

BUDGET 2022, HIGHLIGHTS & ANALYSIS

दापयित्वाकरंधर्म्यराष्ट्रंनित्यंथाविधि।

अशेषान्कल्पयेद्राजायोगक्षेमानतन्द्रितः॥११॥

“The king must make arrangements for Yogakshema (welfare)
Of the populace by way of abandoning any laxity and by
Governing the state in line with Dharma, along with collecting
Taxes which are in consonance with the Dharma.”
Mahabharat, Shanti ParvaAdhyaya. 72. Shlok 11.

The COVID-19 pandemic has resulted in a disruption of the global economy including that of India. Due to the lockdown in India, the economy has contracted, and growth is at a multi-year low. As we are moving towards Post-covid world, the focus is now on building sustainable growth for the future both in terms of inward investment and domestic business and also the major focus is on ‘digital and technology’ across the infrastructure, health and education sectors.

In this backdrop, on 1st February, 2022, the Union Minister for Finance & Corporate Affairs, Smt. Nirmala Sitharaman, has presented the Union Budget 2022 before the Parliament. In Finance Bill, 2022 which have been tabled in the Parliament proposed 120+ amendments to the Income-Tax Act and other related Acts.

KEY HIGHLIGHTS OF THE BUDGET 2022 ARE SUMMARISED BELOW:

Income Tax:

- No change in personal Income Tax Rate

- **Introduction of the 'Updated Return' :**

A new sub-section (8A) in section 139 is proposed to be introduced to provide for furnishing of updated return under the new provisions to provide that:

Any person, whether or not he has furnished a return under sub-section (1), subsection (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 the Act, for The previous year relevant to such assessment year, within twenty four months from the end of the assessment year. Such return shall be furnished in the prescribed form and manner and shall contain prescribed particulars. A person shall not be eligible to furnish an updated return under the proposed sub-section (8A) of section 139, if: --

- a) Search has been initiated under section 132 or books of account, 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 subsection (2A) of that section, in the case such person, or
- c) A notice has been issued to the effect that any money, bullion, jewelry 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. This provision is 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 proceeding such assessment year.
- e) an updated return has been furnished by him under the proposed subsection (8A) of section 139 of the Act for the relevant assessment year, or
- f) any proceeding for assessment or reassessment or re-computation or revision of income under the Act is pending or has been completed for the relevant assessment year in his case, or

- g) the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Prevention of Money Laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 or the Prohibition of Benami Property Transactions Act, 1988 or The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and the same has been communicated to him, prior to the date of his filing of return under the proposed sub-section (8A) of section 139 of the Act, or
- h) information for the relevant assessment has been received under an agreement referred to in sections 90 or 90A of the Act in respect of such person and the same has been communicated to him, prior to the date of his filing of return under the proposed sub-section (8A) of section 139 of the Act, or
- i) any prosecution proceedings under Chapter XXII have been initiated for the relevant assessment year in respect of such person, prior to the date of his filing of return under the proposed sub-section(8A) of section 139 of the Act,or
- j) he is a person or belongs to a class of persons, as maybe notified by the Board in this regard.

- **Alternate Minimum Tax (AMT) to be reduced to 15% for co-operative societies:**

Section 115JC of the Act, inter alia, provides for the alternate minimum tax (AMT) payable by co-operative societies, which is at the rate of 18.5%. However, vide the Taxation Laws (Amendment) Act, 2019, the Minimum Alternate Tax (MAT) rate for companies has been reduced to 15%. Therefore, in order to provide parity between co-operative societies and companies, it is proposed to modify sub-section (4) of section 115JC to reduce the AMT rate at which co-operative societies are liable to pay income-tax to 15%. Consequential amendment is also proposed in clause (b) of section 115JF in relation to the definition of “alternate minimum tax”.

- Surcharge on cooperative societies reduced from 12 per cent to 7 per cent for those having total income of more than Rs 1 crore and up to Rs 10 crores.

- **Taxation Of Virtually Digital Assets:**

Section 115BBH is proposed to be introduced wherein Income from transfer of virtually digital assets (Crypto & NFT's) will be taxed at 30%.

- However, no deductions of expenses will be allowed except the cost of acquisition of digital assets.
- Further, no set off of any loss arising from transfer of virtual digital asset shall be allowed against any income computed under any other provision of the Act and such loss shall not be allowed to be carried forward to subsequent assessment years.
- Further, 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.
- TDS at 1% under section 194S will be levied above the threshold.

- To bring parity between Central and State government employees, the Finance Ministry proposed to increase the limit of deduction under section 80CCD of the Act from the existing ten per cent to fourteen percent in respect of contribution made by the State Government to the account of its employee. This amendment will take effect retrospectively from 1st April, 2020 and will accordingly apply in relation to the assessment year 2020-21 and subsequent assessment years; so as to ensure no additional tax liability arises on any contribution made in excess of 10% during such time.

- **Clarification for section 40 of the Act regarding treatment of cess and surcharge:**

It has been clarified that any surcharge and cess levied on income are not allowed as business expenditure.

- Brought forward loss cannot be set off against undisclosed income detected during any survey or search.



- **Tax relief to persons with disability:**

Existing provisions of section 80DD of the Act is amended to provide deduction also on payment of annuity and lump sum amount from insurance scheme to be allowed to differently abled dependent during the lifetime of parents/guardians, i.e., on parents/ guardian attaining the age of 60 years.

- **Extension of Incentives for Start-ups:**

Period of incorporation extended by one year, up to 31.03.2023 (previously 31.03.2022) for eligible start-ups to avail tax benefit.

- **Extension of the date on Incentives under concessional tax regime Section 115BAB:**

Last date for commencement of manufacturing or production under section 115BAB extended by one year i.e. from 31st March, 2023 to 31st March, 2024.

- **Tax Incentive to IFSC:**

Income of a non-resident from offshore derivative instruments, Income from over the counter derivatives issued by an offshore banking unit, Income from royalty and interest on account of lease of ship, Income from royalty and interest on account of lease of ship, Income received from portfolio management services in IFSC will be exempt from tax subject to some specified conditions.

- **Litigation Management:**

Section 158AA of the Act provides that the cases where question of law is identical to the one pending in High Court or Supreme Court, the filing of appeal by the department shall be deferred till such question of law is decided by the court. To greatly help in reducing repeated litigation between taxpayers and the department.

- **Surcharge on Long Term Capital Gains capped at 15%:**

To remove the disparity between Individual Companies and AOP's and avoid hardship of graded surcharge upto 37 %, Surcharge of AOP's is capped at 15%. Similarly further to this, Surcharge on long term capital gains on listed equity shares, business units etc are liable to maximum surcharge of 15%, to avoid such

hardships on the assessee it has been proposed to cap the surcharge on long term capital gains arising on transfer of any type of assets capped at 15 per cent.

- **Amendment of Section 194-IA:**

Section 194-IA: Payment on transfer of certain immovable property other than agricultural land. The newly amended section has widened its purview in terms of tax to be deducted in case of payment on transfer of certain immovable property other than agricultural land. It states that any person liable to deduct tax for making payment to a resident transferor shall deduct at 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. Hence, the deductor is also liable to consider the stamp duty of such property along with an amount equal to one percent of such sum in order to determine the tax to be deducted. Further, no deduction under sub-section (1) shall be made where the consideration for the transfer of an immovable property and stamp duty value of such property, are both less than fifty lakh rupees.

- **Insertion of new Section 194-R:**

Section 194-R: Deduction of tax on benefit or perquisite in respect of business or profession. It states that any person, being an individual or HUF, whose books are not required to be audited and is responsible for providing to a resident, any benefit or perquisite for an amount exceeding twenty thousand rupees, whether convertible into money or not, arising from business or profession, by such resident, shall ensure that tax has been deducted in respect of such benefit or perquisite at the rate of ten percent of the value or aggregate of value of such benefit or perquisite. However, if the benefit or perquisite is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the tax liability 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.

- **Insertion of new Section 194-S: TDS on Payment on transfer of Virtual Digital Asset.**

The newly inserted section states that 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 or 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. However, no tax shall be deducted by a specified person where the value or aggregate value of such consideration does not exceed fifty thousand rupees during the financial year or in case of any person other than a specified person where the value or aggregate value of such consideration does not exceed ten thousand rupees during the financial year. Further, specified persons means a person, being an individual or HUF not liable for audit during the FY immediately preceding the FY in which such Virtual Digital Asset is transferred and a person, being an individual or HUF not having any income under the head “Profits and gains of a Business and Profession”.

GST Compliances:

- Time-limit to avail ITC u/s 16(4) extended till 30th November of next year from 30th September.
- Additional Condition for availment of ITC u/s 16(2) - ITC can be availed only if the same is not restricted in GSTR-2B.
- Composition Tax Payer’s Registration can be cancelled suo-moto if they have not filed their GSTR-4 return beyond 3 months from the due date.
- Credit Notes in respect of supply made in a financial year can be issued by 30th November of next financial year (currently allowed till 30th September)
- Any rectification of error in GSTR-1/ GSTR-3B is now permitted till 30th November of next financial year (currently allowed till 30th September).
- The two-way communication process in filing GST returns is scrapped.
- The due date for filing return by non-resident taxable person is prescribed as 13th day of next month
- Section 41 of the CGST Act is being substituted so as to do away with the concept of “claim” of ITC on a “provisional” basis.
- Section 47 of the CGST Act is being amended so as to provide for levy of late fee for delayed filing of TCS returns.
- Section 49 of the CGST Act is being amended so as to provide for restrictions for utilizing the amount available in the electronic credit ledger.



- Section 49 of the CGST Act is being amended so as to allow transfer of amount available in E- cash ledger of a registered person to the E- cash ledger of a distinct person;
- Section 49 of the CGST Act is being amended so as to provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger
- Section 50(3) of the CGST Act is being substituted retrospectively, with effect from the 1st July, 2017, so as to provide for levy of interest on input tax credit wrongly availed and utilized. (Meaning thereby Interest will not be levied if ITC is not utilized)
- Refund claim of any balance in the electronic cash ledger shall be made available.
- Rate of Interest u/s 50(3) prescribed as 18% in all cases.

The Hon'ble Finance Minister's aim is to simplify tax system and reduce litigation and take forward the policy of stable and predictable tax regime with a vision to establish a trustworthy tax regime.

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