KRESTON SNR

SNR & COMPANY
CHARTERED ACCOUNTANTS

BUDGET-2023

KEY TAX PROPOSALS

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INDEX

INTRODUCTION

On 1st Feb, Finance Minister Nirmala Sitharaman presented the budget that sought to build on the foundation laid in the previous budget and the blueprint drawn for India @ 100. The focus of the government has been on wide-ranging reforms and sound policies, implemented through *Sabka Prayas* resulting in *Jan Bhagidari* and targeted support to those in need.

Terming them as ***'Saptarishi',*** the government listed the following seven priorities for guiding us through the ***'Amrit Kaal'.***

- Inclusive Development
- Infrastructure and Investment
- Green Growth
- Financial Sector
- Reaching the Last Mile
- Unleashing the Potential
- Youth Power

In a huge step, the government has increased the Capital investment outlay steeply for the third year in a row by 33 per cent to Rs. 10 lakh crore, which would be almost 3.3% of GDP. Treading on the path of fiscal prudence, the government has kept the target to reduce Fiscal Deficit to 4.5% by FY 2025-26. For FY 2023-24, the fiscal deficit has been estimated at 5.9% of GDP.

INTRODUCTION (Contd.....)

The Budget announcements have re-laid the emphasis of government on infrastructure and Capex expansion. In continuation of previous budget, for 2023-24, allocation of another Rs. 1.3 lakh crore to states as 50-year interest free loan is announced to spur investment in infrastructure and to incentivize them for complementary policy actions. These loans are over and above the normal borrowings allowed to states.

On Direct Taxes front, the Union Budget 2023-24, while continuing with the declared policy of stable and predictable tax regime, has intended to reform the new personal tax regime with additional benefits and freedom of investments to the taxpayers.

Further, the government has proposed significant sops for cooperatives while including them in the government’s grand plan of making India a manufacturing hub. One of such announcements includes providing concessional tax rates for new cooperative societies engaged in manufacturing. The government’s focus on nurturing startups continues with extension in sunset clause for providing deductions as well as in carrying forward of losses up to 10 years.

On the indirect tax front, the government has made certain amendments in custom duty rates that includes reduction in rates on components used in manufacturing of Lithium-Ion batteries giving a boost to production and acceptance of electric vehicles.

BUDGET HIGHLIGHTS

- Amendment in Tax Slabs of new personal tax regime introduced in last year budget.
- Introduction of 87A rebate for income up to INR 7 Lakhs in new tax regime.
- Extension of Standard deduction to salaried & pensioners in new tax regime.
- Increase in limit for presumptive taxation to INR 3 Crores for businesses and INR 75 Lakhs for professionals.
- Period for carry forward of losses by start up increased to 10 years in case of change in shareholding of more than 51%.
- Co-op societies incorporated post 1st April 2023 for manufacturing business would be eligible for concessional Tax rate of 15%.
- Payments due to MSMEs included in section 43B and thus benefit of expense shall be allowed on actual payment to MSMEs.

BUDGET HIGHLIGHTS

- Provisions of section 56(2)(viib) made applicable to share premium received from non-residents as well.
- Provision inserted to stop double benefit of interest paid on borrowings U/s 24(b) and as cost of asset.
- Deduction U/s 54 and 54F for reinvestment in a residential house property capped at INR 10 Crores.
- Insurance withdrawals (other than in death cases) made taxable if annual premium for single policy or aggregate is more than INR 5 Lakhs.
- TCS rates on foreign remittances under LRS and for overseas tours packages increased to 20% from 5%.
- Provision inserted to disallow Input Tax Credit (ITC) on CSR expenditure by including it as blocked credit.
- Provision inserted to allow composition taxpayers to supply through E-commerce operators.

DIRECT TAX PROPOSALS

Amendments in New Tax Regime

- New Tax Regime (NTR) is to be regarded as the default tax regime while an option to consider the existing tax regime will be available to taxpayers.
- Enhancement in the basic exemption limit to INR 3 lakhs from the existing limit of INR 2.5 lakhs.
- Introduction of standard deduction of INR 50,000 from salary and INR15,000 from the family pension.
- Introduction of Rebate limit u/s 87A to INR 7 lakhs. Thus, taxpayers having income up to INR 7 Lakhs won't have to pay any income tax under new tax regime while the said amount under existing tax regime would remain at INR 5 Lakhs.
- In both (old and new) regimes, the maximum surcharge rate reduced from 37% to 25% in the case of taxpayers having taxable income exceeding INR 5Cr (maximum marginal rate reduced from 42.744% to 39%).
- New Tax Slabs applicable for FY 2023-24 shall be as follows:

Total Income (Rs.)	Rate	Total Income (Rs.)	Rate
Up to Rs. 3,00,000	Nil	From Rs. 9,00,001 to Rs. 12,00,000	15%
From Rs. 3,00,001 to Rs. 6,00,000	5%	From Rs. 12,00,001 to Rs. 15,00,000	20%
From Rs. 6,00,001 to Rs.9,00,000	10%	Above Rs. 15,00,000	30%

Corporate Taxation

Presumptive taxation

- Threshold limit for applicability of presumptive taxation for business increased from Rs. 2 crore to Rs. 3 Crores. [Sec 44AD]
- Threshold limit for applicability of presumptive taxation for profession increased from Rs. 50 Lakhs to Rs. 75 Lakhs. [Sec 44ADA]
- Provided that the receipts as well as payments in cash do not exceed 5% of the total receipts and total payments, respectively.
- Rationalization of set off of brought forward losses/ unabsorbed depreciation where presumptive taxation is opted in case of non-residents involved in business of exploration of mineral oil and operation of aircrafts. [Sec 44BB and 44BBA]

Cost of Acquisition - Intangible Assets

- Section 55 provides the 'cost of acquisition' of goodwill of a business to be "NIL".
- The same provision has been extended to include 'any other intangible asset' to provide finality on various disputes on this matter to provide clarity.

Taxability/ TDS on Perquisites or Benefits

- 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 or perquisite at the rate of 10 per cent of the aggregate value of benefit.

- 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.

Capital Gains on Market-Linked Debentures

- Market Linked Debentures' are listed securities. They are currently being taxed as long-term capital gain (LTCG) at the rate of 10% without indexation. However, these securities are in the nature of derivatives.

- 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.

Benefits to start-ups

- Carry forward of losses: Section 79 allows eligible start-ups (defined u/s 80IAC) to carry forward and set off losses incurred in the first 7 years since incorporation. It is proposed to be extended for a period of 10 years, to align with a period as per Section 80 IAC.
- Extension of benefits: Deduction for an eligible start-up under Section 80IAC extended for entities incorporated up to 01st April 2024 (from 1st April 2023).

Concessional tax regime for co-operative societies

- 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.

Sec 35D: Pre-requisite for deduction of preliminary 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 a 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

Sec 10AA: Additional condition for claim of deduction

- ITR to be filed within the due dates as per Section 139(1).

- Export proceeds to be realized within 6 months from the end of the financial year or such other time as determined by any competent authority (RBI).

Sec 43B: MSME payments to be claimed only on actual payment

- 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 a tax deduction on a payment basis only.

- Also, the benefit of claiming a deduction for payment up to the due date of filing the return of income 139(1).

- 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

Administrative Provisions

Time limit to file tax return under Re-assessment

- Return in response to a re assessment notice to be furnished within 3 months from the end of the month in which such notice is issued, (or within such further time as may be allowed by the AO).
- Issuing Scrutiny notices on the assessee is not mandatory where return is not filed within such due date.

Reducing pendency of litigation

- New authority is established to reduce the pendency of appeals at the first appellate level.
- Existing appeals(select cases) may be transferred to the new authority by Board for speedy disposal.
- New appeals (select cases) can also be filed before the new authority (Yet to be not notified).

Anti-Abuse Measures

Reduced timeline in filing Transfer Pricing Report:

- Transfer pricing information/ documents is to be filed within 10 days from the date of receipt of notice from AO/CIT(A). (Can be further extended to 30 days on an application to AO/CIT(A)). Further issuance

Expanding the scope of specified domestic transactions:

- Amendment has been made to include transaction between the Cooperative society and the other person with close connection within the purview of 'specified domestic transaction'.

Applicability of Section 56(2)(viib) extended 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 this provision 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.

Rationalization Measures

Sec 9: Deemed taxation of gifts received by not ordinarily resident

- Any gifts received by a not ordinarily resident from an Indian resident exceeding Rs. 50,000 shall be deemed to accrue or arise in India.
- Earlier this deeming fiction was only for gifts received by non-residents.

Sec 24(b) & Sec 48: Prevention of double deduction in case of interest on borrowed capital for house property

- 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.

Sec 54 & 54F: Limiting of deduction on reinvestment of capital gains on residential house property

- 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.

Exempt income under life insurance policies

- 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 5 Lakhs, 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.

TDS/ TCS Provisions

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.

TCS rates on foreign remittances (LRS) and overseas tour packages

- Currently, an Authorized 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.

Relief from higher taxation to non-filers of income tax return

- 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 rate in case of specified persons.

- ‘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 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.

Miscellaneous

Preventing deferral of taxes 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.

Penalty for furnishing inaccurate SFT

- 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 in accurate 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.

INDIRECT TAX PROPOSALS

Goods & Services Tax

Composition scheme

- Restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy is removed.

- The composition taxpayers have been allowed to supply goods through E Commerce Operators.

Input Tax Credit related changes

- In order to resolve the litigative area of availability of ITC on CSR expenditure, the same has been proposed to be made expressly ineligible.

- Supply of warehoused goods to any person before clearance for home consumption is to be included in the value of exempt supply Thereby, availment of input tax credit is restricted in respect of such transactions as well as reversal of common credits.

Time limit to furnish information

- 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.

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.

Definition of non-taxable online recipient

- Section 2(16) of IGST Act 2017 amended to simplify the definition to say that “non-taxable online recipient” means any unregistered person receiving online information and database access or retrieval services located in taxable territory“.

Offences and Penalties

- A new section is being introduced to provide for penal provisions applicable to Electronic Commerce operators in case of contravention of provisions relating to supplies of goods or services made through them by unregistered persons or composition taxpayers.
- 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.
- Decriminalize certain offences specified under clause (clause (and clause (of sub section 1 of section 132 of CGST Act.
- Increasing the threshold for launching prosecution from current Rs one crore to Rs two crores, except for the offences related to issuance of invoices without supply of goods or services or both, by amending the clause (iii) of sub section 1.
- It is proposed to amend section 138 of CGST Act to rationalize the compounding amount, to exclude persons involved in the issuance of fake invoices and to rationalize certain clauses.

Definition of OIDAR

- The definition of “online information and database access or retrieval services” is amended to remove the condition of rendering of the said supply as it is essentially automated and involves minimal human intervention.

Customs Act

Following changes have been proposed under Customs Law

- 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

Major Customs Tariff changes

Electronic goods

- BCD on camera lens for camera module and input/sub parts for lens of camera module of mobile phone is being reduced from 2.5% to Nil subject to IGCR condition

- BCD on parts for manufacture of open cells of TV panels is being reduced from 5% to 2.5% subject to IGCR condition.

Electronic Appliances

- BCD on electric kitchen chimney is being increased from 7.5% to 15%

Automobile

- BCD on vehicles in SKD form is being increased from 30% to 35% with an exemption from SWS.

- BCD on vehicles in the Completely Built Unit (CBU) form is being increased from 60% to 70%, with exemption from SWS.

Associate Offices

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