

Budget Highlights – Financial Year 2022-23

The primary changes in the provisions of Direct Tax Law and Indirect Tax Laws, which have been proposed by the Hon'ble Finance Minister of India in the Union Budget for the financial year 2022-23, are elucidated hereinbelow.

A. DIRECT TAX

1. Income from Salaries

- 1.1 Any sum paid by an employer in respect of expenditure incurred by an employee on his medical treatment in respect of illness relating to COVID-19 shall not be treated as perquisites under section 17(2) of the Income-tax Act, 1961 (hereinafter referred to as the 'Act') subject to such condition as may be prescribed.

2. Income from Profits and Gains from Business and Profession

- 2.1 Meaning of 'slump sale' under section 2(42C) of the Act has been proposed to be enlarged by replacing the word 'sale' by 'transfer'.
- 2.2 It has been proposed that section 14A of the Act shall apply where income not forming part of the total income has not accrued or arisen or has not been received during the year but expenditure has been incurred during the year in relation to such income. It has also been proposed to give overriding effect to section 14A(1) over any other provision of the Act.
- 2.3 Under the existing provisions of section 37 of the Act it has been provided that 'expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law' shall be disallowable. It has been proposed to define the terms "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law". As per the proposal, the above includes expenditure which is an offence or prohibited by any law for the time being in force in India or outside India, payment of any benefits or perquisites to any person and acceptance of such benefit or perquisites by such person is in violation of any law/rule/regulation/guidelines governing the conduct of such person, and to compound an offence under any law for the time being in force in India or outside India.
- 2.4 Explanation 3 has been proposed to be inserted to section 40(ii) of the Act to clarify that the term "tax" shall include and shall be deemed to have always included any surcharge or cess on such tax. Accordingly, education cess and surcharge shall not be considered as allowable business expenses.
- 2.5 Clarification has been issued under section 43B of the Act that conversion of interest payable on any loan or borrowing from certain specified financial institutions/NBFC/Schedule bank/Co-operative bank into debentures or any other instrument on payment basis by which liability to pay is deferred to a future date, shall not be deemed to have been actually paid.
- 2.6 Section 68 of the Act has been proposed to be amended to provide that where any sum credited in the books of an assessee consists of loan or borrowing or others, any explanation offered by such assessee shall be deemed to be not satisfactory unless, 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 or such explanation is in the opinion of the AO has been found to be satisfactory.
- 2.7 Section 79A of the Act has been proposed to be amended to provide that in search and seizure cases if total income of any previous year of an assessee includes any undisclosed income, no set off of any loss against such undisclosed income, whether brought forward or otherwise, or unabsorbed depreciation shall be allowed to the assessee.

3. Income under the head 'Capital Gains'

- 3.1 Explanation has been proposed to be newly inserted in section 50 of the Act to provide that reduction of value of goodwill of a business/profession from the block of assets, as provided in section 43(6)(c)(ii)(B) of the Act, shall be deemed to be treated as transfer.

ANUP SINHA & ASSOCIATES, CHARTERED ACCOUNTANTS

4. Income from other sources

- 4.1 Section 56(2)(x) of the Act has been proposed to be amended to exclude any sum of money or property 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, for any illness related to COVID-19 subject to such conditions as may be prescribed. It has been further proposed to exclude any sum/property received by any family member of a deceased person from employer of the deceased person if the cause of death is related to COVID-19. However, if the same is received from any other person/s (i.e. other than employer) then, the same shall be excluded if such sum does not exceed Rs.10 lacs where the cause of death is related to COVID-19. However, it has been specified that the same must be received within 12 months from the death of such person and subject to such condition as may be specified.

5. Compliance, Assessments & Appeals

- 5.1 Sub-section (8A) of section 139 of the Act has been proposed to be newly inserted to provide an option to an assessee to file updated return within 24 months from the end of the relevant assessment year. However, the said updated return cannot be filed if the same is a loss return, has the effect of decreasing the total tax liability determined in return filed under section 139(1)/139(4) or results in refund or increase of refund compared to return filed earlier. The said return can also not be filed in search, seizure and survey cases. The said updated return can also not be filed where similar return filed earlier, assessment/reassessment is pending or completed for the year, any prosecution proceedings has been initiated for the year etc.
- 5.2 Section 140B of the Act has been proposed to be amended to provide that the updated return may be filed after paying additional tax, interest etc. The additional income tax payable shall be @25% of aggregate tax and interest payable, as determined under section 139(8A) of the Act, if such return is furnished after expiry of time available for filing revised return and before completion of 12 months from the end of relevant assessment year. However, if the same is filed after expiry of 12 months from the end of the relevant assessment year, then the above rate of tax would be 50% of aggregate tax and interest.
- 5.3 Section 148 of the Act has been proposed to be amended to provide that audit objection, among others, received may be considered as additional evidence for initiating reassessment proceedings. It has been further proposed that information received from DTAA country or information received under section 135A of the Act pertaining to income chargeable to tax escaping assessment, or any information which requires action in consequences of the order of Tribunal or a Court may also be considered as additional information for initiating reassessment proceedings. It has been proposed to remove the reference of 'three assessment years immediately preceding the assessment year relevant to the previous year' in section 148 of the Act for search and seizure cases. Further, it has been proposed to delete 'with the prior approval of specified authority' in section 148A(b) of the Act.
- 5.4 Section 148B of the Act has been proposed to be newly inserted to provide that no order of assessment or reassessment or re-computation shall be passed by an Assessing Officer below the rank of JCIT except with the prior approval of Addl. CIT, Addl. Director, Joint CIT or Joint Director.
- 5.5 Section 149(1)(b) of the Act has been proposed to be amended to provide that reopening of assessment can be made within 10 years if the AO is in possession of evidence showing that income has escaped or likely to escape exceeds Rs.50 lacs represented by an asset, expenditure in respect of a transaction or in relation to an event or occasion or an entry or entries in the books of account. As per the existing provision, the escapement is to be represented by an asset only. Further, sub-section (1A) has been proposed to be inserted to provide that where escapement of tax has been made and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years within the period referred therein (i.e. 3 to 10 years), a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or re-computation.
- 5.6 The time-limit for completion of assessment under section 143 or 144 for updated return filed under section 139(8A) of the Act has been fixed at 9 months from the end of the financial year in which such return is filed, as per proposed newly inserted sub-section (1A) of section 153A of the Act.
- 5.7 Section 156A of the Act has been newly inserted to provide that the AO can modify the demand notice under section 156 of the Act as a result of an order of the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016 or National Company Law Appellate Tribunal or the Supreme Court.

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- 5.8 Section 158AB of the Act has been proposed to be inserted to provide that collegium, to be constituted with two or more Chief CCIT as may be notified, may decide and inform Pr. CIT not to file any appeal by the Department before ITAT or Jurisdiction High Court against the order of CIT(A)/ITAT, where identical question of law arising in the case of assessee or any other assessee for any year is pending before the Jurisdiction High Court or Supreme Court, which is in favour of such assessee. The Collegium may direct the AO to file appeal when the decision of such question of law becomes final in the other case.
- 5.9 Validity of proceedings made on the predecessors during the pendency of reorganisation. Proceedings pending or completed on the predecessors during the pendency of application for business reorganisation deemed to be applicable to the successor. Modified return can be filed by the successor in case of business reorganisation for the period between the appointed date and the date of the final order of the competent authority. Such modified tax return to be filed within six months from the end of the month in which the competent authority issues the order.

6. TDS/TCS

- 6.1 Section 194-1A of the Act presently provides that tax shall be deducted by a transferee at the time of payment to resident transferor on transfer of immovable property other than agricultural land @1% on sum so paid to transferor. It has been proposed to amend the said section to provide that tax shall be deducted @1% on the higher of purchase price or stamp duty value. Sub-section (2) has been further modified that the said section shall not apply where the sale price and stamp duty value both are less than Rs.50 lacs.
- 6.2 Section 194R has been newly inserted to provide that 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 shall, before providing such benefit or perquisite, deduct tax @10% on the value of such benefit or perquisite. However, such tax shall not be deducted if aggregate payment during the financial year does not exceed Rs. 20,000/-. The said section shall not apply to a person being an individual or a HUF, whose total sales, gross receipts or turnover does not exceed Rs.1 crore in case of business or Rs.50 lacs in case of profession, during the immediately preceding financial year in which such benefit or perquisite is provided by such person.
- 6.3 Section 194S has been newly inserted to provide that any person responsible for paying to a resident any sum by way of consideration for transfer of a virtual digital asset shall deduct tax @1% of such sum at the time of credit of such sum or at the time of payment by any mode, whichever is earlier. Further, if the same is in kind or cash or both the person must ensure that tax has been paid in respect of such consideration for the transfer of virtual digital asset. However, such tax shall not be deducted if aggregate payment during the financial year does not exceed Rs. 50,000/- where such payment is payable by specified person. Further, tax shall not be deducted if total payment is less than Rs. 10,000/- during the year by person other than specified person. Specified person means individual or HUF whose total sales, gross receipts etc. from business is less than Rs.1 crore or less than Rs.50 lacs in case of profession during immediately preceding year in which such virtual digital asset is transferred/ being an individual or HUF having no income under the head business income.
- 6.4 Section 239A has been inserted to provide that where tax is deducted under section 195 and the same is borne by deductor and if the same is not deductible, then the deductor may file an application within 30 days before the AO claiming the refund of such tax paid. The AO may accept or reject such claim by passing an order. Section 248 has been proposed to be amended to provide that w.e.f. 01-04-2022 no appeal to be filed before CIT(A) for declaration that no tax was required to be deducted in the above situation.
- 6.5 Rationalisation of TDS/TCS provisions on payments to non-filers of income tax returns – Finance Act 2021 introduced higher rates of TDS/TCS for payments to persons who have not filed tax returns for last two years. The two years' requirement has now been reduced to one year.

7. Deductions

- 7.1 A start-up is eligible for deduction under section 80-IAC if it satisfies certain conditions. One of the conditions provide that it should be incorporated between 01-04-2016 and 31-03-2022. The Finance Bill 2022 proposes to extend the outer date of incorporation to 31-03-2023.
- 7.2 Tax on new domestic manufacturing companies set up on or after 01-10-2019 and commenced manufacture or production of any article or thing on or before 31-03-2023 may be liable to pay tax@15% subject to fulfilment of other conditions prescribed in section 115BAB of the Act. The date line has been proposed to be extended from 31-03-2013 to 31-03-2024.

8. Miscellaneous Changes

Virtual Digital Assets

8.1 Section 115BBH of the Act has been proposed to be inserted to provide that tax shall be payable by an assessee @ 30% on income earned from transfer of any 'virtual digital asset'. No deduction shall be allowed in computing such income except the cost of acquisition. No other allowance or set off of any loss shall be allowed in computing such income. Further, if any loss arises in respect of such income the said loss shall also not be carried forward to subsequent years. Virtual Digital Asset (VDA) has been proposed to be defined in section 2(47A) of the Act. The said section provides that VDA means the following:

(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, as may be notified.

(c) any other digital asset, as the Central Government may, notify

Penalty

8.2 Under the existing provisions of section 271AAC, 271AAD the AO may direct the assessee to levy penalty in addition to tax. It has been proposed to give similar power to CIT(A) in addition to the AO to impose penalty under the above provisions.

8.3 Section 271AAE has been newly inserted to impose penalty on fund or institution referred to in section 10(23C) or section 11 who has violated the provisions and the amount of penalty is 200% of the aggregate income of such person applied, directly or indirectly, for the benefit of any person referred to in section 13(3), where violation is noticed again in any subsequent year. However, such penalty would be 100% of aggregate income so applied for the first time during any previous year.

8.4 Section 272A providing that penalty is payable for failure to answer questions, sign statements, furnish information, returns or statements, allow inspection etc. Under existing provisions of sub-section (2) such penalty is Rs.100/- for each default as specified therein. It has been proposed to increase the said penalty to Rs.500/- per day.

Charitable Trusts

8.5 Section 11 has been proposed to be amended to provide that where the property held under a trust or institution includes any temple, mosque, gurudwara, church or other place notified under section 80G(2)(b), any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurudwara, 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 certain condition as provided therein.

8.6 Section 12A(1)(b) has been proposed to be amended to provide that the books of account and other documents to be kept in such form and manner as may be prescribed.

8.7 Section 12AA has been proposed to be amended to provide more power to the CIT to cancel registration granted earlier for one or more specified violations during the year, among others.

8.8 Section 115BBI of the Act has been proposed to be inserted to provide that tax shall be payable by an assessee, being a person in receipt of income on behalf of any fund or trust, institution under section 10(23C) and section 11 @ 30% on specified income. No deduction in respect of any expenditure, allowance, or set off of loss shall be allowed in computing such income. Specified income as defined in proposed Explanation includes, income accumulated or set apart in excess of 15% of income where such accumulation is not allowed under any specific provisions, deemed income under section 10(23C) or section 11 of the Act etc.

8.9 Section 115TD of the Act has been amended to provide that where a trust has been converted into any form which is not eligible for registration under section 12AA or section 12AB or approval under section 10(23C) or merged

ANUP SINHA & ASSOCIATES, CHARTERED ACCOUNTANTS

with non-registered entity (section 12AA/12AB) or not transferred asset within the time as specified therein, then such assessee shall be liable to pay additional tax at the maximum marginal rate of tax on the accreted income. Accreted income has been defined as amount by which aggregate fair market value of total assets of the specified person, as on the specified date, exceeds the total liability of such specified person, computed in accordance with the method of valuation as may be prescribed. Specified person means any fund or institution or trust or university, medical institutions etc. referred under section 10(23C) or a trust registered under section 12AA or section 12AB of the Act.

- 8.10 Maximum surcharge rate on Long Term Capital Gains has been proposed to 15 percent on all capital assets.
- 8.11 Withdrawal of concessional rate of taxation on dividend income received from specified foreign company. Dividend received by an Indian company from specified foreign company is taxable at concessional tax rate of 15 percent. Now this concessional tax rate has been proposed to be withdrawn.
- 8.12 Provision of bonus stripping now also is applicable to units of InvITs/REITs/AIFs and securities. Provisions of dividend stripping is now applicable to units of InvITs/REITs/AIFs.

B. TRANSFER PRICING

- 1.1 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 interest of revenue, he may pass an order directing revision of the order of TPO.
- 1.2 In section 153 of the Act, it is proposed to:
 - (i) provide that the provisions of sub-sections (3) and (5) of that section shall also be applicable to order passed by Transfer Pricing Officer under section 92CA;
 - (ii) insert sub-section (5A) to provide that where the Transfer Pricing Officer gives effect to an order or direction under section 263 by means of 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 re-computation, 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; and
 - (iii) provide that the said provisions of the sub-section (6) shall also be applicable to orders referred to in the sub-section (5A) inserted in the Act.
- 1.3 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. It is proposed to extend the date for issuing directions regarding faceless assessment under the aforesaid sections and faceless appeal before the Income Tax Appellate Tribunal for the purposes of sections 92CA, 144C, 253 and 255 till 31st March, 2024.

C. GOODS AND SERVICES TAX (GST)

I. Amendments in The CGST Act, 2017

Extended time limit for availment of Input Tax Credit (ITC)

- 1.1 Sub-section (4) of section 16 of the CGST Act is being amended so as to provide for an extended time for availment of input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year up to thirtieth day of November of the following financial year.

Additional condition for availment of ITC

- 1.2 A new clause (ba) to sub-section (2) of section 16 of the CGST Act is being inserted to provide that input tax credit with respect to a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer under section 38. ITC can be availed only if the same is not restricted in GSTR – 2B.

Registration cancellation for composition taxpayer

- 1.3 Composition taxpayer's registration can be cancelled suo-moto if they have not filed their GSTR – 4 return beyond 3 months from the due date.
- 1.4 Any other registered person's registration can be cancelled if he has not furnished return for such continuous period as may be prescribed in the Rules.

Extended time limit for issuance of credit note

- 1.5 Sub-section (2) of section 34 of the CGST Act is being amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year up to thirtieth day of November of the following financial year. 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)

Amendment with respect to furnishing details of outward supplies

- 1.6 Section 37 of the CGST Act is being amended so as to: (i) provide for prescribing conditions and restrictions for furnishing the details of outward supply and for communication of the details of such outward supplies to concerned recipients; (ii) do away with two-way communication process in return filing; (iii) provide for an extended time up to thirtieth day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1); (iv) provide for tax period-wise sequential filing of details of outward supplies under sub-section (1).
- 1.7 Any rectification of error in GSTR – 1/GSTR – 3B is now permitted till 30th November of next financial year (currently allowed till 30th September)

Amendment with respect to furnishing details of inward supplies

- 1.8 Section 38 of the CGST Act is being substituted for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.

Amendment with respect to furnishing of returns

- 1.9 Section 39 of the CGST Act is being amended so as to: (i) provide that the non-resident taxable person shall furnish the return for a month by thirteenth day of the following month; (ii) provide an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an amount that may be prescribed; (iii) provide for an extended time up to thirtieth day of November of the following financial year, for rectification of errors in the return furnished under section 39; (iv) provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing the return under section 39 for the said tax period.

Removal of ITC claim on provisional basis

- 1.10 Section 41 of the CGST Act is being substituted so as to do away with the concept of "claim" of eligible input tax credit on a "provisional" basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be prescribed.

Two-way communication process in filing GST returns is scrapped

- 1.11 Sections 42, 43 and 43A of the CGST Act are being omitted so as to do away with two-way communication process in return filing.

Levy of late fee for delayed filing of TCS returns

- 1.12 Section 47 of the CGST Act is being amended so as to provide for levy of late fee for delayed filing of return under section 52.

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Amendment with respect to payment of tax, interest, penalty and other amounts

1.13 Section 49 of the CGST Act is being amended so as to:

- (i) provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger;
- (ii) allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person;
- (iii) provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.

Retrospective amendment with respect to interest on delayed payment of tax

1.14 Sub-section (3) of section 50 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. Interest will not be levied if ITC is not utilised.

Amendment with respect to collection of tax at source

1.15 Sub-section (6) of section 52 of the CGST Act is being amended so as to provide for an extended time up to thirtieth day of November of the following financial year for rectification of errors in the statement furnished under subsection (4).

Amendment with respect to refund of tax

1.16 Section 54 of the CGST Act is being amended so as to:

- (i) explicitly provide that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed;
- (ii) provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 as two years from the last day of the quarter in which the said supply was received;
- (iii) extend the scope of withholding of or recovery from refunds in respect of all types of refund;
- (iv) provide clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit by way of insertion of a new sub-clause (ba) in clause (2) of Explanation thereto.

Retrospective amendments

1.17 Relevant notification is being amended so as to notify www.gst.gov.in, retrospectively, with effect from 22nd June, 2017, as the Common Goods and Services Tax Electronic Portal, for all functions provided under Central Goods and Services Tax Rules, 2017, other than those provided for e-way bill and for generation of invoices under sub-rule (4) of rule 48 of the CGST Rules.

1.18 Retrospective amendment is proposed for the levy of interest @ 18% on GST credit wrongly availed and utilised

II. Amendments in The IGST Act, 2017

1.19 Retrospective amendment is proposed for the levy of interest @ 18% on GST credit wrongly availed and utilised

III. Amendments in the UTGST Act, 2017

1.20 Retrospective amendment is proposed for the levy of interest @ 18% on GST credit wrongly availed and utilised

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Retrospective Amendments of GST Rate Notifications

- 1.21 Central Tax, Union Territory Tax and Integrated Tax on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, is being exempted during the period commencing from the 1st day of July, 2017, and ending with the 30th day of September, 2019 (both days inclusive), subject to the condition that if said tax has been collected, the same would not be eligible for refund.
- 1.22 Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments, has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service vide different notifications under Central Tax, Integrated Tax and Union Territory Tax. These notifications have been given retrospective effect from 01.07.2017. However, no refund shall be made of tax which has been collected, but which would not have been so collected, had the said notifications been in force at all material times.

D. CUSTOMS ACT

- 1.1 Clause (34) of section 2 contains definition of "proper officer". This section is being modified to specifically state that assignment of functions to an officer of Customs by the Board or the Principal Commissioner of Customs or the Commissioner of Customs shall be done under the newly inserted sub-sections (1A) and (1B) of Section 5 in the Customs Act, 1962.
- 1.2 Section 3 is being amended to specifically include the officers of DRI, Audit and Preventive formation in the class of Officers. This amendment has been made to remove any ambiguity as regards the class of officers of Customs.
- 1.3 Sub-section (1A) and (1B) have been inserted in section 5 of the Act to explicitly provide power of assignment of function to officers of customs by the Board or as the case may be by the Principal Commissioner of Customs or Commissioner of Customs. This amendment has been necessitated to correct the infirmity observed by the Courts in recent judgments that the Act required explicit provision conferring powers for assignment of function to officers of Customs as "proper officers" for the purposes of the Act, besides the definition clause (34) in section 2 of the Customs Act.
- 1.4 Sub-section (4) to Section 5 is being inserted to delineate the criteria which the Board may adopt while imposing limitations or conditions under sub-section (1) or while assigning functions under sub-section (1A) to the officer of Customs. For instance, one of the limitations/ conditions that the Board currently imposes on "officers of Customs" is that they are required to operate within a specified territorial jurisdiction. However, with the launch of faceless assessments and other trade facilitation initiatives wherein, for instance, a need is felt for the development of industry-specific expertise in assessments the Board may need to confine jurisdiction to certain goods or class of goods.
- 1.5 Sub-section (5) to Section 5 is being inserted to ensure that wherever necessary, for the proper management of work, two or more officers of customs, can concurrently exercise powers and functions (for example in the case of faceless assessment).
- 1.6 Section 14 is being amended to include provisions for rules enabling the Board to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods. This amendment is a measure to address the issue of undervaluation in imports.
- 1.7 Section 28H is being amended to make provisions for prescribing appropriate fees by Board relating to application for advance Ruling and also give flexibility to the applicant to withdraw his application at any time before a ruling is pronounced from the current 30 days' time period. Consequently, the sub-section (3) is being omitted.
- 1.8 Sub-section (2) under Section 28J is being substituted so that advance ruling under sub-section (1) of Section 28J is now valid for a period of three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier. A proviso is also being inserted to provide that the advance rulings in force on the date on which the Finance Bill, 2022 receives assent of the President, the said period of three years shall be reckoned from the date on which the Finance Bill receives assent of the President.
- 1.9 Section 110AA is being inserted with a view to affirm the principle that, wherever, an original function duly exercised by an officer of competent jurisdiction, is the subject matter of a subsequent inquiry, investigation, audit or any other specified purpose by any other officer of customs, then, notwithstanding, such inquiry, investigation,

ANUP SINHA & ASSOCIATES, CHARTERED ACCOUNTANTS

audit or any other purpose, the officer, who originally exercised such jurisdiction shall have the sole authority to exercise jurisdiction for further action like reassessment, adjudications, etc. consequent to the completion of such inquiry, investigation, audit or any other purpose.

- 1.10 Section 135AA is being inserted to protect the import and export data submitted to Customs by importers or exporters in their declarations by making the publishing of such information unless provided by the law, as an offence under Customs Act.
- 1.11 A clause has been inserted in the Finance Bill, 2022. This clause seeks to give validation to any action taken or functions performed before the date of commencement of the Finance Act, 2022, under certain Chapters of the Customs Act by any officer of Customs, as specified in Section 3 of the Customs Act, as amended, where such action was in pursuance of their appointment and assigning of functions by the Central government or the Board under the Customs Act.
- 1.12 Import of goods under Import of Goods at Concessional Rate of Duty ('IGCR') regulations to follow a digital process requiring submission of information on online portal and seeking Import Identification Number.

Amendments in the First Schedule to the Customs Tariff Act, 1975

- 1.13 Tariff rate changes for Basic Customs Duty to be effective from 02.02.2022 with respect to edible oils, MSME sector, Gems and Jewellery sector, electrical and electronic items, solar energy sector.
- 1.14 Tariff rate changes on various commodities (without any change in the effective rates of Basic Customs Duty) to be effective from 01.05.2022. The current applied rate of Basic Customs Duty on these commodities operates through their respective exemption/concessional notification(s). Such corresponding entries would be omitted from the concerned notification(s) with effect from the 1st day of May, 2022, as the same would operate through the Customs Tariff Act, 1975, [except for 2701, 2702 & 2703 (Coal, lignite & peat). It is an exercise for simplification of the Customs tariff structure and Effective basic customs duty rate (and applicable cesses) of these items would remain unchanged.
- 1.15 Tariff rate changes on various commodities (like methanol, acetic acid, cocoa beans and many others) with change in the effective rates of Basic Customs Duty w.e.f. 02.02.2022.
 - 1. The Basic Customs Duty rates are being rationalized for the items.
 - 2. These changes are being incorporated in the First Schedule of the Customs Tariff Act, 1975. The changes in the tariff schedule shall commence from 01.05.2022.
 - 3. Therefore, during the period from 02.02.2022 till 30.04.2022, these rates shall operate through notifications.

Other Miscellaneous amendments

- 1.16 Review of concessional rates of BCD prescribed to Capital Goods and Project Imports - The Customs duty rate structure on capital goods and project imports has been comprehensively reviewed and exemption on capital goods/ project imports are being phased out in a gradual manner. However, certain exemptions on capital goods would continue.
- 1.17 Review of concessional rates of BCD prescribed in notification No. 50/2017 – customs dated 30.06.2017
- 1.18 Customs duty exemptions which have been granted through certain other standalone notifications, have also been reviewed
- 1.19 Proposals involving changes in effective basic customs duty rates in respect of phased manufacturing program (PMP) with respect to specific electronic goods (wrist wearable devices, hearable devices, smart meters)
- 1.20 Proposals involving changes in basic customs duty rates/health cess in respective notifications with effect from 02.02.2022 with respect to agricultural products and by products, fuels, chemicals & plastics, paper, gems and jewellery sector, metals, electrical and electronics sector, medical devices, toys, capital goods.
- 1.21 A scheme for duty-free imports for the purpose of use in goods meant for export, based on end-use monitoring is being introduced for bonafide exporters subject to the requirement of exporting value added products

ANUP SINHA & ASSOCIATES, CHARTERED ACCOUNTANTS

manufactured using inputs imported under these exemptions, within a period of six months. Importer shall be required to follow the procedure under the Import of Goods at Concessional Rate (IGCR) Rules, 2017.

- 1.22 Review of levy of social welfare surcharge on various items by amending the relevant notification
- 1.23 Miscellaneous changes in various notifications providing concession on imports
- 1.24 Other changes (including certain clarifications/technical changes by amending notification no - 50/2017-Customs dated 30.06.2017
- 1.25 Anti – dumping duty and countervailing duty permanently revoked on import of certain items and changes in export duty rate with respect to certain item with effect from 02.02.2022.

E. EXCISE

- 1.1 In order to promote blending of Motor Spirit (commonly known as Petrol) with ethanol/methanol and blending of High Speed Diesel with bio-diesel, an additional Basic Excise Duty of Rs. 2 per litre on Petrol and Diesel, intended to be sold to retail consumers without blending, would be levied with effect from the 1st day of October, 2022.

F. SEZ PROPOSALS

- 1.1 SEZ Act to be replaced by new legislation to enable states to become partners in 'Development of Enterprise and Service Hubs'
- 1.2 Customs administration of Special Economic Zones to function on the Customs National Portal with effect from September 30, 2022