

Foreword

When the Finance Minister finished her maiden Budget speech, many taxpayers breathed a sigh of relief to know that estate duty had not made a comeback. However, a googly came in the form of an increase in the surcharge on income-tax for the 'super rich', which will translate into tax rates in range of 39 per cent to 42.74 per cent.

While these proposed tax increases may end up dominating most discussions, there are several other noteworthy changes. The key macro-economic takeaway was the Government's determination to make India into a 5 trillion-dollar economy. To this end, measures have been proposed to boost the Make in India initiative through investment linked income-tax deductions for sunrise sectors. Similarly, there is a big push towards infrastructure and rural development. On the tax front too, the focus was on widening the tax base, addressing tax challenges faced by start-ups, providing targeted incentives, issuing clarifications on key provisions and improving administration.

We have set out the highlights of the key policy announcements and tax proposals in the Budget in the ensuing pages. We hope you will find this useful.

As always, I look forward to your comments and feedback

Dinesh Kanabar

CEO

Key Policy Announcements

Liberalisation of Foreign Direct Investment ('FDI')

- 100 per cent FDI permitted in Insurance Intermediaries
- Single Brand Retail – relaxation in local sourcing norms proposed
- Sectoral caps for FDI in certain sectors to be liberalised (e.g. aviation, media, insurance, etc.)

Foreign Portfolio Investment ('FPI')

- Aggregate FPI limit in listed companies to be increased to sectoral cap / statutory ceiling
 - Indian companies to have an option to limit the aggregate FPI shareholding cap to a lower threshold
- Investment in listed debt securities of InvITs / REITs now permissible
- Investment in debt securities issued by Infrastructure Debt Fund permitted to be transferred to domestic investors within specified lock-in period
- Existing KYC norms to be rationalised and streamlined

Investments by Non-Resident Indians ('NRI')

- Merger of NRI portfolio investment route with the FPI route proposed

International Financial Services Centre ('IFSC')

- Foreign reinsurers incentivized to set-up branches in IFSC by reduction in net owned fund requirement to INR 10 billion from INR 50 billion

Capital Markets

Minimum Public Shareholding

- The Securities and Exchange Board of India ('SEBI') to consider increasing minimum public shareholding in the listed companies from 25 per cent to 35 per cent

Social Stock Exchanges

- Electronic fund-raising platform to be set-up under the ambit of SEBI for listing of social enterprises and voluntary organisations

Non-Banking Financial Companies ('NBFCs')

- The Reserve Bank of India ('RBI') to further strengthen its regulatory oversight over NBFCs
- NBFCs not required to create a debenture redemption reserve for raising debt funds

- NBFCs (other than NBFCs-Factor) to directly participate in Trade Receivable Discounting System

Other announcements

- Recapitalisation of Public Sector Banks proposed to the extent of INR 700 billion
- Measures to be taken to facilitate seamless transfer of treasury bills and government securities between RBI and Depository ledgers (including through inter-operability of RBI depositories and SEBI depositories)
- Credit Guarantee Enhancement Corporation to be set-up for deepening markets for long-term corporate bonds, corporate bond repos, etc to enhance sources of capital for infrastructure financing
- Enhanced target of INR 1 trillion set for disinvestment in public sector undertakings ('PSU') for the financial year ('FY') 2019-2020
- To facilitate divestments in non-financial PSUs, present policy of retaining 51 per cent Government stake to be modified to include stake held through Government controlled institutions
- Multiple labour laws to be streamlined into four labour codes

Direct Tax Proposals

(slated to be effective from 1 April 2020 i.e. AY 2020-2021 unless indicated otherwise)

Tax rates

Personal tax

- No change in tax slab and rates
- However, rates of surcharge have been increased for individuals / HUF/ association of persons / body of individuals/ artificial juridical persons (including non-residents) for the relevant slabs as under:

Total income	Rate of surcharge		Tax rate
	Existing	Proposed	
INR 20 million to INR 50 million	15%	25%	39%
Above INR 50 million	15%	37%	42.74%

Corporate tax

- Beneficial tax rate of 25 per cent extended to all domestic companies having a turnover of less than INR 4 billion (earlier INR 2.5 billion) in FY 2017-18.

Start-ups

Incentives for start-ups

- Long term capital gain arising from transfer of residential property is currently exempt from tax if the net consideration is utilised for subscribing to the equity shares of an eligible start-up. To further incentivize start-ups, the following amendments are proposed:
 - Gains arising upto 31 March 2021 now eligible for the exemption (as opposed to 31 March 2019)
 - Requirement of holding minimum 50 per cent share capital / voting rights of such start-up relaxed to 25 per cent
 - 5 years lock-in period for computer and computer software purchased by such start-ups proposed to be relaxed to 3 years
- A start-up will not lose the benefit of carry forward and set off of losses incurred by it as long as 51 per cent of its shareholding remains the same

'Angel' tax

- Presently, a closely held company is taxed (commonly referred as 'Angel tax') if it receives consideration towards issue of shares (from a resident) in excess of the fair market value of such shares. In this regard, the following amendments are proposed:
 - An exemption from this tax is available if the consideration is received by venture capital undertaking from a Category I Alternative Investment Fund ('AIF'). This is to be extended to Category II AIF
 - The Central Government is empowered to exempt notified class of companies from such tax subject to fulfillment of certain conditions. Companies would now be liable to tax in the year in which there is a failure to comply with such conditions
- Some other announcements were made in Budget speech in relation to this levy (for which no corresponding proposals are included in the Finance Bill). These include:
 - This tax shall not be applicable if the start-ups and their investors file requisite declarations and provide prescribed information in their tax returns
 - The issue of establishing identity of the investor and source of his funds is to be resolved by putting in place a mechanism of e-verification
 - Special administrative arrangements shall be made by Central Board of Direct Taxes ('CBDT') for pending assessments of start-ups and redressal of their grievances. It will be ensured that no inquiry or verification in these cases can be carried out by the Assessing Officer without obtaining approval of his supervisory officer

Incentives

Electric Vehicles

- Interest upto INR 150,000 on loan taken by an individual from any financial institution for purchase of an electric vehicle to be allowed as a deduction from total income

NBFCs

- Interest income from non-performing assets to be taxable only on credit or receipt, whichever is earlier, for deposit-taking NBFCs and systemically important non deposit-taking NBFCs
- Disallowance for non-payment of interest made applicable to interest on loans / borrowings obtained from deposit-taking NBFCs and systemically important non deposit-taking NBFCs. Conversion of outstanding interest into a loan or borrowing shall not be treated as actual payment

Relaxation in conditions for special taxation regime for offshore funds

- The Income-tax Act, 1961 ('the Act') currently provides that the activities of certain offshore investments funds shall not constitute a taxable presence in India if certain conditions are met. These conditions are proposed to be amended as under:
 - The minimum corpus requirement of INR 1 billion of such fund to be met by the end of previous year or six months from the last day of the month in which it is established or incorporated, whichever is later

- The methodology for calculation of management fee to be as per a prescribed manner instead of the current requirement of arm's length price

The amendment is retrospectively effective from FY 2018-19

Certain relaxations for SEBI registered AIFs

- For Category I and Category II AIFs, pass through tax treatment extended to losses (other than business losses). Such losses shall be allowable in the hands of the unit holders provided such unit holder has held the units for atleast 12 months
 - Accumulated losses upto 31 March 2019 can be claimed by the unit holders (as existing on that date) for the remaining unexpired carry forward period

International Financial Services Centres

- 100 per cent profit linked tax holiday allowed to a unit in IFSC in a block of 10 consecutive years out of 15 years
- Interest income earned by non-residents in relation to monies lent on or after 1 September 2019 to a unit located in IFSC will be exempt
- Exemption from levy of Dividend Distribution Tax ('DDT') extended to distribution made out of accumulated profits earned after 1 April 2017 by a unit in IFSC
- Income distributed by Mutual Funds located in IFSC will not be subject to DDT where the distributions are made from income derived from transactions on recognised stock exchange located in IFSC, subject to:
 - All unitholders of the Mutual Fund being non-residents; and
 - Such Mutual Fund derives income solely in convertible foreign exchange
- Capital gains on sale of specified securities (such as derivatives, rupee denominated bonds, global depository receipts) by a SEBI Registered Category III AIFs located in IFSC will not be subject to tax subject to the following conditions:
 - All unitholders of such AIF are non-residents; and
 - Such Category III AIF is deriving income solely in convertible foreign exchange
- The Central government is empowered to widen the types of securities covered above

Other relaxations / concessions

- Exemption for interest income on rupee denominated bonds arising to non-residents issued between 17 September 2018 to 31 March 2019
- Concessional rate of short-term capital gains tax of 15 per cent extended to transfer of units of specified equity oriented mutual fund, being a fund of funds

Affordable housing

- Tax holiday of 100 per cent on profits earned by a developer now available only for 'affordable houses' having stamp duty value upto INR 4.5 million

- Additional deduction of INR 150,000 (over and above existing INR 200,000 under the head Income from House Property) available to individuals for interest payable on loan taken from any financial institution between the period 1 April 2019 to 31 March 2020 for acquiring a residential house property
 - In order to avail this additional interest deduction, the individual should not own any residential house property on the date of sanction of the loan and the stamp duty value of the house should not exceed INR 4.5 million

Resolution for distressed companies

- Losses do not lapse in case of a change in shareholding beyond 51 per cent where such change takes place to give effect to an order of the National Company Law Tribunal ('NCLT') on a petition by the Central Government in certain cases. The treatment of book losses and depreciation for MAT purposes provided to companies where a petition under the Insolvency and Bankruptcy Code ('IBC') is admitted has been extended to companies where such orders have been passed by the NCLT
- The CBDT is now empowered to prescribe certain transactions to which the provisions of sections 50CA and 56(2)(x) shall not be applicable

Demergers

- Tax neutrality of demergers not affected even if the resulting company records the assets and liabilities at a value other than at book value in accordance with Ind AS

Anti-abuse provisions

Buy-back tax extended to listed shares

- Currently, buy-back tax is levied on buy back of unlisted shares. With effect from 5 July 2019, buy-back of listed shares will also be subject to buy-back at 20 per cent (plus surcharge and cess)
- Income arising on such buy back shall be exempt in the hands of shareholders

Gifts made to person outside India

- Any sum of money or property situated in India received by a person outside India from a resident taxable in India under provisions of section 56(2)(x)

Mandatory filing of return of income

- Persons (other than a Company or a Firm) required to file return of income if any of the following transactions are undertaken during the year (irrespective of total income criteria):
 - Aggregate deposits made of more than INR 10 million in one or more current accounts maintained with a banking company or a co-operative bank during the year;
 - Aggregate expenditure incurred of more than INR 200,000 for himself or any other person for foreign travel during the year;

- Aggregate expenditure incurred of more than INR 100,000 towards consumption of electricity;
- Fulfills any other prescribed conditions

Manner of claim of refund (slated to be effective from 1 September 2019)

- Claim of refund required to be made only by filing a return of income

Inter-changeability of PAN with Aadhaar number (slated to be effective from 1 September 2019)

- Where a person is required to quote his PAN and if he has not been allotted a PAN, such person may quote his Aadhaar number
- A person whose Aadhaar Number is linked with his PAN may quote his Aadhaar number in lieu of PAN
- CBDT to prescribe additional transactions requiring mandatory quoting of PAN (or Aadhaar number where applicable). Penalty of INR 10,000 for non-compliance of aforesaid provisions proposed for each default

Transfer Pricing

Secondary Adjustments

- Additional consideration pursuant to an Advance Pricing Agreement ('APA') / Mutual Agreement Procedure / confirmation of transfer pricing adjustment is to be realized and repatriated to India by the Indian taxpayer. A failure to repatriate such additional consideration results in a notional interest being imputed. This is proposed to be changed to provide for an optional one-time tax payment in lieu of the notional interest in perpetuity. Such tax is applicable at 18 per cent plus a 12 per cent surcharge
- Secondary adjustment provisions shall only apply if the primary adjustment exceeds INR 10 million and if it pertains to assessment year 2017-2018 or later
- Amendments effective from 1 September 2019

Advance Pricing Agreements

- Effective from 1 September 2019, it is provided that where assessment or re-assessment is already completed, the Assessing Officer is only required to pass an order modifying the total income in accordance with the APA

Master File

- Maintenance of the Master File applicable to a constituent entity in India even when the constituent entity does not undertake any international transaction
- The power of Assessing Officer to call for the Master File has been withdrawn

Country by Country Report

- For the purposes of filing country-by-country report, the accounting year for an alternate reporting entity resident in India shall be the same as followed by the ultimate parent entity
- This amendment shall be effective from 1 April 2017

Curbing cash economy

Encouraging electronic mode of payments

- A person carrying on business having sales, turnover, or gross receipts in excess of INR 500 million during the preceding year required to provide a facility for accepting payment through prescribed electronic modes. Penal provisions for non-compliance are proposed (slated to be effective from 1 November 2019)

Provisions pertaining to Tax Deduction at Source ('TDS') *(slated to be effective from 1 September 2019)*

- Payments by individual or HUF (other than those who are required to deduct TDS under section 194C or section 194J) to a resident for carrying out any work in pursuance of a contract or by way of fees for professional services to attract TDS at 5 per cent if the aggregate sums paid / payable to such resident exceeds INR 5 million in a FY
- Cash withdrawal in excess of INR 10 million in aggregate during a FY from a bank or a post office to attract TDS at 2 per cent on amounts exceeding INR 10 million
- Consideration for immovable property to include incidental charges such as club membership fees, car parking fees, electricity or water facility fee, maintenance fee, advance fee or other similar charges and to attract TDS at 1 per cent
- TDS on taxable life insurance payments received increased from 1 per cent to 5 per cent
- A payer shall not face adverse consequences (being treated as an assessee-in-default and disallowance of expenditure) for failure to withhold taxes on payments to non-residents if the non-resident has furnished a return of income and discharged applicable taxes

Charitable Trusts and Institutions *(slated to be effective from 1 September 2019)*

- Registration of a Trust under section 12AA can now be cancelled if the Trust has not complied with the requirements of any other law which are material for the purpose of achieving its objects
- Also, at the time of grant of registration to the Trust, the Principal Commissioner / Commissioner shall now satisfy himself about the compliance of the Trust with the requirements of any other law which are material for the purpose of achieving its objects

Amendments to the Black Money law

- Definition of 'assessee' to be amended with retrospective effect from 1 July 2015, to include a non-resident or resident but not ordinarily resident who was resident in India either in the previous year to which the foreign sourced income relates or in the previous year in which the undisclosed asset located outside India was acquired
- Provisions of Income-tax Act relating to power of Joint Commissioner to issue directions for the guidance of the Assessing Officer to be made applicable to the black money law with necessary modifications. It has also been clarified that Commissioner (Appeals) has power to either enhance or reduce the penalty. These amendments to be made effective from 1 September 2019

Securities Transaction Tax ('STT')

- Levy of STT at 0.125 per cent to be limited to the intrinsic value of options i.e. the difference between the settlement price and the strike price
- This amendment shall be effective from 1 September 2019

Procedural and other changes

Prosecution provisions

- Currently, a person would not be prosecuted for failure to furnish return of income, if the tax payable by such person, not being a company, does not exceed INR 3,000. This threshold is proposed to be increased to INR 10,000 with certain additional adjustments

E-assessments

- A new scheme of electronic assessment involving no human interface is to be introduced. Such e-assessments shall be undertaken in cases requiring verification of certain specified transactions or discrepancies

National Pension Scheme

- Exemption on payment from National Pension Scheme Trust to employees on closure of account or upon their opting out of the Scheme enhanced from 40 per cent to 60 per cent

Indirect Tax Proposals

Goods and Services Tax ('GST') – Key legislative changes

Constitution of National Appellate Authority for Advance Rulings ('NAAAR')

- NAAAR is to be constituted with effect from such date as may be notified
- An appeal can be filed before NAAAR in case of conflicting advance rulings pronounced in two or more States / Union Territories. Such appeals can be filed either by an officer authorized by the Commissioner or by the taxpayer
- Time limit for filing an appeal:

Appellant	No. of days
Taxpayer	Within 30 days* from the date the last conflicting advance ruling is communicated to the applicant
Officer authorized by Commissioner	Within 90 days* from the date the last conflicting advance ruling is communicated to the officer

* Such period may be further extended by 30 days in case the appellant was prevented by sufficient cause to file the appeal.

- NAAAR shall issue an order within a period of 90 days from the date of filing of appeal
- Advance ruling pronounced by the NAAAR shall be binding on-
 - the applicant and all registered persons having the same PAN;
 - All concerned officers in respect of the applicant and all registered persons having same PAN

Changes to Composition scheme

- The 'aggregate turnover' for the purpose of determining the eligibility under the composition scheme shall not include value of exempt supply of services provided by way of extending loans, deposits or advances where the consideration is represented by way of interest or discount. However, the aggregate turnover shall include the value of supplies made by a person from 1 April of a financial year upto the date he becomes liable for registration under GST
- Separate composition scheme is introduced for the taxpayers including service providers not eligible for the existing composition scheme and having an annual turnover upto INR 5 million in the preceding financial year, subject to certain conditions – *The scheme was introduced w.e.f. 1 April 2019 vide Notification No. 2/2019 – Central Tax (Rate) dated 7 March 2019*

Increase in the threshold limit for obtaining registration for exclusive supplier of goods

- The aggregate turnover for the purpose of obtaining registration is enhanced from INR 2 million to an amount not exceeding INR 4 million for persons engaged exclusively in supply of goods – *Earlier, an exemption from registration was granted to such persons vide Notification No. 10/2019 – Central Tax dated 7 March 2019*
- A person shall be considered to be engaged exclusively in supply of goods even if it is engaged in exempt supply of services provided by way of extending loans, deposits or advances where the consideration is represented by way of interest or discount

Mandatory authentication / submission of Aadhar number by registered persons as well as by fresh registrants

- Every registered person, unless exempted, is required to undergo authentication or furnish proof of possession of Aadhar number, failing which the registration allotted shall be deemed to be invalid
- Going forward such authentication or furnishing of proof of possession of Aadhar number shall also be applicable for obtaining new registration, unless exempted
- Where an Aadhar number is not assigned, alternate and viable means of identification shall be provided by the Government

Facility of digital payment by the recipient

- A section is to be introduced to provide that specified class of suppliers shall make available, prescribed electronic mode for payment, to the recipient of supply of goods or services for making e-payment

Amendment in provisions related to furnishing of returns to align with new return filing system

- Changes to section 39 (furnishing of returns), which were made earlier by CGST Amendment Act, 2018 but not made effective till date, have been brought in to align it with the new return filing system that is rolled out

Interest to be levied on net GST liability discharged through electronic cash ledger

- In case of late payment of tax, interest shall be computed only on the net GST liability, paid by debiting the Electronic Cash Ledger
- The benefit shall not be available where GST return is furnished after commencement of recovery proceedings under section 73 or section 74 of CGST Act for such tax period

Extension of time limit for furnishing of statements of tax collected at source

- Power has been given to the Commissioner to extend the due date for furnishing of monthly and annual statement for tax collected at source ('TCS')

Disbursal of refund of SGST

- The Central Government may also disburse the refund of State tax in such manner as may be prescribed

Commissioner empowered to issue extension notification for Annual Return (GSTR-9)

- Commissioner has been empowered to issue notification to extend the time limit for furnishing the annual return upon the recommendation of GST Council

Commissioner also empowered to issue instructions / directions for GSTR-8 and GSTR-9B to be filed by electronic commerce operators, and GSTR-9

- Power has been granted to the Commissioner to issue instructions / directions in respect of monthly and annual statement to be filed by electronic commerce operators collecting TCS and also for Annual Returns

Fungibility of heads for amounts lying in Electronic Cash Ledger

- Tax, interest, penalty, fee or any other amount lying in the Electronic Cash Ledger can be transferred to the heads for IGST, CGST, SGST, UTGST or cess subject to the conditions, restrictions and in the manner to be prescribed
- In case IGST / CGST amount lying in Electronic Cash Ledger is transferred to SGST or UTGST head, the Government shall transfer to State / UT tax account an equivalent amount in the manner to be prescribed

Levy of 10 per cent penalty in cases where profiteered amount not paid within 30 days

- National Anti-profiteering Authority has been empowered to impose Statutory penalty at 10 per cent of the profiteered amount in case such profiteered amount has not been paid within 30 days from the date of passing of the order
- The term 'profiteered' has been defined to mean the amount determined on account of not passing the benefit of reduction in rate of tax or the benefit of input tax credit of the recipient by way of reduction in price

GST – Retrospective amendments to rate notifications

'Uranium Ore Concentrate' exempted retrospectively from 1 July 2017

- The existing exemption granted to 'Uranium Ore Concentrate' with effect from 15 November 2017 has been amended to have retrospective effect from 1 July 2017. No refund shall be available on the GST amount already collected on such goods

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

- A dispute resolution mechanism called Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 ('Scheme') is to be introduced. The Scheme has been introduced with an objective to put to rest disputes relating to pending tax dues as declared by a declarant, pertaining to Service tax, Excise duty, education cess, secondary and higher education cess, swachh bharat cess, krishi kalyan cess and other indirect taxes and cess. The Scheme is to be effective from a date to be notified

Tax Dues eligible under the Scheme

- The amount of duty stated to be payable under a show cause notice received before 30 June 2019
- The amount of duty payable under any of the indirect tax enactments which is quantified on or before 30 June 2019, where an enquiry or investigation or audit is pending against a declarant
- The amount of duty which is under dispute before an appellate forum as on 30 June 2019
- The amount voluntarily disclosed to be due by the declarant
- The amount which is recoverable on account of an order for which no appeal has been filed before an appellate authority before the expiry of the prescribed time limit
- The amount which is recoverable on account of an appeal when it attains finality
- Tax liability admitted in a return filed on or before 30 June 2019

Relief under the Scheme

- Reliefs under the Scheme are:

Situation	Tax dues	Ineligible declaration	Reliefs available
<ul style="list-style-type: none"> Show cause notice ('SCN') / Appeal pending to be disposed 	<ul style="list-style-type: none"> Total amount of duty stated to be payable/ amount in dispute 	<ul style="list-style-type: none"> SCN /Appeal has been heard finally on or before 30 June 2019 SCN for erroneous refund SCN for rejection of refund Applications filed before the Settlement Commission 	If the amount of duty is: <ul style="list-style-type: none"> (a) \leq INR 5 million – 70% of tax dues (b) $>$INR 5 million – 50% of tax dues (c) Paid or Nil - Entire amount of late fee or penalty (only for SCN)
<ul style="list-style-type: none"> No appeal having been filed before the expiry of the 	<ul style="list-style-type: none"> Amount in arrears 	<ul style="list-style-type: none"> Order for an erroneous refund 	If the amount of duty is: <ul style="list-style-type: none"> (a) \leq INR 5 million – 60% of tax dues

<p>prescribed time-limit</p> <ul style="list-style-type: none"> Order attained finality Admitted tax liability under a return but not paid 			(b) > INR 5 million – 40% of tax dues
<ul style="list-style-type: none"> Subjected to enquiry or investigation or audit (any scrutiny, verification and checks) 	<ul style="list-style-type: none"> Total amount of duty payable <u>which has been quantified</u> 	<ul style="list-style-type: none"> Under an enquiry or investigation or audit, where the amount of duty involved has not been quantified on or before 30 June 2019 	<p>If the amount of duty is:</p> <p>(a) ≤ INR 5 million – 70% of tax dues</p> <p>(b) > INR 5 million – 50% of tax dues</p>
<ul style="list-style-type: none"> Voluntary Disclosure 	<ul style="list-style-type: none"> Total amount of duty stated in the declaration 	<ul style="list-style-type: none"> Declaration made after being subjected to inquiry/investigation 	<ul style="list-style-type: none"> No relief with respect to tax dues

Enactments covered under the Scheme

- The enactments inter alia covered under the Scheme are the Central Excise Act, 1944, the Central Excise Tariff Act, 1985, Chapter V of the Finance Act, 1994, the Finance Act, 2004, the Finance Act, 2007, the Finance Act, 2015, the Finance Act, 2016, etc.

Procedure

- The amount declared by the declarant if it is the same as calculated by the designated committee then a statement would be issued indicating the amount payable by the declarant within 60 days of receipt of application. If the amount is not the same, then the differential amount would be intimated to the declarant and an opportunity of being heard should be provided;
- The amount payable as indicated in the statement should be paid within a period of 30 days from the issue of the statement;
- Where the option is exercised, the appeals filed before the CESTAT or Commissioner (Appeal) shall be deemed to have been withdrawn;
- A writ petition or appeal or reference filed before any High Court or Supreme Court should be withdrawn with the leave of the Court and the declarant should furnish the proof of such withdrawal along with the proof of payment;
- Designated committee shall issue a discharge certificate within 30 days of the payment and production of proof of withdrawal of appeal

Discharge certificate to be conclusive

- No further duty, interest, penalty should be payable and also there should not be any prosecution with respect to the matter and time period covered in the declaration;
- The matter and time period covered by the declaration should not be reopened;
- However, the show cause notice can be issued for the same matter for a subsequent period or for a different matter for the same period;
- In case of a voluntary disclosure if any information is found to be false, within a period of 1 year of issue of discharge certificate, then it shall be presumed that the declaration was not filed and proceedings as applicable under the respective enactment should be followed

Restrictions

- Input tax credit cannot be used for making the payment under the Scheme;
- Amount paid under the Scheme will not be refunded;
- Amount paid under the Scheme cannot be availed as input tax credit;
- No refund shall be granted if the amount paid as pre-deposit exceeds the amount indicated as payable in the statement.

Service Tax – Key changes

Exemption from Service tax in respect of grant of liquor licence

- Exemption from levy of Service tax shall be provided to services by way of grant of liquor licence by the State Governments against consideration in the form of licence fee or application fee during the period 1 April 2016 to 30 June 2017;
- Refund shall be available for Service tax collected during the above-mentioned period.

Exemption from Service tax to specified services provided by the Indian Institutes of Management ('IIMs')

- Exemption granted to services provided during the period 1 July 2003 to 31 March 2016 by IIMs to their students by way of the following educational programmes, except Executive Development Programmes:
 - two-year full time post graduate programmes in Management for the post graduate diploma in Management;
 - fellow programme in Management;
 - five-year integrated programme in Management
- Refund shall be available for Service tax collected during the above-mentioned period

Exemption from Service tax on long term lease of plots for development of infrastructure for financial business

- Exemption granted to service by way of granting of long-term lease of plots for development of infrastructure for financial business for the period 1 October 2013 to 30 June 2017. The conditions for availing exemption are as under:
 - period of the lease should be 30 years or more;
 - service should be provided by the State Government Industrial Development Corporations or Undertakings or any other entity having 50 per cent or more ownership by Central Government, State Government, Union Territory;
 - service should be provided to developers in any industrial or financial business area.
- Refund shall be available for Service tax collected during the above-mentioned period

Customs – Key legislative changes

Customs Act, 1962

Penalty on non-filing of export manifest or report

- Under the provisions of section 41(1) of the Customs Act 1962, the penalty for non-filing of export manifest or report was levied on 'person-in-charge' of conveyance. The amendment has been proposed to widen the scope and include 'person-in-charge or any other person as may be notified' for the purpose of levy of penalty

Authentication and verification of Aadhar number by proper officer

- Section 99B has been proposed to be inserted, authorizing the proper officer when considered necessary, for protecting the interest of the revenue or to prevent smuggling, to verify any person to check the authenticity or require such person to furnish proof of Aadhar or any other relevant documents.
- On failure to comply with the above or if such person has submitted the incorrect documents or information, the officer is empowered to pass an order to suspend –
 - Clearance of imported goods
 - Sanction of refund
 - Sanction of drawback
 - Exemption from duty
 - License or registration granted under the Customs Act
 - Any benefit, monetary or otherwise, arising out of import or export;

Power to screen or X-ray the bodies of suspected persons for detecting secreted goods

- Section 103 of the Customs Act provides that if the proper officer has a reason to believe that any person has any goods liable for confiscation secreted inside his body, then such person may be detained and produced without delay before the nearest magistrate

- The section is proposed to be amended to include that such person shall be detained with the prior approval of Deputy or Assistant Commissioner of Customs and as soon as practicable, he may be screened or scanned at the customs station with his consent but without prejudice to the rights available to him and such report shall be forwarded to the nearest magistrate, if it appears that goods are secreted inside his body.
- Further, without unnecessary delay he is required to be produced before the nearest magistrate

Power to arrest any person committing specified offences even if he is outside India

- Section 104 of the Customs Act empowers officers of customs to arrest any person in India or within Indian Customs waters who has committed any offence. This section is proposed to be amended to delete the words “in India or within the Indian customs waters” and to authorize customs officers to arrest any person including a person outside India

Consequences of fraudulently availing drawback or obtaining instruments

- Section 104(4) and 104(6) prescribe cognizable offences under the Customs Act, which is proposed to be amended by insertion of the following clauses as cognizable offences-
 - Fraudulently availing drawback or an exemption from duty, where the amount of drawback or exemption exceeds INR 5 million
 - Fraudulently obtaining any instruments (such as an any scrip or authorization or license or certificate) under Customs Act or the Foreign Trade (Development and Regulation) Act, 1992 and utilization of such instruments, where the duty relatable to such instrument exceeds INR 5 million

These offences are to be non-bailable

- Further, by insertion of section 114AB, it is proposed that such person who has obtained any instrument by fraud or collusion and has utilized such instrument for discharging duty, then he shall be liable for penalty not exceeding the face value of the instrument
- Further, section 135 is to be amended to provide that such person shall be liable for imprisonment for a term which may extend to 7 years and with fine

Seizure of goods from persons other than the owner of the goods

- Section 110(1) empowers customs officers to seize the goods where the goods were liable for confiscation and where it was not practicable to seize such goods, the proper officer was authorized to serve an order on the person that he will not remove or part with the goods unless permitted by the officer
- This section is to be substituted to provide that where it is not practicable to seize the goods, the proper officer may give the custody of such goods to the owner, beneficial owner, person holding himself out to be the importer or any other person on execution of an undertaking that he shall not remove or part with the goods unless permitted by the officer
- Further, the proper officer may pass an order directing not to remove or part with the goods except with his prior permission

Attaching of bank accounts of persons whose goods have been seized

- Sub-section (5) is proposed to be inserted in section 110, to authorize the proper officer in the interest of protecting the revenue or to prevent smuggling, that he may with the prior approval of Principal Commissioner of Customs or Commissioner of Customs, provisionally attach bank accounts of persons whose goods are seized for a period not exceeding 6 months, which may further be extended by 6 more months by the Principal Commissioner of Customs or Commissioner of Customs
- It is also proposed that such bank account attached can be provisionally released upon furnishing bond with proper security

General Penalty

- General penalty under section 117 is proposed to be increased from INR 100,000 to INR 400,000

Penalty for contravention of any provision of a rule or a regulation

- Section 158 provides that any person who contravened the provisions of a rule or regulation or abetted such contravention or fails to comply with any provision of a rule or a regulation, then he shall be liable to a penalty of INR 50,000. This penalty is proposed to be increased to INR 200,000

Customs Tariff Act, 1975

Countervailing duty on subsidized articles

- Sub-section (1A) of section 9 is proposed to be inserted, to provide that where the Central Government, on inquiry, is of the opinion that there is circumvention of countervailing duty imposed in section 9(1) by altering the description or name or composition of the article or by import of such article in an un-assembled or dis-assembled form or by changing the country of its origin or export or in any other manner, then countervailing duty will be extended to such other article as well

Appeals

- Section 9C(1) deals with appeals against an order of determination or review thereof regarding the existence, degree and effect of any subsidy or dumping in relation to import of any article before the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962
- The proposed amendment provides that an appeal against orders with respect to import of any article into India in such increased quantities and under such condition so as to cause or threatening to cause serious injury to domestic industry requiring imposition of safeguard duty in relation to import of that article is also covered

Customs Duty – Tariff (applicable from 6 July 2019)

Key Basic Customs Duty rate changes

- To provide a level playing field to domestic industry, and to 'Make in India':
 - Duty increased on poly vinyl chloride ('PVC') from 7.5 per cent to 10 per cent

- Duty increased on floor coverings of plastics (in form of rolls or tiles) from 10 per cent to 15 per cent
- Exemption on marble slabs has been withdrawn and duty increased to standard tariff rate of 40 per cent
- Duty increase on stainless steel in ingots including semi-finished products of stainless steel from 5 per cent to 7.5 per cent
- Duty increased on butyl rubber and chlorobutyl rubber or bromobutyl rubber from 5 per cent to 10 per cent
- Duty increased on optical fibres, optical fibre bundles and cables from 10 per cent to 15 per cent
- To reduce import dependence, and protect MSMEs:
 - Exemption provided to specified capital goods under Chapters 82, 84, 85 and 90 for manufacture of specified electronic items such as mobile handsets chargers / adapters, mobile handsets battery, camera module of mobile handsets, display panel, set top boxes, etc., subject to actual user condition
 - Duty on lamps, tail lamps, stop lamps, side lamps and blinkers, horns, windscreen wipers, defrosters and demisters, visual signalling equipment of a kind used on bicycles, head etc. increased to 15 per cent
 - Duty increased on import of completely built units of motor vehicles from 25 per cent to 30 per cent
 - Duty increased on various parts of motor vehicles such as bodies, chassis fitted with engines, locks used for motor vehicles, glass mirrors, including rear-view mirrors increased from 7.5 per cent / 10 per cent to 15 per cent
- Other rate changes
 - Duty increase on Road and Infrastructure Cess on imported motor spirits and high-speed diesel from INR 8 per litre to INR 9 per litre
 - Duty introduced on petroleum crude of INR 1 per tonne
 - Full exemption to specified goods such as military helicopters and aircrafts, vessels and warships, artillery weapons like guns, howitzers, sniper rifles, missiles, torpedoes, rockets, mine detectors, turbojets, turbo-propellers to be used for defense purposes, subject to specified conditions. This exemption is valid up to 30 June 2024
 - Duty increased on cashew kernel, soyabean oil, ground-nut oil, olive oil, palm oil, newsprint, uncoated paper used in printing newspapers, lightweight coated paper used in printing of magazines, printed books, silver, in any form, medallions & silver coins including semi-manufactured forms, Gold including plated with platinum, inwrought or in semi-manufactured forms, CCTV camera, IP camera, digital and network video recorders, etc.
 - Duty reduced on all forms of uranium ores and concentrates for use in generation of nuclear power, naphtha, ethylene dichloride, methyloxirane, wool fibre, wool tops, etc.

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