

# **Union Budget 2023**

## **(Direct Tax Proposals)**



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# BUDGET 2023

- Presented on 1<sup>st</sup> February 2023
- Change in sequence in Part B of speech
- Continues stability in tax regime with no major change
- Emphasis Saptarishi
- 122 Amendments in Income Tax

# TAX RATES

- No change in tax rates as such
- Changes in new Tax Regime u/s 115BAC..  
Slabs reduced from 6 to 5

Tax Rate	Total Income
0%	Up to 3,00,000
5%	3,00,001 to 6,00,000
10%	6,00,001 to 9,00,000
15%	9,00,001 to 12,00,000
20%	12,00,001 to 15,00,000
30%	Above 15,00,000

# CHANGES IN NEW TAX REGIME

- Default option now – option available for old regime.
- AOP (other than co-operative society), BOI, AJP also allowed.
- Highest Rate of surcharge reduced to 25% from 37%.
- AOPs that consist of only companies as members, max. surcharge restricted to 15%
- Standard deduction of Rs. 50000/- for salaried employees & for family pension u/s 57 (iia) of lower 1/3rd % or Rs. 15000/- is allowed.

# CHANGES IN NEW TAX REGIME

- Only deductions u/s 80CCD(2) & 80JJAA, & now u/s 80CCH(2) (Agniveer corpus fund) allowed.
- Adjustments in case of unabsorbed addl dep. w.r.t. block of assets which has not been given full effect prior to AY 2024 shall be made to WDV as on 1.4.23
- Relief u/s 87A allowed to only resident individual upto Rs. 25000/- i.e., income till Rs. 7 L.

# TAX RATES

- Co-operative Societies:
  - S. 115BAE introduced in line with S. 115BAB for manufacturing co-op societies
  - Now they have three regimes:
    - Normal – slabs
    - S. 115BAD – 22%
    - S. 115BAE – 15%

# PRESUMPTIVE TAXATION

## ■ S. 44AD

- 8% / 6% upto 2 Cr
- 2 Cr to 3 Cr, if aggregate of amounts received during PY in cash do not exceed 5% of total turnover or gross receipts

## ■ S. 44ADA

- 50 L to 75 L – same basis

## ■ S. 44AB – 1<sup>st</sup> proviso – s. 44AD / ADA excluded

# PRESUMPTIVE TAXATION

- S. 44BB & 44BBB (non-residents)
  - If declared less than deemed – audit u/s 44AB(c)
  - c/f loss & unabsorbed depreciation allowed u/s 72(1) & 32(2) allowed.
  - Now if claims presumptive – no such c/f allowed



## S. 43B

- Clause (h) inserted - any sum payable by assessee to a micro or small enterprise beyond time limit specified in s. 15 of MSMED Act, 2006
  - Before 139(1) – not allowed
  - CA firms
- Clause (da) - deposit taking NBFC or systemically important non-deposit taking non-banking financial comp to - TO - such class of NBFC as may be notified by the CG – similar u/s 44DA

# AGNIPATH SCHEME

- Agniveer contribute 30% to agniveer corpus fund & CG pays after 4 years one time seva nidhi package – contribution + interest + equal from CG
- Amount received exempt u/s 10(12C)
- Deduction u/s 80CCH contribution made by agniveer & CG w.e.f. 1.11.2022
- Contribution by CG to Agnipath scheme part of salary u/s 17(1)
- Person option for new regime u/s 115BAC – allowed deduction u/s 80CCH

# CO-OPERATIVE SOCIETIES

- Sugar cane – Final cane price (FCP) over and above statutory minimum price (SMP) – s. 36(1)(xvii) – demands created – s. 155(19) – to recompute TI – 4 year period to start from 1.4.2022
- S. 194N – cash withdrawal limit for co-operative society 20 L – 1 Cr – 2%; above 1 Cr – 5% – instead of 1 cr – 3 Cr from 1.4.2023

# CO-OPERATIVE SOCIETIES

- **S. 269 SS / 269 T – limit of Rs. 20000 increased to Rs. 2 lacs for primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member**

# START-UP

- S. 80-IAC – period of incorporation extended by 1 yr to 31.3.2024
- S. 79 – c/f loss for eligible start-up (S. 80-IAC) period increased from 7 yrs to 10 years from incorporation even if 51% shareholding changes

# GOLD TO ELECTRONIC GOLD

- Gold Exchange by SEBI
- S. 47 – transfer of capital asset Gold into Electronic Gold Receipt and vice versa – not transfer
- S. 49 – cost
  - *Gold in physical form from converted from Gold to EGR;*
  - *Cost of EGR when converted from EGR to Gold*

## S. 54 / 54F

- Deduction for investment in new house property
- Investment limit restricted to Rs. 10 Cr w.e.f. AY 2024-25
- Eg. Indexed cost – 5 cr; Sale 20 cr. = gain 15 cr. investment – 18 cr. – Deduction 10 cr. u/s 54 – tax on 5 cr
- S. 54F proportionate

# CAPITAL GAINS (OTHERS)

- S. 50AA inserted for transfer or redemption or maturity of Market Linked Debentures as STCG.
- S. 45(5A) amended to include amt of consideration received in a mode other than cash, i.e., cheque or electronic payment modes to align with s. 194-IC
- S. 47 - period for transfer of assets from original fund or of its wholly owned SPV, to resultant fund in case of relocation to IFSC u/s 80LA(1A) extended from 31.3.2023 to 31.3.2025
- S. 48 - cost of acquisition / improvement shall not include amt of interest claimed u/s 24b or Chapter VIA
- S. 55 - 'cost of improvement' or 'cost of acquisition' of intangible asset or any other right - 'Nil'



# EXEMPTIONS – LIFE INSURANCE

- S. 10(10D) amended for exemption of maturity proceeds of life insurance policy where premium exceeds Rs. 5 L for any policy issued on or after 1.4.2023. In case of sum received on death, exemption still there.
- Difference of premium paid, if not claimed as deduction, taxable u/ns 56(2)(xiii).  
Consequent – 2(24)(xviid) amend

# EXEMPTIONS

- 10(46A) inserted – excluded from 10(46) – any body, or authority or board or trust or commission ... not engaged in commercial activity ( ACIT (Exemption) vs. Ahmedabad Urban Development Authority [SC])
- Leave Encashment limit to be increased from 3 Lacs to 25 Lacs
- S. 10(12C) inserted to exempt any payment from ‘Agniveer Corpus Fund” under “Agnipath Scheme” provided in S. 80CCH to a person enrolled in this scheme or his nominee
- S. 80CCH inserted for an individual subscribing to Agniveer Corpus Fund on or after the 1.11.2022, to allow deduction of 100% of amount deposited by him and also the amount contributed by CG to his account in Agniveer Corpus Fund.

# EXEMPTIONS / DEDUCTIONS REMOVED

- S. 10(22B) – Notified News agencies
- S. 10(23BBF) - North-Eastern Development Finance Corp Ltd
- S. 10(23EB) - Credit Guarantee Fund Trust for small industries
- S. 10(26A) - any person from any source in district of Ladakh or outside India
- S. 10(41) – CG of of an undertaking engaged in the business of generation or transmission or distribution of power
- S. 80G - Jawaharlal Nehru Memorial Fund, Indira Gandhi Memorial Trust, Rajiv Gandhi Foundation
- S. 88 Rebate

# TDS

- S. 192A - TDS on withdrawal of PF when employee fails to furnish its PAN reduced from MMR to 20%
- S. 196A - TDS for non-resident @ 20% in respect of income from units of a Mutual Fund as specified – To give DTAA benefit i.e., lower of 20% or the rate provided in section 90/90A where TRC furnished by payee.

# TDS

- S. 194LBA inserted in s. 197 for lower TDS
- Clause (ix) of s. 193 omitted – interest on dematerialised listed security (exempted since 1.6.2008)
- Online gaming
  - S. 194B – *online gaming excluded – aggregation inserted*
  - S. 194BA inserted for online gaming
    - *At end of year, withdrawal, guidelines to be issued*

# TDS

- **S. 194 R – benefits w.e.f. 1.7.22 – explanation added to include cash too**
  - *Consequently s. 28(iv) amended*
- **S. 206AB / 206CCA – higher TDS/TCS for non-filers of ITR amended to exclude a person who is not required to furnish ITR and who is notified by the CG**

# TCS

- S. 206C(1G) – Current w.e.f. 1.10.2020
  - *LRS - above 7 lacs – 5%*
  - *LRS for education > 7 L u/s 80E loan – 0.5%*
  - *Overseas tour package – 5%*
- S. 206C(1G) – proposed w.e.f. 1.7.2023
  - *LRS - above 7 lacs – 20%*
  - *LRS – above 7 Lacs for education or medical treatment – 5%*
  - *LRS for education > 7 L u/s 80E loan – 0.5%*
  - *Overseas tour package – 20%*

## S. 35D

- S. 35D(2)(a) Proviso substituted
  - *Exp. For feasibility report, project report, market survey, engineering services... allowed 1/5<sup>th</sup> when approved by Board – Now – statement to be furnished – to be prescribed*



# REITS & INVITS

- Being pass through vehicle certain incomes are exempt u/s 10(23FCA)
- Other incomes being repayment above cost – now chargeable u/s 56(2)(xii)
- Consequent amendment in 2(24)(xviic)

# CHARITY

- Depositing back corpus/loan/borrowing –not allowed if claimed application prior to 1.4.21
- Corpus/Loan/borrowing amount repaid not be considered as application unless repayment is made within 5 yrs from end of PY in which application was made.
- Registration, where activities:
  - *Have not commenced at least 1 month prior to PY from which registration is sought.*
  - *Commenced but no income or part thereof has been excluded from total income*
- Procedure for fresh registration:
  - *When Pr. CIT or CIT is not satisfied with objects or genuineness of trust activities then he shall pass the order to reject application & cancelling its registration after affording a reasonable opportunity of being heard.*
  - *Specified violation when application is incomplete or contains false or incorrect information.*

# CHARITY

- Only 85% of eligible donations made by a trust to another trust as application of such donation for charitable or religious purposes.
- Benefit of s, 10(23C) / 11 / 12 not to be given if ITR not filed by the due date u/s 139(1) or 139(4), due to updated return.
- Form 9A / 10 to be filed at least 2 months prior to due date u/s 139(1).
- Non-renewal of registration after defined period to be covered u/s 115TD, 115TE, 115TF to be taxed as accreted income at maximum marginal rate. (w.e.f. 1st April, 2023)

# CARRY FORWARD LOSSES

- ‘Strategic Disinvestment’ defined u/s 72A
- S. 72AA – c/f allowed in case of amalgamation of one or more banking company, or another bank or company, if amalgamation takes place within 5 years of strategic disinvestment

# UPDATED RETURN

- Additional tax u/s 140B(4), provides for the computation of interest u/s 234B on the updated return, which is calculated on the difference between the assessed tax and the advance tax. The proposed amendment clarifies that the interest is computed on the assessed tax after deducting the advance tax claimed in an earlier return, if any

# ASSESSMENT

- New proviso introduces to section 135A for faceless collection of information that central government may amend any direction, issued on or before 31st March, 2022 by notification in official gazette.
- Time frame for furnishing a return in response to a notice u/s 148 - 3 months or as allowed by AO and if returns furnished after this time frame the same will not be considered as a return u/s 139 - no requirement to issue notice u/s 143(2).
- Time period to complete assessment provided in section 153 again increased from 9 months from the end of FY in which the return was furnished to 12 months from the end of the AY or FY in which the return was furnished.

# TDS RECTIFICATION

- S. 155(20) – where assessee not being able to claim TDS credit for income already disclosed in previous year's return - assessee to make an application to AO for such TDS credit in a subsequent FY when the income was already disclosed in the return of income in a previous year.
- Application must be made within 2 years from the end of the FY in which TDS was deducted.
- Interest on refund from date of application u/s 244A.
- Provisions of s. 154 of the Act will apply, and 4 year period will be counted from the end of FY in which TDS was deducted.

# DEMANDS / REFUNDS

- Section 245 - to adjust any refund with any tax dues and withhold of a refund against any expected tax dues pending assessment or reassessment under any section has now been conferred upon the AO or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner. S. 241A submerged in this section now.
- Section 244 - additional interest on refunds which has been on hold due to any assessment/reassessment proceedings shall not be given at additional rate for the period of such hold of refunds.



# INTERNATIONAL TAX

- S. 56(2)(x) was already covered for NRs w.e.f. 5.7.2019 u/s 9(1)(viii). Now RNOR also covered w.e.f. 1.4.2023
- TP Study u/s 92D r.w Rule 10D – now 10 + 30 days from earlier 30 + 30 days
- S. 10AA benefit only if:
  - *ITR filed within 139(1)*
  - *Sale proceeds brought in India within 6 months from end of PY or within extended period by RBI.*

# APPEALS

- Now penalty orders u/s 271AAB, 271AAC & 271AAD passed by CIT(A) appealable before ITAT u/s 263
- S. 253(4) amended to allow cross objection in all classes of cases appealable to ITAT (earlier only against order of CIT(A)). AO also can file against DRP order

# SEARCH

- Authorised officer, may requisition services of any other person or entity, as approved by the Pr. CIT / CC / Pr. DG / DG to assist him for search.
- Also in post search enquiries, authorised officer may make reference to any person or entity or any valuer registered by or under any law for the time being in force, to estimate FMV of property in and submit report within 60 days from reference made.
- As provisions of s. 153B are no longer applicable,- meaning of execution of last authorisation provided u/s 132 itself
- A proviso in section 149 to be inserted to provide additional time for AO to issue a notice u/s 148 in cases where a search u/s 132 or requisition u/s 132A is conducted after 15th March of a FY. The provision will exclude a period of 15 days for computing the period of limitation for the issuance of notice, and the notice will be deemed to have been issued on 31st March of the FY

# MERGERS / DEMERGERS

- S. 170A - in a case of business reorganisation, where prior to date of order of the tribunal or HC or Adjudicating Authority under IBC 2016, any ITR has been furnished for any AY, by an entity to which such order applies, the successor shall furnish, within a period of 6 months from the end of the month in which the said order was issued, a modified return. Also enable modification of ITR filed by predecessor wherever required.
- If proceedings of assessment or reassessment for the relevant AY have been completed on date of furnishing of modified return AO to pass an order modifying total income of AY in accordance. Where proceedings of are pending - AO to pass an order in accordance with the order of business reorganisation and taking into account the modified return so furnished.

# **PENALTY / PROSECUTION**

- Violation of s. 194BA (online games) penalty / prosecution added in sections 271C and 276B.
- A new sub-section (2) is proposed to be inserted in section 285BA which will impose a penalty of Rs. 5000 on reporting financial institutions for any inaccuracies in the SFT due to false or inaccurate information submitted by the account holder. The reporting financial institution can recover the penalty from the account holder.
- Section 276B providing rigorous imprisonment from 3 months to 7 years extended for violations to pay tax u/s 194R & 194S.
- No proceedings to be initiated under section 276A which punishes liquidators (people who handle the closing of a company) for not following a specific rule (Section 178). on or after 1.4.2023

# OTHERS

- S. 56(2)(viib) amended to tax excess amount received for issue of shares over FMV from NR & RNOR too.
- S. 142(2A) amended for valuation of inventory by Cost Accountants
- Jt. CIT reintroduced for speedy disposal of appeals. Orders issued above DCIT not appealable before JCIT – 28 sections amended
- S. 245D(9)(iv) (Interim Board for Settlement) - time-limit for amending an order or for making an application under sub-section (6B) expires on or after 1.02.2021 but before 1.02.2022, such time-limit extended to 30.09.2023
- AMT & Credit of AMT not allowed for assessee u/s 115 BAC, 115BAD, 115BAE

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