

# Union Budget 2021-22

## Detailed analysis of Tax Proposals and Amendments

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# Income Tax



## Key highlights – Income Tax...

- ⊗ No changes in the income tax rates
- ⊗ The turnover threshold for tax audit has been increased from INR 5Crores to INR 10 Crores if the total cash receipts and payments do not exceed 5%
- ⊗ Time limit for approval of affordable housing property, eligible for deduction u/s 80IBA, has been extended to 31.03.2022
- ⊗ Time limit for sanction of affordable housing loan to claim additional deduction up to INR 1.5Lakhs for interest paid on such loans extended till 31.03.2022
- ⊗ Notional Tax on difference of agreement value of property and stamp duty value would not be payable if difference is upto 20% (earlier 10 %)
- ⊗ Advance Tax Liability on dividend income shall arise only after declaration or payment of dividend
- ⊗ Payment of employer's contribution to specified funds shall never be allowed as deduction to the employer if paid after due date
- ⊗ Time limit for re-opening of Assessment proposed to be reduced from 6years to 3years. However, if concealment of income is of INR 50lakhs and above reopening can be made upto 10years with approval of PCIT
- ⊗ Time Limit for filing belated or revised return is reduced and the same has to be now filed 3months prior to the last day of the relevant assessment year or before completion of assessment, whichever is earlier

## ...Key highlights – Income Tax

- ⊗ Depreciation on Goodwill shall not be allowed
- ⊗ Deemed Capital Gains Tax applicable on Firm/AOP/BOI on receipt of asset /money by its partner/member on dissolution/ reconstitution at-
  - FMV of such asset upon money received in excess of capital balance excluding revaluation, if any
- ⊗ Details of Capital Gains from listed securities, Dividend Income and Interest Income will be pre-filled in the Income Tax Returns
- ⊗ Threshold for relief to approved Charitable trusts operating Hospitals and Educational Institutions is increased from INR 1Crore to INR 5Crores.
- ⊗ TDS will not be required in case of dividend income and earned by a business Trust (REIT,InVIT)etc.
- ⊗ Lower treaty rate shall be applied for deducting tax on payments made to FIIs if they furnish Tax Residency Certificate
- ⊗ Time limit to claim tax holiday for start up extended to one more year till 31.02.2022 . Similarly for claiming Capital gains exemption for investment in Start up by one more year till 31.03.2022
- ⊗ In order to promote International Financial Service Centre (IFSC) in GIFT city more tax incentives proposed
- ⊗ Deduction of TDS and TCS at double the rate then the specified rate or 5%, whichever is higher for non-filer of Income Tax Return
- ⊗ TDS on purchase of goods at 0.1% (5% in absence of PAN) with certain conditions and exceptions w.e.f 01.07.2021
- ⊗ Sum received from ULIP policy which are issued on or after 01.02.2021 is to be taxable if aggregate premium paid INR 2.5 Lakhs and above



# Individuals

## Tax Incentives-Leave Travel Concession

### Background

- ⌚ Exemption For LTC Cash scheme –Section 10(5)

### Current Scenario

- ⌚ Leave Travel Concession (LTC) available to employees to the extent of amount actually incurred on travel

### Change in Law

- ⌚ Instead of travel LTC exemption will be available on specified expenditure where GST rate chargeable 12% or more during period 12<sup>th</sup> October 2020 to 31<sup>st</sup> March 2021
- ⌚ The amount of exemption shall not exceed Rs.36000 per person or 1/3 of specified expenditure whichever is less

### WEF

- ⌚ ASSESSMENT YEAR 2021-2022

### Impact

- ⌚ Now LTC can be claimed on any expenditure attracting GST above 12% instead of only travel expenditure

# Tax Incentive-Interest On Loan For Affordable House

- Background** ☑ Extension of date of sanction of loan for affordable residential house property-Section 80EEA
- Current Scenario** ☑ Deduction of Rs. 150000 on loan sanction by financial institution during the period 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2021 for residential house property where stamp duty value does not exceed Rs. 45 Lakhs
- Change in Law** ☑ Extension of outer date for sanction of loan from 31<sup>st</sup> March 2021 to 31<sup>st</sup> March 2022
- WEF** ☑ ASSESSMENT YEAR 2022-2023
- Impact** ☑ Extension of outer due date from 31<sup>st</sup> March 2021 to 31<sup>st</sup> March 2022

## Relaxation To Senior Citizens

- Background** ☑ Relaxation for certain category of senior citizen from filing return of income tax-Section 139 (age of 75 years and above)
- Current Scenario** ☑ If income of senior citizen exceed Rs. 2.50 Lakhs, they need to file return of income
- Change in Law** ☑ If senior citizen has a pension income and an interest income from specified bank and TDS deducted by said bank on such pension income and interest income, then there will be no requirement to file return of income by senior citizen
- WEF** ☑ ASSESSMENT YEAR 2021-2022
- Impact** ☑ No need to file return of income by senior citizen if TDS deducted by specified bank



# Business

# Tax Incentives-Affordable Housing Projects

## Background

- 🕒 100% deduction of profits from business of developing and building affordable housing projects subject to certain conditions-Section 80IBA

## Current Scenario

- 🕒 One of the condition that project to be approved by the competent authority between 1<sup>st</sup> June 2016 up to 31<sup>st</sup> March 2021

## Change in Law

- 🕒 Proposed date between 1<sup>st</sup> June 2016 to 21<sup>st</sup> March 2022
- 🕒 This exemption has also been extended to rental housing projects

## WEF

- 🕒 ASSESSMENT YEAR 2022-2023

## Impact

- 🕒 Extension of outer date From 31<sup>st</sup> March 2021 to 31<sup>st</sup> March 2022

# Tax Incentives-International Financial Services Centre

## Background

- ☉ Tax incentives for units located in International Financial Services Centre(IFSC)- Section 9A, 10(4D), 10 (4E), 10 (4F), 10 (23FF)

## Current Scenario

- ☉ Present certain condition to claim exemption were not met by IFSC

## Change in Law

- ☉ Certain condition mentioned under section 9A shall not apply or apply with modifications for units located in IFSC.
- ☉ Tax exemption for aircraft lease rentals paid to foreign lessors
- ☉ Tax incentives for relocating foreign funds in the IFSC
- ☉ Tax exemption to investment division of foreign banks located in IFSC

## WEF

- ☉ ASSESSMENT YEAR 2022-2023

## Impact

- ☉ Now IFSC at GIFT city may be a tax heaven for FIIs and Non –Resident as transfer of assets by fund from offshore location (Singapore/Mauritius) to the GIFT city entity now exempted from capital gain and GAAR would not be applicable due to amendment.

# Tax Incentives-Startups

## Background

- ☑ Extension of date of incorporation for eligible start up for exemption and for investment in eligible start-up-Section 80IAC, 54GB

## Current Scenario

- ☑ Deduction of 100% profits from an eligible business by an eligible start up for three consecutive assessment year out of 10 years at the option of the assessee and same to be incorporated between 1<sup>st</sup> April 2016 to 21<sup>st</sup> March 2021
- ☑ Exemption from LTCG from residential property when same is transferred on or before 31<sup>st</sup> March 2021

## Change in Law

- ☑ Outer date extended from 31<sup>st</sup> March 2021 to 31<sup>st</sup> March 2022

## WEF

- ☑ ASSESSMENT YEAR 2022-2023

## Impact

- ☑ Extension of outer due date from 31<sup>st</sup> March 2021 to 31<sup>st</sup> March 2022

# Capital Gains-Difference In Value

## Background

- ⌚ Increase in safe harbour limit of 10% for home buyers and real state developers selling such residential units-Section 43CA, 56,56(2)(X)

## Current Scenario

- ⌚ If difference between declared consideration and assessable value as determined by stamp duty valuation authority is more than 10% than for tax purpose stamp duty value shall be replaced instead of declared consideration

## Change in Law

- ⌚ Proposed to increase safe harbour threshold from existing 10% to 20% subject to condition that transfer should take place between 12<sup>th</sup> November 2020 to 30<sup>th</sup> June 2021 and said land and building is a first allotment and value of consideration does not exceed Rs. 2 Crores

## WEF

- ⌚ ASSESSMENT YEAR 2021-2022 and subsequent assessment years

## Impact

- ⌚ The relief of safe harbour from 10% to 20% up applicable to both sellers and buyers

# MAT-TP Adjustments

## Background

- ⌚ Rationalisation of provisions of Minimum Alternate Tax (MAT)- Section 115JB

## Current Scenario

- ⌚ MAT at 15% payable on book profits in the event computed profit is less than 15% of book profit with certain adjustments

## Change in Law

- ⌚ If book profit is increased due to Transfer Pricing (TP) secondary adjustment or on account of Advance Pricing Agreement (APA) same to be excluded as an adjustment for computation of book profit under Section 115JB, prior years rectification can be applied.
- ⌚ Dividend income received by foreign company on an investment in India are to be excluded for the purpose of calculation of book profit if tax payable on dividend income is less than MAT liability on account of concessional tax rate provided in the Double Taxation Avoidance Agreement (DTAA)

## WEF

- ⌚ ASSESSMENT YEAR 2021-2022

## Impact

- ⌚ Now if Book Profits increased due to TP secondary adjustment or APA same can be reduced to compute MAT liability and similarly dividend income of foreign company can be reduced to compute MAT liability with conditions

# TDS-Rationalisation-Trusts

## Background

- ☹ Exemption of deduction of tax at source on payment of Dividend to business trust in whose hand dividend is exempt-Section 194

## Current Scenario

- ☹ Second proviso provides non deduction on dividend income payable to LIC, GIC and others

## Change in Law

- ☹ Proposed to amend to said second proviso non deduction of TDS on dividend income credited or paid to a business trust by special purpose vehicle or any other person as may be notified
- ☹ In REIT and InVIT structure, there is a trust, below which there is a special purpose vehicle or SPV which owns the assets. Because of an anomaly in the law, when the SPV would pay dividend to the InVIT or REIT, there would be a withholding tax, which would then have to be claimed as a refund, Now inserted clause as above, NO TDS would be deducted and no need to claim refund by REIT and InVIT.

## WEF

- ☹ ASSESSMENT YEAR 2020-2021 (retrospectively)

## Impact

- ☹ Non deduction of 10% TDS on dividend income to REIT (Real Estate Investment Trust) and InVIT (Investment Trust)

# TDS-Rationalisation-FIIs

## Background

- ☑ Rationalisation of the provision concerning withholding on payment made to Foreign Institutional Investors (FIIs)-Section 196D

## Current Scenario

- ☑ Said section provides for TDS at 20% therefore , beneficial rate provided under section 90 or 90A cannot be given at the time tax deduction

## Change in Law

- ☑ Now proposed to insert a proviso to sub section (1) of section 196D that if TRC (Tax Residency Certificate) has been furnished then TDS on Income from Securities would be lower of 20% or as provided in treaty agreement (DTAA)

## WEF

- ☑ 01.04.2021

## Impact

- ☑ FIIs can avail lower rate of TDS on income from securities from existing 20%, if TRC furnished

# Tax Audit Limit

- Background**  Rationalisation of provisions relating to tax audit in certain cases
- Current Scenario**  If aggregate cash receipts and payments does not exceed 5%, the threshold limit for tax audit is Rs. 5 Crores
- Change in Law**  Said threshold limit of tax audit in such cases to be increased from Rs. 5 Crores to Rs. 10 Crores
- WEF**  ASSESSMENT YEAR 2021-2022
- Impact**  Tax audit threshold limit increased from Rs. 5 crores to Rs. 10 crores in cases where cash receipts/payments do not exceed 5% of total receipts/payments, relief to SMEs

# Advance Tax-Dividend

## Background

- ☑ Advance tax instalment for dividend income-Section 234C

## Current Scenario

- ☑ Dividend income is to be estimated for calculating interest at 1% per month for a period of three months on the amount of shortfall calculated with respect to the due dates for advance tax instalments

## Change in Law

- ☑ Proposed that dividend income not to be included for estimating income for payment of advance tax however such exclusion not applicable to deemed dividend Section 2(22)(e)

## WEF

- ☑ ASSESSMENT YEAR 2021-2022

## Impact

- ☑ Dividend income not to be included for estimating income for payment of advance tax- relief to tax payers

# Exemption to Educational Institutions and Hospitals

- Background**  Raising of prescribed limit for exemption for educational institutions and hospitals
- Current Scenario**  100% exemptions from payment of Income Tax under the said section 10 (23 C), (iiiad) and (iii ae) available subject the condition that the annual receipts of such hospital or institution do not exceed Rs. 1 Crore, as per Rule 2BC of the Income Tax Rules
- Change in Law**  The said threshold limit increased to Rs. 5 Crore
- WEF**  ASSESSMENT YEAR 2022-2023
- Impact**  Threshold for annual receipt increased from Rs. 1 Crore to Rs. 5 Crores for claim of exemption for payment of tax on Income of Education Institution or Hospital Trust

# Due Dates Of Filing Returns...

## Background

- ⌚ Extending due date for filing return of income in some cases, reducing time to file belated return and to revise original return and also to remove difficulty in cases of defective returns-Section 139

## Current Scenario

- ⌚ Due date for filing original return of income of partner of a firm to whom transfer pricing audit applicable is 31<sup>st</sup> October of the assessment year
- ⌚ Belated and revised return can be filed before the end of the assessment year or before the completion of assessment whichever is earlier
- ⌚ Defect in return of income to be rectified in 15 days from intimation of the defect by assessing officer

## Change in Law

- ⌚ Due date for filing return of partner to whom transfer price audit is applicable is now 30<sup>th</sup> November of the assessment year
- ⌚ Belated and revised return has to be filed before end of three months of assessment year or before the completion of assessment whichever is earlier
- ⌚ Now proposed that board can provide time limit or any condition by way of notification for removal of defect in return of income as intimated by assessing officer

## ...Due Dates Of Filing Returns

### WEF

- 🕒 ASSESSMENT YEAR 2021-2022

### Impact

- 🕒 Time limit increased by one month for filing return of income for partner to whom transfer price audit is applicable i.e. 30<sup>th</sup> November
- 🕒 Time limit reduced by three months for filing belated and revised return of income i.e. 31<sup>st</sup> December
- 🕒 Board is empowered by way of notification to non applicability of conditions mentioned in intimation for removal of defects in return of income

## Deductions in respect of PF/ ESIC Contribution

- Background**  Payment by employer of employee contribution to a fund on or before due date-Section 36 (1) (V)(a),43B
- Current Scenario**  Deduction is available for payment of employers contribution of PF, ESIC, superannuation fund even if same paid after due date u/s.43B in the year of payment
- Change in Law**  If employee deduction of PF, ESIC, superannuation fund is not paid before due date then NO deduction can be claimed for employers' contribution
- WEF**  ASSESSMENT YEAR 2021-2022
- Impact**  Employers need to pay deducted contribution of PF, ESIC and superannuation fund from employees within due date provided in respective fund, for claim of employers contribution

# Dispute Resolution Committee

## Background

- ⊙ Constitution of Dispute Resolution Committee for small and medium taxpayers –Section 245MA

## Current Scenario

- ⊙ No mechanism to resolve dispute other than appeals

## Change in Law

- ⊙ Central Government shall constitute one or more dispute resolution committee to resolve disputes where the income is Rs. 50 Lakhs or less and the aggregate amount of variation proposed in the specified order is less than Rs. 10 Lakhs with other specified conditions

## WEF

- ⊙ 01.04.2021

## Impact

- ⊙ Scheme like Vivad se Vishwas launched as Dispute Resolution Committee for small tax payers

# Authority For Advance Ruling

## Background

- ☑ Constitution of the Board for Advance Ruling- Chapter XIXB

## Current Scenario

- ☑ AAR(Authority for Advance Ruling) consists of Chairman and various Vice Chairman, revenue members and law members however the post of Chairman and wise Chairman have remained vacant for a long time due to non availability of eligible person

## Change in Law

- ☑ Central Government shall constitute one or more board for Advance Rulings for giving advance rulings under the said Chapter on and after the notified date

## WEF

- ☑ 01.04.2021

## Impact

- ☑ Now board will comprise of revenue officers and are unlikely to provide truly advance ruling, though said ruling not binding to applicant (Tax Payer) or department and if aggrieved the applicant or department may appeal against the order, before High Court

# Reopening of Assessment

## Background

- Income escaping assessment and search assessments-Section 147

## Current Scenario

- Assessing officer may assess or reassess or recompute the total income of the assessee by reopening within 4 years to 16 years as the case may be

## Change in Law

- The time limit of reopening of assessment is being reduced to 3 years from the current 6 years from the end of the relevant assessment year
- Reopening up-to 10 years is proposed to be allowed only if there is evidence of undisclosed income of Rs. 50 Lakhs or more for a year
- Further it is proposed to completely remove discretion in reopening and henceforth reopening shall be made only in cases flagged by system on the basis of computer based system (data analytic), objection of C & AG and in search/survey cases and approval of PCIT

## WEF

- ASSESSMENT YEAR 2021-2022

## Impact

- Time limit for reopening /escaping of assessment reduced

## Notice to Non-Filers of Return

### Background

- ⌚ Allowing prescribed authority to issue notice under clause (i) of sub-section 1 of Section 142

### Current Scenario

- ⌚ Currently only assessing officers can ask to submit return of income from non filers or stopped filers

### Change in Law

- ⌚ This amendment enables centralized issuance of notices in an automated manner thereby empower the prescribed income tax authority beside assessing officer to issue notices

### WEF

- ⌚ ASSESSMENT YEAR 2021-2022

### Impact

- ⌚ Notices under Section 142(1) can also be issued by CPC (centralized processing Centre)

# Faceless ITAT

- Background**  Provisions fore Faceless Proceedings before the Income-tax Appellate Tribunal (ITAT) in a jurisdiction less manner-new sub-sections in Section 255
- Current Scenario**  In person ITAT proceedings
- Change in Law**  Faceless Scheme be launched for ITAT proceedings on the same line as faceless appeal scheme
- WEF**  01.04.2021
- Impact**  Now ITAT proceeding from in person to faceless

# Discontinuance Of ITSC

## Background

- ☑ Discontinuance of Income-tax Settlement Commission(ITSC)

## Current Scenario

- ☑ Application for settlement to ITSC can be applied till 31<sup>st</sup> January 2021

## Change in Law

- ☑ No application under section 245C of the Act for settlement of cases shall be made on or after 1<sup>st</sup> February 2021

## WEF

- ☑ ITSC shall cease to operate on or after 1<sup>st</sup> February 2021

## Impact

- ☑ ITSC w.e.f. 1<sup>st</sup> February 2021 will operate for applications filed till 31<sup>st</sup> January 2021 and its proceedings

# Exemption to Charitable Organizations

## Background

- ⌚ Rationalization of the provision of Charitable Trust and Institutions to eliminate possibility of double deduction while calculating application or accumulation-Section 11, 10 (23) (C)

## Current Scenario

- ⌚ Corpus donation are excluded from mandatory application of funds for the objects of the trust

## Change in Law

- ⌚ Corpus donation to be mandatorily invested in modes specified in sub-section (5) of Section 11 maintained specifically for such corpus
- ⌚ Application for charitable or religious purpose would be considered under Section 11 and under Section 10 (23) (C) when loans and borrowings are repaid and not when applications of charitable objects from loans and borrowings were made
- ⌚ No set off or deduction or allowance of any excess application (charitable and religious purpose) of any other year preceding the previous year shall be allowed

## WEF

- ⌚ ASSESSMENT YEAR 2022-2023

## Impact

- ⌚ Corpus donation to be invested in prescribed forms or modes specified u/s 11(5) of Income Tax Act
- ⌚ No set off of any excess application during preceding year

- Background** 🕒 Taxation of proceeds of high premium unit linked insurance policy (ULIP)- Section 10 (10D)
- Current Scenario** 🕒 Currently there is no cap on amount of annual premium being paid to claim exemption upon maturity of ULIP Policy
- Change in Law** 🕒 No exemption of maturity proceeds shall be given if consolidated premium payable exceeds Rs. 2.5 Lakhs (new policies issued w.e.f. 1<sup>st</sup> April 2021), however maturity proceeds upon death would be exempt
  - 🕒 STT will be applicable to which exemption under Section 10(10D) not applicable
- WEF** 🕒 ASSESSMENT YEAR 2021-2022
- Impact** 🕒 Tax advantage of 10% on LTCG as compared to equity mutual funds now removed though available at least up to annual premium of Rs. 2.5 Lakhs and claim upon death

# Slump Sale

## Background

- ⌚ Rationalisation of the provision of slump sale-Section 50B, Section 2 (42C)

## Current Scenario

- ⌚ Current provision only covers transfer of undertaking by way of sale, there was a controversy in case of transfer of undertaking by any of other mode of transfer. For example, transfer of undertaking in exchange of shares. This also lead to instances where slump sale transaction being carried out as slump exchange transaction to avoid tax incidence

## Change in Law

- ⌚ It is proposed to amend the scope of the slump sale provision so that all transfer by any means including but not limited to sale, exchange, relinquishment, extinguishment of rights will be within its scope

## WEF

- ⌚ ASSESSMENT YEAR 2021-2022

## Impact

- ⌚ The definition of slump sale has been widened to include transfer of undertaking in lieu of another asset being non-monetary asset, including exchange by way of any means thereof

# Capital Gains on Revaluation of Assets and Goodwill

- Background** 🕒 Rationalisation of provision of transfer of capital asset to partner on dissolution or reconstitution-New Section 45 (4A)
- Current Scenario** 🕒 There is uncertainty regarding applicability of provisions of aforesaid subsection to a situation where assets are revalued or self-generated assets are recorded in the books of accounts and payment is made to partner or member which is inclusive of such revaluation or credit on account of goodwill.
- Change in Law** 🕒 Now provided that any money or other assets received in excess of pre-valuation of any asset or credit goodwill amount or any self generated asset, shall be chargeable to income tax under the head capital gains
- WEF** 🕒 ASSESSMENT YEAR 2021-2022
- Impact** 🕒 Revaluation of assets including goodwill shall be taxable under the head capital gains

## Attachment for Penalties

### Background

- ⌚ Provisional attachment in fake Invoice cases-Section 281B

### Current Scenario

- ⌚ In cases of assessment or reassessment the Assessing Officer may provisionally attach any property of the assessee, if necessary, in order to protect the interest of revenue
- ⌚ Section 271AAD was inserted vide the Finance Act, 2020 to impose penalty on a person or a person who causes such person to make a false entry or omit and entry from his books of accounts

### Change in Law

- ⌚ Section 281B to enable the Assessing Officer to exercise the powers under this section during the pendency of proceedings for imposition of penalty under Section 271AAD of the Act, if the amount or aggregate of amounts of penalty imposable is likely to exceed Rs. 2 Crores

### WEF

- ⌚ 01.04.2021

### Impact

- ⌚ Attachment of property of the assessee can for be penalty amount also

# Equalisation Levy...

- Background** Rationalisation of the provisions of Equalisation Levy(EL)-Section 165A
- Current Scenario** Equalisation Levy is levied at 2% of the consideration received or receivable by an e-commerce operator from e-commerce supply of goods or services:
- to a person resident in India; or
  - to a non-resident in the specified circumstances; or
  - to a person who buys such goods or services or both, using internet protocol address located in India
- Change in Law** It is proposed to clarify that consideration for e-commerce supply of goods or services shall include (On following activities Equilisation Levy Payable) :
- consideration for sale of goods irrespective of whether the e-commerce operator owns the goods
  - consideration for provision of services irrespective of whether service is provided/facilitated by the e-commerce operator

## ...Equalisation Levy

- Change in Law** --Acceptance of offer for sale, Placing the purchase order, Acceptance of purchase order, Payment of consideration, Supply of goods or provision of services, partly or wholly  
--Further Clarified that Equalization Levy will not be applicable to Income of Royalty and Fees for Technical Service (FTS) and tax payable under Normal Income Tax Provisions
- WEF** ☑ Assessment Year 2021-22 i.e. FY 2020-21
- Impact** ☑ Now due to clarification provided overseas entities, selling online to Indian Consumers which until now remained out of ambit of levy (Google Tax) by reason of either not having Indian operations or not earning any commission on sale, shall be liable to pay Equalisation Levy

# Depreciation On Goodwill

- Background**  Depreciation on Goodwill-Section 32, Section 2(11)
- Current Scenario**  Hon'ble Supreme Court has held that the Goodwill of a business or profession is a depreciable asset, the actual calculation of depreciation on goodwill is required to be carried out in accordance with various other provisions of the Act
- Change in Law**  Section 32 has been amended to provide that no depreciation will be available on goodwill even if such goodwill has been paid for or captured due to merger/acquisition, however the deduction for the amount paid for acquiring goodwill shall be allowed upon sale of goodwill
- WEF**  ASSESSMENT YEAR 2021-2022
- Impact**  No depreciation can be claimed on acquiring of goodwill though same can be claimed as deduction upon sale of such goodwill

## Time Limit For Assessment

### Background

- ⌚ Rationalisation of the provision relating to processing of returned income and issuance of notice under Section 143 (2) of the Act

### Current Scenario

- ⌚ Currently assessing officer had to complete assessment within 12 months from the end of the relevant assessment year

### Change in Law

- ⌚ Now the said time limit of 12 months reduced to 9 months

### WEF

- ⌚ 01.04.2021

### Impact

- ⌚ Assessment time limit reduced from 12 months to 9 months from the end of the assessment year

# Presumptive Taxation For LLP

## Background

- ⌚ Rationalisation of the provision of presumptive taxation for professionals under Section 44ADA

## Current Scenario

- ⌚ LLP were not specifically excluded from applicability of presumptive taxation for professionals under Section 44ADA

## Change in Law

- ⌚ Now specifically provided that LLP shall not be eligible for presumptive taxation scheme benefits under Section 44ADA

## WEF

- ⌚ ASSESSMENT YEAR 2021-2022

## Impact

- ⌚ LLP excluded from benefits of presumptive taxation i.e. Income computed at 50% of gross receipts

# Scope Of Vivad Se Vishwas Scheme

## Background

- ☑ Clarification regarding the scope of Vivad se Vishwas Act,2020

## Current Scenario

- ☑ Currently cases under Income Tax Settlement Commission (ITSC) were not covered for benefits under Vivad Se Vishwas Scheme

## Change in Law

- ☑ Now such cases can apply under Vivad Se Vishwas Scheme

## WEF

- ☑ ASSESSMENT YEAR 2021-2022

## Impact

- ☑ ITSC cases intake benefits of Vivad Se Vishwas Scheme

# TDS on Purchase of Goods

- Background**  Tax Deduction at Source (TDS) on purchase of goods- New Section 194Q
- Current Scenario**  New Section Inserted to Income Tax Act, 1961
- Change in Law**  TDS is to be applied on purchase of goods at the rate of 0.1%, where the aggregate consideration exceeds Rs. 50 Lakhs and buyers' turnover exceeds Rs. 10 Crores
  -  Rate of TDS is to be increased to 5% in the absence of PAN
- WEF**  1<sup>st</sup> July 2021
- Impact**  TDS on Purchase of Goods @ 0.1% and in absence of PAN @ 5%

# TDS/TCS for Non-Filers of Return

## Background

- ⌚ TDS/TCS on non-filer at higher rates-Section 206AA and 206CC, inserted a new Section 206AB and 206CCA

## Current Scenario

- ⌚ Currently, higher rate of TDS and TCS applicable for non furnishing of PAN, however, no higher rate of TDS and TCS provided for non furnishing of return of income

## Change in Law

- ⌚ Now, special provision inserted for higher rate of TDS and TCS for non filers/stop filers of income tax returns for last two years and the rate would be twice the rates enforced or rate of 5% whichever is higher

## WEF

- ⌚ 1<sup>st</sup> July 2021

## Impact

- ⌚ Higher rate of TDS and TCS in case of non filers of return of income at the rate higher of 5% or twice the rate in force / rates specified in the relevant provision Act

## Limit of Exemption to PF Contribution

### Background

- ☑ Taxability of Interest on provident fund contribution where income is exempt- Section 10 (11), 10 (12)

### Current Scenario

- ☑ Currently interest income is exempt on provident fund contribution made by employees with no upper limit

### Change in Law

- ☑ Now upper limit of Rs. 2.5 Lakhs a year is provided for contribution made by the employees (Not by Employer)

### WEF

- ☑ ASSESSMENT YEAR 2022-2023

### Impact

- ☑ Upper limit of contribution now provided, therefore, whole interest income would not be exempt

# Goods and Services Tax



## Key highlights – GST

- ⌚ Enlargement of Scope of Supply to cover transactions between association and members
- ⌚ GSTR-2A given legal backing
- ⌚ Requirement of CA certified annual reconciliation done away with
- ⌚ Interest applicability on 'net tax' w.e.f. 01.07.2017
- ⌚ Self assessed tax to include tax disclosed in GSTR-1
- ⌚ Ambit of provisional attachment widen
- ⌚ Powers to call for information widened
- ⌚ Eligible procurements by SEZ restricted to 'Authorized Operations'
- ⌚ Option to export on payment of taxes confined to notified supplies or suppliers only

## Enlargement of Scope of Supply...

### Background

- ⌚ Section 7 of CGST Act, 2017 provides for the 'scope' of supply for the purpose of applicability of GST

### Current Scenario

- ⌚ At present, Sec.7(1)(a) is defined to include all forms of supply of goods or services or both by a person in the course or furtherance of business for a consideration

### Change in Law

- ⌚ New sub-clause (aa) is proposed to be inserted **w.e.f. 01.07.2017**
- ⌚ As per this, activities or transactions by a person (other than an individual) to its members or vice-versa carried out for cash, deferred payment or other valuable consideration will be regarded as supply
- ⌚ An explanation is proposed to be inserted in above sub-clause to provide that the person and its members shall be deemed to be two separate persons notwithstanding anything contained in any law in time being in force or judgement pronounced

## ...Enlargement of Scope of Supply

### WEF

- ⌚ W.e.f. 01.07.2017 post enactment of the Bill

### Impact

- ⌚ There is a recent judgement under VAT law in case of ***Calcutta Club Limited 2019 (29) GSTL 545 (SC)*** wherein the Supreme Court has held that in case of club or association, the club and its member are one and same person and hence, there cannot be a tax on the activities carried out by club to its members due to absence of two separate persons
- ⌚ It appears that the above amendment is proposed to nullify similar challenge under GST law

### GSC Comments

- ⌚ **It appears that the retrospective effect proposed may get challenged in the courts of law**

# GSTR-2A matching made mandatory

## Background

- Sec. 16 of CGST Act, 2017 provides for eligibility and conditions for availment of ITC

## Current Scenario

- Sec.16 (2) prescribes four conditions for availing credit, which are (i) possession of tax invoice, (ii) receipt of goods or services, (iii) tax payment by the supplier and (iv) filing of GSTR-3B by supplier

## Change in Law

- New condition has been proposed to be inserted in Sec. 16(2) whereby the supplier is required to report the tax invoice/debit note in its GSTR-1

## WEF

- The date of enactment of Finance Bill, 2021

## Impact

- Sec. 16 provides for pre-requisites for claiming credit. Since GSTR-2A matching is proposed to be included in Sec. 16, therefore recipient will not be eligible to claim ITC unless and until the corresponding invoice is reflected in GSTR-2A

# Requirement of CA certified reconciliation done away

## Background

- ☑ Registered person having t/o above Rs. 5 Crore is required to furnish CA certified reconciliation statement (GSTR-9C) of turnover as per GST returns and books on annual basis

## Current Scenario

- ☑ As per Sec. 35(5) of CGST Act, 2017, CA certified reconciliation statement in FORM GSTR-9C is required to be furnished on or before 31<sup>st</sup> December of succeeding year

## Change in Law

- ☑ It is proposed to omit said Sec.35(5)

## WEF

- ☑ The date of enactment of Finance Bill, 2021

## Impact

- ☑ The assessee would be able to upload annual return along with the reconciliation statement which is self certified
- ☑ The cost of compliance may come down
- ☑ The assessee would be in a riskier zone in the absence of professional review
- ☑ In the absence of a third-party check, non-compliance, non-payment of tax may rise

# Liability to pay interest

## Current Scenario

- ⌚ Levy of interest is on net tax (i.e. Gross tax minus ITC) component which is paid through electronic cash ledger. This provision was amended with prospective effect from 01.09.2020

## Change in Law

- ⌚ This provision is proposed to be substituted by the new provision where word “levied” used in earlier provision is proposed to be replaced word “payable”. And this provision is proposed to be inserted **w.e.f. 01.07.2017**

## WEF

- ⌚ 01.07.2017

## Impact

- ⌚ Existing provision was applicable w.e.f. 01.09.2020 and thus there was doubt whether interest was payable on ‘Gross tax’ for period prior to amendment. Now, it is made clear that interest would be payable on ‘Net tax’ even for the period prior to 01.09.2020

## Conclusion of penalty proceedings

### Current Scenario

- ⌚ As per clause (ii) of explanation 1 to Sec. 74(11) of CGST Act, 2017 if the proceedings initiated under Sec. 73 or 74 against the main person gets concluded then the penalty proceedings instigated against the other persons under Sec. 122 (Penalty for Offences), Sec. 125 (General penalty), Sec. 129 (penalty for e-way bill provisions violation) and Sec. 130 (confiscation penalty) gets dropped automatically

### Change in Law

- ⌚ Now it is proposed that in case of other persons, penalties prescribed under Sec. 122 (Penalty for offences) and 125 (general penalty) will only get dropped

### WEF

- ⌚ The date of enactment of Finance Bill, 2021

### Impact

- ⌚ Even if proceedings under main persons is concluded still penalty proceedings under Sec. 129 (penalty for e-way bill provisions violation) and Sec. 130 (confiscation penalty) will continue to remain in force for other persons involved

## Self assessed tax to include tax disclosed in GSTR-1

### Current Scenario

- Sec. 75 (12) of CGST Act, 2017 provides for recovery of tax in case where tax payable ('self assessed tax') has been disclosed in return filed under Sec. 39 (i.e. GSTR-3B)

### Change in Law

- Now an explanation has been inserted in Sec 75(12) to provide that the 'self assessed tax' shall also include the tax payable in return of outward supplies filed under Sec. 37 (i.e. GSTR-1)

### WEF

- The date of enactment of Finance Bill, 2021

### Impact

- If the tax payable reported in GSTR-1 is on higher side as compared to GSTR-3B then recovery proceedings can be initiated
- If only GSTR-1 is filed and GSTR-3B is not filed then also on the basis of GSTR-1, recovery proceedings can be launched
- Cases where an excess liability disclosed in GSTR-1 which needs rectification through an amendment in subsequent GSTR-1 may also become a cause of bank attachment

## Ambit of provisional attachment widened...

### Current Scenario

- ⌚ Sec. 83(1) of CGST Act, 2017 provides for provisional attachment of property including bank account during the pendency of proceedings of non filers of returns, assessment of non-filers of return, summary assessment, inspection and search, recovery of tax other than for reasons fraud/suppression and recovery of tax for reasons fraud/suppression

### Change in Law

- ⌚ It is proposed to substitute Sec. 83(1) so as to attract provisional attachment also to the liability arising from self assessment, provisional assessment, scrutiny of returns, inspection of goods in movement, arrest proceedings, summon proceedings, inspection of books/documents, tax collected but not paid, tax wrongfully collected, recovery proceedings, default in payment of installment

## ...Ambit of provisional attachment widened

- Change in Law** ☺ It is further proposed that provisional attachment will be done against those persons who retains benefit of transactions and the one whose instance transactions have been carried out such as supply of goods/services without tax invoices/false/incorrect, issue of invoices without supply, availment of ITC without actual receipt, distribution of credit in contravention to Input Service Distribution provisions
- WEF** ☺ The date of enactment of Finance Bill, 2021
- Impact** ☺ Now, even in proceedings such as return scrutiny, summons, provisional attachment can be made

# Mandatory pre-deposit for appeal against penalties in e-way bill violations

## Current Scenario

- ⌚ Presently there is no requirement of pre-deposit in case of an appeal against the demand imposing penalty

## Change in Law

- ⌚ A proviso has been inserted in Section 107 (6) wherein it is provided that in cases where penalty has been imposed under Sec. 129 (3) [for violation of e-way bill provision] then in that case the appellant need to deposit minimum 25% of the penalty demand as deposit

## WEF

- ⌚ The date of enactment of Finance Bill, 2021

## Impact

- ⌚ Cost of getting justice would become costlier

## Penalty for detention and seizure

Particulars	Existing Provision	Proposed Provision
<b>Where Owner comes forward for payment:</b>		
In case of Taxable goods	Tax + Penalty (100% of Tax)	Penalty (200% of Tax)
In case of Exempt goods	5% of value of the goods or Rs 25,000/- whichever is lower	5% of value of the goods or Rs 25,000/- whichever is lower
<b>Where owner does not come forward for payment:</b>		
In case of Taxable goods	50% of the value of goods less tax paid	Penalty: Higher of: a) 50% of the value of goods b) 200% of the tax payable
In case of Exempt goods	2% of value of goods or Rs 25,000/- whichever is less	5% of value of the goods or Rs 25,000/- whichever is lower

# Time limit for issuance of notice and order u/s 129(3)

- Background**  No time limit is prescribed u/s. 129(3) for issuance of notice specifying tax and penalty payable and passing of an order
- Change in law**  New sub-section (3) has been substituted which provides that notice shall be issued within 7 days from detention or seizure and thereafter order shall be passed within 7 days from the date of service of notice
- WEF**  The date of enactment of Finance Bill, 2021
- Impact**  It may assist in speedy disposal of conveyance and goods which are detained for longer period of time

## Detention of goods en-route...

### Background

- ⌚ As per Sec. 129(6) confiscation of goods and conveyance is initiated where there is failure to pay tax and penalty u/s 129(1) within 14 days from detention

### Change in law

- ⌚ Sec.129(6) is proposed to be substituted whereby if there is failure to pay penalty imposed u/s 129(1) within 15 days of receipt of order then in that case the goods and the conveyance shall be sold/disposed of in the time and manner as may be prescribed to recover the penalty
- ⌚ It is further provided that the conveyance/truck shall be released if the transporter makes the payment of penalty imposed u/s 129(3) or Rs 1,00,000/- whichever is less
- ⌚ It is further provided that in case the detained goods are perishable or hazardous in nature or likely to depreciate in value with passage of time then the officer can reduce the said period of 15 days

## ...Detention of goods en-route

### WEF

- 🕒 The date of enactment of Finance Bill, 2021

### Impact

- 🕒 This provision seems to be very harsh and would create undue pressure on the tax payers
- 🕒 Further, this provision will un-necessarily penalize the transporters where owner of goods does not pay the penalty

# Power to call for information

## Background

- ⌚ Sec. 151 empowers the Commissioner to collect information from concern persons for the statistical purpose. Heading of the section reads as 'power to collect statistics'

## Change in law

- ⌚ Now the heading of the section has been renamed as 'Power to call for information'
- ⌚ It is proposed to substitute Sec. 151 so as to empower Commissioner or any officer authorized by him, to direct any person to furnish information relating to any matter dealt with under GST provisions within such time as may be specified

## WEF

- ⌚ The date of enactment of Finance Bill, 2021

## Impact

- ⌚ The scope of the section earlier was to collect statistical information and now it has been broadened to call for any information

# Disclosing the information in any proceedings

## Background

- ⌚ Sec. 152 bars the usage any information collected u/s 150 or u/s 151 in any proceedings under GST Act, except for prosecution proceedings

## Change in law

- ⌚ Now the information collected u/s 150 or newly substituted Sec. 151 can be used in any proceedings under this Act after giving an opportunity of being heard to the concern person

## WEF

- ⌚ The date of enactment of Finance Bill, 2021

## Impact

- ⌚ The tax department will now frequently use the information, details received from third parties in the proceedings against the taxpayers even for purposes other than prosecution

# Unrestricted access to tax payer's information

## Background

- ⌚ Sec. 152 (2) provides that only those officer/s directly engaged in collection of statistics/compilation/computerization shall be permitted to see/ have access to tax payer's information, except under prosecution proceedings

## Change in law

- ⌚ The above Sec. 152 (2) is proposed to be omitted

## WEF

- ⌚ The date of enactment of Finance Bill, 2021

## Impact

- ⌚ Now any tax officer shall have access to information/details which are available with the department

## Procurements by SEZ

### Current scenario

- ☑ Sec. 16(1)(b) of IGST Act, 2017 used to provide for Zero rated supply wherein supply of goods or services or both to a SEZ developer or SEZ unit is treated as Zero rated supply

### Change in law

- ☑ Now, it is proposed to insert words “for authorized operations” in Sec. 16(1)(b)

### WEF

- ☑ The date of enactment of Finance Bill, 2021

### Impact

- ☑ Only those goods or services which are used for authorized operations by SEZ developer/ unit will get the benefit of Zero rated supply
- ☑ Earlier all goods and services supplied to SEZ developer/unit used to qualify for Zero rated supply
- ☑ Henceforth tax paid on goods or services which are used for other than authorized operations will become cost

## Option to export with payment of tax...

### Current law

- ☑ Sec. 16(3) of IGST Act, 2017 provides for an option to the registered person to export either with payment of tax or without payment of tax

### Change in law

- ☑ Sec. 16(3) of IGST Act, 2017 is proposed to be substituted with new subsection and as per which option available have been withdrawn
- ☑ Now it is mandatory to export without payment of tax and claim refund of unutilised input tax credit
- ☑ It is also provided that in case of export of goods where the sale proceeds are not realised within time allowed under FEMA Act, 1999 then the exporter is required to deposit the refund received along with applicable interest

## ...Option to export with payment of tax

### Change in law

- ⌚ Sec. 16(4) of IGST Act, 2017 is proposed to be introduced which enables Government to specify the class of person who may opt for refund claim with payment of tax. Also, Government may specify class of goods or services and supplier of such goods or services who may for refund claim with payment of tax

### WEF

- ⌚ The date of enactment of Finance Bill, 2021

### Impact

- ⌚ Earlier refunds under with payment of tax option were processed much faster than without payment of tax. Hence, withdrawal of option with payment of tax will lead to blockage of working capital of exporters



# Customs



## Key highlights – Customs...

- ⌚ Government has proposed to generally cap the time limit of any conditional exemption up to 31<sup>st</sup> March falling immediately after 2 years from the date of granting or varying any exemption
- ⌚ Conditional exemptions notifications already in force on the date of enactment of Finance Bill, 2021 would come to an end on 31.03.2023 if not extended specifically
- ⌚ Government has proposed to mandate filing of BOE before the end of the day (including holidays) preceding the day of arrival of aircraft or vessel carrying goods at customs station
- ⌚ Government has proposed 2 years' time limit for completing the inquiry/investigation proceedings (initiated after enactment of Finance Bill, 2021) that culminates into issuance of notice from date of initiation of audit, search, seizure or summons, as case may be

## ...Key Highlights – Customs

- ⌚ Government has proposed to impose penalty, as high as 5 times of refund claimed, in cases where taxpayers have claimed refund relating to goods exported and where tax or duty is discharged through utilizing ITC availed on invoices obtained by fraud, collusion, willful misstatement or suppression of facts
- ⌚ CBIC to notify a common portal for facilitating registration, filing of bills of entry, shipping bills, any other document or form prescribed under Customs or any other Indian Laws, payment of duty and for other specified purposes
- ⌚ Government has been empowered to levy CVD (of subsidized article)/ADD with retrospective effect from the date of initiation of enquiry. Also, anti-absorption measures are proposed
- ⌚ For the purposes of financing the agriculture infrastructure and other development expenditure, Government has proposed a new cess called Agriculture Infrastructure and Development Cess ('AIDC') on import of notified goods

# AMENDMENTS IN CUSTOMS ACT, 1962

# SUBSTANTIAL AMENDMENTS

# Rationalisation of customs duty structure...

## Background

- 🕒 Section 25 of Customs Act, 1962 grants power to Government for issuing conditional as well as absolute exemption notifications

## Current Scenario

- 🕒 Presently, if an exemption notification is issued it continues to be in force until withdrawn by Government

## Change in Law

- 🕒 Now, Government has proposed to generally cap the time limit of any conditional exemption up to 31<sup>st</sup> March falling immediately after 2 years from the date of granting or varying any exemption
- 🕒 Conditional exemptions notifications already in force on the date of enactment of Finance Bill, 2021 would come to an end on 31.03.2023 if not extended specifically

## ...Rationalisation of customs duty structure

### WEF

- 🕒 The date of enactment of Finance Bill, 2021

### Impact

- 🕒 It is proposed to rationalise customs duty structure. Accordingly, there is proposal to review nearly 400 exemptions enjoyed by importers at present through extensive consultation. Revised customs duty structure would come in effect from 01.10.2021
- 🕒 Further, all conditional exemption notifications would now have general validity of only 2 years. Therefore, it is imperative for tax payers to keep pace regularly with changes under Customs Laws

## Time limit to furnish BOE preponed...

### Background

- 🕒 Bill of entry has to be filed for clearing goods for home consumption or warehousing in India vide Section 46 of Customs Act, 1962

### Current Scenario

- 🕒 Presently, importers may furnish BOE by end of the next day following the day (excluding holidays) of arrival of aircraft or vessel carrying goods at customs station

### Change in Law

- 🕒 Now, it is proposed that BOE shall be filed before the end of the day (including holidays) preceding the day of arrival of aircraft or vessel carrying goods at customs station
- 🕒 Also, CBIC is proposed to be empowered to prescribe different time limits for furnishing BOEs in certain cases which shall not be later than the end of day of such arrival

## ...Time limit to furnish BOE preponed

### WEF

- 🕒 The date of enactment of Finance Bill, 2021

### Impact

- 🕒 Time limit to furnish BOE would be preponed to at least one day prior to arrival of goods at customs station including holidays. Tax payers would be required to set up appropriate processes for smooth clearance of goods

## Time limit introduced to complete inquiry or investigation proceedings...

### Background

- 🕒 There is time limit to issue notices and adjudicate the cases

### Current Scenario

- 🕒 Hitherto, there is no time limit specified for completing the inquiry or investigation proceedings which culminate into issuance of notice

### Change in Law

- 🕒 Now, Government has proposed 2 years' time limit for completing the inquiry/investigation proceedings that culminates into issuance of notice from date of initiation of audit, search, seizure or summons, as case may be
- 🕒 Principal Commissioner of Customs or Commissioner of Customs would have powers to extend such time limit of 2 years for further period of 1 year
- 🕒 Period of stay granted by Court/Tribunal Order or time taken for acquiring information from Overseas authority would not be considered for calculation of such 2 years or extended 1 year
- 🕒 Such time limit would be applicable to fresh proceedings initiated after enactment of Finance Bill, 2021

## ...Time limit introduced to complete inquiry or investigation proceedings

### WEF

- 🕒 The date of enactment of Finance Bill, 2021

### Impact

- 🕒 This will set specific time limit to complete inquiry or investigation proceedings

# Heavy penalty for claiming refund in cases of export with payment of tax or duty by utilising ITC on fake invoice...

## Background

- ⌚ Customs Laws is very stringent law and prescribes various penalties for failure to comply with the provisions of law

## Current Scenario

- ⌚ Goods may be exported with payment of GST, refund of which may be claimed. Currently, no specific penalty is prescribed under Customs Law in cases of utilisation of ITC availed on the basis of invoices obtained through wrongful means

## Change in Law

- ⌚ Now, it is proposed to impose penalty in cases where tax payers claim refund relating to goods exported and where tax or duty is discharged through utilizing ITC availed on invoices obtained by fraud, collusion, willful misstatement or suppression of facts
- ⌚ It is imperative to note that the quantum of penalty is proposed to be kept as high as upto 5 times the refund claimed

## ...Heavy penalty for claiming refund in cases of export with payment of GST by utilising ITC on fake invoice

### WEF

- ☑ The date of enactment of Finance Bill, 2021

### Impact

- ☑ Till now, measures are undertaken to curb malpractices relating to fake invoices for claiming ITC under GST Law. Now, it is proposed to extend such provisions under Customs Law as well.

### Example:

Total output liability	Rs. 1 crore
ITC (from fake invoice)	Rs. 20 lakhs
ITC (other than fake invoice)	Rs. 50 lakhs
Payment through cash	Rs. 30 lakhs
Penalty	Rs. 5 Cr. (5 times of Rs. 1 Cr.) even if wrongful claim of ITC is Rs. 20 Lakhs

In view of amendment confining refund claims under with payment option, in notified handful cases, there would be hardly any refund claims which would be hit by this penalty provision

# Confiscation of export goods in cases of wrongful claim of refund or remission...

- Background**  Improper exports may result in confiscation of goods vide Section 113 of Customs Act, 1962
- Current Scenario**  Customs Law prescribes various situations which shall amount to improper importation which makes export goods liable to confiscation such as export from a place other than customs port, goods concealed in package, goods not corresponding to description, etc.
- Change in Law**  Now, improper export situations it is proposed to include cases of wrongful claim of remission or refund of any duty or tax or levy in contravention of the provisions of Customs Act or any other law time being in force for goods exported

## ...Confiscation of export goods in cases of wrongful claim of refund or remission

### WEF

- 🕒 The date of enactment of Finance Bill, 2021

### Impact

- 🕒 Exporters should bear in mind that powers to confiscate export goods are extended even where there is wrongful claim of remission or refund in contravention of any other laws such as GST

# PROCEDURAL AMENDMENTS

# Introduction of common customs electronic portal...

## Background

- ⌚ Various compliances are required to be done under Customs Law on daily basis. Therefore, there is a need to have a common portal for carrying out all Customs related procedures

## Current Scenario

- ⌚ At present, Customs compliances are undertaken primarily at ICEGATE and ICES portal

## Change in Law

It is proposed:

- ⌚ To empower CBIC to notify a common portal for facilitating registration, filing of bills of entry, shipping bills, any other document or form prescribed under Customs or any other Indian Laws, payment of duty and for other specified purposes
- ⌚ 'Common portal' to be called as Common Customs Electronic Portal
- ⌚ To serve notices, orders, summons, etc. by making them available on common portal

## ....Introduction of common customs electronic portal

### WEF

- ⊙ The date of enactment of Finance Bill, 2021

### Impact

- ⊙ Post introduction of common portal, technical glitches and mismatch errors are likely to reduce

## Facilitating amendments to BOE / SB...

### Background

- 🕒 Section 149 of Customs Act empowers proper officer for authorising the amendment of any document after it has been presented at customs house such as BOE, SB etc. except Import Manifest or Export Manifest

### Current Scenario

- 🕒 Currently, amendment in documents such as BOE, SB is not automatised properly and therefore, hardships are faced by importers & exporters

### Change in Law

- 🕒 Now, authorisation and amendment of documents may be done electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria
- 🕒 Also, specified amendments could be done by importers or exporters on the CCEP

## ...Facilitating amendments to BOE / SB

### WEF

- ☑ The date of enactment of Finance Bill, 2021

### Impact

- ☑ This may lead to ease of compliance

# Empowering jurisdictional Commissioner (Appeals) for speedy disposal of gold seized...

## Background

- ☑ If gold is seized under Customs Laws, the same can be disposed off as soon as possible vide Section 110 of Customs Act, 1962

## Current Scenario

- ☑ At present, when gold is seized, proper officer needs to prepare inventory of goods and make application to Magistrate for certifying the correctness of inventory so prepared, taking photographs, drawing samples, etc.

## Change in Law

- ☑ Now, in such cases of seizure of gold, jurisdictional Commissioner (Appeals) is proposed to be empowered to certify the correctness of inventory prepared by proper officer, taking photographs, drawing samples, etc. for speedy disposal of such goods

## ...Empowering jurisdictional Commissioner (Appeals) for speedy disposal of gold seized

### WEF

- 🕒 The date of enactment of Finance Bill, 2021

### Impact

- 🕒 Now, for certification, application and disposal of gold seized, Proper Officers would be required to approach Commissioner (Appeals)
- 🕒 Such certified documents i.e. lists, documents, photographs etc. shall be presumed to be an evidence under Customs Laws

# AMENDMENTS IN CUSTOMS TARIFF ACT, 1975

## Background

- ⌚ For the purposes of financing the agriculture infrastructure and other development expenditure, Government has introduced a new cess called Agriculture Infrastructure and Development Cess ('AIDC')

## Current Scenario

- ⌚ Till now, social Welfare Cess and Health Cess are applicable to notified products

## Change in Law

- ⌚ AIDC is proposed to be introduced vide Finance Bill, 2021 on notified goods, when imported, in India at a rate not exceeding the rate of basic customs duty
- ⌚ Not. 11/2021-Customs dated 01.02.2021 is issued to prescribed effective rate of AIDC on specified goods such as apple, specified oils, chick peas, lentils, various types of coals, urea, gold, silver including when imported by eligible passengers etc.

**Change in Law**

- ⊙ AIDC shall be levied on the value of goods as determined vide Section 14 of Customs Act, 1962 and shall be levied in addition to any other duties of customs
- ⊙ Provisions of Customs Act, 1962, rules regulations etc. will be applicable for levy and collection of AIDC
- ⊙ AIDC would not be applicable in cases of import of goods in cases of exemptions under FTAs, EOUs and advance authorization schemes
- ⊙ SWS would be levied on AIDC except on gold and silver

**WEF**

- ⊙ 02.02.2021

**Impact**

- ⊙ Though a new cess is introduced, basic customs duty rates on such products are reduced so that the overall burden of customs duty is not borne by consumers

# Retrospective levy of CVD (of subsidized articles) and anti-absorption measures...

## Background

- ⌚ Section 9 of Customs Tariff Act, 1975 empower CG to impose CVD on notified goods imported in India to the extent of subsidy granted by any Country or Territory on such goods

## Current Scenario

- ⌚ If an inquiry is conducted and CG is of the opinion that circumvention of CVD (of subsidized article) has taken place by altering the description or name or composition of the article or import has taken place in unassembled or disassembled form or changing country of origin or export or in any other manner; then CG is empowered to impose CVD on such other article/s as well
- ⌚ Presently, provisions of CVD (of subsidized article) are also applicable to SEZ and 100% export oriented units

## ...Retrospective levy of CVD (on subsidized articles) and anti-absorption measures

### Change in Law

- ⌚ Now, it is proposed to empower CG to levy CVD (of subsidized article) on such other articles with retrospective effect from the date of initiation of enquiry
- ⌚ Further, anti-absorption measures are also introduced for levy of CVD (of subsidized article). If it is found that there is a decrease in export price without commensurate change in resale price in India of such article imported from exporting Country or territory or as specified in rules so as to absorb CVD and make imposition of CVD ineffective then CG may modify CVD (of subsidized article) including with retrospective effect from the date of initiation of enquiry
- ⌚ Now, CVD (of subsidized article) will not be applicable automatically to 100% EOU or SEZ units unless it is specifically made applicable to such units. However, if subsequently, the article is either cleared to DTA as such or is used in manufacture of goods cleared to DTA by 100% EOU or SEZ units then CVD (of subsidized article) will be applicable on such domestic clearances
- ⌚ In cases of revocation of CVD (of subsidized article) temporarily, period of revocation shall not exceed 1 year at a time
- ⌚ **WEF** The date of enactment of Finance Bill, 2021

# Retrospective levy of ADD and anti-absorption measures...

## Background

- ☑ Section 9A of Customs Tariff Act empower CG to impose ADD on notified goods imported in India when such goods are exported to India at less than its normal value (dumped articles)

## Current Scenario

- ☑ If an inquiry is conducted and CG is of the opinion that circumvention of ADD has taken place either by altering the description or name or composition of the article or import has taken place in unassembled or disassembled form or changing country of origin or export or in any other manner; then CG may impose ADD on such other article/s as well
- ☑ Presently, provisions of CVD (of subsidized article) are also applicable to SEZ and 100% export oriented units

## ...Retrospective levy of ADD and anti-absorption measures

**Change in Law** ☑ Amendments similar to CVD (of subsidized article) are proposed for ADD

**WEF** ☑ The date of enactment of Finance Bill, 2021

Tariff rate changes for Basic Customs Duty [to be effective from 02.02.2021, unless otherwise specified]\* [Clause [95(i)] of the Finance Bill, 2021]

\*Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

**Source:** Memorandum explaining the provisions in The Finance Bill, 2021

## Harmonizing Customs Tariff with HSN 2022

a) Changes to the first schedule to the Customs Tariff Act are being proposed which shall come into effect from 01.01.2022. This is in accordance with HSN 2022, which proposes around 351 amendments to the existing harmonized nomenclature, covering a wide range of goods moving across borders

b) The amendments are necessary to adapt to the current trade through the recognition of new product streams, the changing nature of commodities being traded, advent of new technologies and addressing the environmental and social issues of global concern- all with a prime focus on the larger goal of ease of doing business and trade facilitation

# Tariff Rate Changes for BCD...

Sr. No.	HSN	Commodity	Rate of Duty	
			From	To
		<b>Chemicals</b>		
1.	2803 00 10	Carbon Black	5%	7.5%
		<b>Plastic items</b>		
2.	3925	Builder's ware of Plastics	10%	15%
		<b>Gems and Jewellery Sector</b>		
3.	7104	Cut and Polished Synthetic stones, including Cut and Polished Cubic Zirconia	10%	15%
		<b>Electrical and Electronics Sector</b>		
4.	8414 30 00	Compressors of a kind used in refrigerating equipment	12.5%	15%

## ...Tariff Rate Changes for BCD...

Sr. No.	HSN	Commodity	Rate of Duty	
			From	To
5.	8414 80 11	Compressors of a kind used in air-conditioning equipment	12.5%	15%
6.	8504 90 90	Printed Circuit Board Assembly [PCBA] of charger or adapter (All goods under this tariff item, other than above, will continue to attract the existing effective rate of BCD at 10%)	10%	15%

## ...Tariff Rate Changes for BCD...

Sr. No.	HSN	Commodity	Rate of Duty	
			From	To
		<b>Parts of Automobiles</b>		
7.	7007	Safety glass, consisting of toughened (tempered) or laminated glass. (All goods under this heading, other than those used with motor vehicles, will continue to attract the existing effective rate of BCD at 10%)	10%	15%

## ...Tariff Rate Changes for BCD

Sr. No.	HSN	Commodity	Rate of Duty	
			From	To
8.	8512 90 00	Parts of Electrical lighting and signaling equipment, windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles	10%	15%
9.	8544 30 00	Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	10%	15%
10.	9104 00 00	Instrument Panel Clocks and Clocks of a similar type for vehicles, Aircraft, Spacecraft or Vessels	10%	15%

New entries added to the First Schedule [Clause 95 (ii) and 95 (iii) of the Finance Bill, 2021]

**Source:** Memorandum explaining the provisions in The Finance Bill, 2021

## New Entries

Sr. No.	Particulars
1.	New tariff lines under the heading 2709 in the Customs Tariff Act, 1975 <sup>#</sup> :  2709 00 10 -- petroleum crude  2709 00 20 -- other

# Will come into effect on 1.4.2021

Other proposals involving changes in basic customs duty rates in respective notifications [with effect from 02.02.2021, unless specified otherwise]

**Source:** Memorandum explaining the provisions in The Finance Bill, 2021

## Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
		<b>Agricultural Products and By Products</b>		
1.	2207 20 00	Denatured Ethyl Alcohol (ethanol) for use in manufacture of excisable goods	2.5%	5%
2.	23	All goods except dog and cat food and shrimp larvae feed	Nil / 5% / 10%/ 15%/ 20%/ 30%	15%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
		<b>Minerals</b>		
3.	2528	Natural borates and concentrates thereof	Nil/ 5%	2.5%
		<b>Fuels, Chemicals and Plastics</b>		
4.	2710	Naphtha	4%	2.5%
5.	2907 23 00	Bis-phenol A	Nil	7.5%
6.	2910 30 00	Epichlorohydrin	2.5%	7.5%
7.	2933 71 00	Caprolactam	7.5%	5%
8.	3907 40 00	Polycarbonates	5%	7.5%
9.	3908	Nylon chips	7.5%	5%
10.	3920 99 99	Other plates, sheets, films, etc. of other plastics	10%	15%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
		<b>Leather</b>		
11	41	Wet blue chrome tanned leather, crust leather, finished leather of all kinds, including splits and sides of the aforesaid	Nil	10%
		<b>Textiles</b>		
12.	5002	Raw Silk (not thrown)	10%	15%
13.	5004, 5005, 5006	Silk yarn, yarn spun from silk waste (whether or not put up for retail sale)	10%	15%
14.	5201	Raw Cotton	Nil	5% + 5% AIDC
15.	5202	Cotton waste (including yarn waste or garneted stock)	Nil	10%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
16.	5402, 5403, 5404, 5405 00 00, 5406, 5501 to 5510	Nylon Fibre and Yarn	7.5%	5%
		<b>Gems and Jewellery Sector</b>		
17.	7106	Silver	12.5%	7.5%+ 2.5% AIDC
18.	7106	Silver Dore	11%	6.1% + 2.5% AIDC
19.	7108	Gold	12.5%	7.5%+ 2.5% AIDC
20.	7108	Gold Dore	11.85%	6.9%+ 2.5% AIDC

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
21.	7107 00 00, 7109 00 00, 7111 00 00	Base metals or precious metals clad with precious metals	12.5%	10%
22.	7110	Other precious metals like Platinum, Palladium, etc.	12.5%	10%
23.	7112	Waste and scrap of precious metals or metals clad with precious metals	12.5%	10%
24.	7112	Spent catalyst or ash containing precious metals	11.85%	9.17%
25.	7113	Gold or Silver Findings	20%	10%
26.	7118	Coin	12.5%	10%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
		<b>Metals</b>		
27.	7204	Iron and steel scrap, including stainless steel scrap [up to 31.03.2022]	2.5%	Nil
28.	7206 and 7207	Primary/Semi-finished products of non-alloy steel	10%	7.5%
29.	7208, 7209, 7210, 7211, 7212, 7225 (except 7225 11 00) and 7226 (except 7226 11 00)	Flat products of non-alloy and alloy steel	10% /12.5%	7.5%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
30.	7213, 7214, 7215, 7216, 7217, 7221, 7222, 7223, 7227 and 7228	Long product of non-alloy, stainless and alloy steel	10%	7.5%
31.	7225	Raw materials for use in manufacture of CRGO steel [up to 31.03.2023]	2.5%	Nil
32.	7404	Copper Scrap	5%	2.5%
33.	7318	Screw, bolts, nuts, etc. of iron and steel	10%	15%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
		<b>Capital Goods</b>		
34.	8430	Tunnel boring machines	Nil	7.5%
35.	8431	Parts and components for manufacture of tunnel boring machines with actual-user condition	Nil	2.5%
		<b>IT, Electronics and Renewable</b>		
36.	8544 (other than 8544 70 and 8544 30 00)	Specified insulated wires and cables	7.5%	10%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
37.	39, 74 and 85	Former, bases, bobbins, brackets; CP wires; P.B.T.; Phenol resin moulding powder; Lamination/ EI silicon steel strips for use in manufacture of transformers (entry at S. No. 198 of 25/1999- Customs)	Nil	Applicable effective rates of BCD
38.	Any Chapter	Inputs or parts for manufacture of Printed Circuit Board Assembly (PCBA) of cellular mobile phone (w.e.f. 01.04.2021)	Nil	2.5%
39.	Any Chapter	Inputs or parts for manufacture of camera module of cellular mobile phone (w.e.f. 01.04.2021)	Nil	2.5%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
40.	Any Chapter	Inputs or parts for manufacture of connectors of cellular mobile phone (w.e.f. 01.04.2021)	Nil	2.5%
41.	Any Chapter	Inputs or raw material for manufacture of specified parts like back cover, side keys etc. of cellular mobile phone (w.e.f. 01.04.2021)	Nil	2.5%
42.	Any Chapter	Inputs or raw material (other than PCBA and moulded plastics) for manufacture of charger or adapter of cellular mobile phones	Nil	10%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
43.	8504 90 90 or 3926 90 99	Moulded plastics for manufacture of charger or adapter	10%	15%
44.	Any Chapter	Inputs or parts of Printed Circuit Board Assembly of charger or adapter of cellular mobile phones	Nil	10%
45.	Any Chapter	Inputs or parts of Moulded Plastic of charger or adapter of cellular mobile phones	Nil	10%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
46.	Any Chapter	Inputs or raw materials (other than Lithium-ion cell and PCBA) of Lithium-ion battery or battery pack (w.e.f. 01.04.2021)	Nil	2.5%
47.	Any Chapter	Parts or components of PCBA of Lithium-ion battery or battery pack (w.e.f. 01.04.2021)	Nil	2.5%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
48.	Any Chapter	Inputs or raw materials of following goods: - (i) Other machines capable of connecting to an automatic data processing machine or to a network (8443 32 90) (ii) Ink cartridges, with print head assembly (8443 99 51) (iii) Ink cartridges, without print head assembly (8443 99 52) (iv) Ink spray nozzle (8443 99 53) (w.e.f. 01.04.2021)	Nil	2.5%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
49.	Any Chapter	Inputs and parts of LED lights or fixtures including LED Lamps	5%	10%
50.	Any Chapter	Inputs for use in the manufacture of LED driver or MCPCB (Metal Core Printed Circuit Board) for LED lights or fixtures including LED Lamps	5%	10%
51.	9405 50 40	Solar lanterns or solar lamps	5%	15%
52.	8504 40	Solar Inverters	5%	20%
53.	9503	Parts of Electronic Toys for manufacture of electronic toys	5%	15%

## ...Other BCD Rate Changes...

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
		<b>Aviation Sector</b>		
54.	Any Chapter	Components or parts, including engines, for manufacture of aircrafts or parts of such aircrafts, by Public Sector Units under Ministry of Defense subject to condition specified.	2.5%	0%

## ...Other BCD Rate Changes

Sr. No.	HSN	Commodity	Effective rate of BCD	
			From	To
		<b>Medical devices</b>		
55.	9018-9022	Medical Devices imported by International Organization and Diplomatic Missions	Health Cess @ 5%	Health Cess @ Nil
		<b>Goods imported under Project Import Scheme</b>		
56.	9801	High Speed Rail Projects being brought under project imports	Applicable Rate	5%
57.	8714 91 00, 8714 92, 8714 93, 8714 94 00, 8714 95, 8714 96 00, 8714 99	All goods other than Bicycle parts and components	10%	15%

Removal of concessional rates of BCD prescribed in Notification No. 50/2017 – customs dated 30.06.2017

**Source:** Memorandum explaining the provisions in The Finance Bill, 2021

## Removal of Concessional Rates of BCD...

The BCD exemption hitherto available on certain goods are withdrawn by omitting following entries of Notification No. 50/2017-Customs dated 30.06.2017

Sr. No.	Sr. No. of Not.	Description/CTH
1.	209	Diphenylmethane 4, 4-diisocyanate (MDI) for use in the manufacture of spandex yarn
2.	230	Ink cartridges, ribbon assembly, ribbon gear assembly, ribbon gear carriage, for use in printers for computers
3.	229 [w.e.f 01.04.2021]	71 items like wax items, wood polish materials, prints for photo frames, velvet fabric/paper, handles/blades for cutlery, jigat, wine tools etc.
4.	311 [w.e.f 01.04.2021]	35 items like fasteners, zippers, shoulder pads, buckles, rivets, Velcro tape, toggles, stud, elastic cloth and band, bobbin, hooks, anglets etc.

## ...Removal of Concessional Rates of BCD

Sr. No.	Sr. No. of Not.	Description/CTH
5.	312 [w.e.f 01.04.2021]	42 items like buckles, buttons, stamping foil, sewing thread, Loop rivets, Glove Liners, shoe laces, inlay cards etc.
6.	313 [w.e.f 01.04.2021]	18 items like lace, Velcro tape, curtain hooks, Tassel, Beads, Sequins, sewing threads, poly wadding materials, quilted wadding materials etc.

## Customs duty exemptions rescinded

**Source:** Memorandum explaining the provisions in The Finance Bill, 2021

## Customs Duty Exemptions Rescinded...

Sr. No.	Not. No.	Notification Subject
1.	1/2011-Customs, dated the 06.01.2011	Exemption to all items of machinery, instruments, appliances, components or auxiliary equipment for initial setting up of solar power generation project or facility
2.	34/2017- Customs dated 30.06.2017	This notification provided exemption to tags or labels (whether made of paper, cloth, or plastic), or printed bags (whether made of polyethene, polypropylene, PVC, high molecular or high density polyethene) imported for fixing on articles for export or for the packaging of such articles. Similar exemption exists at S. No.257 of notification No. 50/2017-Cus. These have been merged in the said S. No.257 and notification No 34/2017-Cus has been omitted.

## ...Customs Duty Exemptions Rescinded

Sr. No.	Not. No.	Notification Subject
3.	75/2017-Customs dated 13.09.2017	Exemption for goods imported for organizing FIFA Under-17 World Cup, 2017.

## Social Welfare Surcharge

**Source:** Memorandum explaining the provisions in The Finance Bill, 2021

## Social Welfare Surcharge

- A. *Notification No. 12/2018-Customs, dated 02.02.2018 prescribing effective rates of 3% on certain items, including gold and silver, is being rescinded.*
  
- B. *SWS is also being rescinded on goods falling under heading 2515 11 (Marble and travertine, crude or roughly trimmed) and 2515 12 (Marble and travertine, merely cut, by sawing or otherwise, into blocks or slabs of a square or rectangular shape)*
  
- C. *SWS is exempted on the value of AIDC imposed on gold and silver*

# Companies Act 2013



## Relief to Small Companies

### Background

- ⌚ Change in Definition of Small Company (Section 2 (85) of Companies Act, 2013)

### Current Scenario

- ⌚ Small Companies are defined as; i) Company other than Public Company and its Paid up Capital does not exceed Rs. 50 Lakhs or Turnover as per last profit & loss account does not exceeds Two Crores

### Change in Law

- ⌚ Now said Paid up Capital threshold increased to Rs. 2 Crores and Turnover threshold increased to Rs. 20 Crores

### WEF

1<sup>st</sup> April 2021

### Impact

- ⌚ Relief to Compliance such as i) Preparation of Cash Flow Statement ii) Providing CARO Report iii) Appointment of key managerial person iv) secretarial audit or whole time secretary (CS) v) Annual Return to be certified by CS vi) Limited Disclosure in Director Report viii) Holding of lesser number of Board meeting ix) Rotation of Auditor would apply to more companies as defined above

## Abbreviations...

<b>WEF</b>	With Effect From
<b>FY</b>	Financial Year
<b>Govt.</b>	Government
<b>GST</b>	Goods and Service tax
<b>Sec.</b>	Section
<b>T/o</b>	Turnover
<b>TCS</b>	Tax collected at source
<b>SEZ</b>	Special economic zone
<b>CGST</b>	Central goods and service tax
<b>IGST</b>	Integrated goods and service tax
<b>FEMA</b>	Foreign Exchange Management Act
<b>U/s</b>	Under Section

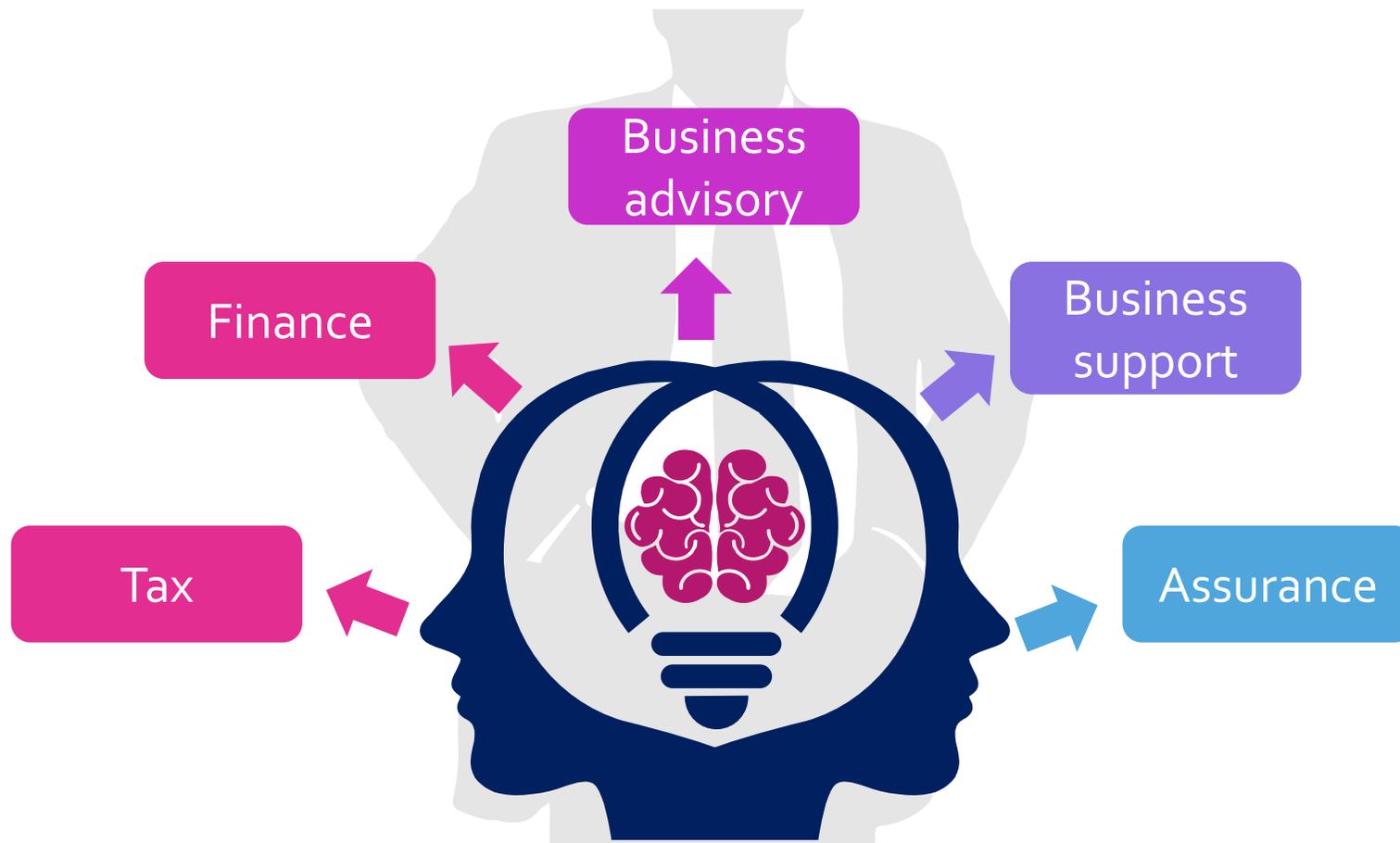
## ...Abbreviations...

<b>GOI</b>	Government of India
<b>AIDC</b>	Agriculture Infrastructure and Development Cess
<b>FA</b>	Finance Act, 1994
<b>Not.</b>	Notification
<b>TRU</b>	Tax Research Unit
<b>WEF</b>	With Effect From
<b>CCEP</b>	Common Customs Electronic Portal
<b>CBIC</b>	Central Board of Indirect Taxes and Customs
<b>BOE</b>	Bill of entry
<b>CVD</b>	Countervailing Duty
<b>ADD</b>	Anti-dumping duty
<b>EOU</b>	Export Oriented Unit

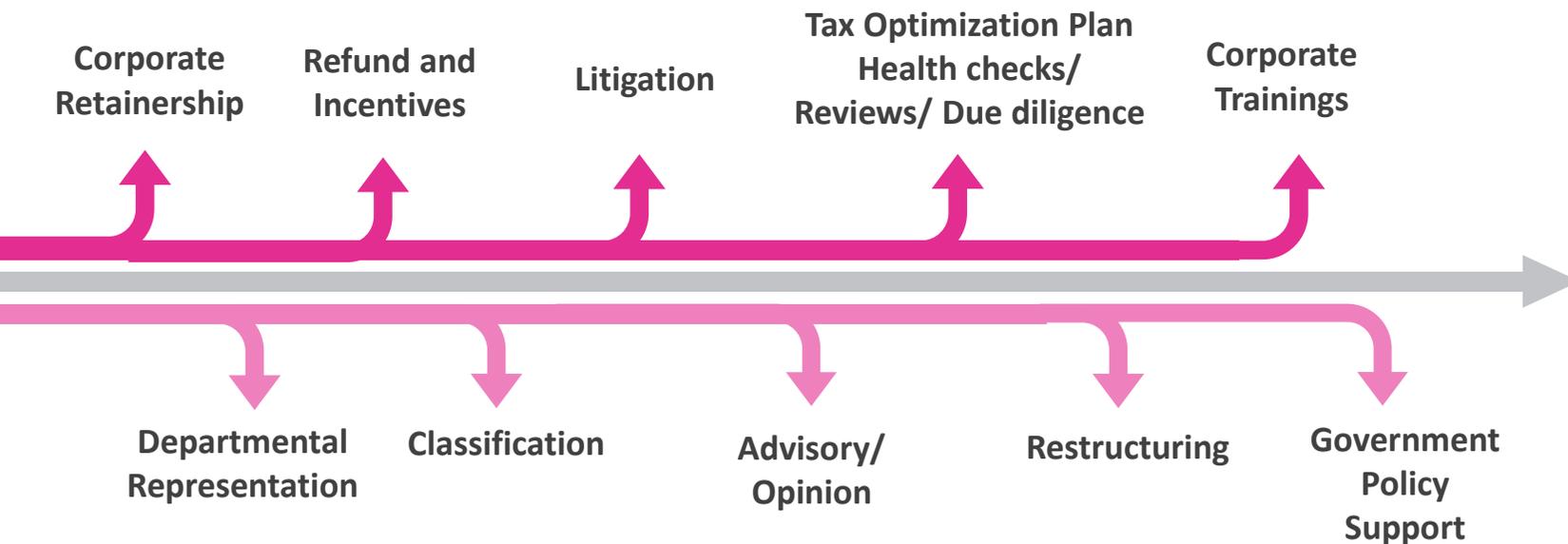
## ...Abbreviations

<b>CG</b>	Central Government
<b>DTA</b>	Domestic Tariff Area
<b>SWS</b>	Social Welfare Surcharge
<b>Cr.</b>	Rupees in Crores
<b>ITC</b>	Input Tax Credit
<b>SB</b>	Shipping Bill

# What do we do?....



## ....What do we do?



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