremonies, etc.</p> <p>Also, in case of search and survey, there was a deemed assumption of escapement of income for the year in which search or survey was conducted and 3 (three) preceding AY's.</p> <p>As per amendment, in Explanation 2 of section 148 the reference to three assessment years preceding the assessment year relevant to the year of search is sought to be omitted. EVEN though, the Memorandum explaining the provisions speaks about prior 3 years reference Only in case of search, the language of the section post amendment also includes reference to survey also.[see page 77, para 3(iii)]</p>

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
45	148A	01.04.2022 AY 2022-23	<p>Section 148A pertains to Conducting inquiry, providing opportunity before issue of notice under section 148.</p> <p>In clause (b) of this section, the reference to prior approval of specified authority before granting an opportunity of being heard is sought to be omitted.</p> <p>The proviso to Section 148A lists out cases where no opportunity is required to be provided before issue of notice under section 148. As per amendment a new clause is sought to be added to the list which is as under:</p> <p>(d) the Assessing Officer has received any information under the scheme notified under section 135A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee</p>



Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
46	148B	01.04.2022 AY 2022-23	Prior approval for assessment, reassessment or re-computation in certain cases is envisaged similarly on the lines of Section 153D of the Act which provided that before passing of an order, in respect of an assessment year to which clause (i) or clause (ii) or clause (iii) or clause (iv) of Explanation 2 to section 148 applies to prior approval of the JCIT/Addl. CIT shall be required.
47	149(1)	01.04.2022 AY 2022-23	<p>The section 149 prescribes time limit for issuance of notice under Section 148 of the Act. The clause (b) of the said sub-section provided that</p> <p>No notice under section 148 shall be issued for the relevant assessment year if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year</p>

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
			<p>The above clause is sought to be enlarged by including details of other entries, expenses, disallowance, allowances, etc and the substituted cl is as under:</p> <p>b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of—</p> <ul style="list-style-type: none"> <li>(i) an asset;</li> <li>(ii) expenditure in respect of a transaction or in relation to an event or occasion; or</li> <li>(iii) an entry or entries in the books of account, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more</li> </ul>

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
47	149(1)	<b>01.04.2021</b> <b>Retrospective</b>	<p>As per Finance Act 2021 If no notice under Section 148 could have been issued under old Law (owing to time limits under erstwhile section 149), the notice under New Section 148 could not have been issued either.</p> <p>The aforesaid stipulation is sought to be enlarged <b>by including reference to Section 153A as well as Section 153C of the Act</b> in the erstwhile proviso to Section 149(1) (post amendment by FA 2021) by substituting the existing proviso with following proviso:</p> <p>that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of section 149 or section 153A or section 153C, as the case may be, as they stood immediately before the commencement of the Finance Act, 2021.</p>

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
47	149(1A)	<b>01.04.2022 AY 2022-23</b>	<p>The present section is applicable for notice beyond 3 AY's if income recorded in form of the asset which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more.</p> <p>The proposed sub-Section is as under:</p> <p>(1A) Notwithstanding anything contained in subsection (1), where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in clause (b) of sub-section (1), has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, <b>in more than one previous years</b> relevant to the assessment years within the period referred to in clause (b) of subsection (1), <b>a notice under section 148 shall be issued for</b> every such assessment year for assessment, reassessment or recomputation, as the case may be.”</p>

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
			<p>Thus, post amendment, even though in a single AY the escaped income is less than 50Lakhs, in-case it is more than 50 Lakh and is spanning over more than 1 AY then notice under Section 148 could be issued for each of such AY during which the escaped income is spanning over.</p>

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
48	Clause (xii) to Expl. 1 to Sec. 153	<b>01.04.2021</b> <b>Retrospective</b>	The new clause seeks to <b>provide for exclusion of the period of limitation</b> for the purpose of assessment, reassessment or recomputation, <b>(not exceeding one hundred eighty days)</b> commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated or such requisition is made or to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to or to whom any books of account or documents seized or requisitioned, pertains or pertain to, or any information contained therein, relates to

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
			<p>This exclusion of time period is not available in cases of Survey Under Section 133A of the Act. It is understood that owing to the above amendment, <b>the time taken by the investigation wing in post search investigation is sought to be excluded.</b></p> <p>These stipulations will also be applicable where the asset seized or requisitioned belonged to or to any books of account or documents seized or requisitioned, pertains or pertain to other person (not subjected to search).</p>
49	Section 153B(4)	01.04.2022	<p>Since the provisions of Section 153B were applicable wrt searches conducted on or before 31/03/2021, a sunset clause by virtue of following sub-section is proposed:</p> <p>“(4) Nothing contained in this section shall apply to any search initiated under section 132 or requisition made under section 132A on or <b>after the 1st day of April, 2021</b>”</p> <p>[Assessment in case of Searches after 01/04/2021 are governed by provisions of Section 148 of the Act]</p>

Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
49	Clause (xi) to Expl. 1 to Sec. 153B	<b>01.04.2021</b> <b>Retrospective</b>	<p>The new clause seeks to provide <b>for exclusion of the period of limitation</b> for the purpose of assessment, reassessment or recomputation, <b>(not exceeding one hundred eighty days)</b> commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account, or other documents or money or bullion or jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be,</p> <p>This exclusion of time period is not available in cases of Survey Under Section 133A of the Act. It is understood that owing to the above amendment, <b>the time taken by the investigation wing in post search investigation is sought to be excluded.</b></p> <p>These stipulations will <b>NOT BE</b> applicable where the asset seized or requisitioned belonged to or to any books of account or documents seized or requisitioned, pertains or pertain to other person (not subjected to search).</p>



Clause	Relevant Section	Applicable W.e.f.	Brief of Amendment
73	Clause (a) of Explanation	<b>01.04.2021</b> <b>Retrospective</b>	The Section 271AAB provides for penalty in-case of search conducted. The definition of “specified date” in clause (a) Explanation to section 271AAB <b>to make it also applicable to a notice issued under section 148 in case where search is initiated on or after 1st April, 2021 .</b>

# 8. Rationalisation of the provisions of sections 271AAB, 271AA and 271 AAD of the Act

## [Clauses 73,74 and 75]

- Insertion in sub-section (1) and (1A) of Section 271AAB w.e.f. 01.04.2022  
[Clause 73]

*Penalty where search has been initiated.*

271AAB

- (1) *The Assessing Officer or 'Commissioner (Appeals)' may, notwithstanding anything contained in any other provisions.....*
- (1A) *The Assessing Officer or 'Commissioner (Appeals)' may, notwithstanding anything contained in any other provisions of this Act....*

- Insertion in clause (a) of Explanation to Section 271AAB w.e.f. 01.04.2021  
[Clause 73]

*Explanation.—For the purposes of this section,—*

*(a) "specified date" means the due date of furnishing of return of income under sub-section (1) of section 139 or the date on which the period specified in the notice issued under section 153A for furnishing of return of income expires, as the case may be or a notice issued under section 148 also, in case where search is initiated on or after 1st April, 2021;*

- Insertion in sub-section (1) of Section 271AAC w.e.f. 01.04.2022 [Clause 74]

*Penalty in respect of certain income.*

*271AAC. (1) The Assessing Officer or **Commissioner (Appeals)** may, notwithstanding anything contained in this Act other than the provisions of section 271AAB,.....*

- Insertion in sub-section (1) of Section 271AAD w.e.f. 01.04.2022 [Clause 75]

- *Penalty for false entry, etc., in books of account.*

- *271AAD. (1) Without prejudice to any other provisions of this Act, if during any proceeding under this Act, it is found that in the books of account maintained by any person there is—*

- (i) a false entry; or*

- (ii) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability,*

- *the Assessing Officer or '**Commissioner (Appeals)**' may direct that such person shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.*

**Brief Impact:**

- (a) Earlier the power to levy penalty under sections 271AAB, 271AAC and 271AAD of the Act under Chapter XXI in cases involving undisclosed income in cases where search has been initiated u/s 132 or otherwise, or for false entry etc. in books of account vested only with the Assessing Officer, in order to improve the deterrence against noncompliance among tax payers, it is proposed to amend the sections 271AAB, 271AAC and 271AAD by enabling the Commissioner (Appeals) to levy penalty under these sections to the along with Assessing Officer.

# 9. Amendment in the provisions of section 272A of the Act [Clause 78]

- Amended section 272A of the Income-tax Act, w.e.f. 01/04/2022:

*If any person fails—*

.....

.....

.....

*he shall pay, by way of penalty, a sum of ~~one hundred rupees~~ **five hundred rupees** for every day during which the failure continues*

## **Brief Impact:**

The penalty for failure to answer questions sign statements, furnishing information, returns or statement, allow inspection etc is proposed to increase to five hundred rupees from the existing sum of one hundred rupees.

# 10. Amendment in Provisions of Section 179 of the Act [Clause 55]

## Removal of term ‘in liquidation’ w.e.f. 01.04.2022

*“Liability of directors of private company ~~in liquidation~~.”*

## Insertion of ‘fees’ in the explanation to section 179 w.e.f. 01.04.2022

*Explanation.—For the purposes of this section, the expression "tax due" includes penalty, interest, fees or any other sum payable under the Act.*

**Brief Impact:**

(a) Section 179 of the Act contains provisions which enables Income tax authorities to recover tax due from a private company from its directors, under certain circumstances where such tax cannot be recovered from the company itself . The liability of directors of a private company under this section is not conditional upon the company being in liquidation. Therefore, it is proposed to amend the title of the section to “Liability of directors of private company”.

(b) Furthermore, to provide more clarity and to avoid any unnecessary litigation, it is proposed to word “fees” in the scope of the expression “tax due” under Explanation to the section.

The amendment will take effect from 01.04.2022 and accordingly apply in relation to assessment year 2022-23 and subsequent assessment years

# 11(3)(3.1) 3.1 Books of account to be maintained by the trusts or institutions under both the regimes [Clause 4 & 6]

## Clause (b) of Section 12A(1) substituted w.e.f. 01.04.2023

~~“(b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 48 [before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date] the report of such audit in the prescribed form<sup>49</sup> duly signed and verified by such accountant and setting forth such particulars as may be prescribed.”~~

“(b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year,—

- i. the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed; and



- ii. the accounts of the trust or institution for that year have been audited by an accountant defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed;”

10<sup>th</sup> Proviso to Section 10(23C) substituted w.e.f. 01.04.2023

~~Provided also that where the total income, of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such trust or institution or any university or other educational institution or any hospital or other medical institution shall get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of 76[section 288 before the specified date referred to in section 44AB and furnish by that date], the report of such audit in the prescribed form<sup>77</sup> duly signed and verified by such accountant and setting forth such particulars as may be prescribed:~~

“Provided also that where the total income of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), without giving effect to the provisions of the said subclauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall—

- (a) keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed; and
- (b) get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and furnish by that date, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:”;

**Brief Impact:**

1. In case of any trust or institution covered under the Section 11 and Section 12 of the Act, it is required to get its accounts audited under existing provisions if its Total Income exceeds the maximum amount which is not chargeable to income-tax without giving effect to provisions of Section 11 and Section 12 of the Act. However, there is no specific provision under the Act providing for the books of accounts to be maintained by such trusts or institutions. Accordingly, the existing Clause (b) of Section 12A(1) of the Act is proposed to be substituted.
2. In case of any trust or institution covered under the Section 10(23C) of the Act, it is required to get its accounts audited under existing provisions if its Total Income exceeds the maximum amount which is not chargeable to income-tax without giving effect to provisions of Section 10(23C) of the Act. However, there is no specific provision under the Act providing for the books of accounts to be maintained by such trusts or institutions. Accordingly, the existing tenth proviso to Section 10(23C) of the Act is proposed to be substituted.

# 11(3) (3.2) Penalty for passing on unreasonable benefits to trustees or specified persons [Clause 76]

## Insertion of new section 271AAE after section 271AAD of the Income-tax Act, w.e.f. 01.04.2023 [Clause 76]

*271AAE. Without prejudice to any other provision of this Chapter, if during any proceedings under this Act, it is found that a person, being any fund or institution referred to in sub-clause (iv) or any trust or institution referred to in sub clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via) of clause (23C) of section 10, or any trust or institution referred to in section 11 has violated the provisions of the twenty-first proviso to clause (23C) of section 10, or clause (c) of sub-section (1) of section 13, as the case may be, the Assessing Officer may direct that such person shall pay by way of penalty—*

- (a) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any person referred to in sub-section (3) of section 13, where the violation is noticed for the first time during any previous year; and*
- (b) a sum equal to two hundred per cent. of the aggregate amount of income of such person applied, directly or indirectly, by that person, for the benefit of any person referred to in sub-section (3) of section 13, where violation is noticed again in any subsequent previous year.”*

**Brief Impact:**

In order to discourage any misuse of funds by any person being trust or institution by violation of provisions of twenty first proviso to Clause (23C) of section 10 or clause (c) of sub-section (1) of section 13, as the case may be, Assessing Officer under section 271AAE may direct such person to pay penalty :

(a) A sum equal to the aggregate amount of income applied directly or indirectly by such person for the benefit of person referred in sub-section (3) of section 13 noticed for first time during any previous year; and

(b) A sum equal to two hundred percent of the aggregate amount of income applied directly or indirectly by such person for the benefit of person referred in sub-section (3) of section 13 noticed again in any subsequent previous year.

The amendment will take effect from 01.04.2023 and accordingly apply in relation to assessment year 2023-24 and subsequent assessment years.

# 11(3)(3.3) Reference to the PCIT/CIT for the cancellation of registration/approval [Clauses 4, 7, 40 and 48]

## • Substitution of existing sub-sections (4) and (5), of section 12 AB:

*‘(4) Where registration or provisional registration of a trust or an institution has been granted under clause (a) or clause (b) or clause (c) of sub-section (1) or clause (b) of subsection (1) of section 12AA, as the case may be, and subsequently,—*

*(a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year; or*

*(b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sub-section (3) of section 143 for any previous year; or*

*(c) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year, the Principal Commissioner or Commissioner shall—*

- ... (i) call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;*
- (ii) pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;*
- (iii) pass an order in writing, refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violations;*
- (iv) forward a copy of the order under clause (ii) or clause (iii), as the case may be, to the Assessing Officer and such trust or institution.*

*Explanation.—For the purposes of this sub-section, the following shall mean “specified violation”,—*

- (a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or*
- (b) the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or*
- (c) the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public; or*



*(d) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or*

*(e) any activity being carried out by the trust or institution—*

*(i) is not genuine; or*

*(ii) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or*

*(f) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.*

*(5) The order under clause (ii) or clause (iii) of subsection (4), as the case may be, shall be passed before the expiry of a period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (i) of sub-section (4).'*

## Substitution of existing proviso of section 143(3) with:

- *Provided that in the case of a—*
  - (a) research association referred to in clause (21) of section 10;*
  - (b) news agency referred to in clause (22B) of section 10;*
  - (c) association or institution referred to in clause (23A) of section 10;*
  - (d) institution referred to in clause (23B) of section 10, which is required to furnish the return of income under sub-section (4C) of section 139, no order making an assessment of the total income or loss of such research association, news agency, association or institution, shall be made by the Assessing Officer, without giving effect to the provisions of section 10, unless—*
    - (i) the Assessing Officer has intimated the Central Government or the prescribed authority the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B), as the case may be, by such research association, news agency, association or institution, where in his view such contravention has taken place; and*

*(ii) the approval granted to such research association or other association or institution has been withdrawn or notification issued in respect of such news agency or association or institution has been rescinded:”;*

*(b) in the second proviso, for the words “Provided further”, the following shall be substituted, namely:—*

*“Provided further that where the Assessing Officer is satisfied that any fund or institution referred to in subclause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via), of clause (23C) of section 10, or any trust or institution referred to in section 11, has committed any specified violation as defined in Explanation 2 to the fifteenth proviso to clause (23C) of section 10 or the Explanation to sub-section (4) of section 12AB, as the case may be, he shall—*

*(a) send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration, as the case may be; and*

*(b) no order making an assessment of the total income or loss of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall be made by him without giving effect to the order passed by the Principal Commissioner or Commissioner under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB:*

*Provided also”;*

*(c) the third proviso shall be omitted.*

- **Insertion of sub section (1A) in section 153:**

*“(1A) Notwithstanding anything contained in subsection (1), where a return under sub-section (8A) of section 139 is furnished, an order of assessment under section 143 or section 144 may be made at any time before the expiry of nine months from the end of the financial year in which such return was furnished.”;*

**Insertion in sub section (2) of Section 153**

*(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment **“or fresh order under section 92CA”**, as the case may be,” in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment **“or an order under section 92CA, as the case may be”**, may be made at any time before the expiry of nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner*

- **Insertion in sub section (5) in section 153:**

*“(5) Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer **“or the Transfer Pricing Officer, as the case may be”**, wholly or partly, otherwise than by making a fresh assessment or reassessment **“or fresh order under section 92CA, as the case may be”**, such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner:*

- **Insertion in sub section (5A) in section 153**

*“(5A) Where the Transfer Pricing Officer gives effect to an order or direction under section 263 by an order under section 92CA and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or recomputation, in conformity with such order of the Transfer Pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him.”;*

- **Insertion in sub section (6) in section 153:**

*“(6) Nothing contained in sub-sections (1) and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of sub-sections (3) and (5) (3), (5) and (5A), be completed—*

- **Insertion in Explanation to section 153**

*iii) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B) or ~~sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10~~, **“under clause (i) of the first proviso”** under clause (i) of the proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or*

*(xi) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the ~~Assessing Officer~~, “Assessing Officer; or*

*(xii) the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee,—*

(a) in whose case such search is initiated under section 132 or such requisition is made under section 132A; or

(b) to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to; or

(c) to whom any books of account or documents seized or requisitioned pertains or pertains to, or any information contained therein, relates to; or”;

- “(xiii) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer.”.



**Brief Impact:**

(I) Due to substitution of section 12AB(4), registration or provisional registration of a trust or an institution has been granted u/s 12AB or section 12AA and subsequently occurrence of violation is noticed by Principal Commissioner or Commissioner or reference is received AO or case has been selected by risk management strategy, then P. Comm. or Comm. shall:

- (i) call for such documents or information.
- (ii) pass an order in writing cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard
- (iii) pass an order in writing refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violation;
- (iv) forward a copy of the order under clause (ii) or (iii) to the AO and trust/institution.

(II) The term “specified violation” is proposed to be defined by inserting an Explanation to sub-section (4) of section 12AB

(III) Due to substitution of section 12AB(5), order of 12AB(4) has to be passed within six months of the end of the quarter in which the first notice is issued (on or after 01-04-2022).

(IV) Similar to Sec. 12AB(4), amendment is also proposed in the 15<sup>th</sup> proviso to Sec.10(23C).

(V) Similar to Sec. 12AB(5), it is proposed to insert Explanation 1 to the 15<sup>th</sup> proviso of section 10(23C) to define “specified date” to be the six months from the end of the quarter in which the first notice is issued (on or after 01-04-2022).

(VI) Similar an Explanation to sub-section (4) of section 12AB, the term “specified violation” is also proposed to be defined in Section 10(23C) by inserting Explanation 2 to its 15<sup>th</sup> proviso.

(VII) Consequentially, Section 143(3) is proposed to be amended by deleting the reference to trusts or institution under the first regime in the first proviso and delete the existing third proviso.

(VIII) It is also proposed to insert Explanation 3 to 15<sup>th</sup> proviso to section 10(23C) that where a reference, under the first proviso to section 143(3) has been made on or before 31.03.2022 by the AO for the contravention of certain provisions of s. 10(23C), such references shall be dealt with as per the explanation.

(IX) Proposed proviso to 143(3) provides that where the AO is satisfied of specified violation (1<sup>st</sup> and 2<sup>nd</sup> regime), he shall:

(a) send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration and

(b) no order making an assessment of the total income or loss shall be made without giving effect to the order passed by the Principal Commissioner or Commissioner.

(X) Consequentially, it is also proposed to amend the provisions of clause (iii) of Explanation to section 153 by deleting the reference to trusts or institution under the first regime and to insert a new clause (xiii) to provide for period of limitation.

# 11(4)(4.1) Accumulation provisions

[Clause 4 & 5]

## • Proposal to amend section 11(3) of the Income-tax Act, w.e.f.

### 01/04/2023 [Clause 5]

*(a) in clause (c), the words “or in the year immediately following the expiry thereof” shall be omitted;*

*(b) for the long line, the following long line shall be substituted, namely:—*

*“shall be deemed to be the income of such person of the previous year—*

*(i) in which it is so applied or ceases to be so accumulated or set apart under clause (a);*

*or*

*(ii) in which it ceases to remain so invested or deposited under clause (b); or*

*(iii) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or*

*(iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).”*

### Brief Analysis:

To bring parity in provision of section 11 and 10(23C), provision of section 11 is proposed to be amended to tax the amount set apart u/s 11(2) but not utilized within 5 years or not kept invested in prescribed assets, the said amount will be taxed in the 5<sup>th</sup> year or year of non-compliance, itself.

• **Proposal to insert Explanation 3 to the third proviso to clause (23C) of section 10 of the Income-tax Act, w.e.f. 01/04/2023 [Clause 4]**

“Explanation 3.—For the purposes of determining the amount of application under this proviso, where eighty-five per cent. of the income referred to in clause (a) of this proviso is not applied wholly and exclusively to the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) is established, during the previous year but is accumulated or set apart, either in whole or in part, for application to such objects, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, if the following conditions are complied with, namely:—

(a) such person furnishes a statement in such form and manner, as may be prescribed, to the Assessing Officer stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5) of section 11; and

(c) the statement referred to in clause (a) is furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

### **Brief Analysis:**

To bring parity in provision of section 11 and 10(23C), Explanation 3 has been proposed to be inserted to section 10(23C) to insert conditions for setting apart the unutilized fund of 85% to further 5 years. After insertion of said explanation, the trust will be required to file a form similar to Form 10B before filing of return of income indicating amount to be set apart and the amount being set apart will be required to be invested in prescribed modes as prescribed u/s 11(5). It may be noted that the period for which amount could not have been applied due to injunction or order by court, said period shall be excluded from the period of 5 years.

• Proposal for insertion of Explanation 4 to the third proviso to clause (23C) of section 10 of the Income-tax Act, w.e.f. 01/04/2023 [Clause 4]

*Any income referred to in the proposed Explanation 3 shall be deemed to be the income of the previous year in which the following takes place—*

- (a) the income is applied for purposes other than wholly and exclusively to the objects for which the trust or institution under the first regime is established or ceases to be accumulated or set apart for application thereto, or*
- (b) the income ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5) of section 11, or*
- (c) the income is not utilized for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of the above proposed Explanation 3,*
- (d) the income is credited or paid to any trust or institution under the first or second regime.*

*shall be deemed to be the income of such person of the previous year—*

*(i) in which it is so applied or ceases to be so accumulated or set apart under clause (a); or*

*(ii) in which it ceases to remain so invested or deposited under clause (b); or*

*(iii) being the last previous year of the period, for which the income is accumulated or set apart under clause (a) of Explanation 3, but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or*

*(iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).*

### **Brief Analysis:**

To bring parity in both regimes under section 10(23C), provision of section 10(23C) is proposed to be amended to tax the amount set apart but not utilized within 5 years or not kept invested in prescribed assets, the said amount will be taxed in the 5<sup>th</sup> year or year of non-compliance, itself.

**• Proposal for insertion of Explanation 5 to the third proviso to clause (23C) of section 10 of the Income-tax Act, w.e.f. 01/04/2023 [Clause 4]**

Explanation 5.—Notwithstanding anything contained in Explanation 4, where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (b) of Explanation 3 cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other purpose in India as is specified in the application by that person and as is in conformity with the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or subclause (vi) or sub-clause (via) is established; and thereupon the provisions of Explanation 4 shall apply as if the purpose specified by that person in the application under this Explanation were a purpose specified in the notice given to the Assessing Officer under clause (a) of Explanation 3:

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of Explanation 4:



**Brief Analysis:**

Explanation 5 section 10(23C) is proposed to be inserted to enable the Assessing Officer to allow trusts or institutions under the first regime in circumstances beyond their control to apply such accumulated income for such other purpose in India as is specified in the application by such person subsequent to fulfilment of specified conditions.

These other purposes are required to be in conformity with the objects for which the trust or institution under the first regime is established. If it is done, the provisions of Explanation 4 to third proviso to clause (23C) of section 10 shall apply as if the purpose specified by such person in the application under this Explanation were a purpose specified in the notice given to the Assessing Officer under clause (a) of the proposed Explanation 3 of the third proviso to clause (23C) of section 10.

Further, proviso to said explanation is proposed to be inserted to not to allow assessing officer to allow utilisation of funds set apart by paying the same to some other trust covered under first or second regime.

## 11(4)(4.2) Bringing consistency in the provisions relating to payment to specified person [Clause 4]

- **Proposal to insert twenty first proviso in clause (23C) of section 10 of the Income-tax Act, w.e.f. 01/04/2023 [Clause 4]**

*Provided also that where the income or part of income or property of any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), has been applied directly or indirectly for the benefit of any person referred to in sub-section (3) of section 13, such income or part of income or property shall, after taking into account the provisions of sub-sections (2), (4) and (6) of the said section, be deemed to be the income of such person of the previous year in which it is so applied:*

### **Brief Analysis:**

Provisions of section 13(3) as applicable in case of section 11 is also made applicable in case of trusts covered under first regime of section 10(23C).

# 11(4)(4.3) The provisions of section 115TD to apply to any trust or institution under the first regime [Clause 31, 32, 33]

- Proposal to amend provisions of section 115TD, 115TE and 115TF of the Income-tax Act, w.e.f. 01/04/2023 to ensure applicability of said provisions to trusts under First Regime as well. [Clause 31, 32 and 33]

*By amending the provisions of section 115TD, 115TE and 115TF of the Income Tax Act, the lawmaker had proposed to make applicable the exit tax applicable in case of trust covered by second regime, exiting from charitable activity or is dissolving the trust, to the trusts covered by first regime as well.*

# II(4)(4.4) Filing of return by person claiming exemption under clause (23C) of section 10 of the Act [Clause 4]

## • Proposal to insert 20<sup>th</sup> Proviso to Section 10(23C) of the Income-tax Act, w.e.f. 01/04/2023 [Clause 4]

*‘Provided also that the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall furnish the return of income for the previous year in accordance with the provisions of sub-section (4C) of section 139, within the time allowed under that section:*

### **Brief Analysis:**

It has been proposed that for the purpose of exemption under this clause, any trust or institution under the first regime is required to furnish the return of income for the previous year in accordance with the provisions of sub-section (4C) of section 139 of the Act, within the time allowed under that section.

# II(5)(5.1) Allowing certain expenditure in case of denial of exemption [Clause 4, 8]

## • Proposal to insert Section 13(10) and 13(11) of the Income-tax Act, w.e.f. 01/04/2023 [Clause 8]

*‘(10) Where the provisions of sub-section (8) are applicable to any trust or institution or it violates the conditions specified under clause (b) or clause (ba) of subsection (1) of section 12A, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions, namely:—*

*(a) such expenditure is not from the corpus standing to the credit of the trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which income is being computed;*

*(b) such expenditure is not from any loan or borrowing;*

*(c) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other previous year; and*

*(d) such expenditure is not in the form of any contribution or donation to any person.*

*Explanation.—For the purposes of determining the amount of expenditure under this sub-section, the provisions of sub-clause (ia) of clause (a) of section 40 and sub-sections (3) and (3A) of section 40A, shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”*

*(11) For the purposes of computing income chargeable to tax under sub-section (10), no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act.*

**Brief Analysis:**

It has been clarified that if in any case exemption u/s 11 is denied, the revenue expenses incurred during the year shall be allowed to be reduced from gross receipts subject to certain conditions and also subject to provisions of section 40 and 40A mutatis mutandis. Conditions are as under:

- (i) such expenditure is not from the corpus standing to the credit of such trust or institution as on the last day of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;
- (ii) such expenditure is not from any loan or borrowing;
- (iii) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income in the same or any other previous year; and
- (iv) such expenditure is not in the form of any contribution or donation to any person.

Also, no set off of any expenses or allowances or set-off of losses shall be allowed.

**Proposal to insert 22<sup>nd</sup> Proviso to section 10(23C) of the Income-tax Act, w.e.f. 01/04/2023 [Clause 4]**

*Provided also that where any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) violates the conditions of the tenth proviso or twentieth proviso, or where the provisions of the eighteenth proviso are applicable, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the fund or institution or trust or the university or other educational institution or the hospital or other medical institution, subject to fulfilment of the following conditions, namely:—*

- (a) such expenditure is not from the corpus standing to the credit of the fund or institution or trust or the university or other educational institution or the hospital or other medical institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;*
- (b) such expenditure is not from any loan or borrowing;*
- (c) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income in the same or any other previous year; and*
- (d) such expenditure is not in the form of any contribution or donation to any person.*

*Explanation.—For the purposes of determining the amount of expenditure under this proviso, the provisions of sub-clause (ia) of clause (a) of section 40 and subsections (3) and (3A) of section 40A shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”*

*Provided also that for the purposes of computing income chargeable to tax under the twenty-second proviso, no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act:’*

**Brief Analysis:**

It has been clarified that if in any case exemption u/s 10(23C) is denied, the revenue expenses incurred during the year shall be allowed to be reduced from gross receipts subject to certain conditions and also subject to provisions of section 40 and 40A mutatis mutandis. Conditions are as under:

- (i) such expenditure is not from the corpus standing to the credit of such trust or institution as on the last day of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;
- (ii) such expenditure is not from any loan or borrowing;
- (iii) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income in the same or any other previous year; and
- (iv) such expenditure is not in the form of any contribution or donation to any person.

Also, no set off of any expenses or allowances or set-off of losses shall be allowed.



# II(5)(5.2) Taxation of certain income of the trusts or institutions under both the regimes at special rate

[Clause 4, 8, 28]

## Analysis

- *20<sup>th</sup> Proviso to section 10(23C) of Income Tax Act has been proposed to be inserted to withdraw complete exemptions from the trusts and institutions under any of the regime, whereby the said trust or institution had provided unreasonable benefits to the trustee or any other specified person, irrespective of the amount of unreasonable benefits passed on.*
- *Provisions of section 13(1)(d) are proposed to be amended to provide that only the that part of income which has been invested in violation to the provisions of said section shall be liable to be included in total income.*
- *A new section 115BBI is proposed to be inserted to tax the total income of any assessee being a trust under the first or second regime, includes any income by way of any specified income the income-tax payable shall be the aggregate of-*
  - a. the amount of income-tax calculated at the rate of thirty per cent on the aggregate of specified income; and*
  - b. the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the aggregate of specified income referred to in clause (i)*

- *In respect of Section 115BBI, specified income means as under:*
  - (i) income accumulated or set apart in excess of fifteen percent of the income where such accumulation is not allowed under any specific provisions of the Act; or*
  - (ii) deemed income referred to in Explanation 4 to third proviso to clause (23C) of section 10 or sub-section (3) of section 11 or sub-section (1B) of section 11; or*
  - (iii) any income which is not exempt under clause (23C) of section 10 on account of violation of the provisions of clause (b) of third proviso of clause (23C) of section 10 or not to be excluded from total income under the provisions of clause (d) of sub-section (1) of section 13; or*
  - (iv) any income which is deemed to be income under the twenty first proviso to clause (23C) of section 10 or which is not excluded from total income under clause (c) of sub-section (1) of section 13; or*
  - (v) any income which is not excluded from total income under clause (c) of subsection (1) of section 11.*

## 11(5)(5.3) Voluntary Contributions for the renovation and repair of temples, mosques, gurudwaras, churches etc notified under section 80G(2)(b) [Clause 4, 5]

### Proposal to insert Explanation 3A to section 11(1) of the Income-tax Act, w.e.f. 01/04/2021 [Clause 5]

Explanation 3A.—For the purposes of this subsection, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (b) of subsection (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution—

- (a) applies such corpus only for the purpose for which the voluntary contribution was made;
- (b) does not apply such corpus for making contribution or donation to any person;
- (c) maintains such corpus as separately identifiable; and
- (d) invests or deposits such corpus in the forms and modes specified under subsection (5) of section 11.

**Proposal to insert Explanation 3B to section 11(1) of the Income-tax Act, w.e.f. 01/04/2021 [Clause 5]**

Explanation 3B.—For the purposes of Explanation 3A, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (a) or clause (b) or clause (c) or clause (d) of the said Explanation is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.”

**Brief Analysis:**

By inserting Explanation 3A to section 11(1), it has been proposed to clarify that in case of trust registered u/s 80G and receiving donations for repairs of religious places may at its choice consider such receipts to be corpus fund received which can be utilised only for the purpose of repairs of said religious places in future years subject to certain conditions.

Whereas Explanation 3B is proposed to be inserted to make said voluntary contributions taxable in the year in which any of the conditions prescribed under proposed explanation 3A is contravened.

**Proposal to insert Explanation 1A and 1B to section 10(23C) of the Income-tax Act, w.e.f. 01/04/2021 [Clause 4]**

“Explanation 1A.—For the purposes of this proviso, where the property held under a trust or institution referred to in clause (v) includes any temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G, any sum received by such trust or institution as a voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of that trust or institution, subject to the condition that the trust or institution,—

(a) applies such corpus only for the purpose for which the voluntary contribution was made;

(b) does not apply such corpus for making contribution or donation to any person;

(c) maintains such corpus as separately identifiable; and

(d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 1B.—For the purposes of Explanation 1A, where any trust or institution referred to in sub-clause (v) has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (a) or clause (b) or clause (c) or clause (d) of the said Explanation is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.”

**Brief Analysis:**

By inserting Explanation 1A to section 10(23C), it has been proposed to clarify that in case of trust registered u/s 80G and receiving donations for repairs of religious places may at its choice consider such receipts to be corpus fund received which can be utilised only for the purpose of repairs of said religious places in future years subject to certain conditions.

Whereas Explanation 1B is proposed to be inserted to make said voluntary contributions taxable in the year in which any of the conditions prescribed under proposed explanation 1A is contravened.

**II(5)(5.4) Clarifying that application will be allowed only when its actually paid [Clause 4 & 5]**

**Proposal to insert Proviso to Explanation 3 to Section 10(23C) and Explanation to section 11 of the Income-tax Act, w.e.f. 01/04/2022 [Clause 4 & 5]**

Identical provisos are proposed to be inserted to Explanation 3 to section 10(23C) and Section 11 to clarify that application of funds shall means actual payment irrespective of the accounting policies employed by said trust for the period.

# II(6)(6.1) Reference to prescribed authority under clause (23C) of section 10 [Clause 4]

Proposal to amend provisions of section 10(23C)(iv) to (via) and 19<sup>th</sup> Proviso to said section of the Income-tax Act, w.e.f. 01/04/2022  
[Clause 4]

Phrase 'Prescribed Authority' has been proposed to be changed to 'Principal Commissioner or Commissioner' for facilitating consequential amendment from Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020



# II(6)(6.2) Amendment to sub-section (1A) of section 35

[Clause 4]

## Proposal to insert section 35(1A) of the Income-tax Act, w.e.f. 01/04/2021

### [Clause 11]

In section 35 of the Income-tax Act, in sub-section (1A), for the words, brackets, figures and letter “~~the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) shall not be entitled to deduction under the respective clauses of the said sub-section~~”, the words, brackets, figures and letter “**the deduction in respect of any sum paid to the research association, university, college or other institution referred to in clause (ii) or clause (iii), or the company referred to in clause (iia) of sub-section (1), shall not be allowed**” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2021.

### Brief Analysis:

It is proposed to amend section 35(1A) of the Act to provide that the deduction claimed by the donor with respect to the donation given to any research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) of section 35 of the Act shall be disallowed unless such research association, university, college or other institution or company files the statement of donations.

# 12. Amendment in the provisions of section 263 of the Act [Clause 48 & 72]

## Sub-section (1A) to Section 153 inserted w.e.f. 1<sup>st</sup> April 2022

*“(1A) Notwithstanding anything contained in subsection (1), where a return under sub-section (8A) of section 139 is furnished, an order of assessment under section 143 or section 144 may be made at any time before the expiry of nine months from the end of the financial year in which such return was furnished.”*

## Sub-section (3) to Section 153 amended w.e.f. 1<sup>st</sup> April 2022

*(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment **or fresh order under section 92CA**, as the case may be, in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment **or an order under section 92CA**, as the case may be, may be made at any time before the expiry of nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner:*

### Sub-section (5) to Section 153 amended w.e.f. 1<sup>st</sup> April 2022

*(5) Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer or the Transfer Pricing Officer, as the case may be, wholly or partly, otherwise than by making a fresh assessment or reassessment or fresh order under section 92CA, as the case may be, such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner:*

### Sub-section (5A) to Section 153 inserted w.e.f. 1<sup>st</sup> April 2022

*“(5A) Where the Transfer Pricing Officer gives effect to an order or direction under section 263 by an order under section 92CA and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or recomputation, in conformity with such order of the Transfer Pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him.”*

### Sub-section (6) to Section 153 amended w.e.f. 1<sup>st</sup> April 2022

*(6) Nothing contained in sub-sections (1) and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of ~~sub-sections (3) and (5)~~ **sub-sections (3), (5) and (5A)**, be completed—*

### Explanation 1 to Section 153 amended w.e.f. 1<sup>st</sup> April 2022

*(iii) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B) or ~~sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via)~~ of clause (23C) of section 10, **under clause (i) of the first proviso**, under clause (i) of the proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or*

*(xi) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the ~~Assessing Officer~~, Assessing Officer; or*

*(xii) the period (not exceeding one hundred and eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee,—*

*(a) in whose case such search is initiated under section 132 or such requisition is made under section 132A; or*

*(b) to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to; or*

*(c) to whom any books of account or documents seized or requisitioned pertains or pertains to, or any information contained therein, relates to; or”;*

*(xiii) the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under the second proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer,*

**Sub-section (1) to Section 263 inserted w.e.f. 1<sup>st</sup> April 2022**

*(1) The [Principal Chief Commissioner or Chief Commissioner or Principal Commissioner] or Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer **or the Transfer Pricing Officer** is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, ~~including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.~~ **including,—***

- (i) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment; or*

*(ii) an order modifying the order under section 92CA; or*

*(iii) an order cancelling the order under section 92CA and directing a fresh order under the said section.”;*

- **Insertion of new clause in Explanation 1 to Section 263**

*(iii) an order under section 92CA by the Transfer Pricing Officer;*

- **Insertion of Explanation 3 to Section 263**

*Explanation 3.—For the purposes of this section, “Transfer Pricing Officer” shall have the same meaning as assigned to it in the Explanation to section 92CA*

**Brief Impact:**

Under the provision of section 263 the revenue has power to revise the order of Assessing officer which was prejudicial to interest of revenue within two years from the end of the financial year in which the order sought to be revised was passed. As per Section 92CA, the assessing officer if necessary, he may, with the approval of PCIT or CIT refer the computation of arm's length price to the TPO. The section 263 was silent regarding the power for revision of order passed by TPO u/s 92CA of the act.

Therefore, it is proposed to amend the provisions of section 263 of the Act so as to provide that the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or Commissioner who is assigned the jurisdiction of transfer pricing may call for and examine the record of any proceeding under this Act and if he considers that any order passed by the TPO, working under his jurisdiction, to be erroneous in so far as it is prejudicial to the interests of revenue, he may pass an order directing revision of the order of TPO.

Further, the changes were proposed to made in Sec 153 of the act to provide that section 3 and 5 of this section will be applicable in case of order passed u/s 92CA and also the time of two months will be given to AO for giving the effect of order of TPO consequent to the directions in the revision order.



# 13. Power of Board to issue order and instructions and directions to income tax authorities for proper administration of the Act. [Clause-34]

## Section 119(2)(a) amended w.e.f 1<sup>st</sup> April 2022.

*“(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK, 139, 143, 144, 147, 148, 154, 155, 158BFA, sub-section (1A) of section 201, sections 210, 211, 234A, 234B, 234C, 234E, 234F 270A, 271, 271C, 271CA and 273 or otherwise), general or special orders in respect of any class of incomes or fringe benefits or class of cases, setting forth directions or instructions (not being prejudicial to assessee) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information”*

**Brief Impact:**

Presently the CBDT cannot issue orders to mitigate hardships wrt certain classes of persons in filing return of income given that the default is beyond the control of the Assessee.

Accordingly, it is proposed to insert section 234F and include it in the list of sections mentioned in clause (a) of sub-section (2) of section 119 of the Act, so as to enable the Board to issue such orders or instructions, as deemed fit even wrt Section 234F of the Act.

# 14. Income Tax Authorities for the section 133A of the Act. [Clause 37]

## Explanation under Section 133A(6) amended w.e.f 1st April 2022

*“Explanation.—In this section,—*

*(a) "income-tax authority" means—*

*(i) a Principal Commissioner or Commissioner, a Principal Director or Director, a Joint Commissioner or Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer; and*

*(ii) includes an Inspector of Income-tax, for the purposes of clause (i) of sub-section (1), clause (i) of sub-section (3) and sub-section (5),*

*~~who is subordinate to the Principal Director General of Income-tax (Investigation) or the Director General of Income-tax (Investigation) or the Principal Chief Commissioner of Income-tax (TDS) or the Chief Commissioner of Income-tax (TDS), as the case may be~~ who is subordinate to the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner, as may be specified by the Board*

### Brief Impact:

Evidently, the omission of the expression DGIT(Inv.) or CCIT(TDS) is amounting to conferring power to conduct Survey with officers other than officers of the investigation / TDS wing. The above amendment is in line with CBDT instructions dated 31.12.2021 and 19.10.2020.

# 15. Reduction of Goodwill from block of Assets to be considered as “transfer” [Clause 15]

Explanation after Proviso to Section 50 inserted w.e.f. 1<sup>st</sup> April 2021

*“Explanation.—For the purposes of this section, reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with subitem (B) of item (ii) of sub-clause (c) of clause (6) of section 43 shall be deemed to be transfer.”.*

## Brief Impact:

It is proposed to clarify that for the purposes of section 50 of the Act, **reduction of the amount of goodwill of a business or profession**, from the block of asset in accordance with sub item (B) of item (ii) of sub-clause (c) of clause (6) of section 43, shall be **deemed to be transfer**.

### Sub-section (42C) to Section 2 amended w.e.f 1st April 2021

*(42C) "slump sale" means the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such ~~sales~~ transfer.*

#### **Brief Impact:**

Prior to amendment, "slump sale" means the transfer of one or more [undertaking, by any means,] for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

**Vide the Finance Act, 2021**, the definition of “slump sale” was amended to expand its scope to cover all forms of transfer under slump sale. However, inadvertently, in the last sentence there is reference to the word “sales” instead of “transfer”.

Therefore, it is proposed to carry out **consequential amendment** by amending the provision of clause (42C) of section 2 of the Act, to **substitute the word “sales” with the word “transfer”**.



**Thank You...!!!**

Prepared by: Team 'Voice of CA'