



ANALYSIS OF MAJOR PROPOSALS IN DIRECT TAXES IN UNION BUDGET 2020



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1.0 'Vivad Se Vishwas' Scheme

1.1 Background

- ❖ The Hon'ble FM in the Budget Speech announced an amnesty scheme to cut down on the voluminous number of pending cases before the Appellate Authorities and ensure speedy disposals of income tax litigation.
- ❖ Assesseees may opt to pay the amount of tax disputed against full waiver of interest and penalty provided the option is exercised on or before 31-03-2020.
- ❖ Assesseees exercising this option post 31-03-2020 but before 30-06-2020 would be required to pay an incremental amount to avail the benefits conferred.

1.2 Our Remarks

- ❖ The scheme is inspired from 'Sabka Vishwas' under the indirect tax regime which proved to be a win-win situation for Revenue as well as for taxpayer.
- ❖ The extent of benefit on exercising the scheme may best be evaluated after the same is notified.

2.0 Insertion of new section 271AAD [w.e.f. 01-04-2020]

2.1 Background

- ❖ A new penalty section is proposed to be introduced to curb the practice of issuing fake invoices and claiming input tax credit under GST law.
- ❖ The section empowers Assessing Officer (AO) to impose penalty during '*any proceeding*' at an amount equivalent to aggregate of –
 - (i) '*a false entry; or,*
 - (ii) '*omission of any entry ... to evade tax liability*'
- ❖ In addition to above, AO is also empowered to impose such penalty on any other person who is involved in the above stated transaction.

2.2 Our Remarks

- ❖ The spirit of the section is also based on touchstone of indirect tax law which echoes the idea to curb menace of fake invoices.
- ❖ Henceforth, taxpayers engaged in malpractices would face penal consequences under I.T. as well as GST law.

3.0 TDS & TCS [w.e.f. 01-04-2020]

Insertion of new section 194-0

- ❖ E-Commerce operators would be required to deduct **TDS @ 1%** on gross value of transaction.
- ❖ The provision shall not apply if e-commerce participant is an individual / HUF and gross sales of such individual / HUF with e-commerce operator was less than Rs. 5 Lacs

TCS on Overseas Tour Package

- ❖ Sec. 206C is proposed to be amended to bring under its ambit **TCS @ 5%** on sale of overseas tour packages.
- ❖ In case the buyer does not furnish PAN/Aadhar, **TCS @ 10%** would apply

Amendment in section 194-I

- ❖ **TDS @ 2%** on fees for technical services
- ❖ The rationale is to resolve litigation in cases where AO claim that TDS @ 10% would apply vis-à-vis assessee who deducts TDS @ 2% as per Sec. 194-C

Widening scope of section 194-C

- ❖ **TDS @ 1%/2%** in case of contract manufacturing where raw material is procured as per specification of a customer
- ❖ The amendment proposes to overturn the judgment of the Hon'ble Calcutta HC in **PCIT - vs.- Shalimar Chemicals Works Ltd. (2018) 257 Taxman 590 (Cal.)**

4.0 Capital Gains

Cost of Acquisition as per Sec. 55 [w.e.f. 01-04-2021]

- ❖ Hitherto, Fair Market Value (FMV) as at 01-04-2001 of a capital asset being land or building or both is determined as being higher of its stamp duty value or, actual cost of acquisition at the option of assessee
- ❖ It is proposed to insert a new proviso to Sec. 55(2)(ac) to determine that FMV shall not exceed stamp duty value
- ❖ In other words, the proviso proposes to set an upper limit on cost of acquisition of such capital assets
- ❖ The amendment reinforces the importance to obtain the stamp duty value as at 01-04-2001 while computing capital gains.

Enhancement of safe harbor limit [w.e.f. 01-04-2021]

- ❖ Presently, safe harbor limit of 5% is provided under the provisions of Sec. 43CA, 50C and 56(2)(x)
- ❖ This limit of 5% protects the buyer as well as seller from any tax implication in the event land and/or building is transacted at lower of stamp duty value
- ❖ It is proposed to enhance the limit from **5%** to **10%**
- ❖ It is a welcome step for the real estate sector should be seen as a prospective sign for investors at large

5.0 Tax Audit u/s 44AB & ITR [w.e.f. 01-04-2020]

- ❖ It is proposed to enhance the limit for requirement of tax audit u/s 44AB from Rs. 1 Cr. To Rs. 5 Crs.
- ❖ However, the benefit would be conferred if -
 - (i) Cash receipts < 5% of Total receipts, and
 - (ii) Cash payments < 5% of Total payments



- ❖ The due date for assessee requiring tax audit u/s 44AB shall be extended from 30th Sept to 31st Oct
- ❖ An Insolvency Professional empowered to act on behalf of Board of Directors shall be eligible to verify return of income and also act as Authorized Representative as per Sec. 288

6.0 Tax Cut for Individual Assesseees [w.e.f. 01-04-2020]

Individual / HUF Assesseees		
Income Slabs	Old Regime	New Regime
a. Rs. 5.00 Lacs to Rs. 7.50 Lacs	20%	10%
b. Rs. 7.50 Lacs to Rs. 10.00 Lacs		15%
c. Rs. 10.00 Lacs to Rs. 12.50 Lacs	30%	20%
d. Rs. 12.50 Lacs to Rs. 15.00 Lacs		25%
e. Beyond Rs. 15.00 Lacs		30%

- ❖ Under the new regime, the assessee would be required to forgo a host of exemptions and deductions, *inter alia*, Chapter VI-A, standard deduction u/s 16 etc.
- ❖ The option to choose new regime may be reversed only once in any subsequent AY

7.0 Tax Cut for Non-Individual Assesees

CORPORATE ASSESSEES

- ❖ Presently, assessee being a domestic company is subject to Dividend Distribution Tax @ 15% on any amount declared, distributed or paid by way of dividend
- ❖ Such dividend is thereafter exempt u/s 10(34) in the hands of shareholders
- ❖ It is proposed to shift the burden of tax on dividend to shareholders at applicable rates without any implications on the company-assessee [**w.e.f. 01-04-2021**]



CO-OPERATIVE SOCIETY

- ❖ Hitherto, an assessee being a co-operative society is taxed @ 30% under normal provisions of IT Act
- ❖ It is proposed to levy tax @ 22% as per Sec. 115BAD akin to Sec. 115BAA for companies
- ❖ Accordingly, there will be no exemption and/or deduction applicable to such assessee
- ❖ In addition, there shall be no requirement to comply with provisions pertaining to AMT

8.0 Miscellaneous Proposals

- ❖ With the onset of electronic return filing, processing, refund and now assessment, it is proposed to introduce e-appeal scheme by inserting sub-section (6A) in Sec. 250 by eliminating interface between CIT(Appeals) and appellant **[w.e.f. 01-04-2020]**
- ❖ Hitherto, an assessee can view and claim its prepaid taxes from the Form 26AS which is proposed to be replaced by an annual financial statement in terms of a new section 285BB **[w.e.f. 01-06-2020]**
- ❖ Sec. 80-IAC provides for tax holiday to eligible startups for a period of 3 consecutive AYs out of 7 years provided *inter alia* their turnover is below Rs. 25 Crs. It is proposed to enhance the period of **7 years to 10 years** in addition to turnover criteria of **Rs. 25 Crs to Rs. 100 Crs.** **[w.e.f. 01-04-2020]**
- ❖ For the purpose of determining residential status of an individual, it is proposed to decrease period of stay in India from existing period of **182 days to 120 days**. Additionally, it is also proposed that an Indian citizen who is not liable to tax in any other country shall be **deemed to be a resident** of India **[w.e.f. 01-04-2021]**
- ❖ It is proposed to introduce a reporting obligation similar to TDS/TCS for an exempt entity being a donee to cross check claims filed by donor **[w.e.f. 01-06-2020]**
- ❖ The Hon'ble FM in her speech mentioned about '**Taxpayer's Charter**' to be enshrined in the statutes and which will be notified soon.

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