

Shardul Amarchand Mangaldas

**BUDGET INSIGHTS 2023** 

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# ECONOMIC OUTLOOK >>>

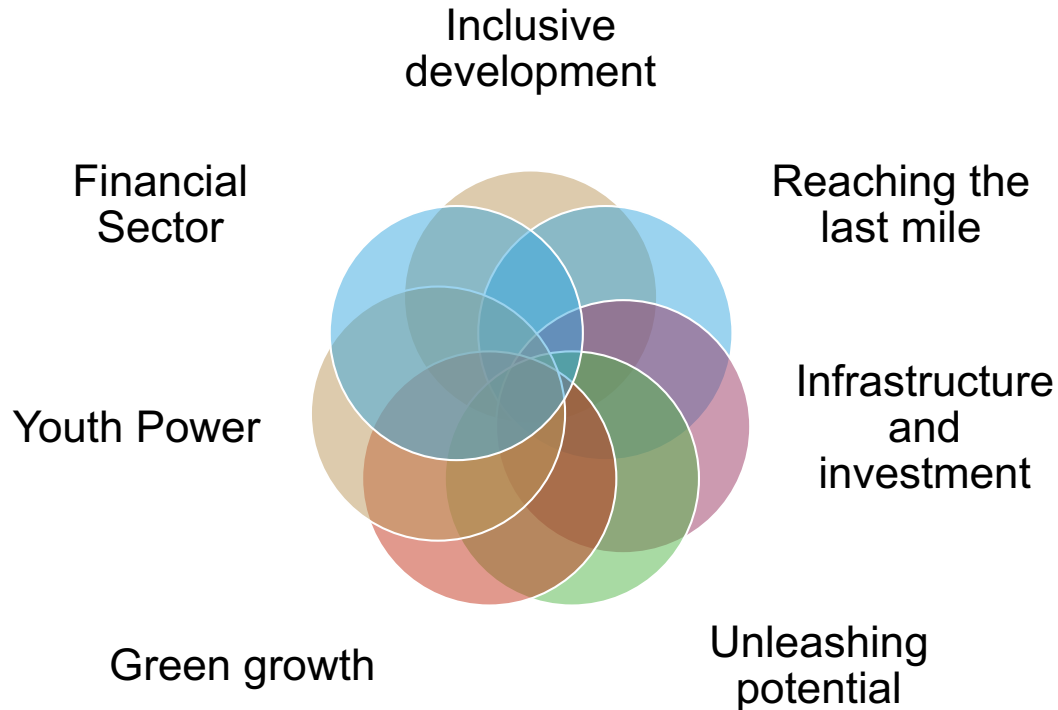
# Budget Insights 2023

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## Key Priorities of Budget 2023

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### *Vision for Amrit Kaal*



# Budget Insights 2023

## Economic and policy highlights

### Economic Outlook

#### Macro economic indicators

- The shocks that Indian economy had to absorb since 2020:
  - Pandemic induced contraction of global output
  - Russo-Ukraine conflict – surge in inflation
  - Central Banks across economies led by Federal Reserve responded with synchronized policy rate hikes to curb inflation
- Indian economy appears to have moved on after its encounter with the pandemic, staging full recovery in FY2022, ahead of many nations and positioning itself to ascend to the pre-pandemic growth in FY2023
- Economic Survey forecasts a baseline GDP growth rate of 6.5 per cent in real terms in FY24 - comparable to projections of World Bank, IMF, ADB and RBI

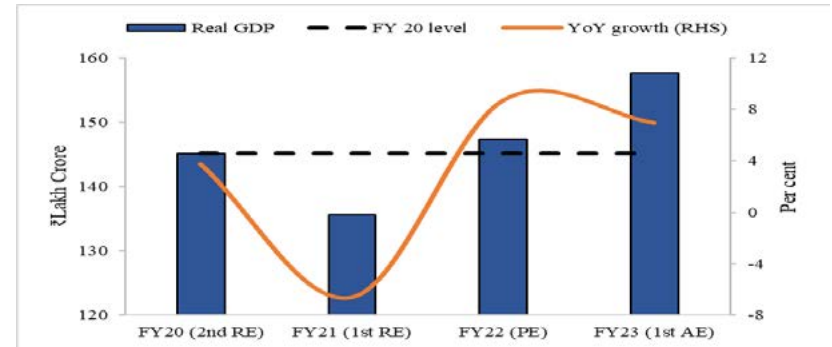


Table IX.1: Growth and Share of Industrial Components (in Per cent)

	Growth in Per cent		Real GVA growth in FY23 over FY22	Real GVA growth in FY23 over FY20	Share in total GVA FY23
	H1: FY23	H2: FY23 (Estimated)			
<b>Industry</b>	3.7	4.5	4.1	11.1	30.0
Mining & quarrying	2.2	2.6	2.4	4.4	2.3
Manufacturing	0.1	3.0	1.6	11.0	17.3
Electricity, gas, water supply & other utility services	10.0	7.9	9.0	13.0	2.3
Construction	11.5	7.3	9.1	12.8	8.1
<b>Overall GVA</b>	<b>9.0</b>	<b>4.7</b>	<b>6.7</b>	<b>9.8</b>	-

# Budget Insights 2023

## Inflationary pressures and Fiscal Deficit

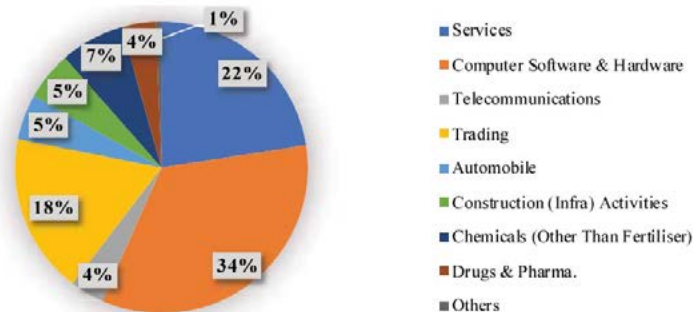
### Inflationary pressures

- India faced the challenge of reigning inflation that European strife accentuated
- Measures taken by Government and RBI along with the easing of global commodity prices have finally managed to bring retail inflation below RBI upper tolerance target in November 2022
- RBI has projected headline inflation at 6.8 per cent in FY23, which is outside its target range. At the same time, it is not high enough to deter private consumption and not so low to weaken the inducement to invest

### Depreciating Rupee, widening CAD

- The challenge of the depreciating rupee, although better performing than most other currencies, persists with the likelihood of further increases in policy rates by the US Fed
- The widening of the CAD may continue as global commodity prices remain elevated and the growth momentum of the Indian economy remains strong. However, it is expected to follow the fiscal discipline adopted by the Government
- The fiscal deficit is estimated to be 6.7% in FY23

Sector-wise FDI equity inflows in 2022-23 during April-September 2022



# DIRECT TAX >>>

### Tax Rates

#### Personal Income Tax Rates

- Individual and HUF taxpayers were allowed to opt for alternative personal tax slab in case they did not claim prescribed tax deductions under the IT Act vide Finance Act 2020 from AY 2021-22 (“**New Regime**”). However, in order to make the New Regime more alluring to the taxpayers, the Bill proposes to revise the New Regime as set out below:

Existing marginal rates (New Regime)		Proposed marginal rates (w.e.f. AY 2024-25)	
Total Income	Rate	Total Income	Rate
Up to 2,50,000	<b>Nil</b>	Upto Rs. 3,00,000	<b>Nil</b>
From 2,50,001 to 5,00,000	<b>5%</b>	From Rs. 3,00,001 to Rs. 6,00,000	<b>5%</b>
From 5,00,001 to 7,50,000	<b>10%</b>	From Rs. 6,00,001 to Rs.9,00,000	<b>10%</b>
From 7,50,001 to 10,00,000	<b>15%</b>	From Rs. 9,00,001 to Rs. 12,00,000	<b>15%</b>
From 10,00,001 to 12,50,000	<b>20%</b>	From Rs. 12,00,001 to Rs. 15,00,000	<b>20%</b>
From 12,50,001 to 15,00,000	<b>25%</b>	Above Rs. 15,00,000	<b>30%</b>
Above 15,00,000	<b>30%</b>		

- Further, the Bill also proposes the following:
  - To make the New Regime the default regime unless an option to opt out of its exercised by a taxpayer;
  - Extend the New Regime to association of persons (other than a cooperative society), body of individuals (whether incorporated or not), and artificial juridical persons;
  - Taxpayers having business income will have the option to opt back in the New Regime only once if they exercise the option to opt



out of it. However, other taxpayers will have the choice to opt in or out of the New Regime on or before the prescribed due date for filing their annual tax return

- The surcharge on income (excluding certain prescribed income streams such as, income by way of dividend and capital gains in certain cases etc.) exceeding INR 5 crores shall be limited to 25 per cent
- Further, the Bill proposes to introduce certain deductions to be allowed to taxpayers who opt for the New Regime, such as standard deduction on salary income, deduction allowed in respect of family pension received, and deduction in respect of amount deposited under Agniveer Corpus Fund set up by the government
- Further, the Bill proposes to provide a rebate on the income tax payable under such provisions on a total income of up to INR 0.7 million as against the rebate available under the erstwhile regime which is up to a total income of INR 0.5 million

### **Corporate Tax Rates**

- No changes in corporate rate rates
- The Bill proposes to extend the lower 15 per cent corporate tax rate applicable to new manufacturing companies to new manufacturing cooperative societies set up on or after 01 April 2023 which commence manufacturing activity on or before 31 March 2024 and do not claim specified incentives or deductions



### Personal Taxation

- In order to ease compliance and to promote non-cash transactions, in cases where cash receipts are limited to 5 per cent of the gross receipts, the Bill proposes to:
  - in case of eligible businesses, raise the threshold limit for opting for presumptive taxation regime to INR 30 million from INR 20 million. Further, the requirement to undergo the tax audit has been rationalized with this presumptive taxation regime, has been reduced from from INR 100 million to INR 30 million;
  - in case of professionals, raise the threshold limit for opting for presumptive taxation regime and undergoing tax audit to INR 7.5 million from INR 5 million;
- These amendments are proposed to take effect from AY 2024-25 onwards.
  - Currently a roll over benefit is available in respect of long-term capital gains arising from sale of capital assets, if such gains are reinvested in a residential house within a prescribed period. In this context, to restrict the benefit of deduction on purchase of expensive residential houses, the Bill proposes to limit such rollover benefit to INR 100 million
  - In order to curb the misuse of exemption in relation to income from insurance policies, the Bill proposes that the income received by a taxpayer from all life insurance policies (except ULIP, which has been restricted in previous finance bills) issued on or after 01 April 2023 will not be tax exempt, if the premium payable in respect of a single policy or in aggregate, exceeds INR 0.5 million, except where such income is received on the death of such taxpayer. In such



case, the difference between the income so received and the aggregate premium paid during the policy tenure will be taxable as income from other sources. Further, if the premium paid in respect of such policy has been claimed as a tax deduction, the same will not be reduced from the income so received

- In order to prevent double deduction in respect of interest on borrowed capital for acquiring, renewing or reconstruction of a residential house property, the Bill proposes to exclude any interest claimed as a deduction in respect of repayment of such borrowing, while considering the cost base of such property for the purpose of computing capital gains
- Presently, gifts more than INR 50,000 received by non-residents from Indian residents are taxed in India as India sourced income. The Bill proposes to extend the application of such rule to gifts received by persons who are not-ordinarily residents from Indian residents on or after 01 April 2023



### Corporate Tax

#### Pre-incorporation expenses:

- In order to facilitate ease of compliance in the context of claiming amortization of pre-incorporation expenses, the Bill proposes to remove the condition of obtaining project/ feasibility report from a concern approved by the CBDT and instead require the taxpayer to furnish a statement (in prescribed form and manner) containing particulars of the expenditure to be amortized

#### Taxation of REITs and InvITs

- Typically, REITs and InvITs generate 4 categories of cash flows from underlying special purpose vehicles (SPV) or assets, namely, interest, dividend, rental income, and repayment of debt (extended by REIT or InvIT to the SPV). Under the pass-through tax regime applicable to REITs and InvITs, interest, dividend and rental income are taxable in the hands of the unitholder and are exempt in the hands of REIT and InvIT. Since amounts received as repayment of debt by REIT and InvIT took similar character in the hands of the unitholder, no taxes were paid on these cash flows because they were not income. The Bill, proposes to tax any amounts paid by a REIT or InvIT to the unitholder (not being interest, dividend or rent or capital gains income taxed in the hands of REIT or InvIT) as ordinary income of the unit holder. In case such amounts are paid pursuant to redemption of units held by the unitholder, the cost of acquisition of such unit will be deducted from the taxable base



### *Rationalization of provisions relating to the certain presumptive schemes of taxation for non-residents*

- Non-residents engaged in the business of providing services or facilities in connection with oil exploration business or in the business of civil construction or approved turnkey power projects are entitled to elect presumptive taxation regime whereby they can offer to tax 10 per cent of the total turnover as their business profits
- Further, such taxpayers are also entitled to offer to tax a lower amount of profits, provided they maintain their books of accounts and get them audited, as prescribed
- The option to opt in and out of the presumptive tax regime for each tax year, has allowed taxpayers to reduce their taxable profits (determined under the presumptive tax regime) in a tax year against brought forward business losses of a prior tax year (where loss was determined as per books of accounts under conventional tax regime)
- The Bill proposes to address this misuse of presumptive taxation regime and provides that where business profits are offered to tax under the presumptive tax regimes in a given year, no set-off of unabsorbed depreciation and brought forward losses shall be allowed to the taxpayers in such years

This amendment will take effect from AY 2024-25

### *Promoting timely payments to MSMEs*

- Any sum payable by a taxpayer to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 ("**MSMED Act**") will be allowed as tax deduction on payment basis only
- Section 15 of the MSMED Act, mandates payments to micro and small enterprises within the time as per the written agreement, which cannot be more than 45 days. If there is no such written agreement, the section mandates that the payment shall be made within 15 days



### *Filing of modified returns pursuant to business reorganisations*

- The Finance Act, 2022 had introduced a new provision to enable entities undergoing business reorganization (such as amalgamation, demerger or insolvency), to file modified returns giving effect to the relevant order of such business organization
- The Bill proposes to make clarificatory changes to such provision, to enabling the successor entity to modify tax returns filed by the predecessor entity wherever required
- The Bill also provides clarity on the procedure to be followed by the tax officer after the modified return has been filed by the successor entity and conduct of assessment and reassessment proceedings

### *Widening the applicability of angel tax to non-residents*

- As per section 56(2) (viib) of the IT Act, a private company is assessed to tax on share premium upon issue of shares in respect to the consideration received by it from a resident if the consideration exceeds the fair market value of the shares
- It is proposed to bring all investors, i.e., residents and non-residents, within the ambit of angel tax irrespective of their residential status. Thus, companies issuing shares above fair market value to non-resident investors will also now fall within the ambit of the proposed law

### *Relief to NBFCs from thin capitalisation norms*

- Section 94B of the IT Act restricts the deduction of interest expense exceeding INR 10 million to 30 per cent claimed by an Indian company or a permanent establishment of a foreign company on borrowing issued by its non-resident associated enterprise
- Companies engaged in banking and insurance business are outside the purview of such restrictions
- The Bill proposes to exclude NBFCs that are engaged in financing business from such restrictions (as may be notified by the central government)



### Capital Gains

#### *Rationalization of provisions relating to Capital Gains*

##### **Joint Development Agreements (“JDA”).**

- Presently, in case of transfer of land and/or building under a JDA, the full value of consideration for the purpose of computing capital gains is the stamp duty value of the relevant share of the transferor as increased by consideration received in cash
- The Bill proposes to clarify that the full value of consideration shall not only include consideration received in cash but shall also include consideration received by cheque or draft or through any other mode

##### **Cost of acquisition in case of certain Intangible Assets**

- The Bill proposes to codify the legislative intent that ‘cost of acquisition’ and ‘cost of improvement’ of intangible assets or any other right for which no consideration has been paid, shall be ‘Nil’ for the purpose of computing capital gains

##### **Capital gains on market linked debentures**

- The transfer/ redemption/ maturity of ‘Market Linked Debentures’ (securities having an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices) are proposed to be taxed as short term capital gains under the Bill



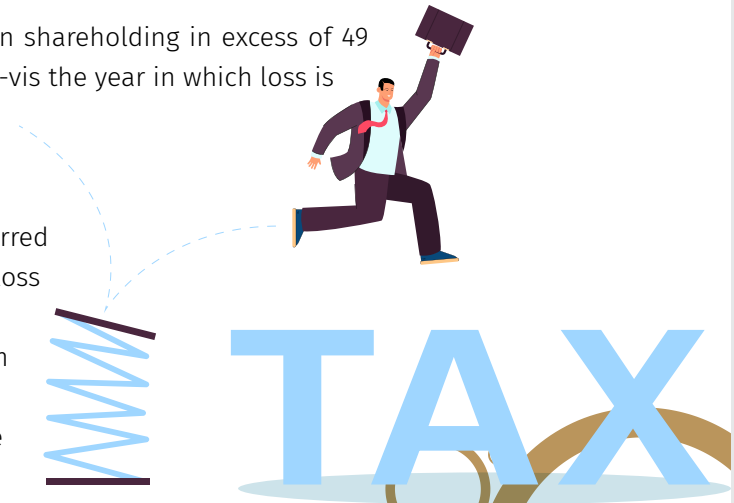
### Tax Incentives

#### *Tax incentives to International Financial Services Centre*

- The Government continues to offer tax concessions to units located in IFSC to make it a global financial services hub. In 2021, the income tax law was amended to provide tax neutral treatment to the relocation of offshore funds to an IFSC, provided such relocation occurred on or before 31 March 2023. This time limit has been extended by 2 years to 31 March 2025
- Currently, distributions made by IFSC banking units to non-residents in respect of offshore derivative instruments (ODI) entered by them are subject to double taxation. First, the IFSC banking unit pays tax on the income realized from the underlying Indian securities in respect of which the ODI contract is entered into. Second, the non-resident ODI holder pays tax when the IFSC banking unit distributes the same return pursuant to the ODI contract. It is proposed to exempt the non-resident ODI holder from any tax on such distribution provided that the IFSC banking unit is taxed in respect of the underlying income

#### *Carry forward and set off of losses by start-ups*

- In case of a closely held company, tax losses lapse if there is a change in shareholding in excess of 49 per cent as on the last day of the year in which the loss was incurred vis-à-vis the year in which loss is proposed to be carried forward and set-off
- Start-ups were exempted from such lapse of losses upon change in shareholding, provided,
  - all shareholders on the last day of the year in which the loss was incurred continue to hold such shares on the last day of the year in which such loss is proposed to be carried forward; and
  - such loss has been incurred during the period of 7 years beginning from the year in which such company is incorporated
- This time limit of 7 years is proposed to be extended to 10 years under the Bill





### *Tax holiday for start-ups*

- Start-ups can claim tax holiday in any 3 consecutive assessment years out of 10 years, beginning from the year of incorporation, subject to satisfaction of prescribed conditions
- One of the prescribed conditions is that the start-up should be incorporated after 01 April 2016 but before 01 April 2023
- The sunset date of 01 April 2023 is proposed to be extended to 01 April 2024

## TDS

### *Tax deducted at source (TDS) provisions.*

- Under Indian income tax law, an assessee can apply for a lower rate or nil TDS certificate from the tax office in case the assessee believes that taxes should not be deducted or should be deducted at lower rate than the tax rate specified in the relevant TDS provisions mandating deduction. Under Section 194LBA of the IT Act, an InvIT or REIT is required to deduct tax at source at 5 per cent or 10 per cent in case of payment to a non-resident unitholder. Some non-resident unitholders such as sovereign wealth funds may be exempt from taxation, in which case their income should not be subject to tax deduction. However, there was no provision in law which would entitle such until holder to obtain a nil or lower deduction TDS certificate. Accordingly, the scope of the provision relating to TDS certificates has been expanded to entitle unitholders of InvIT and REITs to obtain lower rate or nil TDS certificates

### *TDS and taxability of winnings from online games*

- The Bill proposes to introduce new taxation and TDS regime exclusively for online gaming to provide:
  - Any person responsible for paying to any person any income by way of winnings from any online game shall deduct TDS on net winnings in his user account at the end of the financial year at the rates in force
  - In case of withdrawal of winnings from the user account during the financial year, the TDS is to be deducted at the time of such withdrawal on the amount of net winnings withdrawn



- Further, it is also proposed that in case where net winnings are wholly or partly in kind to not be sufficient to meet the amount of TDS, the person responsible for paying is mandated to ensure that TDS is deducted before releasing the winnings

This amendment will take effect from 01 July 2023

### ***TCS rates on foreign remittances and sale of overseas tour packages***

- Currently, an Authorised Dealer who receives money for the purpose of foreign remittance under the Liberalized Remittance Scheme of RBI and a seller of overseas tour packages is required to collect TCS at prescribed rates from the person making the remittance or purchasing the tour package, that ranges from 0.5 per cent to 5 per cent, subject to prescribed limits
- The Bill proposes to increase the TCS rate to 20 per cent (without any threshold limits) in case of overseas tour packages and foreign remittances (other than on account of prescribed education loans, education or medical treatment), with effect from 01 July 2023

This amendment will take effect from 01 July 2023

### ***TDS on interest on debentures***

- The exemption from TDS on interest paid against listed debentures is proposed to be withdrawn under the Bill

### ***Clarificatory changes for TDS penalty and prosecution provisions***

- There are TDS provisions (such as TDS on payment of perquisites, TDS on virtual digital assets and TDS on online gaming) where a payer, who makes payments in kind or partly in cash and partly in kind, is required to ensure that taxes are deducted or the payee deposits taxes payable on the in-kind amounts prior to passing on the benefits in kind
- The Bill proposes to make clarificatory changes to ensure applicability of relevant penalty and prosecution provisions in cases where the payer fails to ensure that such Tax has been paid by the payee



### *Relief from higher taxation to non-filers of income tax returns*

- In order to discourage non-filers of income tax returns, the Finance Act, 2021 had introduced provisions to the effect that TDS or TCS be deducted or collected at the higher of the following tax rates on inter alia any amount paid to or received by a 'specified person':
  - twice the rate specified in the relevant provision of the IT Act; or
  - 5 per cent
- 'Specified person' means a person who has (a) not filed the return of income for the FY immediately preceding the FY in which tax is required to be deducted or collected, as the case may be, and (b) the time limit for filing income tax return has expired, and (c) the aggregate TDS/ TCS exceeds INR 50,000 in the said FY
- It is further provided that specified person shall not include a non-resident who does not have a permanent establishment in India
- It is proposed to amend the definition of 'specified person' to exclude a person who is not required to furnish the return of income for the relevant FY

### *Facility to claim TDS credit for income disclosed in past year*

- Section 199 of the IT Act provides that the deductee be given credit of tax deducted at source and deposited to the government by the deductor
- However, a deductee may not be able to claim credit of TDS where TDS is deducted in the year of payment whereas income has been offered to tax on an accrual basis in the return of income of the previous financial year by the deductee
- In order to streamline the process for claiming TDS credit in such cases, the law is proposed to be amended to enable the deductee to claim TDS credit by making an application in the prescribed form to the Assessing Officer within a period of 2 years from the end of the financial year in which such tax was deducted at source

This amendment will take effect from 01 October, 2023



### *Tax treaty benefit at the time of TDS payment to non-resident unitholders*

- Presently, tax is required to be withheld at the rate of 20 per cent (plus applicable surcharge and cess) on payment to a non-resident, of any income in respect of units of a SEBI registered mutual fund or units of a specified undertaking/specified company as per Unit Trust of India Act
- It is proposed to provide relief to the non-resident unitholders in case the applicable tax treaty provides a beneficial rate such that tax may be withheld at such lower rate. To avail such relief, the non-resident unitholder will be required to furnish a valid tax residency certificate

## Tax Administration

### *Improving compliance and Tax administration*

- **Introduction of JCIT(A):** In order to reduce workload on CIT(A), and their backlog of pending cases, the Bill proposes to introduce a new first appellate authority, namely JCIT(A). Going Forward, appeals against certain prescribed assessment orders or intimations can be filed before JCIT(A) instead of CIT(A). It is also proposed that pending appeals before CIT(A) (against the above-mentioned orders) may be transferred to JCIT(A) by CBDT or any other income tax authority, as prescribed
- **Time limit for furnishing transfer pricing related documentation:** The Bill proposes to reduce the time limit prescribed for furnishing documentation and/or information relating to transfer pricing proceedings to 10 days (from existing 30 days) from the date of receipt of notice
- **Rationalisation of appeals to the ITAT:** The Bill proposes to expressly provide that the following orders can also be appealed against before the ITAT:
  - Orders passed by CIT(A) levying penalty in certain cases, namely cases where search was initiated or cases of unexplained cash credits, investments, money, expenditure etc., or cases of falsification of books of accounts
  - Revision orders passed by PCIT and CCIT, including rectification thereof



- **Assistance to authorized officer during search and seizure:** The Bill proposes to recast the provisions mandating assistance to the tax officers conducting search and seizure. It is proposed that in addition to police officers or other government officials, the tax officers can also requisition services of any other person or entity, duly approved in this regard. In addition, it is also proposed that such income tax officers may, during the search or thereafter, make a reference to any other person or entity or any valuer, duly approved, to estimate the fair market value of the property in prescribed manner and to furnish the report within prescribed timelines
- **Alignment of statutory time limits:**
  - Currently, the limitation period for passing assessment orders (under scrutiny or best judgment assessment) is 9 months from the end of relevant AY. The Bill proposes to increase the said time limit to 12 months from the relevant AY for AY 2022-23 onwards;
  - Further, where updated return is filed, the existing time limit for passing an assessment order is 9 months from the end of FY in which updated return was furnished. The Bill also proposes to extend the said time limit to 12 months from the end of FY in which updated return was furnished
  - Where an assessment or re-assessment is pending on the date of initiation of search or requisitioning books of accounts etc. under the law, the Bill proposes that the time limit for completion of assessment shall be extended by further 12 months in prescribed cases
- **Re-assessment proceedings:**
  - The Bill proposes to provide that return in response to a re-assessment notice is to be filed within a period of 3 months from the end of the month in which such notice was issued or such extended period as allowed by the AO upon the request of the taxpayer
  - Further, where a search is initiated or requisition is made after 15<sup>th</sup> March of any FY and where the time limit for issuing re-assessment notice expires on 31<sup>st</sup> March of such FY, a grace period of 15 days be further allowed, and the consequent re-assessment notice shall be deemed to have been issued on 31<sup>st</sup> March. Similar time extension is also provided for issuance of show cause notice during the course of preliminary enquiry (prior to issuing re-assessment notice) in cases where ‘information’ triggering the re-assessment proceedings emanates from statements recorded or documents impounded on or before 31<sup>st</sup> March of the FY, in the course of search or requisition



### Miscellaneous

#### *Addressing tax leakage through undervaluation of inventory*

- To ensure that inventory is valued in accordance with the applicable ICDS and other provisions of the law, the Bill proposes to expand the scope of Special Audit that can be ordered by the Assessing Officer in case of a taxpayer
- In terms of the proposal, a Special Audit can also be directed by the Assessing Officer to get the inventory valued by a duly nominated cost accountant and thereafter, to furnish the report of inventory valuation in the manner prescribed

This amendment will take effect from AY 2023-24

#### *Introduction of penalty for furnishing inaccurate statement of financial transaction or reportable account*

- The Bill proposes to introduce a penalty of INR 5,000 on a reporting financial institution in cases where there is any inaccuracy in the statement of financial transactions submitted by the reporting financial institution and such inaccuracy arises due to false or inaccurate information submitted by the account holder of such financial institution
- The reporting financial institution may recover the money that was paid on behalf of the account holder or retain out of any moneys that may be in its possession or may come to it from every such reportable account holder

#### *Clarification on benefits and perquisites arising from business/ profession*

- Presently, the value of any benefit or perquisite arising from business/ profession, whether convertible into money or not, is subject to tax under the business and profession head. Further, the Finance Act, 2022 had inserted a TDS obligation on the person responsible for providing such benefit at the rate of 10 per cent of the aggregate value of benefit subject to thresholds since the recipients may tend to not report such income
- Since courts have interpreted that if the benefits / perquisites are in cash, it should not be covered under the income from business/

profession, it is proposed to clarify that this provision applies to cases where benefit or perquisite is in cash or in kind or partly in cash and partly in kind

### ***Conditions for claiming export deduction in SEZ units***

- SEZ units which begin its operations on or after 01 April, 2005 but before 30 September 2020 are eligible to tax deductions on exports for a period of 15 years in a phased manner subject to prescribed conditions
- It is also proposed to insert additional conditions to provide that a deduction of export proceeds shall be available to an SEZ unit only if (a) the proceeds are received in India in convertible foreign exchange within a period of 6 months from the end of the financial year or such period as a competent authority may allow and (b) a return is filed on or before the required due date of filing. Subject to RBI approval, proceeds may be deemed to be received in India even if the amounts are credited in a separate account maintained by SEZ units outside India

### ***Decriminalisation on failure to do certain acts by liquidator/ receiver***

- As per section 276A of the IT Act, a liquidator/ receiver may be subject to imprisonment for a term of up to 2 years if he fails to (a) give notice of his appointment as a liquidator to the tax authority, or (b) set aside the amounts notified by tax authority, or (c) parts with assets of the company without leave from the relevant tax authority
- In order to decriminalise such offenses and to promote ease of doing business, it is proposed to provide a sunset clause with effect from 31 March 2023 whereby no fresh prosecution shall be launched on or after such date



# INDIRECT TAX

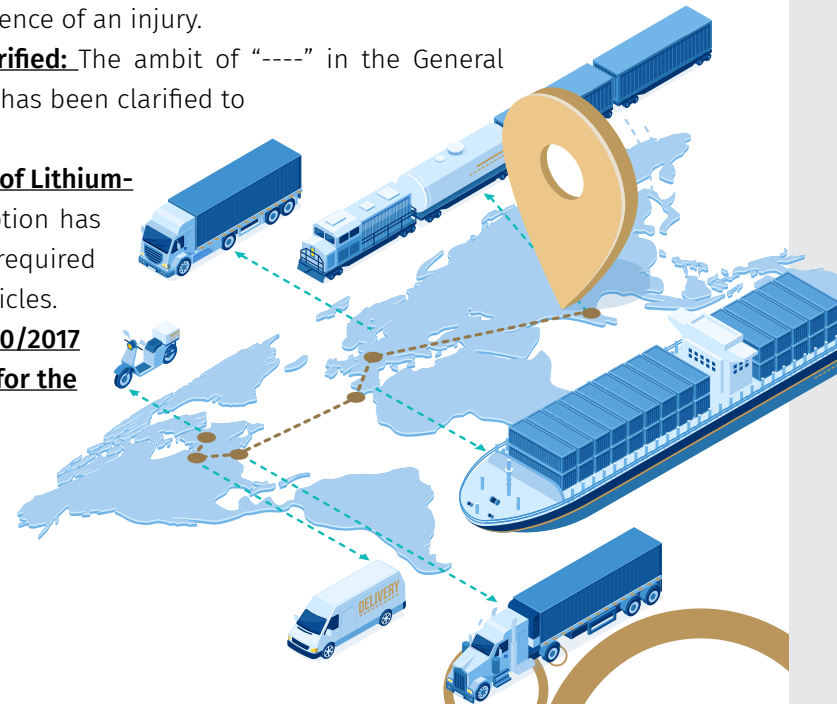


### Customs

- **Validity of two years not to apply to exemption notifications in specified cases:** Sun-set clause of two years shall not apply to exemption notifications of any Customs Duty including Integrated Goods and Services Tax (“IGST”), issued in relation to:
  - Multilateral or bilateral trade agreements
  - Obligations under international agreements
  - Treaties
  - Conventions
  - UN Agencies
  - Diplomats
  - International Organisations
  - Privileges of constitutional authorities
  - Schemes under Foreign Trade Policy
  - Central Government schemes having validity more than two years
  - Re-imports; Temporary-imports; goods imported as gifts or personal baggage



- **Settlement Commission to decide cases within the period of 9 months:** A time limit of nine months (from the last day of the month in which application for settlement of case is filed) has been proposed to dispose the cases filed before the Settlement Commission. The period of nine months may be further extended to three months on recording reasons in writing by the Settlement Commission. In case the cases are not decided within this extended period, the same will revert for adjudication to the original authority, ignoring any reference to a settlement application
- **Clarity on review or determination of cases:** Changes have been proposed retrospectively with effect from 1 January 1995 to clarify that a further extension of five years can be imposed “on consideration of a review “of any such duty, which is expiring after five years of original imposition, if the cessation is likely to cause a recurrence of an injury.
- **Ambit of “----” in the first schedule of the Customs Tariff Act clarified:** The ambit of “----” in the General Explanatory Note of the First Schedule of the Customs Tariff Act, 1975 has been clarified to be a sub-classification of preceding “-“, “—” as well as “---” entries
- **Custom duty exemption for import of capital goods for manufacture of Lithium-ion cells for batteries used in electric vehicles:** Custom duty exemption has been provided on import of specified capital goods and machinery required for manufacture of Lithium-ion cells for batteries used in electric vehicles.
- **The exemption to Basic Customs Duty under the General Exemption 50/2017 – Customs dated 30 June 2017 has been extended till 31 March 2024 for the following goods, among others:**



### *Industry/Sector (Indicative list)*

#### **Drugs and Medical Equipment**

- Lactose for use in the manufacture of homeopathic medicine.
- Pharmaceutical Reference Standard
- Specified goods for manufacture of ELISA Kits
- Medicines/drugs/vaccines supplied free by United Nations International Children's Emergency Fund (UNICEF), Red Cross or an International Organization
- Goods for the manufacture of orthopaedic implants
- Lifesaving drugs/medicines for personal use supplied free of cost by overseas supplier.
- Specified Life Saving drugs/medicines including medicines for Spinal Muscular Atrophy or Duchenne Muscular Dystrophy, for personal use
- Medical and surgical instruments, apparatus and appliances including spare parts and accessories

#### **Electronics / Mobile and Other Electrical Equipment and Components**

- Parts, sub-parts, inputs, or raw material for use in manufacture of Lithium-ion cells
- Raw materials or parts for use in manufacture of e-Readers
- Specified goods for use in the manufacture of Liquid Crystal Display (LCD) and LED TV panel
- Open cell for use in manufacture of LCD and LED TV panels
- Inputs, parts or subparts for manufacture of PCBA of Lithium-ion battery and battery pack



### *Industry/Sector (Indicative list)*

- Specified parts, components and subparts for use in manufacture of Lithium-ion battery and battery pack
- Parts, components and accessories for manufacture of CCTV Camera /IP camera and sub-parts for manufacture of these items
- Parts, components and accessories for use in manufacture of reception apparatus for television and sub-parts for manufacture of these items
- Batteries for electrically operated vehicles, including two and three wheeled electric motor vehicles.
- All inputs for use in the manufacture of LED driver or MCPCB for LED lights and fixtures or LED lamps
- All parts for use in the manufacture of LED lights or fixtures including LED lamps.
- Goods required for basic telephone /internet service and their parts.
- Calendered plastic sheet for manufacturing of Smart Card
- Goods for manufacture of Brushless Direct Current (BLDC) motors

### **Gas and LPG supplied by DTA:**

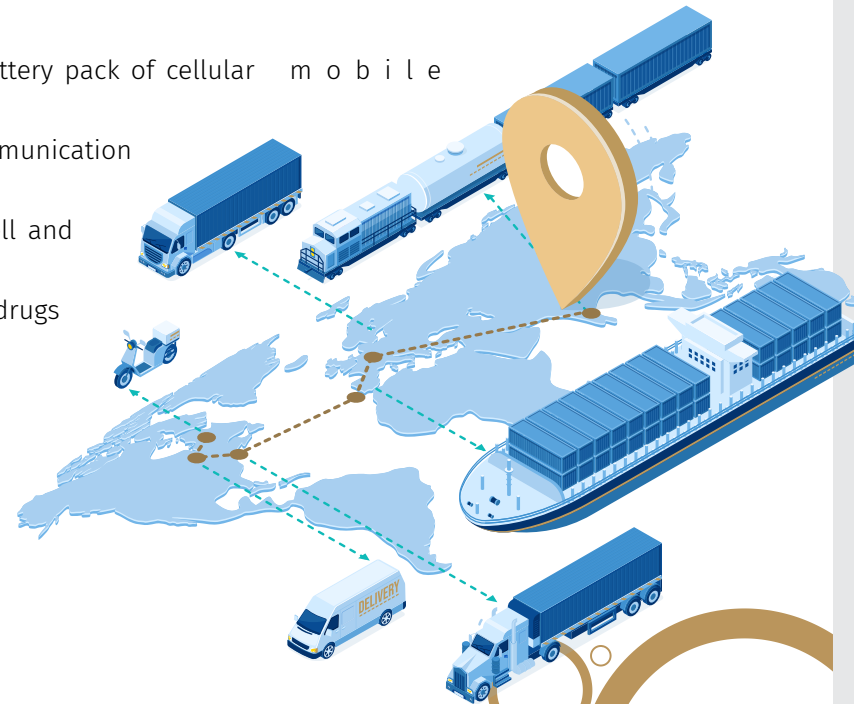
- Excess Liquefied petroleum gases (LPG) returned by DTA unit to SEZ unit
- Electrical energy supplied to DTA by power plants of 1000MW or above
- Electrical energy supplied to DTA by power plant less than 1000MW

- **Exemption from levy of Social Welfare Surcharge:**

- Bicycles
- Motor vehicles including electrically operated vehicles falling under 8703 covered under specific entries of Notification No. 50/2017 dated 30 June 2017
- Aeroplane and other aircrafts falling under 8802 2000, 8802 3000, 8802 4000 covered under specific entries of Notification No. 50/2017 dated 30 June 2017



- **The levy of Agriculture Infrastructure and Development Cess (AIDC) has been increased on following goods:**
  - Aeroplanes and other aircrafts
- **The levy of AIDC has been decreased on following goods:**
  - Coal
  - Peat
  - Lignite
- **Change in end date of exemption beyond 31 March, 2023**
  - Raw materials for use in manufacture of CRGO Steel
  - Lithium-ion cell for use in the manufacture of battery or battery pack of cellular mobile phone/electrically operated vehicles/hybrid motor vehicle
  - Specified inputs and sub-parts for use in manufacture of telecommunication grade optical fibre or optical fibre cables
  - Solar tempered glass for use in the manufacture of solar cell and modules
  - Live saving drugs/ medicines and diagnostic test kits, bulk drugs used in manufacture of live-saving drugs and medicines



- **Movement in customs duty rate:**

Industry/Sector (Indicative list)	Movement
<b>Electrical Goods</b> <ul style="list-style-type: none"> <li>• Camera lens and its inputs/parts for use in manufacture of camera module or cellular mobile phone</li> <li>• Specified parts for manufacture of open cell of TV Panel</li> </ul>	
<b>Automobiles</b> <ul style="list-style-type: none"> <li>• Bicycles</li> <li>• Vehicle (including electric vehicle) in Semi Knocked Down (SKD) form</li> <li>• Vehicle in Completely Built Unit (CBU) form, other than with CIF more than USD 40,000 or with engine capacity more than 3000 cc of petrol run vehicle and more than 2500 cc for diesel-run vehicle</li> <li>• Electrically operated Vehicle in Completely Built Unit (CBU) form other than with CIF value more than USD 40,000</li> </ul>	↕
<b>Industrial Products</b> <ul style="list-style-type: none"> <li>• Denatured ethyl alcohol for use in manufacture of industrial chemicals</li> </ul>	
<b>Petrochemicals</b> <ul style="list-style-type: none"> <li>• Naphtha</li> </ul>	↕
<b>Chemicals and Rubber</b> <ul style="list-style-type: none"> <li>• Styrene</li> <li>• Vinyl Chloride</li> <li>• Compounded Rubber</li> </ul>	↕



### Central Excise

- **Movement in National Calamity Contingent Duty rate:**

Industry/Sector (Indicative list)	Movement
<b>Tobacco</b> <ul style="list-style-type: none"><li>• Cigarettes</li></ul>	↻

- **Specific exemption from excise duty:** Bended CNG is exempted from Excise Duty as is equal to GST paid on biogas/compressed bio gas contained in such blended CNG subject to certain conditions

### Goods and Services Tax

Following changes have been proposed in the Central Goods and Services Tax Act, 2017:

- **Composition scheme:** It is proposed that a supplier of goods supplying through an e-commerce operator liable to TCS, is now eligible to avail the benefit of the composition scheme
- **Input tax credit:** Value of exempt supply to include the value of the transaction in respect of supply of goods to any person before clearance for home consumption. Further, input tax credit of goods and services used or intended to be used in CSR activities, is specifically denied
- **Registration:** It has been clarified that no registration is required to be taken by (a) person engaged exclusively in goods or services that are not liable to tax or wholly exempt from tax and (b) an agriculturist to the extent of supply of produce out of cultivation of supply
- **Time limit to furnish information:** A maximum time limit of 3 years is proposed to be prescribed from the due date of furnishing details of outward supply, returns, statement pertaining to TCS by an e-commerce operator
- **Provisional grant of refund and mechanism to grant interest on delayed refund claims:** It is proposed that in line with the self-assessed input tax credit scheme, no exclusion shall be made for the provisionally assessed input tax credit while passing an order of provisional refund of 90 percent. Further, enabling provision have been added to prescribe for the manner of computation of delay period for calculating the interest component





- **Penalty prescribed in respect of offences by e-commerce operator:** It is proposed to introduce onerous provisions to levy penalty on e-commerce operators in cases where, such operator allows (a) an unregistered person (liable to seek registration) to make supply through it (b) inter-state supply of goods/services by a person not eligible to make supply or (c) fails to furnish correct particulars of outward supplies of a person exempted from obtaining registration
- **Decriminalizing provisions:** It is proposed to decriminalise provisions relating to (a) obstructing an officer in discharge of duties (b) tampering/destruction of evidence and (c) failure to supply information or supply of false information. Further, except the offence of issuance of invoice without there being an underlying supply, the threshold limit for launching prosecution has been increased from INR 10 Million to INR 20 Million
- **Consent based sharing of information :** It is proposed to introduce a new provision to provide for consent based information relating to registration, return, particulars uploaded for invoice etc. with other systems
- **Amendment in the definition of non-taxable online recipient:** It has been proposed to broaden the definition of non-taxable online recipient under the IGST Act by deleting the phrase ‘any Government, local authority, governmental authority, an individual or any other person not registered’, to mean any unregistered person receiving online information and database access or retrieval services located in taxable territory. It has further been proposed that the expression ‘unregistered person’ will include a person registered solely for deducting tax
- **Amendment in the definition of ‘online information and database access or retrieval services’:** A proposal to amend the definition of OIDAR services has been made by which phrase ‘essentially automated’ and ‘involving human intervention’ has been omitted thereby, increasing the scope of coverage of OIDAR service



- **Changes in compounding of offences:** It is proposed to add an additional list of offences to which compounding cannot be made applicable. It is also proposed to remove the threshold limit of INR 10 Million for offences other than specified offences. In other words, offences other than specified offences can now be compounded multiple times irrespective of monetary threshold. The compounding fee is also proposed to be reduced to 25% (from 50%) of the tax involved as the minimum amount for compounding and the maximum amount is capped at 100 percent (from 150%) of the tax involved
- **Retrospective effect from 1 July 2017, to certain activities as neither goods nor services:** It is proposed that (a) Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India and (b) Supply of warehoused goods to any person before clearance for home consumption and (c) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption. It has been clarified that no refund of tax already paid for the period 1 July 2017 on these activities will accrue



### Central Sales Tax

- **CESTAT to be the new authority under CST Act:** It has been proposed to substitute a new Section by which the Customs, Excise and Service Tax Appellate Tribunal constituted under Section 129 of the Customs Act, 1962 shall be the authority to settle inter-state disputes falling under Section 6A and Section 9 of the CST Act. Further, the appeals pending before the Authority for Advance Ruling shall also stand transferred to Customs, Excise and Service Tax Appellate Tribunal

*Proposed changes will come into effect upon the Finance Bill receiving assent.*



# GLOSSARY >>>

# Budget Insights 2023

## Glossary

Abbreviation	Definition
ADB	Asian Development Bank
AIDC	Agriculture Infrastructure and Development Cess
AY	Assessment year
Benami Act	Prohibition of Benami Property Transactions Act, 1988
Bill	The Finance Bill, 2023
BLDC	Brushless Direct Current
CBDT	Central Board of direct taxes
CBU	Completely Built Unit
CCIT	Cheif Commissioner of Income-tax
CESTAT	Customs Excise and Service Tax Appellate Tribunal
CGST	Central Goods and Services Tax
CIT(A)	Commissioner of Income-tax (Appeals)
CRGO	Cold Rolled Grain Oriented Steel
CTA	Customs Tariff Act, 1975
DTA	Domestic Tariff Area
ELISA	Enzyme-linked immunosorbent assay
FY	Financial Year
GST	Goods and Services Tax
ICDS	Income Computation Disclosure Standard
IFSC	International Financial Services Centre
IGST	<i>Integrated Goods and Services Tax</i>
IMF	<i>International Monetary Fund</i>

Abbreviation	Definition
<i>InvIT</i>	<i>Infrastructure Investment Trtrust</i>
<i>IT Act</i>	<i>Income-tax Act, 1961</i>
<i>ITAT</i>	<i>Income Tax Appellate Tribunal</i>
<i>JCIT(A)</i>	<i>Joint Commissioner (Appeals)</i>
<i>JDA</i>	<i>Joint Development Agreements</i>
<i>LCD</i>	<i>Liquid Crystal Display</i>
<i>LPG</i>	<i>Liquified Petroleum Gas</i>
<i>MSMED</i>	<i>Micro, Small and Medium Enterprises Development Act, 2006</i>
<i>NBFC</i>	<i>Non- Banking Financial Company</i>
<i>OIDAR</i>	<i>Online Information Database Access and Retrieval services</i>
<i>PCBA</i>	<i>Printed circuit board assembly</i>
<i>PCIT</i>	<i>Principal Commissioner of Income-tax</i>
<i>RBI</i>	<i>Reserve Bank of India</i>
<i>REIT</i>	<i>Real Estate Investment Trust</i>
<i>SEZ</i>	<i>Special Economic Zone</i>
<i>SKD</i>	<i>Semi Knocked Down</i>
<i>SPV</i>	<i>Special Purpose Vehicle</i>
<i>TCS</i>	<i>Tax Collection at Source</i>
<i>TDS</i>	<i>Tax Deducted at Source</i>
<i>TP</i>	<i>Transfer Pricing</i>
<i>TRC</i>	<i>Tax Residency Certificate</i>
<i>UNICEF</i>	<i>United Nations International Children's Emergency Fund</i>

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