

# BUDGET 2022-23

# UNION BUDGET

2022-23



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With GDP growth providing a silver lining to the receding Covid clouds, FM Nirmala Sitharaman provided a 7.5 lakh crore capex/infrastructure booster dose to the Indian economy, during her budget speech on 1st February 2022. If implemented effectively this should help the economy and, hopefully, unemployment get back on track.

Key announcements included:

- A Rs. 2 lakh crore increase in capex to Rs. 7.5 lakh crore
- Keeping IT slab rates unchanged
- 30% tax on digital asset income and introduction of a digital Rupee by the RBI
- 4 key pillars to include PM Gati Shakti, inclusive development, energy transition and financing of investments.

A focus on growth and social welfare were reflected in steps like linking Post Offices with the core banking solution, optical fibre network enhancement, a focus on providing tap water to rural households, road network enhancement, transliteration of land records etc. All of these will go towards enhancing the developmental push and quality of life of our citizens.

The PLI schemes announced in 14 sectors have a potential to create 60 lakh jobs. Disinvestment was set at 65,000 crores along with a mention of the LIC IPO before March 2022; on top of the completion of the Air India sale.

The stock markets, which were initially euphoric, slumped for a while but rebounded to end with an increase of about 1.3% over the previous close.

The key impact of growth in capex, employment and social welfare will depend on how effectively, and quickly, the budgeted funds will be utilized at the grass root levels in order to get translated into the 8 - 8.5% GDP growth the economic survey foresees. We do hope that the projected deficit of 6.4% of GDP does not fan inflationary tendencies.

# DIRECT TAXES

It is encouraging that tax rates and standard deductions have remain unchanged in this Budget but it does provide certain important changes which includes sectoral incentives, steps towards reduction in litigations, tightening some weak controls and rationalisation of certain provisions for ease of business.

## **Furnishing of Updated Return – A new concept:**

- The updated return can be filed within **twenty-four months from the end of the assessment year**.
- Such return can be filed by paying additional tax @25% of aggregate tax and interest withing first 12 months and by paying additional tax @50% for another 12 months.
- However, updated return will not be filed in case of a loss or for reducing total tax liability or increasing refunds. This concept is not applicable for cases covered under Search and Survey proceedings.

## **Extension of Benefits to start-ups :**

- Now the last date for commencement of manufacturing or production, for start ups would be on or before 31.03.2024
- Benefit of tax holiday and capital gains exemption will be available to start-ups incorporated on or before 31.03.2023.

## **Scheme for taxation of virtual digital assets a recognition of Crypto currency under Tax Laws:**

- Any income from transfer of any virtual digital asset shall be taxed at the rate of 30 %.
- No deduction in respect of any expenditure except cost of acquisition.
- Loss from transfer of virtual digital asset cannot be set off against any other income.
- Gift of virtual digital asset is also proposed to be taxed in the hands of the recipient.
- TDS on payment made in relation to transfer of virtual digital asset at the rate of 1 % of such consideration above a monetary threshold.
- Amendment **will be effective for AY 2023-24**.

## **TDS on benefits or perquisites from business or profession**

- The person responsible for providing to a **resident**, any benefit or perquisite, whether **convertible into money or not**, arising from carrying out of a business or exercising of a profession by such resident, TDS at the rate of **10%** would have to be deducted if the value exceeds Rs.20K.

## **Penalties for misuse of Trust funds by Trustees:**

- Applicable to institution having income exempted u/s 10(23C) or Trust registered u/s 12AA/12AB, misusing funds for benefit of specified persons like trustees and their relatives, penalty would be levied from 100% to 200% on benefits passed on.

## **Dispute Resolution Committee (DRC):**

- Now the Assessing Officer will be able to pass an order giving effect to the resolution of dispute as directed by the DRC.

# **RELAXATIONS**

## **On Taxes of Co-operative Societies**

- Alternate Minimum Tax reduced from 18.5% to 15% and surcharge capped at 7% for income upto Rs.10 crores.

## **On Tax in GIFT city extended to IFSC**

- Income of a non-resident from offshore derivative instruments, or over the counter derivatives issued by an offshore banking unit, income from royalty and interest on account of lease of ship and income received from portfolio management services in IFSC shall be exempt from tax, subject to specified conditions.

## **NPS limit increased for State Government employees:**

- To provide equal treatment to both Central and State government employees, limit of deduction under section 80CCD is increased from 10 per cent to 14 per cent on employer's contribution to the NPS account of State Government employees as well. This is applicable retrospectively from A.Y. 2020-21.

## **On deduction during life time of parents of differently abled dependent:**

- Payment of annuity and lump sum amount to the differently abled dependent during the lifetime of parents/guardians, i.e., on parents/ guardians attaining the age of sixty years shall be allowed as deduction.

## **COVID-19 related tax relief:**

- Any sum of money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person;

- Any sum of money received by a member of the family of a deceased person, from the employer of the deceased person (without limit), or from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees, where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person, and subject to such other conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person.
- Both amendments are retrospectively from A.Y.2020-21.

### **Reduction in effective tax on LTCG:**

- Surcharge on long term capital gains arising on transfer **of any type of assets** is capped at 15 per cent instead of 37%.

### **Measures to reduce litigations by department**

- In case of covered question of law which is pending in appeal before the jurisdictional High Court or the Supreme Court in any case, the filing of further appeal by the department shall be deferred till such question of law is decided by the jurisdictional High Court or the Supreme Court.

### **Modification of return of entities post reorganisation:**

- Now the successor entities would be able to modify their returns post reorganisation for the period between appointed date and final order of competent authority. Such modification can be done within six months from the end of the month in which order was passed by the competent authority.

### **Revision of tax demand of insolvency cases:**

- Based on the orders of NCLT or any other competent authority, now procedure has been proposed to modify or reduce tax demand in the outstanding demand register.

## **TIGHTENING OF THE LOOSE ENDS**

### **TDS on sale of immovable property i.e Section 194-IA :**

- Now, in case of transfer of an immovable property (other than agricultural land), TDS is to be deducted at the rate of 1 % not only on such sum which is paid or credited, but also on the stamp duty value of such property, if it is higher.

### **Onus to prove increased for loans and borrowings u/s 68:**

- To curb the unexplained money in form of book entries, now the person who has borrowed money would be required to explain the source of funds in the hands of lender or entry provider.

### **Actual payment of interest u/s 43B clarified:**

- It is clarified that conversion of interest into debenture or any instrument by which the liability to pay interest gets deferred to future date shall not be considered as actual payment.

### **Goodwill reduced from block of assets is deemed transfer:**

- Last year it was amended to consider Goodwill as non-depreciable asset, in continuation to said amendment, it is clarified that reduction of Goodwill from block of assets would be deemed to be transfer for the purpose of slump sale.

### **Faceless assessment would not be invalid:**

- Now the faceless assessment proceedings u/s 144B would not become void involving technical issues. It is retrospectively amended from A.Y.2021-22.

### **Higher TDS/ TCS on non-filers:**

- Last year higher tax rates were introduced of TDS / TCS for non-filers of tax returns for two years, now it is proposed to be amended to reduce such non-filers for one year i.e. if a person has not filed its tax return of earlier year, then higher rate of TDS / TCS would be applicable.

### **Widening the scope of reporting under Section 285B:**

- Earlier the provision of Section 285B was applicable to producer of cinematograph films but the same has been widen to include persons engaged in specified activities like event management, documentary production, production of programs for telecasting on television or OTT or any other similar platform, sports event management, other performing arts. The reporting has to be done for all payments over Rs. 50,000/- in the aggregate to each person engaged by him.

### **Withdrawal of concessional rate of taxation on certain dividend income:**

- The concessional rate of tax of 15 % on the dividend income received by an Indian company from a foreign company is withdrawn.

### **Increase in penalty for certain non-compliances:**

- Amount of penalty for failures of certain compliances has been increased to Rs.500/- per day..

### **Education cess is not an allowable expenditure.**

- Clarificatory change has been made to include cess and surcharge as not an allowable expenditure.

### **Disallowance under section 14A even if no exempt income:**

- Disallowance under section 14A shall apply and shall be deemed to have always applied in a case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income.

### **Deterrence against tax-evasion:**

- No set off, of any loss shall be allowed against undisclosed income detected during search and survey operations.

## **InvIT, REIT, AIF units now proposed to be covered under bonus stripping/ dividend stripping**

- Effective April 1, 2023 the provisions of dividend stripping and bonus stripping are proposed to be extended to units of business trusts such as InvIT or REIT and AIFs; additionally, provisions of bonus stripping are proposed to be extended to securities also.

## **Change in procedure for Refund of TDS paid u/s 195 when no TDS was required:**

- In case where, under an agreement or other arrangement, a person who has deducted tax on any income paid to a non-resident, other than interest, under section 195 of the Act and borne the tax liability, when no tax deduction was required, may file an application for refund of such tax deducted before the Assessing Officer instead of CIT(A).
- Further if Such person can, if he is not satisfied with the order of the Assessing Officer, can go into appeal against such order before the CIT (A).

# **INDIRECT TAXES**

## **CUSTOMS DUTY ACT RELATED AMENDMENTS:**

A comprehensive review of customs duty exemption has been undertaken and more than 350 exemptions are being withdrawn. The exemption entries are in agricultural produce, chemicals, fabrics, medical devices and drugs and medicines. The purpose of comprehensive review is to simplify the Customs rate and tariff structure particularly for sectors like chemicals, textiles and metals and minimise disputes

- Removal of exemption on items which are or can be manufactured in India and providing concessional duties on raw material that go into manufacturing of intermediate products to promote 'Make in India' and 'Atmanirbhar Bharat'

- Customs tariff structure is being simplified by moving the unconditional concessional rates from existing exemption notifications to the First Schedule of the Customs Tariff Act. In this process, certain tariff lines have also been rationalised. As a result the applicable BCD rates on sectors such as textiles, chemicals and metals etc. will operate through tariff.
- Sunset date is being stipulated in respect of the conditional exemption entries in respective notifications. Exemptions under the International commitments like FTA, ITA exemptions, exemptions under FTP like Advance Authorisation have been excluded from the purview of automatic expiry.
- Going forward, it is proposed to reduce the Tariff rate for all textile items to the present effective rate as prescribed under various notifications. Accordingly, with this change, with effect from 1st May, 2022, for goods falling under Chapter 50- 63 of Customs Tariff, the Tariff rate shall be the applicable BCD (clause 97(b) of Finance Bill, 2022).
- Ad-valorem tariff on textile items in Chapter 60, Chapter 61 and Chapter 62 from 1st May 2022 as part of rationalisation of custom duty exemptions. The rates which have been prescribed are reduced as compared to present effective rates.

### **Legislative Changes in Customs Act, Customs Tariff Act and relevant Rules**

- Significant changes are being made in the Customs Act, like definition of the Proper Officer has been amended to include DRI, Audit and Preventive Information in the class of officer of customs.
- Provisions are being added to eliminate the instances of systematic undervaluation
- Enabling provisions are being made to delineate jurisdiction for cases involving short levy/payment of duty or erroneous refund etc.
- Unauthorised publication of import or export data to be treated as an offence under the Customs Act.

### **Custom Duty Rate Reductions effective from 2<sup>nd</sup> February 2022;**

1. Customs duty on cut and polished diamonds in Chapter 71, gems to be reduced from 7.5% to 5%
2. Camera lens in Chapter 39 for use in Mobile Phones reduced from 10%/15% to 2.5%
3. Specified parts for use in manufacture of transformers of chargers/adapters reduced from 10%/15% to 5%
4. Custom duty exemption on Iron and Steel Scrap in Chapter 72 is being extended up to March 2023
5. Custom Duty on Xray Machines in Chapter 90 to be increased from 7.5% to 10%
6. Custom Duties on capital goods (SG Ingot Castings, Coffee Roasting, brewing machines, Plastic processing machinery) under Chapter 73 and 84 reduced by 2.5%
7. Custom Duties on Fuels, Chemicals & Plastics under Chapter 27 and 28 reduced by 2.5%
8. Health Cess of 5% on Medical devices under Chapter 90 has been reduced to Nil

### **Custom Duty Rate Increases effective from 2<sup>nd</sup> February 2022**

1. Umbrellas under Chapter 66 custom duty increased from 10% to 20%
2. Imitation jewellery under Chapter 71 custom duty increased from 20% to 20% or Rs.400 per kg whichever is higher
3. Single or multiple loudspeakers under Chapter 85 custom duty increased from 15% to 20%
4. Headphones and earphones, under Chapter 85 custom duty increased from 15% to 20%
5. Smart Meters under Chapter 90 custom duty increased from 15% to 25%
6. Solar Cells under Chapter 85 custom duty increased from 20% to 25%
7. Parts of electronic toys in Chapter 95, for manufacturing of toys duty is increased from 15% to 25%



## **Duty Concessions on specified items when imported by Bonafide Exporters**

A scheme for duty-free imports for the purpose of use in goods meant for export, based on end-use monitoring is being introduced for bonafide exporters subject to the requirement of exporting value added products manufactured using inputs imported under these exemptions, within a period of six months. Importer shall be required to follow the procedure under the Import of Goods at Concessional Rate (IGCR) Rules, 2017

## **GST RELATED AMENDMENTS**

### **Condition for availment of Input Credit, where credits are restricted**

A new clause (ba) to sub-section (2) of section 16 of the CGST Act has been introduced to provide that input tax credit with respect to a supply can be availed, only if such credit has not been restricted in the details communicated to the taxpayer under section 38.

### **Change in timelines for availment of Input Credit**

Sub-section (4) of section 16 of the CGST Act has been amended to provide an extended time for availment of input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year up-to 30<sup>th</sup> November of the following financial year (Existing timeline is 30<sup>th</sup> September). Corresponding change has been done in Section 34(2) to enable issuance of credit notes by 30 November of the following financial year

### **Procedure for submission of Input Credit and Inward supply details**

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

### **Procedure for submission of details related to outward supply**

Section 37 of the CGST Act has been amended to

- Provide for prescribing conditions and restrictions for furnishing the details of outward supply and for communication of the details of such outward supplies to concerned recipients;
- Do away with two-way communication process in return filing;
- Provide for an extended time up-to 30<sup>th</sup> November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1);
- Provide for tax period-wise sequential filing of details of outward supplies under sub-section (1).

### **Late Fee for Delayed filing of Return**

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

## **Power to prescribe restrictions on utilisation of credit from Electronic Credit Ledger**

Section 49 of the CGST Act has been amended to;

- Provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger;
- Allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person; (subject to conditions that may be prescribed)
- Provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger

## **Retrospective Amendment**

- Sub-section (3) of section 50 of the CGST Act is being substituted retrospectively, with effect from the 1<sup>st</sup> July, 2017, to provide for levy of interest @24% on input tax credit wrongly availed and utilized.

## **Cancellation of Registration**

Section 29 of the CGST Act has been amended to provide that the registration of a person is liable for cancellation, where;

- A person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing of the said return
- A person, other than those paying tax under section 10, has not furnished returns for such continuous tax period as may be prescribed.

## **Amendment in Section 54 for Refund Claims**

Section 54 has been amended to;

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

## INDIA PRESENCE

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