



# SURAT BRANCH OF WIRC OF THE ICAI

📍 ICAI Bhawan, B/h VR Mall, Dumas Road, Rundh-Magdalla, Surat

✉ surat@icai.org 📠 surat@icai.org

☎ 0261-3599071/83 | 95105 82383

The Institute of Chartered Accountants of India  
(Set up by an Act of Parliament)



## MCM of Surat Branch of WIRC of ICAI has elected new Officer Bearers for the Year 2021.

- Chairperson : **CA Naveen Jain**
- Vice Chairman : **CA Pooja Murarka**
- Secretary : **CA Rahul Agrawal**
- Treasurer : **CA Arun Narang**
- IP Chairman : **CA Ishwar Jivani**
- Committee Mem. : **CA Mihir Thakkar | CA Pradeep Kabra**
- Co-Opted Mem. : **CA Joni Jain  
CA Aswhin Bhauwala  
CA Manoj Jain  
CA Chayan Agrawal**

## Editorial Board

- CA Naveen Jain**
- CA Pooja Murarka**
- CA Joni Jain**
- CA Ashwin Bhauwala**



## Vision for 2021-22

With the handing over of these following posts, it is our responsibility at Surat Branch to strive to bring more and more events for the members and deliver the expectations of our members. With the shifting of branch at the new premises we would soon commence new seminars and courses at our branch building after receiving proper approvals from the authorities.

Wishing all the members and students a Very Happy, Prosperous, and Colorful Holi in advance!!

## FROM CHAIRMAN'S DESK



### CA NAVEEN JAIN Chairman

Dear Members,

I thank all the Managing Committee Members, Regional Council Members, Central Council Member, Past Chairman & Professional Colleagues of my city for showing their faith in me.

With the advent of Corona- the greatest pandemic the world has seen. Life has taken a new perspective, the way things have evolved. People have turned up to technology to socialize, interact to update themselves in these tough times. During this time we at branch have always tried virtually to bring fruitful learning sessions with eminent speakers to foster the learning zeal of our members. With the passage of time, we at branch would now like to bring more and more interactive events with physical presence along with virtual events for our members. But at the same time we need to be cautious and keep the Covid guidelines of local, state and central authorities in mind.

As Holi- the festival we celebrate with colors, hopes and jubilation is around the corner, I would like to convey my best wishes to our members and their families. This year, Holi will be celebrated on March 28, 2021. Holi has something unique and charming about it. It drives more energy into our being and reminds us that good will always conquer evil and emerge victoriously after every challenge. Holi reminds us that life is colorful. The fun and joy emanating from Holi celebrations can steer us forward with a successful year ahead.

On the First day of February, Presenting the Union Budget for 2021-22, Finance Minister Nirmala Sitharaman said that the Budget proposals for this financial year rest on six pillars – health and well-being, physical and financial capital and infrastructure, inclusive development for aspirational India, reinvigorating human capital, innovation and R&D, and 'Minimum Government, Maximum Governance'. Significant announcements included a slew of hikes in customs duty to benefit Make in India, proposal to disinvest two more PSBs and a general insurance company, and numerous infrastructure pledges to poll-bound States. Fiscal deficit stands at 9.5% of the GDP, and is estimated to be 6.8% in 2021-22. Personal income tax slabs remain as is.

CA. Nihar N Jambusaria and CA. (Dr.) Debashis Mitra has been elected as the President and the Vice-President of The Institute of Chartered Accountants of India respectively w.e.f. February 12, 2021.

The managing committee of Surat elected their office bearers on February 26, 2021, who shall in every possible way help ICAI in serving the profession and help in achieving its purpose.



# MANAGING COMMITTEE MEMBERS OF SURAT BRANCH, ICAI



CA NAVEEN JAIN  
Chairman



CA POOJA MURARKA  
Vice Chairman



CA RAHUL AGARWAL  
Secretary



CA ARUN NARANG  
Treasurer



CA ISHWAR JIVANI  
IIM. Past Chairman



CA MIHIR R. THAKKARR  
Past Chairman



CA PRADEEP KABRA  
MCM



CA JAY CHAIRA  
CCM



CA BALKISHAN AGARWAL  
RCM



CA JONI JAIN  
Co-Opted Member



CA ASHWIN BHAUWALA  
Co-Opted Member



CA MANOJ JAIN  
Co-Opted Member



CA CHAYAN AGARWAL  
Co-Opted Member

# FORTH COMING PROGRAMME FOR THE MONTH OF MARCH, 2021

**5th March**

## **6 CPE GST CONCLAVE - ORGANIZED BY WIRC OF ICAI**

1st Session with CA SHAILESH SHETH, Mumbai  
2nd Session with CA JATIN HARJAI, Jaipur

**10th March**

## **VIRTUAL CPE PROGRAM ON REVENUE LEAKAGE IN BANK BRANCH AUDIT**

**15th March**

## **SURAT CA PREMEIR LEAGUE - 6 (SCPL-6)**

**20th March**

## **6 CPE PROGRAM ON BANK BRANCH AUDIT**

# BUDGET 2021 ANALYSIS – GOODS & SERVICE TAX

## by Shehzad Karanjia and Mihir Gandhi

Section	Present Provision	Proposed Amendment	Impact / Remarks / Observation
7 (1) of CGST Act	Currently there was no specific mention of the activities or transactions, by a person other than individual to its members or constituents or vice-versa as supply	Now it is proposed to insert new clause (aa) in sub-section (1) of Section 7 of the CGST Act, retrospectively with effect from the 1st July, 2017, so as to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration	Thus now supply by associations / club to its members and vice versa for cash, deferred payment or other valuable consideration will be considered as supply. Thus, all the rulings as on date considering the said transaction as no supply would become ineffective as the said is proposed to be amended respectively w.e.f. 1-7-2017
16(2) of CGST Act	Currently there was no specific mention that ITC would be available only if the details of invoice are furnished by the supplier and the same is communicated to the recipient of such invoice / debit note.	It is hereby proposed to insert a new clause (aa) to sub-section (2) of the section 16 of the CGST Act to provide that input tax credit on invoice or debit note may be entitled only when the details of such invoice or debit note have been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note.	Thus now if the supplier has not mentioned the details of the invoice/ debit notes raised to its recipient then the recipient would not be entitled to ITC in respect of GST on such invoices / debit note even though the recipient is in possession of the tax invoice / received the supply / made the payment and the supplier has discharged his liability to the Government.
35(5) and 44 of CGST Act	As per the current provision of section 35(5), it is mandatory for the registered person whose turnover during the financial year exceeds the prescribed limit to get his accounts audited by a chartered accountant or cost accountant. Further annual return was required to be filed electronically on or before 31st Day of December following the end of the financial year	It is hereby proposed to omit the said sub section 35(5). And section 44 has been substituted so as to provide that Form 9 and Form 9C i.e. the reconciliation shall be self certified by the registered person within such specified time as may be prescribed.	Thus, the mandatory requirement of getting annual accounts audited and reconciliation statement submitted by specified professional is removed and now GSTR 9C that is reconciliation statement has to be self certified by the registered person. Further, the time limit for filing of such annual return and reconciliation statement which was previously 31st December would now be henceforth notified from time to time.
50(1) of CGST Act	Currently there was no specific mention that interest under section 50(1) would be charged on net cash liability w.e.f. 1-7-2017.	Section 50 of the CGST Act is being amended, retrospectively, to substitute the proviso to sub-section (1) so as to charge interest on net cash liability with effect from the 1st July, 2017	Thus, the intent of the Government of levying interest only on the net cash liability w.e.f. 1-7-2017 is brought in the act itself by way of an amendment that too w.e.f. 1-7-2017
75(12) of CGST Act	Currently there was no specific mention of the fact that self assessed tax shall include the tax payable in respect of outward supplies, the details of which have been furnished under section 37, but not included in the return furnished under section 39	It is hereby proposed to insert an explanation to sub-section (12) of section 75 of the CGST Act to clarify that "self-assessed tax" shall include the tax payable in respect of outward supplies, the details of which have been furnished under section 37, but not included in the return furnished under section 39.	Thus now the officer can initiate recovery proceedings u/s. 79 on finding difference in outward supply shown in GSTR-1 and GSTR-3B
83 of CGST Act	As per the current provision provisional attachment to protect the revenue was allowed during the pendency of any proceedings u/s. 62, 63 64, 67 73 and 74.	As proposed, section 83 of the CGST Act is being amended so as to provide that provisional attachment shall remain valid for the entire period starting from the initiation of any proceeding under Chapter XII (Assessments), Chapter XIV (Inspection, Search, Seizure and arrest) or Chapter XV (Demand and Recoveries) till the expiry of a period of one year from the date of order made thereunder.	Thus, ambit of provisional attachment has been increased in case of all assessments, search, seizure, inspection, arrest, demand and recovery from the initiation stage which was earlier only applicable to limited type of assessments, inspections, search and seizure, demand and recovery that too during the pendency of such proceedings.
107(6) of CGST Act	Currently there was no specific mention of the activities or transactions, by a person other than individual to its members or constituents or vice-versa as supply	It is now proposed to insert a proviso to sub-section (6) of section 107 of the CGST Act to provide that no appeal shall be filed against an order made under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of penalty has been paid by the appellant.	Thus, now the person whose goods or conveyance during transit are detained or seized and penalty is levied, then the person has to pay 25% of the penalty payable as per order issued u/s. 129(3) before filing an appeal as pre deposit.
129 of CGST Act	Currently there was no specific mention of the activities or transactions, by a person other than individual to its members or constituents or vice-versa as supply	It is now proposed to insert a proviso to sub-section (6) of section 107 of the CGST Act to provide that no appeal shall be filed against an order made under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of penalty has been paid by the appellant.	Thus, now the person whose goods or conveyance during transit are detained or seized and penalty is levied, then the person has to pay 25% of the penalty payable as per order issued u/s. 129(3) before filing an appeal as pre deposit.

# BUDGET 2021

## ANALYSIS – GOODS & SERVICE TAX

Section	Present Provision	Proposed Amendment	Impact / Remarks / Observation
129 of CGST Act	Section 129 – Detention, seizure and release of goods When the owner comes forward for payment of such tax and penalty He has to pay applicable tax and 100% penalty of the tax payable. When the owner does not come forward for payment of such tax and penalty He has to pay applicable tax and penalty equal to 50% of the value of goods	Section 129 – Detention, seizure and release of goods It is hereby proposed, When the owner comes forward for payment of such tax and penalty He has to pay applicable tax and 200% penalty of the tax payable When the owner does not come forward for payment of such tax and penalty He has to pay penalty equal to 50% of the value of goods or 200% of tax payable thereon whichever is higher Further proviso to sub section (6) has been inserted which provides that the conveyance shall be released on payment by the transporter of penalty under sub section 3 or Rs. 1 lac whichever is less.	Thus, effectively the amount of penalty has been substantially increased.  This proviso might end few litigations as if there is any error on the part of the transporter he can pay the penalty or Rs. 1 lac whichever is lower.
16(1) of IGST Act	Currently zero rated supply includes – Export of goods or services or both or supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone Unit	It is hereby proposed to include in zero rated supply export of goods or services or both or supply of goods or services or both for authorized operations to a Special Economic Zone developer or a Special Economic Zone Unit	Thus now supply of goods or services or both for authorized operations to SEZ will only be qualified as Zero Rated Supply
16(3) of IGST Act	Presently the registered person making zero rated supply had two options Under LUT With payment of duty	It is being proposed that option of "With payment of Duty" would be allowed only to a notified class of person or notified class of goods or service. Further registered person making supply of goods has to link the foreign remittance with the refund claimed and in case of non realization of sales proceeds within 30 days from the end of the expiry of time limit prescribed under FEMA Act 1999 would be liable to deposit the refund so received along with the applicable interest	Thus, now option of refund in case of zero rate supply by exercising option of "with payment of duty" would not be open to all except notified class of person or notified class of goods or services. Thus now refund claimed but export consideration not realized within specified time will have to be deposited with interest to the Government

# IMPORTANT DIRECT TAX PROPOSALS IN FINANCE BILL 2021

## (By CA. Rasesh Shah)

### 1. HIGHER RATE OF TDS/TCS ON NON-FILERS OF RETURN

Proposed Amendments [New Sections 206AB and 206CCA]:

A new provision, Section 206AB, is proposed to be inserted in the Act making certain specified persons, who have not filed their returns of income, liable to TDS at a rate higher of the following:

- twice the rates specified under the Act, or
- twice the rate or rates in force, or
- five percent.

The provisions of this section shall not apply where TDS is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act. In case of a person, who is liable to TDS at a higher rate u/s. 206AA of the Act due to non-furnishing of PAN, the rate of TDS shall be higher of that u/s. 206AA and the proposed section 206AB. A similar provision, section 206CCA, is proposed to be inserted, providing higher rate of TCS on such specified persons. However, the rate of TCS shall be higher of the following:

- twice the rates specified under the Act, or
- five percent

For purpose of the proposed section 206AB and 206CCA, a "specified person" is defined to mean a person:

- who has not filed the returns of income for immediately preceding two previous years,
- time limit u/s 139(1) of the Act for filing returns for both such years has expired, and the aggregate of TDS and TCS in hands of such person, in each of these two previous years, is Rs. 50 thousand or more.

However, the specified person shall not include a non-resident who does not have a permanent establishment in India. Consequential amendment is also proposed in section 194-IB (TDS not to exceed the rent paid/payable for the last month).

Said provisions shall apply from July 01, 2021

### 2. TDS ON INCOME AND RELAXATION FROM FILING OF RETURN TO SPECIFIED SENIOR CITIZENS

Proposed Amendments [New Section 194P]:

A new provision, Section 194P, is proposed to be inserted in the Act making certain specified banks liable to deduct TDS at the rates in force, on the total income of specified senior citizens. The specified banks are required to compute the total income of the specified senior citizens after giving effect to the deductions allowable in Chapter VI-A and the rebate u/s 87A of the Act, and deduct income tax thereon at the slab rates applicable to such senior citizen. For purpose of such computation, the senior citizen shall be required to furnish declaration to the bank containing such particulars as may be specified in this behalf. Once the specified bank deducts TDS on the total income of such senior citizen, the senior citizen shall not be liable to furnish his return of income u/s 139 of the Act.

A "specified bank" is defined to mean a banking company as the Central Government may, by notification in Official Gazette, specify.

A "specified senior citizen" is defined to mean a resident individual who:

- is of the age of 75 years or more at any time during the previous year,
- is having income by way of-
  - Pension,
  - Interest from any bank account maintained with the bank where he is receiving his pension, and
- has furnished the declaration to the bank in specified form and manner.

Said provisions shall apply from April 01, 2021.

### 3. TDS ON PAYMENT FOR PURCHASE OF GOODS

Proposed Amendments [New Section 194Q]:

It is proposed to insert a new provision i.e., section 194Q to provide for TDS in case of purchase of goods exceeding Rs. 50 lakhs by certain buyers. Under the new provision, a "buyer" whose total sales, gross receipts or turnover from the business carried on by him exceeds Rs. 10 crores during the financial year immediately preceding the financial year in which the purchase of goods is carried out shall be liable to deduct TDS at the rate of 0.1% on any sum paid/payable to a "seller", who is a resident, in a previous year in excess of Rs. 50 lakhs. The TDS would be deducted at the time of crediting the amount payable by the buyer or at the time of payment of such amount by the said buyer, by any mode, whichever is earlier.

# IMPORTANT DIRECT TAX PROPOSALS IN FINANCE BILL 2021

## (By CA. Rasesh Shah)

The proposed TDS shall not apply if the buyer is liable to deduct TDS under other provision of the Act or the seller is liable to collect TCS u/s 206C of the Act, other than sub-section (1H) thereof, on the said transaction. Also, the Central Government may notify a person to be exempt from the obligation of deducting TDS under this section. Further, the buyer shall be liable to deduct TDS even if the amount payable by him is provided in the books by way of credit to any account, whether called "suspense account" or any other account. Such credit shall be deemed to be the credit of income to the account of payee only. Said provisions shall apply from July 01, 2021.

#### 4. EXEMPTION AND UTILIZATION OF CORPUS FUND OF CHARITABLE INSTITUTIONS

Proposed Amendments [Sections 10(23C), 11]

It is proposed to:

- Amend section 11(1)(d) to provide that any voluntary contribution received towards corpus shall be allowed as exemption only if it is invested in the modes prescribed u/s 11(5) of the Act maintained specifically for such corpus.
- Insert a new Explanation 4 to provide that application out of corpus will not be treated as application of income for charitable purposes. The amounts not so treated as application of income shall be treated as application if in any future years the same are invested in the modes prescribed u/s 11(5) from the income of those years.
- Provide that application for charitable purposes from loans shall be treated as application of income in the year in which the same is repaid out of the income earned in the year of repayment and not in the year in which it is borrowed.
- Further, a new Explanation 5 is proposed to be inserted to provide that no set-off of any excess application of previous years shall be allowed against the current year's income.

Similar amendments have also been proposed to be made in section 10(23C) of the Act. The proposed amendment shall come into effect from April 1, 2022.

Comments:

The proposed amendment intends to overrule the decision of Hon'ble Supreme Court in the case of CIT (Exemption) vs. Subros Educational Society (M.A. No. 941/2018 in Civil Appeal No. 5171/2016) wherein it upheld that a trust is allowed to carry forward and set off excess application of previous years against the income of the future years. Thus, the above decision would be applicable upto AY 2021-22 but whatever balance of deficit would remain unutilized, the same would lapse.

#### 5. LIMIT ON ANNUAL RECEIPTS OF MEDICAL/ EDUCATIONAL INSTITUTIONS

Proposed Amendments [Sections 10(23C)]

It is proposed to increase the current prescribed limit of Rs. 1 crore to Rs. 5 crore by amending sub-clauses (iiia) and (iiiae). It is also proposed to insert a new Explanation to provide that if a person receives income from one or more medical as well as educational institutions as specified under sub-clauses (iiia) and (iiiae) then, all such receipts in aggregate will be considered for calculating the above mentioned proposed limit of Rs. 5 crore.

The proposed amendment shall come into effect from April 1, 2022.

Comments:

The proposed amendment by way of a new Explanation intends to overrule the decision of Hon'ble Karnataka HC in the case of CIT vs. Children's Education Society (358 ITR 373) wherein it was held that the limit on receipts under these sub-sections is to be considered separately for each such institution.

#### 6. ISSUANCE OF NOTICE U/S 142(1)

Proposed Amendments [Section 142]

It is proposed to amend Section 142(1)(i) to empower prescribed income-tax authority besides the AO to issue notice for filing return under the said clause.

This amendment will take effect from April 1, 2021 and will accordingly apply in relation to the Assessment Year 2021-22 and subsequent assessment years.

Such prescribed income tax authorities are yet to be notified.

#### 7. ASSESSMENT PROCEEDINGS

Proposed Amendments [Section 143 & 153]

It is proposed to amend the following provisions of sub-section (1) of section 143 of the Act -

- Amend section 143(1)(a)(iv) of the Act, to allow for the adjustment on account of increase in income indicated in the audit report but not taken into account in computing the total income.
- Amend section 143(1)(a)(v) of the Act, so as to provide that any deduction admissible under section 10AA or under any of the provisions of Chapter-VIA under the heading "C-Deductions in respect of certain incomes" shall be allowed, if the return of income is furnished on or before the due date specified under section 139(1) of the Act.
- Amend provisions of section 143 to reduce the time limit for sending intimation under sub section Amend section 143(1)(a)(v) of the Act, so as to provide that any deduction admissible under section 10AA or under any of the provisions of Chapter-VIA under the heading "C-Deductions in respect of certain incomes" shall be allowed, if the return of income is furnished on or before the due date specified under section 139(1) of the Act.
- Amend provisions of section 143 to reduce the time limit for sending intimation under sub section Amend section 143(1)(a)(iv) of the Act, to allow for the adjustment on account of increase in income indicated in the audit report but not taken into account in computing the total income.
- Amend section 143(1)(a)(v) of the Act, so as to provide that any deduction admissible under section 10AA or under any of the provisions of Chapter-VIA under the heading "C-Deductions in respect of certain incomes" shall be allowed, if the return of income is furnished on or before the due date specified under section 139(1) of the Act.
- Amend provisions of section 143 to reduce the time limit for sending intimation under sub section 1) of section 143 of the Act from one year to nine months from the end of the FY in which the return was furnished. Amend provisions of sub-section (2) of section 143 of the Act by reducing the time limit for issue of notice from six months to three months from the end of FY in which the return is furnished. Section 153 is proposed to be amended to reduce time limit for passing assessment order relating to AY 2021-22 within nine months from the end of the AY in which the income was first assessable. These amendments will take effect from April 1, 2021 and will accordingly apply in relation to the Assessment Year 2021-22 and subsequent assessment years.

#### 8. REASSESSMENT & SEARCH PROCEEDINGS

Proposed Amendments [Section 147, Section 148, Section 149, Section 153A and Section 153C]

The provisions relating to reassessment and search assessments are proposed to be completely substituted as under:

- Provisions of Section 153A and Section 153C to be applicable only on search initiated u/s 132 or requisition made u/s 132A on or before March 31, 2021.
- Common new procedure to be followed in case of assessments, reassessments or re-computations in search initiated u/s 132 or requisition made u/s.132A after March 31, 2021 which are prescribed in substituted Section 147, 148, 148A of the Act.
- Section 147 to allow AO to assess/reassess or re-compute any income escaping assessment in any AY.

• Notice under substituted section 148 to be issued before assessment/reassessment/re-computation when the AO has "information" that income chargeable to tax has escaped assessment and after following procedure specified in proposed section 148A of the Act.

• "Information" which suggests that income is said to have escaped assessment has been defined to mean:

- i. Information flagged by a computer based system in accordance with the risk management strategy formulated by CBDT.
- ii. Final objection raised by CAG to the effect that assessment/ reassessment has not been in accordance with the provisions of the Act.
- iii. In case of search, survey, requisition or seizure after on or after April 1, 2021, the AO shall be deemed to have information which suggests that income has escaped assessment for 3 AY's prior to year of search, seizure survey or requisition.

• Section 148A to be inserted to empower the AO to conduct inquiries, if required, with prior approval of specified authority and give the Assessee an opportunity of being heard before issuance of notice u/s.148 and after obtaining due approval of "specified authority". After considering the Assessee reply, the AO shall decide by passing an order whether it is a fit case for issuance of notice u/s 148 and serve a copy of such order along with the notice to the assessed. Aforementioned procedure of conducting enquiry, providing opportunity and passing order before issuing notice u/s 148 not applicable in search cases.

• Time limit for issuance of notice u/s.148:

- i. Normally, three years from the end of the relevant AY;
- ii. If AO has in his possession evidence, that income chargeable to tax, represented in the form of an asset, which has escaped assessment amounts to or is likely to amount to Rs.50,00,000/- or more for that year, then ten years from the end of the relevant AY.

• Under the proposed amendments, once assessment/reassessment/ re-computation has started the AO is empowered to assess/reassess the income in respect of any issue which has escaped assessment and which comes to his notice subsequently in the course of proceedings under this procedure notwithstanding that the procedure prescribed in section 148A was not followed before issuing such notice for such income.

These amendments will take effect from April 1, 2021 and will accordingly apply in relation to the Assessment Year 2021-22 and subsequent assessment years.

#### 9. CONSTITUTION OF DISPUTE RESOLUTION COMMITTEE FOR SMALL AND MEDIUM TAXPAYERS

Insertion of New Section [Section 245MA]

FB-21 proposes to incorporate new section 245MA to provide early tax certainty to small and medium taxpayers by preventing new disputes and providing them option of settling the issues at the earlier stage. The salient features of the said scheme are as under:

- Central Government shall constitute one or more DRC;
- To resolve disputes of such person or class of person as specified by the Board;
- Dispute to be resolved - where returned income is less than or equal to Rs.50 lakhs and aggregate amount of variation proposed in specified order (includes draft order too) is less than or equal to Rs.10 lakhs;
- The DRC shall be faceless;
- The DRC will have powers to reduce or waive penalty or grant immunity from prosecution where the disputes are resolved at DRC;
- Cases not eligible under DRC:
  - a) Where an order is based on search initiated under section 132;
  - a) Where an order is based on requisition is made under section 132A;

# IMPORTANT DIRECT TAX PROPOSALS IN FINANCE BILL 2021

## (By CA. Rasesh Shah)

- o Where an order is based on survey under section 133A;
- o Where an order is based on information received under DTAA;
- o Where any proceeding of detention, prosecution or conviction is pending under following laws:
  - Foreign Exchange and Prevention of Smuggling Activities Act, 1974;
  - Indian Penal Code;
  - Unlawful Activities (Prevention) Act, 1967;
  - Narcotic Drugs and Psychotropic Substances Act, 1985; Section 151 is proposed to substituted to define the "specified authority" for the purpose of section 148 and 148A to mean as under:

- ▣ Prohibition of Benami Transactions Act, 1988;
  - ▣ Prevention of Money Laundering Act, 2002;
  - ▣ Prosecution initiated under Income-tax
- These amendments will take effect from April 1, 2021.

### 10. DISCONTINUANCE OF INCOME-TAX SETTLEMENT COMMISSION ('ITSC')

Proposed Amendment [Insertion of Section 245AA and 245M]

Now, ITSC shall cease to operate on or after February 01, 2021 and accordingly, no application under section 245C can now be made. Instead, now an Interim Board meaning Interim Board for Settlement to be constituted under section 245AA. The members of the Board shall consist of 3 members, each being rank of Chief Commissioner. In case of difference in any point, the same shall be decided by majority. All pending applications pending applications filed on or before January 31, 2021, may now be heard by Interim Board for settlement.

The Board may also allow the assessee the option of withdrawal. If the assessee exercises the option of withdrawal, the proceedings with respect to application shall abate and the Assessing Officer or authority before whom the proceeding at time of making application was pending shall dispose of the same. The time-limit for making assessment or reassessment, the period commencing from date of application to date on which application is withdrawn shall be excluded. The Assessee would be allowed to withdraw the pending application within the period of 3 months from date of commencement of Finance Act, 2021 and is also required to intimate the AO of the same. The consequential amendments are also carried out in section 245A, 245B, 245BC, 245BD, 245C, 245D, 245DD, 245E, 245F, 245G, 245H.

### 11. PROVISION FOR FACELESS PROCEEDINGS BEFORE ITAT IN A JURISDICTION LESS MANNER

Proposed Amendment [Section 25K]

The proposed amendment seeks to introduce faceless appeal before the ITAT. The Central Government is empowered to frame rules in this behalf.

### 12. DEDUCTION OF PROFITS OF ELIGIBLE START-UPS

Proposed Amendment [Section 80-IAC]

It is proposed to amend the said section so as to extend the sunset date of incorporation of Start-up to April 1, 2022.

### 13. ROLLOVER BENEFIT ON LTCG FOR INVESTMENT IN START-UPS

Proposed Amendments [Section 54GB]

Presently, for claiming exemption under section 54GB the residential unit must be transferred before March 31, 2021. It is proposed to extend the benefit under this section for transfer of residential unit up to March 31, 2022.

### 14. WIDENING OF DEFINITION OF SLUMP SALE

Proposed Amendment [Section 50B, Section 50C, Section 2(42C) and Section 2(47)]

FB-21 proposes to amend the definition of "slump sale" under section 2(42C) of the Act to include all types of transfers, by any means, as covered under section 2(47) of the Act. As a result, all types of slump transfers would now be governed by section 50B of the Act.

Comments:

The said amendment intends to nullify the effects of the decision in ACIT v. Bharat Bijlee Ltd. (46 taxmann.com 257(Bom.)), etc. wherein it has been held that section 50B of the Act would not apply to transactions other than slump 'sale' and accordingly, transactions such as 'slump sale' would not be taxable under the Act

### 15. TAX ON TRANSFER OF CAPITAL ASSET TO PARTNER ON DISSOLUTION OR RECONSTITUTION

Proposed Amendment [Section 45(4)]

FB 21 proposes to amend section 45 to bring even such cases within the ambit of tax. However, the tax incidence is provided in the hands of firm and not the partners. Accordingly, it is proposed to amend sub-section (4) of section 45 of the Act to provide for taxation of the profits and gains arising to the partner of a firm or member of AOP/BOI from receipt of capital asset at the time of dissolution or reconstitution representing their capital balance in the books of account of the firm/AOP/BOI. The said profit shall be deemed to be the income of the firm/AOP/BOI and be chargeable under the head 'Capital Gains'.

### 16. CONTRIBUTION TO PF

Proposed Amendments [Section 36(1)(va) & Section 43B]

It is proposed to insert a new Explanation to S. 36(1)(va), to clarify that the provisions of section 43B shall not apply and shall be deemed to have never applied for the purposes of determining the 'Due date'. Further, it is proposed to insert a new Explanation 5 to S. 43B, to clarify that the provisions of section 43B shall not apply and shall be deemed to have never applied to any sum received by employer from his employee as contributions to the employee's account in any of the employees welfare funds as referred in section 2(24)(x).

Comments:

By virtue of the aforesaid amendments, Employee's Contribution paid beyond the due date under the relevant statute for depositing the same will not be allowed at all irrespective of the actual payment made subsequently. The proposed amendment seeks to overrule the decisions of various courts wherein it is held that provisions of section 43B override the provisions of section 36(1)(va) and thereby apply to employee's contributions as well.

The proposed amendment is stated to take effect from April 1, 2021 to apply to AY 2021-22 and subsequent A.Ys. Thus, the amendment becomes retrospective to the extent of liability for employee's contribution incurred in FY 2020-21 till date. Further, the proposed amendments are worded such that they are inserted to provide clarification and thus, the Revenue might argue that the provisions should have retrospective operation.

### 17. DEPRECIATION ON GOODWILL

Proposed Amendments [Section 2(11), Section 32(1), Section 50 and Section 55(2)(a)]

It is proposed to amend the definition of "block of assets" u/s. 2(11) of the Act and the definition of asset in Explanation 1 to S. 32(1) of the Act to specifically exclude "goodwill of a business or profession" from the scope of depreciable assets. Further, it is proposed to insert a proviso in section 50 of the Act to provide the manner of determination of WDV of a block of asset and short-term capital gains where the block of asset for A.Y. 2020-21 includes goodwill and on which depreciation has been claimed by the Assessee in preceding A.Ys.

It is also proposed to substitute the provisions of section 55(2)(a) of the Act which deals with cost of acquisition of goodwill wherein a proviso shall be inserted to reduce the cost of acquired goodwill with the value of depreciation already claimed thereon.

Comments:

In view of the proposed amendment, the Government proposes to nullify the effect of the decision of the Hon'ble Apex Court in the case of Smiff Securities Limited (2012) 348 ITR 302 (SC) and therefore, no Assessee can claim depreciation on account of goodwill in any circumstances, whether arising in case of slump sale or amalgamation, beginning from April 1, 2021 i.e. A.Y. 2021-22.

In cases where the Assessee has already capitalised goodwill into the block of assets and claimed depreciation thereon, the said amount of depreciation will have to be deducted from the cost of acquisition in terms of section 55(2)(a) of the Act and for computing short term capital gains under section 50. However, interestingly, no similar provision has not been proposed for reduction of written down value as defined u/s. 43(6) of the Act. This would give rise to some anomalous situations.

### 18. EXEMPTION FOR LTC CASH BALANCE

Proposed Amendments [Section 10(5)]

The proposed amendment provides that for AY 2021-22, the value in lieu of LTC received by, or due to, an individual shall also be exempt under Section 10(5) subject to fulfilment of conditions to be prescribed. The Memorandum states that the conditions for this purpose shall be prescribed in the Income-tax Rules in due course and shall include the following:

- ▣ the employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21;
- ▣ the amount of exemption shall not exceed INR 36,000 per person or one-third of specified expenditure, whichever is less. Specified expenditure means expenditure incurred by an individual or a member of his family during the period October 12, 2020 to March 31, 2021 on goods or services which are liable to GST at an aggregate rate of 12% or above under various GST laws and goods are purchased or services procured from GST registered vendors/service providers.
- ▣ In case a higher amount is received by an individual from his employer in relation to himself and his family, the exemption under proposed amendment would be restricted as aforesaid.

This amendment will take effect from 1st April, 2021 and will, apply in relation to the AY 2021-22 only.

It is also proposed to clarify by way of an Explanation that two individuals cannot claim exemption for the same specified expenditure.

### 19. TAXATION OF PROCEEDS OF HIGH PREMIUM UNIT LINKED INSURANCE POLICY (ULIP)

Proposed Amendment [Section 10(10D)]

It is now proposed to provide for the following by way of insertion of provisos to section 10(10D) of the Act:

- ▣ exemption will not be available in respect of ULIP issued on or after February 1, 2021 if the premium payable for any previous year during the term of the policy exceeds Rs. 2.50 lakhs.
- where there are more than one ULIP, exemption under section 10(10D) of the Act shall apply to only those ULIPs where the aggregate amount of premium does not exceed Rs. 2.50 lakhs in any previous year during the term of any ULIPs.

# IMPORTANT DIRECT TAX PROPOSALS IN FINANCE BILL 2021

## (By CA. Rasesh Shah)

- the sum received under ULIP on death of a person will be exempt under section 10(10D) of the Act without any restrictions.
  - empower CBDT (with the approval of Central Government) to issue guidelines for the purpose of removing difficulty. Also, such guidelines will have to be laid before both the House of Parliament and it will be binding on both the tax authorities and the assessee.
- Further, Explanation 3 is proposed to be inserted to define ULIP to mean a life insurance policy which has components of both investment and insurance and is linked to a unit defined in IRDA(ULIP) Regulations, 2019. It is further proposed to include ULIP [to which exemption under section 10(10D) does not apply] in the definition of 'capital asset' under section 2(14) of the Act. It is further proposed to insert sub-section (1B) to section 45 of the Act to provide that profits and gains arising from any amount received in respect of such ULIP will be chargeable to income-tax as "Capital Gains" and will be deemed to be income of the previous year in which the amount was received. The manner of computation of taxable income will be prescribed, by the Board.
- Further, it is also proposed to amend the definition of equity-oriented fund in clause (a) of the Explanation to section 112A to include for unit linked insurance policies to which the exemption u/s. 10(10D) of the Act does not apply.
- The proposed amendments will be effective from AY 2021-22.

### 20. DEDUCTION IN RESPECT OF INTEREST ON LOAN TAKEN FOR CERTAIN HOUSE PROPERTY

Proposed Amendment [Section 80EEA]

It is now proposed to extend the period within which loan must be sanctioned for being eligible to claim deduction under section 80EEA of the Act by one more year. In other words, now interest on loan taken from the financial institutions during the period April 1, 2019 to March 31, 2022 will be eligible for deduction under section 80EEA of the Act subject to fulfilment of other conditions. **21.**

### DEDUCTION IN RESPECT OF PROFITS AND GAINS FROM HOUSING PROJECTS

Proposed Amendment [Section 80IBA]

Under the existing provision of section 80IBA of the Act, one of the conditions to be satisfied for claiming deduction is that the housing project should be approved by the competent authority during the period April 1, 2016 to March 31, 2021. It is now proposed to extend the period within which the housing project should be approved by the competent authority by one year. In other words, now housing project approved during the period April 1, 2016 to March 31, 2022 will be eligible for deduction under section 80IBA of the Act subject to fulfilment of other conditions.

Further it is also proposed to expand the scope of section 80IBA to allow deduction of 100% of the profits and gains derived from developing and building notified rental housing project subject to certain conditions to be notified by the Central Government.

### 22. INCREASE IN SAFE HARBOUR LIMIT IN RELATION TO TRANSFER OF LAND OR BUILDING OR BOTH TO 20%

Proposed Amendments [Section 43CA / 56]

The proposed amendment is to bring the aforesaid announcement into the legislature.

Sections 43CA/56(2)(x) of the Act are now proposed to be amended from A.Y. 2021-22 onwards to raise the safe harbour limit for assets, being a residential unit, from 10% to 20%

i.e. where the 'stamp duty value' is within 120% of the actual consideration, the transaction would be accepted as such by the tax department subject to the fulfilment of conditions as mentioned hereunder:

- ☐ the transfer of residential unit takes place during the period November 12, 2020 to June 30, 2021;
- ☐ such transfer is by way of first allotment of the residential unit to any person;
- ☐ the consideration received or accruing as a result of such transfer does not exceed two crore rupees;

### 23. TAX HOLIDAY U/S. 80LA OF THE ACT

Proposed Amendments [Section 80LA]

It is proposed to substitute "any other relevant laws" with the expression "permission or registration under the International Financial Services Centre Authority Act, 2019 was obtained". It is also proposed to insert clause (d) to sub-section (2) to Section 80LA under which, hundred per cent deduction will be available from income from transfer of an aircraft or an air-craft engine, which was leased by an approved Unit in the IFSC to a domestic company engaged in the business of operation of aircraft before such transfer, subject to the condition that the unit has commenced its operation on or before the March 31, 2024;

The proposed amendments will be applicable from AY 2022-23.

### 24. AMENDMENTS IN PROVISIONS OF TAX AUDIT

Proposed Amendments [Section 44AB]

It is proposed to increase the threshold of Rs. 5 crores to Rs. 10 crores for the purpose of audit u/s 44AB in case of assessee carrying on business and where the aggregate cash receipts/payments made during the year do not exceed 5% of total receipts/ payments.

These amendments shall be effective from April 1, 2021 and will accordingly apply for AY 2021-22 and subsequent A.Ys.

### 25. PRESUMPTIVE TAXATION FOR PROFESSIONALS UNDER SECTION 44ADA

Proposed Amendments [Section 44ADA]

It is proposed to amend the sub-section (1) to specify that the said section is applicable to an assessee, being an individual, Hindu undivided family or a partnership firm other than a limited liability partnership as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, who is a resident in India as against the existing provision which provided that the section applies to any assessee being a resident in India.

### 26. EXTENSION OF DUE DATE FOR FILING RETURN OF INCOME, REDUCING TIME TO FILE BELATED/ REVISED RETURN

Proposed Amendments [Section 139]

It is proposed to provide relaxation in filing the Original Return of Income to the spouse of a partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being force to whom section 5A applies by October 31 of the said AY. It is proposed to amend clause (aa) of Explanation 2 to section 139(1) to include partners of the firm which enter into international transaction or specified domestic transaction and require furnishing of report from an accountant as referred in section 92E for such transactions for defining the due date for filing the Original Return of Income as November 31 of the said AY.

It is proposed that the time limit for filing of Belated and Revised return of Income, as the case may be, be reduced by three months. Thus, the belated return or revised return could now be filed within three months before the end of the relevant AY or before the completion of the assessment, whichever is earlier. It is also proposed to insert a proviso to the Explanation to sub-section (9) empowering the board to specify vide notification that any of the above conditions shall not apply for a class of assessee or shall apply with modifications.

The amendments will take effect from April 1, 2021 and will accordingly apply to the AY 2021-22 and subsequent A.Ys.

### 27. ADVANCE TAX INSTALMENT FOR DIVIDEND INCOME

Proposed Amendments [Section 234C]

The existing proviso only provided relief in respect of dividend referred to in sub section (1) of section 115BBDA of the Act. It is proposed to amend the first proviso to section 234C of the Act, in order to widen the scope and include all dividend income.

However, it is also proposed that the existing Explanation under section 234C shall be numbered as Explanation 1 and a new Explanation 2 be inserted to define the term 'dividend' which states that dividend for this sub section shall have the meaning assigned to it in section 2(22) of the Act excluding clause (e) thereof.

These amendments shall be effective from April 1, 2021 and will accordingly apply to AY 2021-22 and subsequent A.Ys.

### 28. PROVISIONAL ATTACHMENT IN FAKE INVOICE CASES

Proposed amendment [Section 281B]

It is proposed to amend the provisions of Section 281B of the Act and accordingly allow the Assessing officer to provisionally attach the property of assessee even when penalty under section 271AAD is imposed/ likely to be imposed and such penalty exceeds/ is likely to exceed two crore rupees during the pendency of proceedings for imposition of penalty.



# Resolution Framework for COVID-19-related Stress

## By CA GOPAL DHAKKAN

Sr.No	Particular	Parameters
1	Title	Resolution Framework for COVID-19-related Stress
2	RBI Circular reference	RBI/2020-21/16 DOR.No.BP.BC/3/21.04.048 /2020-21 August 6, 2020 RBI/2018-19/203 BR.No.BP.BC.45/21.04.048 /2018-19 June 7, 2019
3	Credit Facility cover	Personal Loan Other than Personal Loan
4	Borrower/Credit facility not cover	(a) MSME borrowers whose aggregate exposure to lending institutions collectively, is Rs. 25 crore or less as on March 1, 2020. (b) Farm Credit (c) Loans to Primary Agricultural Credit Societies (PACS), Farmers' Service Societies (FSS) and Large-sized Adivasi Multi- Purpose Societies (LAMPS) for on-lending to agriculture. (d) Exposures of lending institutions to financial service providers (e) Exposures of lending institutions to Central and State Governments; Local Government bodies (eg. Municipal Corporations); and, body corporates established by an Act of Parliament or State Legislature. (f) Exposures of housing finance companies
5	Interest Rate	As per BOD Direction.
6	Security Coverage	As per BOD Direction.
7	Resolution Plan Included	The resolution plans may inter alia include rescheduling of payments, conversion of any interest accrued, or to be accrued, into another credit facility, or, granting of moratorium, based on an assessment of income streams of the borrower, subject to a maximum of two years. Correspondingly, the overall tenor of the loan may also get modified commensurately. The moratorium period, if granted, shall come into force immediately upon implementation of the resolution plan.
8	Pre - Condition	Borrower which account classify as "Standard" till the date of invocation of resolution under this framework , but not default for more than 30 days as on March 01, 2020. - Invocation date means "date on which both the borrower and lending institution have agreed to proceed with a resolution plan under this framework."
9	Reference Date	The reference date for the outstanding amount of debt that may be considered for resolution shall be March 1, 2020.
10	Process	(a) On the basis of actual performance, estimates and projections that encompass the borrower's current level of operations, the borrower's cash flows are assessed to be insufficient to service all of its loans or debt securities (both interest and principal) in accordance with the contractual terms of the existing agreement for the foreseeable future. (b) A borrower's existing exposures are categorised as exposures that have already evidenced difficulty in the borrower's ability to repay in accordance with the bank's internal credit rating system. (c) Borrower should provide reason of financial difficulty, providing quantitative as well as qualitative parameters, for determining financial difficulty as expected from a prudent bank.

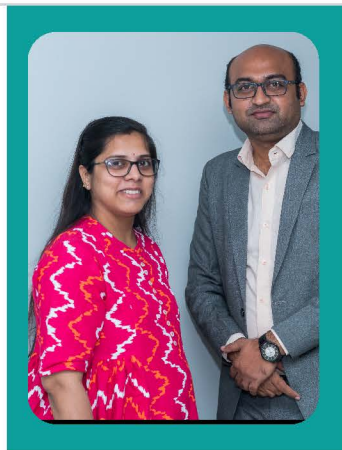
# HANDING OVER CEREMONY OF NEW OFFICE BEARERS FOR THE YEAR 2021-22



# FELICITATION CEREMONY

of NEWLY QUALIFIED CA MEMBERS





Send us your article on email for publishing it in our next Newsletter edition

Designed by WILLOGICAL NOTION, on behalf of Surat Branch of The Institute of Chartered Accountants of India published at ICAI Bhawan, B/h VR Mall, Dumas Road, Rundh-Magdalla, Surat.  
News Letter Editorial Committee Chairman: **CA. Naveen Jain**  
News Letter Editorial Committee : **CA Joni Jain**

The views and opinions expressed or implied in Surat Branch Newsletter are those of the authors or contributors and do not necessarily reflect those of Surat Branch of ICAI. Unsolicited articles and transparencies are sent in at the owner's risk and the publisher accepts no liability for loss or damage. Material in this publication may not be reproduced, whether in part or in whole, without the consent of Surat Branch of ICAI.

**DISCLAIMER:** The Surat Branch of ICAI is not in any way responsible for the result of any action taken on the basis of the advertisement published in the Newsletter. The members, however, may bear in mind the