A.C. BHUTERIA & CO

BUDGET 2024

ANALYSIS OF PROPOSALS IN FINANCE ACT (NO.2, 2024)

BUDGET ANALYSIS ON FINANCE ACT (NO. 2) 2024

PERSONAL TAXATION:

- No change proposed in rebate, surcharge and health and education cess. Maximum surcharge under new regime continues to be at 25% and under old regime it is 37%.

- Standard deduction for salaried individuals increased from INR 50,000 to INR 75,000, under new regime.

- Deduction to the family members of deceased employee from pension income increased from INR 15,000 to INR 25,000.

- Proposed slab rates under the new regime (default regime) for individuals or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person:

Existing slab rates – AY 2024-25		Amended slab rates – AY 2025-26 onwards	
Income (in INR)	**Rates**	**Income (in INR)**	**Rates**
Up to 3,00,000	Nil	Up to 3,00,000	Nil
3,00,001 - 6,00,000	5%	3,00,001 - 7,00,000	5%
6,00,001 – 9,00,000	10%	7,00,001 – 10,00,000	10%
9,00,001 – 12,00,000	15%	10,00,001 – 12,00,000	15%
12,00,001 – 15,00,000	20%	12,00,001 – 15,00,000	20%
Above 15,00,000	30%	Above 15,00,000	30%

Tax rates under old regime

- No change in old regime (optional).

- Slab rates under old regime:

Income (INR)	Age less than 60 years	Age 60 years or more but less than 80 years	Age 80 years or more
Up to 2,50,000	Nil	Nil	Nil
2,50,001 - 3,00,000	5%	Nil	Nil
3,00,001 - 5,00,000	5%	5%	Nil
5,00,001 - 10,00,000	20%	20%	20%
Above 10,00,000	30%	30%	30%

- **Contribution to National Pension Scheme**

  It is proposed to insert a proviso under section 80CCD to allow a deduction to employees for contribution to NPS by an employer (other than Central Government or State Government) up to 14% as against 10% allowed earlier. The amendment shall be applicable from April 1, 2024.

- **Donation to National Sports Development Fund**

  The existing provisions of Section 80G(2)(a)(iiihg) is proposed to be amended to provide for a deduction from total income of any sum paid as donation to the "National Sports Development Fund set up by the Centra Government", which was earlier "National Sports Development Fund to be set up". The amendment shall be applicable from April 1, 2024.

BUSINESS / CORPORATE TAXATION:

- **Reporting of Income from letting out of house property**

  An explanation under section 28 of the Act has been inserted to clarify that any income from letting out of residential house shall be chargeable under the head 'Income from house property' and not under the head 'profits and gains of business or profession'.

- **Disallowance of amounts paid to settle contraventions**

  Currently, expenditure incurred towards offence or contravention of law, including amounts paid for compounding of offences are not allowable. It is now proposed to disallow settlement amounts that are incurred due to an infraction of law and relate to contraventions as well.

- **Increase in deduction of remuneration to working partners**
  Currently, remuneration paid to a working partner above a particular threshold is disallowed.

  With effect from April 1, 2024, the remuneration to working partners allowed as deduction is amended as below:

	Book profit	Remuneration allowable
(a)	on the first INR 6,00,000 (revised from INR 3,00,000) of the book-profit or in case of a loss	INR 3,00,000 (revised from INR 1,50,000) or at the rate of 90 per cent of the book-profit, whichever is more;
(b)	on the balance of the book-profit	At the rate of 60 percent

CAPITAL GAINS TAXATION:

- **New holding period in case of Capital Gains**
  (applicable from July 23, 2024)

Sr No.	Asset class	Holding period
1	All listed securities	12 months
2	Unlisted securities, immovable properties, unlisted bonds, unlisted debentures, physical gold	24 months

- **New tax rates for following capital assets**
  (applicable from July 23, 2024)

Sr No.	Asset class	Period of holding	Applicable section	Tax rate
1	STT paid equity shares, units of equity-oriented funds, units of business trust	Short-term	111A	20%
2	STT paid equity shares, units of equity-oriented funds, units of business trust	Long-term (No Indexation Benefit Available)	112A	12.5% (on gains exceeding Rs. 1.25 lakhs)
	Equity shares (STT not paid including OFS), listed bonds,	Long-term	112	12.5%

	listed debentures, Immovable property, mutual funds (equity held more than 35% but less than 65%), other assets	(No Indexation Benefit Available)		
3	Market-linked debentures, specified mutual funds (debt oriented i.e. more than 65% in debt), unlisted bonds & unlisted debentures.	Short-term (irrespective of holding period)	50AA	At slab rates applicable

Capital Gains tax rates (Old vs. New):

Sr. No.	Particulars	Old	New
A.	**Short term capital gains**		
1.	Equity shares (STT paid), units of equity oriented mutual funds, units of business trust	15% (under section 111A)	20%
B.	**Long term capital gains**		No indexation available
1.	Equity shares (STT paid) and units of equity oriented mutual funds, units of business trust (REIT, INvit)	10% (under section 112A)	12.5%
2.	Listed bonds and debentures	10% (under section 112A)	12.5%
3.	Unlisted bonds and debentures	20% (under section 112A)	Slab rates, short term – Irrespective of holding period (under section 50AA)
4.	Equity shares (STT not paid including OFS)	20% (under section 112A)	12.5%
5.	Immovable property, other assets	20% (under section 112A)	12.5%/20% with indexation,whichever is lower 20% with indexation upto July 23, 2024
6.	Market Linked Debentures, specified mutual funds (debt oriented i.e. more than 65% in debt)	Slab rates, short term – Irrespective of holding period (under section 50AA)	Slab rates, short term – Irrespective of holding period (under section 50AA)

7.	Mutual Funds (equity more than 35% but less than 65%)	20%	12.5%

- **Redefining 'specified mutual funds' under explanation of section 50AA**

  It is proposed to amend the definition of "Specified Mutual Fund" under clause (ii) of Explanation of section 50AA to provide that a specified mutual fund shall mean a mutual fund:
  (a) a Mutual Fund by whatever name called, which invests more than sixty five per cent of its total proceeds in debt and money market instruments; or
  (b) a fund which invests sixty five per cent or more of its total proceeds in units of a fund referred to in sub-clause (a).
  This amendment shall be applicable from April 1, 2025.

- **Buyback to be treated as dividend in the hands of shareholders**

  Consideration received upon buyback of shares in the hands of shareholders bought on par with dividends. Further, the cost of shares tendered for buyback to be claimed as capital loss as sales consideration being deemed to be Nil. This amendment shall be applicable from October 1, 2024.

- **Exemption from 'transfer' of certain assets to be available only to Individual and HUF**

  Section 47(iii) has been amended to provide exemption only to an individual and HUF in respect of transfer of capital asset under a gift or an irrevocable trust.

- **Clarifying FMV in an instance of exit via offer for sale where listing of an equity share is subsequent to the date of transfer**

  In a case where unlisted shares are held on January 31, 2018 and sold via an offer for sale, it has been clarified (with retrospective effect) that the cost shall be computed by indexing the original cost up to January 31, 2018.

INCOME FROM OTHER SOURCES:

- **Abolishment of Section 56(2)(viib):**
  The existing provisions of section 56(2)(viib) provide that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person, any consideration for issue of shares, exceeding the face value of such shares, the aggregate consideration received for such shares as exceeds such fair market value is chargeable to income tax under the head "Income from other sources". It has been proposed that the provisions of section 56(2)(viib) shall not apply from 1 April 2024.

SPECIAL PROCEDURE FOR ASSESSMENT OF SEARCH CASES

- A new chapter has been introduced as 'Chapter XIV-B' for Search & Seizure. This shall now be assessed under the provisions of Section 158B to 158BI of the Act.
  'Block period' has been defined which includes total 6 preceding assessment years and part of the year starting from April 1 up to the conclusion of search.
  'Undisclosed Income' has been defined to include any money, bullion, jewellery or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or any expense, deduction or allowance claimed under this Act which is found to be incorrect.
  All the ongoing assessment/reassessments shall abate.
  The total income (other than undisclosed income) shall be assessed separately in accordance with the other provisions of the Act and undisclosed income would be assessed at the rate of 60% as per Section 158BB read with Section 113.
  As per section 158BF, no additional surcharge or interest under sections 234A, 234B or 234C or penalty under section 270A shall be levied.
  Further, as per section 158BFA, penalty shall be levied at fifty per cent of the tax on undisclosed income not offered in the return of income filed in compliance to the notice issued under section 158BC.

RATIONALISATION OF RE-ASSESSMENT PROCEEDINGS:

- **Existing reassessment provisions**

  Under the existing provisions, the AO issues a show cause notice under section 148A which prescribes a maximum period of 30 days for the taxpayer to file a response (in addition to any extension sought by the taxpayer).

  After considering the taxpayer's response, the AO may pass an adverse order under section 148A(d) and issue notice under section 148. The taxpayer must file an ITR within three months from the end of the month (plus any extension sought by the taxpayer) and then the AO commences the reassessment proceedings.

  The AO must have such information for initiating reassessment:
  - Information from - Insight portal, Audit Objections, Information under DTAA, order of Court/ Tribunal, etc.
  - Deemed information - from Searches, Surveys, requisitions, etc.

However, in cases where information is obtained from Search proceedings and Insight portal, the AO can skip the show cause notice and directly direct the taxpayer to file an ITR and commence reassessment by issuing notice under section 148 of the Act.
Existing section 148 and section 148A have been substituted with an amended section 148 and section 148A to provide for the following modifications:

The taxpayer cannot seek any extension in filing the response or for filing ITR;

The reassessments relating to search (in case of the assessee or search in case of another party) are excluded from existing reassessment regime. These will now be governed under the new provisions for Search under Chapter XIV-B. The above amendments shall be applicable from September 1, 2024.

- **Time limit to issue reassessment notice**

  Section 149 of the Act provides for time limits for issue of notices for reassessment proceedings. This has been proposed to be substituted with amended section 149 reducing the time limit by which a notice for reassessment can be issued.

  A comparative chart of the old and the amended provisions are tabulated below:

  A. Time limit for issuing notice under section 148 – No notice under section 148 is to be issued

	Existing provision	Amended provision
Sub-section 1		
Clause (a)	beyond three years from the end of the relevant assessment year, unless the case falls under clause (b);	beyond three years and three months from the end of the relevant assessment year, unless the case falls under clause (b);
Clause (b)	beyond ten years from the end of the relevant assessment year	beyond five years and three months, from the end of the relevant assessment year
	Clause (b) is applicable where the income escaping assessment amounts to or is likely to amount to INR 50 lakhs or more.	

  B. Time limit for issuing show cause notice under section 148A

  As per sub-section 2 to the amended section 149, no show cause notice under section 148A is to be issued:

  (a) beyond three years from the end of the relevant assessment year;
  (b) beyond five years from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to INR 50 lakhs or more. The above amendments shall be applicable from the September 1, 2024.

- **Sanction from specified authority**

  Section 151 of the Act mandates sanction to be obtained from the specified authority for issuance of notice under section 148 or section 148A of the Act which varies with time limits.

  It is proposed that the specified approving authority for this purpose shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director irrespective of time limit of issuance of notice under section 148 and section 148A. The above amendment shall be applicable from September 1, 2024.

- **Other provisions**

  It is proposed to amend section 152 of the Act to provide for applicability of provisions of section 147 to 151 as they stood immediately before the commencement of the Finance (No. 2) Act, 2024 in case of the following:

  where a search has been initiated under section 132 or requisition is made under section 132A or a survey is conducted under section 133A [other than under sub-section (2A)] on or after April 1, 2021 but before September 1, 2024.

  where a notice under section 148 has been issued or an order under section 148A(d) has been passed prior to September 1, 2024.

  The above amendment shall be applicable from the September 1, 2024.

- **Time limits for passing order**

  Section 153 of the Act specifies the timelines for passing assessment, reassessment and re-computation orders. The following amendments have been proposed to section 153:

  A new sub-section (1B) is proposed to be inserted to include the completion of assessment in case of returns filed in compliance to order under section 119(2)(b) of the Act. The same is to be completed within 12 months from the end of the financial year in which the return is furnished.

  Section 153(3) is amended to include the time limit for completion of cases set aside by the Commissioner (Appeals) vide order under section 250 of the Act along with the cases set aside by ITAT vide order under section 254 of the Act.

  Section 153(8) is amended to provide for timeline for passing of order in case of revived assessment or reassessment proceedings as a consequence of section 158BE/ section 158BA(5) along with earlier revivals under section 153B/ section 153A(2) of the Act.

  A new provision (6th proviso) is proposed to be inserted to Explanation 1(xii) of section 153 to provide that in computing the period of limitation any period (not exceeding one hundred and eighty days) commencing from date of initiation of search and ending on the date on which the books of account/documents/seized materials are handed over to the Assessing Officer, falling in the middle of the month, such shall be taken as end of the month for exclusion.

The above amendment shall be applicable from October 1, 2024.

PENALTIES AND PROSECUTION:

- **Penalty for furnishing inaccurate information in financial statements**

  Any persons who file inaccurate SFT or fails to furnish correct information under section 285BA(6) or fails to comply with due diligence specified under section 285BA(7) of the Act shall be directed to pay a penalty INR 50,000.

  However, no penalty to be levied where there exists a reasonable cause.

- **Penalty for failure to furnish statements of TDS and TCS**

  Currently penalty of INR 10,000 to INR 1,00,000 will not apply where statement of TDS or TCS is filed within one year from the prescribed time limit.

  It is proposed that the such time limit is to be reduced from 1 year to 1 month.

- **Relaxation of provisions leading to prosecution for delayed TDS payments**

  Currently, section 276B provides for imprisonment for non-payment of TDS within the prescribed due date.

  It is proposed to add a proviso wherein the due date for payment of TDS for the purpose of section 276B(a) is being extended to the due date of filing the statement required under section 200(3) for the respective quarter.

APPELLATE PROCEEDINGS:

- **Increased threshold limit for filing appeals**

  It is proposed to increase monetary limits for filing appeals in Tax Tribunals, High Courts and Supreme Court to INR 60 lakhs, INR 2 crores and INR 5 crores respectively.

- **Initiatives for digitalization of rectifications and order giving effect**

  Rectification and order giving effect to appellate orders shall be digitalized and made paper-less over the next two years.

- **Appealable Orders before Commissioner (Appeals)**

  With proposed amendment in assessment to be done for search cases appealable orders under section 246A to include orders passed under section 158BC(1)(c). This amendment shall be applicable from September 1, 2024.

- **Enhancement in powers of Joint Commissioner (Appeals) or the Commissioner (Appeals)**

  It is proposed that the cases where assessment order was passed under section 144 of the Act, Commissioner (Appeals) shall be empowered under section 251 to set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment. This amendment shall be applicable from October 1, 2024.

- **Increased timelines to file appeals to the Appellate Tribunal**

  The appeal before the Appellate Tribunal may be filed within two months from the end of the month in which the order sought to be appealed against is received by the assessee or to the Principal Commissioner or Commissioner, as the case may be. This amendment shall be applicable from October 1, 2024.

RATIONALISATION OF TDS PROVISONS:

Certain TDS rates have been amended as below:

Provision	Old rates	New rates	Effective from
Payment of insurance commission (other than company)	5%	2%	**April 1, 2025**
Payment in respect of life insurance policy	5%	2%	**October 1, 2024**
Commission, etc. on sale of lottery tickets	5%	2%	**October 1, 2024**
Payment of commission or brokerage	5%	2%	**October 1, 2024**
Payment of rent by certain individuals or HUF	5%	2%	**October 1, 2024**
Payment of certain sums by certain individuals or Hindu undivided family	5%	2%	**October 1, 2024**
Payment of certain sums by e-commerce operator to e-commerce participant	1%	0.1%	**October 1, 2024**

Payments on account of repurchase of units by Mutual Fund or Unit Trust of India	20%	Proposed to be omitted	October 1, 2024

- **Ease in claiming credit of TCS by salaried employees**

  Currently, income earned under other heads of income and any tax deducted on such income shall be taken into account for deducting TDS under the head 'Salary'.

  It is proposed that credit of TCS shall also be considered by the employer while deducting TDS under the head 'Salary'. The amendment shall be applicable from October 1, 2024

- **TDS on salary, interest, bonus or commission to partners**

  A new TDS section has been introduced to bring payments such as salary, remuneration, commission, bonus and interest to any account (including capital account) of the partner of the firm under the purview of TDS.

  TDS shall be attracted when aggregate payments exceed INR 20,000 in a FY. The applicable TDS rate shall be 10%. The amendment shall be applicable from April 1, 2024.

- **TDS on sale of immovable property**

  Currently, any person paying consideration for any immovable property shall deduct TDS at 1%. However, the provisions are not applicable where the consideration for transfer of an immovable property and the stamp duty value of such property are both less than INR 50 lakhs.

  It is proposed that individual limit of INR 50 lakhs is no longer required to be checked where there is more than one transferor or transferee and the aggregate amount is to be seen for the purpose of TDS. This amendment shall be applicable from October 1, 2024.

- **Inclusion of taxes withheld outside India for calculating total income**

  Currently, the Act provides that amount on which tax is deducted shall be deemed to be income received. It is proposed that all sums on which tax is paid outside India and foreign tax credit is available to an assessee shall be deemed to be income received. The amendment will take effect from April 1, 2024

- **Rationalization of section 194C of the Act**

  Currently, on payments made to contractors TDS is applicable at the rate of 1%/ 2% on work. However, there is no explicit exclusion for assessees who are required to deduct tax

under section 194J from requirement or ability to deduct tax under section 194C of the Act.

It is proposed to explicitly exclude any sum referred to in section 194J from the purview of 'work'. The amendment will take effect from October 1, 2024.

- **Reducing time limitation for orders deeming any person to be assessee in default**

  Currently, TDS and TCS provisions provide for consequences when a person does not deduct/ collect, or does not pay, or after so deducting/ collecting fails to pay, the whole or any part of the tax.
  It is proposed to amend TDS and TCS provisions to provide that no order shall be made deeming any person to be an assessee in default after 6 years (revised from 7 years) from the end of the FY in which payment is made or credit is given or tax was collectible or two years from the end of the FY in which the correction statement is delivered, whichever is later.

- **Widening ambit of section 200A of the Act for processing of statements other than those filed by deductor**

  Section 200A of the Act provides for the manner in which statement of TDS or a correction statement shall be processed.

  It is proposed that the Board may make a scheme for processing statements which have been furnished by any other person, not being a deductor.

- **Extending the scope for lower deduction/ collection certificate**

  Currently, payments on which tax is required to be deducted under certain sections of TDS / TCS provisions are eligible for certificate for deduction at lower rate.

  It is proposed that certificates can now be issued for lower TDS deduction under Section 194Q of the Act and lower TCS collection under Section 206C(1H) of the Act. This amendment shall be applicable from October 1, 2024.

- **Time limit to file correction statement in respect of TDS/ TCS statements**

  Currently, there are no time limits prescribed for filing correction statements of TDS/ TCS.

  It is proposed that TDS /TCS correction statements can be filed before the expiry of six years from the end of the financial year in which the original statements are filed.

TRUSTS AND CHARITABLE INSTITUTIONS:

- **Merger of Trust under section 10(23C) with Trust under sections 11 to 13:**

  It is proposed to merge trusts or funds or institutions contained in the provisions of sub-clause(s) (iv), (v), (vi) or (via) of clause (23C) of section 10 (First Regime) with sections 11 to 13 (Second Regime) of the Act, thereby the trusts, funds or institutions shall be transitioned to the second regime in a gradual manner.

  No fresh application for approval under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 shall be entertained on or after October 1, 2024. Pending applications as on October 1, 2024 would be processed under the extant provisions of the first regime itself.

  Approved trusts, funds or institutions under the first regime shall continue to get the benefits under section 10 till the validity of the said approval. Subsequently, these shall apply for registration under the second regime.

- **Condonation of delay in filing application for registration**

  Delay in filing application for registration under section 12AB may be condoned by the Principal Commissioner/ Commissioner if it is considered that there is a reasonable cause shown for such delay.

- **Applications for registration under section 12AB or approval under section 80G**

  It is proposed to dispose applications for registration under section 12AB and approvals under section 80G within six months from the end of the quarter in which the application is received from the erstwhile timelines being six months from the end of the month in which the application was received.

- **Merger of trusts under the exemption regime with other trusts**

  It is proposed to insert section 12AC to cover cases where any trust or institution registered under section 12AB or approved under sub-clauses (iv), (v), (vi) or (via) of section 10(23C) merge with another trust or institution, to provide that the accreted income of the trust (Fair Market Value of Assets less Total Liability) shall not be taxable if the following conditions are satisfied:
  - the other trust or institution has same or similar objects,
  - the other trust or institution is registered under section 12AA or section 12AB or approved under sub-clauses (iv), (v), (vi) or (via) of section 10(23C), as the case may be; and
  - the said merger fulfils such conditions as may be prescribed.

OTHERS:

- **Revision of rates of securities transaction tax**

  The rates of STT are proposed to be revised as below:

  In case of sale of options – 0.1% of premium (revised from 0.0625%)

  In case of sale of futures – 0.02% of traded price (revised from 0.0125%)

  This amendment shall be applicable from October 1, 2024.

TAX VIVAD SE VISHWAS SCHEME, 2024

In order to provide resolution to certain income tax disputes pending in appeal, Direct Tax Vivad Se Vishwas Scheme, 2024 is proposed.

- Eligibility Criteria

Sr No.	Dispute Pertains to	Filing of appeal	If disputed amount deposited by December 31, 2024	If disputed amount deposited after December 31, 2024
1	Tax	After January 31, 2020 but before July 23, 2024	100% of tax	110% of tax
2	Tax*	Prior to January 31, 2020	110% of tax	120% of tax
3	Interest or penalty or fees	After January 31, 2020 but before July 23, 2024	25% of interest/penalty/ fees	30% of interest/penalty/ fees
4	Interest or penalty or fees*	Prior to January 31, 2020	30% of interest/penalty/ fees	35% of interest/penalty/ fees

*Provided at same forum presently as that of filing.

Notes:

- Pendency of appeal should lie as on July 22, 2024.
- Appeal may be pending before CIT(A), ITAT, High Court or Supreme Court.
- If declarant is wishing to settle a dispute where department is in appeal, then disputed tax shall be reduced to half of the above.
- For covered matters - In case where the declarant has received any favourable order from CIT(A) or ITAT and such order is not reversed at higher stage then disputed amount shall be reduced to half of the above.

- Not applicable to AYs in which assessment has been made pursuant to search or where prosecution has been instituted.

BLACK MONEY ACT, 2015:

- **Immunity from penalty on non-reporting of small foreign assets**

  Section 42 of the BMA imposes penalty for failure to furnish in return of income, a foreign income and asset held by an ordinary resident.

  Section 43 of the BMA imposes penalty for failure by an ordinary resident to furnish in return of income, an information or furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India.

  Both the abovementioned sections prescribe penalty of an amount of INR 10 lakhs.

  Proviso to the said sections make an exemption in respect of an asset, being one or more bank accounts having an aggregate balance which does not exceed a value equivalent to INR 5 lakhs at any time during the previous year.

  It is proposed to substitute the said proviso to exempt an asset(s) (other than immovable property) where the aggregate value of such asset(s) does not exceed INR 20 lakhs.

  These amendments shall be applicable from October 1, 2024.

PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988:

- **Amendments in time limits**

  Currently, provisions of the PBPT Act do not provide time limits to Benamidar and beneficial owner to respond to notices issued under section 24(1) and 24(2) of the PBPT Act.

  It is proposed to insert section 24(2A) wherein maximum of 3 months are allowed to Benamidar and beneficial owner to respond to such notices.

  It is proposed that time limit for Initiating Officer to pass an order under section 24(4) be increased to 4 months from the end of the month in which notice under section 24(1) was issued.

  It is also proposed that time limit under section 24(5) be increased to 1 month from the end of the month in which order under section 24(4) was passed.

  These amendments shall be applicable from October 1, 2024.

- **Immunity from penalty**

  In order to incentivize Benamidar/ abeter to be the whistleblower/ witness on Benami transactions, a new section has been introduced wherein the Initiating Officer has power to tender immunity to Benamidar/ abeter from penalty under section 53 provided he is

making true and full disclosure of the whole circumstances relating to the benami transaction.

GST (KEY LEGISLATIVE CHANGES):

(To be effective from date to be notified except as specified)

- **Levy of GST:**

  No levy of GST on un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor for human consumption.

  New Section 11A to be inserted in CGST Act so as to empower the Government to regularize non-levy or short levy of GST, where it is satisfied that such non-levy or short-levy was a result of general / common trade practices.

  Following activities to be treated as neither supply of goods nor supply of services –

  activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in coinsurance agreements, provided that the lead insurer pays the GST liability on the entire amount of premium paid by the insured.

  the services by the insurer to the re-insurer, for which the ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, provided that GST liability on the gross reinsurance premium inclusive of reinsurance commission or the ceding commission is paid by the reinsurer.

- **Time of supply:**

  The time of supply of services in cases where the invoice is required to be issued by the recipient of services in case of reverse charge supplies would be the date of issue of invoice by the recipient.

- **Input tax credit:**

  Time limit to avail input tax credit in respect of any invoice or debit note under Section 16(4) of CGST Act, through any return in FORM GSTR 3B filed up to November 30, 2021 for FY 2017-18, 2018-19, 2019-20 and 2020-21, to be deemed to be November 30, 2021 (amendment to be effective from July 1, 2017). Where the GST has been already paid or the input tax credit has been reversed, no refund can be claimed of the same.

  The provisions of section 16(4) of CGST Act relaxed for availment of input tax credit in respect of any invoice or debit note in cases where returns for the period from the date of cancellation of registration or the effective date of cancellation of registration till the date of order of revocation of cancellation of the registration, are filed by the registered person within thirty days of the order of revocation of cancellation of registration, subject to the condition that the time-limit for availment of credit should not have already expired under section 16(4) on the date of order of cancellation of registration. (amendment to be effective from July 1, 2017). Where the GST has been already paid or the input tax credit has been reversed, no refund can be claimed of the same.

The restriction of non-availability of input tax credit of GST paid under section 74 would apply only for demands up to FY 2023-24. The restriction of non-availability of input tax credit of GST paid under section 129 and section 130 has been removed.

- **Invoicing:**

  Government empowered to prescribe by rules the time limit for issuance of invoice by the recipient in case of supplies liable under reverse charge mechanism.

- **Return:**

  The registered person required to deduct GST at source will be required to mandatorily file the return for each month electronically, irrespective of whether any deduction has been made in the said month or not. Government empowered to prescribe by rules, the form, manner and the time within which such return shall be filed.

- **Refunds:**

  Refund in respect of goods, which are subjected to export duty, is restricted, irrespective of whether the said goods are exported without payment of GST or with payment of GST, and such restrictions be also applicable, if such goods are supplied to a SEZ developer or a SEZ unit for authorized operations.

- **Summons:**

  An authorised representative will be allowed to appear on behalf of the summoned person before the proper officer in compliance of summons issued by the said officer.

- **Demands:**

  A common time limit of 42 months from the due date of filing of Annual Return is now provided for issuance of demand notices and orders in respect of demands for FY 2024-25 onwards, in cases involving charges of fraud or wilful misstatement and not involving the charges of fraud or wilful misstatement etc. Currently, there is a difference in time limit, which has been restricted for applicability up to F.Y. 2023-24.

  [applicability of Section 73 and section 74 has been restricted up to F.Y. 2023-24 and new section 74A proposed to be inserted]

  The time limit for the taxpayers to avail the benefit of reduced penalty, by paying the GST demanded along with interest, be increased from 30 days to 60 days.

  The penalty demanded in a notice invoking penal provisions with charges of fraud, wilful misstatement, or suppression of facts would be redetermined where such charges are not established.

- **Appeals:**

  Amount of pre-deposit required to be paid for filing of appeals - maximum amount for filing appeal with the appellate authority to be reduced from INR 25 crores CGST and INR 25 crores SGST to INR 20 crores CGST and INR 20 crores SGST.

Principal bench of GST Appellate Tribunal to be empowered for handling of anti-profiteering cases.

Government to be empowered to notify the date for filing appeal before the Appellate Tribunal and provide a revised time limit for filing appeals or application before the Appellate Tribunal. [this amendment is proposed to be made effective form August 1, 2024]

Amount of pre-deposit for filing appeal with GST Appellate Tribunal to be reduced from 20% with a maximum amount of INR 50 crores CGST and INR 50 crores SGST to 10% with a maximum of INR 20 crores CGST and INR 20 crores SGST.

- **Penalty:**

  Penal provision in section 122(1B) of CGST Act to apply only for those e-commerce operators, who are required to collect GST under section 52 of CGST Act, and not for other e-commerce operators. [this amendment is proposed to be made effective retrospectively from October 1, 2023]

- **Waiver of interest:**

  Conditional waiver of interest and penalty relating to demand notices issued under Section 73 of CGST Act for period from July 1, 2017 to March 31, 2020 in cases where the taxpayer pays the full amount of GST demanded in the notice upto the date as may be notified by the Government [the GST Council had earlier recommended this date as March 31, 2025]. Waiver shall not cover demand of erroneous refunds. Where interest and penalty have already been paid in respect of any demand for the said period, no refund shall be admissible for the same.

- **Transitional input tax credit:**

  Enable availment of the transitional credit of eligible CENVAT credit on account of input services received by an Input Services Distributor prior to the appointed day, for which invoices were also received prior to the appointed date. [this would be made effective retrospectively from July 1, 2017]

- **Anti-profiteering:**

  Government to notify the date from which the Authority shall not accept any application for anti-profiteering cases. [the GST Council had earlier recommended this date as April 1, 2025]

IMPACT ANALYSIS:

A. PERSONAL TAXATION:

The Budget is aimed to further incentivize individuals opting for new regime of taxation. In view of the fact that individuals in the promoter group do not claim deductions u/s Chapter VIA, the new regime opted remain more beneficial to them, in terms of tax and surcharge.

B. BUSINESS/ CORPORATE TAXATION:

- It has now been clarified that the income arising from letting out of residential property shall be taxed under House property and not under Profit and gains from business and/or profession. However, the amendment seeks to apply only to residential houses and not to commercial properties.

C. CAPITAL GAINS TAXATION:

Period of holding:

- The Budget aims to simplify capital gains taxation, introducing only 2 categories of period of holding.

- All listed securities will be treated at par.

- Period of holding of bonds, debentures, gold will reduce from 36 months to 24 months, while for unlisted shares and immovable property remains same at 24 months.

- For transfers prior to 23rd July, 2024, existing period of holding will apply.

Rates of taxes:

- For immovable properties, tax will be levied at 12.5% on the gains or 20%, whichever is lower. For gains prior to July 23, 2024 20% with indexation will apply. For properties purchased prior to 01.04.2001, the cost of acquisition as on 01.04.2001 shall be: -
    - Cost of acquisition of the asset; or
    - FMV of such asset as on 01.04.2001, whichever is more beneficial.

- For long-term gains on listed equity shares and equity-oriented mutual fund, enhanced tax rate of 12.5% will now apply instead of 10%. Further, the exemption limit of Rs. 1.25 lakh will apply in aggregate on long-term capital gains on listed securities before and after 23rd July, 2024 as against Rs 1 lac.

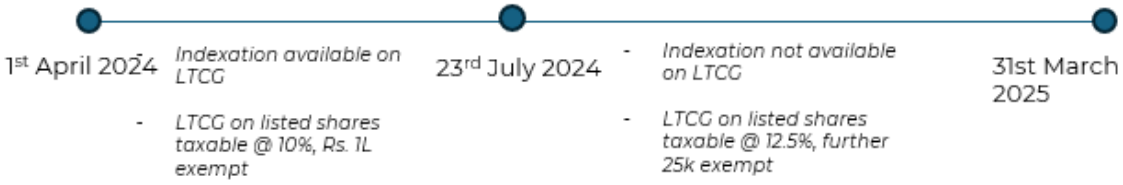
- For short-term gains on listed equity shares and equity-oriented mutual fund, enhanced tax rate of 20% will now apply instead of 15%.

- For debt mutual fund, indexation was withdrawn vide Finance Act, 2023 itself. These will now be taxed at applicable slab rates u/s 50AA and will be treated as short-term irrespective of the period of holding.

- For listed bonds and debentures, on which indexation was not available under the existing provisions as well, the rate shall be reduced to 12.5%.

- Unlisted debentures and unlisted bonds are proposed to be brought to tax at applicable rates u/s 50AA and the same will be taxed as short-term capital gains, irrespective of the period of holding.

- For transfers before and after 23rd July, 2024:



<u>Buyback tax:</u>

1. Finance Act, 2024 proposes to tax shareholders on buy-back of their shares by companies as dividend. Earlier dividend simpliciter used to be taxed in the hands of a shareholder. However, the Finance Act, 1997 (2003) introduced (reintroduced) a new scheme to tax distributed profits of a domestic company by inserting (reviving) Chapter XIID with effect from 1st June 1997 (A.Y.2004-05) providing to tax dividend in the hands of the company itself by means of section 115-O as Dividend Distribution Tax (DDT) and simultaneously exempted dividend from the income of shareholders.

2. Going forward, section 77A was inserted in the Companies Act, 1956 w.e.f. 31st October, 1998 (which is equivalent to section 68 of the Companies Act, 2013) permitting domestic companies to repurchase their own shares or other specified securities etc. subject to certain conditions, out of its free reserves; the securities premium; and the proceeds of any shares etc. There can be a variety of reasons for buy-back by domestic companies, such as, consolidating ownership; or boosting value per share; or in certain cases paying cash to shareholders in a nomenclature different from dividend. Albeit the above three reasons may be prevailing in both the listed and unlisted domestic companies with varying proportions, but the last reason is more dominant in closely held unlisted companies and less in listed companies.

3. Keeping pace with such amendment in the Companies Act, the Finance Act, 1999 brought out two relevant changes. The first was by means of insertion of clause (iv) in the exception clause of section 2(22) having the effect of excluding the amount received by a shareholder from a company on purchase of its own shares in accordance with the provisions of Section 77A of the Companies Act, 1956 from the definition of `dividend'. The second was the corresponding amendment carried out by inserting Section 46A w.e.f. 1st April, 2000 providing that where a shareholder receives any consideration from a company against repurchase of its own shares, the difference between the cost of acquisition and the value of consideration received shall be deemed to be the capital gains arising to such shareholder in the year of repurchase. This specific section deeming buy-back of shares as transfer was inserted after the concurring view coming from the Hon'ble Supreme Court a while ago in Anarkali Sarabhai vs. CIT [TS-1-SC-1997-O] holding that redemption of preference shares by a company is covered within the definition of `transfer' u/s 2(47) and resultantly, when a company buys back its preference shares, it amounts to `transfer' by shareholder, who was liable to capital gains on the shares being redeemed by the company. Thus, section 46A in juxtaposition to the above honourable Supreme Court verdict made it explicitly overt that buy-back of shares by a company from its shareholder amounts to transfer, resulting in the accrual of capital gain in the hands of the shareholder.

4. Later on, the Parliament realized that certain unlisted companies, rather than paying dividend were resorting to buy-back of shares in order to avoid payment of tax by way of DDT, particularly where the capital gain arising to the shareholders was either not chargeable to tax or chargeable at a lower rate of tax. The Finance Act, 2013 introduced Chapter XIIDA stipulating that buy-back of shares shall be taxed in the hands of a domestic company under section 115QA and the tax shall be on the `distributed income', being, consideration paid by the company for purchase of its own shares which is in excess of the sum received by the company at the time of issue of such shares. [Exp. (ii) to sec. 115QA(1)]. Simultaneously, section 10(34A) was inserted to provide that any income arising to a shareholder on account of buy-back of shares, as referred to in section 115QA, shall be exempt from tax.

5. In a nutshell, dividend was taxable in the hands of company u/s. 115-O but exempt from the chargeable income of shareholders up to 31st May, 2013. However, income on buy-back of shares by a company up to this date was tax-neutral to a company, but chargeable in the hands of a shareholder as capital gain under section 46A. From 1st June, 2013, both the dividend and income on buy-back came to be charged to tax in the hands of company, the first u/s. 115-O and the second u/s. 115QA coupled with exemption of both to shareholders. The Finance Act, 2020 inserted sunset clause in sections 115-O and 10(34) with effect from 1st April, 2021, as a result of which the companies were relieved from paying DDT and taxability on dividend was brought back in the hands of shareholders. However, the taxability of income on buy-back, as per the mandate of section 115QA, continued to remain with companies only.

6. Finance Act, 2024 has proposed to strengthen the thinking of the Government of India - `Ease of doing business' - by relieving the companies from the burden of payment of tax u/s. 115QA with effect from 1st October, 2024, which was, in fact, not rightfully payable by them as they did not earn any income on buying-back their own shares. Consequential amendments are proposed in section 2(22) by inserting clause (f) providing "any payment by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 68 of the Companies Act, 2013" shall be included within the definition of `dividend'; and simultaneously deleting clause (iv) from the exception provision which earlier provided that any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act 1956' will not form part of dividend under this provision. With the inclusion of buy-back amount in the ambit of `dividend', taxability on domestic companies u/s. 115QA is proposed to be done away with; exemption u/s 10(34A) to shareholders is proposed to be withdrawn; and taxability of capital gain in the hands of shareholders u/s 46A is proposed to be revived in a limited manner by adding a proviso to the effect that `where the shareholder receives any consideration on buy-back of shares in terms of section 2(22)(f), then the value of consideration received by the shareholder shall be deemed to be nil." The overall effect of the changes proposed by the Finance Act, 2024 anent to buy-back of shares is that the amount paid by a domestic company, whether listed or unlisted, on buy-back of its shares shall be taxed as dividend income in the hands of the shareholder; and the cost of acquisition of such shares will be considered as loss under the head `capital gains'. The fortiori is that the legislature accepts buy-back of shares in the hands of a shareholder as transfer, as has also been specifically mentioned in the Memorandum explaining the provisions of the Finance Act, 2024 that: `there is extinguishment of rights for the shareholders who are tendering their shares in the buy-back by domestic company, to the extent of shares bought back by such company from shareholders. The cost of acquisition of such shares also needs to be accounted for in some manner.' It thus transpires that the Parliament, along with taxing the amount received on buy-back of shares as dividend on gross level, is also conscious of two further facts, viz., one, that buy-back by domestic company in the hands of shareholder amounts to transfer of shares and second, that the cost incurred on purchase of shares should be adjusted in some manner under the head `Capital gains'. However, the manner in which the second concern has been addressed requires to be mulled over.

7. Unburdening the domestic companies from the liability to pay tax u/s 115QA on distributed income is a welcome step and must be applauded because no income, as a matter of fact, is earned by them on buy-back. It was because of the difficulty in collecting tax from shareholders scattered all over, that domestic companies were called upon to share additional financial and compliance burden. In the pre-115QA era, the amount received on buy-back of shares was treated, and rightly so, as a capital receipt towards transfer of shares making the income chargeable to tax in the hands of shareholder under the head `capital gain' and not dividend. It is pertinent to note

that what was charged to tax in the hands of company during 115QA period was the excess of amount paid on buy-back over the amount which was received by the company at the time of issue of shares; and during the prior period, the excess of amount received by shareholder over the purchase price of shares in the hands of shareholder u/s 46A. However, the Finance Act, 2024, proposes to shift the taxability back to the shareholder in a two-fold manner, viz., first, to tax the FULL amount received on buy-back of shares as dividend u/s 2(22)(f) in the year of receipt; and second, to treat cost of acquisition of shares as a fictional capital loss, to be adjusted against some other future capital gain from sale of shares, which may or may not actually arise.

8. At this juncture, it is pertinent to note that section 70(2) and 70(3) read in conjunction with section 71(3) of the Act permit set-off of short-term capital loss only against short term capital gain; and not against long term capital gain or income under any other head. Further, set off of long-term capital loss is permitted against income under the head capital gains alone. Similarly, section 74, dealing with carry forward and set off of loss under the head `Capital gains', provides a similar treatment of set off of brought forward long term and short-term capital losses up to a maximum of eight years succeeding the assessment year in which the loss was first computed.

9. Reverting to the extant issue, the cost of acquisition of the bought-back shares will become deemed capital loss in the hands of shareholder, which could be set off subsequently only against income under the head 'Capital gains' in the manner discussed above in the same or succeeding years up to a maximum of eight years depending upon the period of holding by the shareholder of the bought-back shares. The shareholder will be prejudiced as under: -

- Imagine a situation where a shareholder, after the buy-back, does not earn any capital gain in subsequent eight assessment years, either because he does not sell any shares or sells, but suffers loss. In both the scenarios of no further capital gain available for set-off, the shareholder will end up in suffering tax on gross amount received on buy-back as dividend in the year of receipt without any corresponding reduction towards the cost of acquisition of shares, which is akin to taxing the receipt rather than the income.

- In case, deemed capital loss under section 46A is long term, it will qualify for set off only against future long term capital gain and not even short-term capital gain, what to talk of income under any other head, thereby further compromising the scope of set off of such deemed capital loss. Suppose, there is future short term capital gain only, the assessee will be disadvantaged by eventually losing the adjustment towards cost of acquisition of the bought-back shares.

- In case, deemed capital loss under section 46A is short term, it will qualify for set off against future long term or short-term capital gain. Suppose, in third or fourth year, the shareholder earns either long term or short-term capital gain, he will no doubt get the benefit of set-off of the cost of acquisition of the bought back shares in such

third or fourth year, but will be deprived of compensatory interest from the year one when the tax was collected at the time of buy-back of shares.

- Even when the set-off is being allowed in future, the shareholder will suffer in terms of having paid tax at the higher slab rates on dividend in the year of buy-back, but will get adjustment against the future capital gains, which are charged to tax at lower rate.

10. When there is a single transaction, admittedly, of transfer of shares on buy-back, the rationale appears to be adjusting cost of acquisition of shares with the amount received on buy-back there and then only so as to find out the actual income earned by the shareholder in a consolidated and not a truncated manner. In actuality, this was the position prevailing when income on buy-back of shares was taxed earlier under section 46A in the hands of the shareholder or under section 115QA in the hands of company. In both the frameworks, deduction towards cost of acquisition of shares was permitted and only the remainder amount was charged to tax.

11. The concern of the Revenue that certain unlisted companies adopt buy-back of shares as a medium for distributing dividends, is not without substance warranting taxation of receipt of the amount on buy-back of shares as dividend in the hands of shareholder. However, a broad brush approach should not be adopted to treat genuine buy-backs also resulting into dividend income rather than capital gain. In any event, it is pinching to delink one component of the transaction, being, cost of acquisition of shares from the other component of the same transaction, being, the amount received on transfer of shares through buy-back and treat them for taxation purpose as two separate independent transactions, one taking effect in the year of buy-back as dividend and the other as capital loss to be adjusted only when some capital gain, if at all, arises thereafter. Ease of shareholders should also be kept into consideration.

- The buyback taxation can lead to litigation as buyback under Companies Act can be done in more than one way whereas the provision only covers a particular way of buyback to be considered as dividend income for the recipient.

- TDS u/s. 194 at 10% would also be deductible on proceeds of buy-back in case of resident shareholders. In case of non-residents, TDS would be u/s. 195 or other applicable provisions.

<u>Gifts only exempt for individual and HUF:</u>

- Gift is given out of natural love and affection. Therefore, corporate gifting is not intended to be exempt. Gift of shares by company to directors/promoters is not exempt as per the proposed amendment. However, if the same is to be taxed, computation mechanism will have to be examined in view of NIL consideration.

- Gifts/distributions by Trusts may also not continue to be falling under exempt transfers.

- Gift is already chargeable to tax in the hands of the donee u/s. 56(2)(x). Hence, if the same is taxed even in the hands of the donor, it would lead to same transaction being taxed twice.

Issue of shares by private, closely-held companies at premium:

- Private companies can now issue shares at a premium, irrespective of book losses, without having to obtain valuation u/R 11UA.

- The onus u/s 68 will still have to be discharged by the companies.

- Exposure to GAAR in such transactions cannot be over-ruled.

- On abolishment of angel tax, it will now be easier to invest in start-ups.

COMPANY

Impact Analysis of proposals in Finance Act, 2024		
Particulars	Old	New
Rate of Tax	25.16%	25.16%
LTCG- Listed Shares with STT	10%	Upto 22.07.24: 10% After 22.07.24: 12.50%
STCG- Listed Shares with STT	15%	Upto 22.07.24: 15% After 22.07.24: 20%
Stock in Trade	25.16%	25.16%
Non- Equity Mutual Funds Non STT	25.16%	25.16%
Equity Mutual Funds STT (LT)	10%	Upto 22.07.24: 10% After 22.07.24: 12.50%
Equity Mutual Funds STT (ST)	15%	Upto 22.07.24: 15% After 22.07.24: 20%
Listed Tax Free Bonds	20%	Upto 22.07.24: 20% After 22.07.24:12.50%
Buyback of Shares	In the hands of the company	In the hands of the shareholders
Income on House Property	Could be taxable under HP / PGBP	Now taxable only under HP
LTCG on sale of flats in Avdipta	20% with indexation	After 23.07.24: - 12.5% without indexation Before 23.07.24 - 20% with indexation
Unlisted Bonds/ Debentures	Whether long- term or short- term depends on period of holding	Only short-term now
Listed Mutual funds (other than equity)	Long- term period was 36 months	Now long-term period is 12 months.
Other material changes in tax proposals impacting the company including carried forward losses	No Change	

INDIVIDUAL

Impact Analysis of proposals in Finance Act, 2024		
Particulars	Old	New
LTCG- Listed Shares with STT	10%	Upto 22.07.24: 10% After 22.07.24: 12.50%
STCG- Listed Shares with STT	15%	Upto 22.07.24: 15% After 22.07.24: 20%
Non- Equity Mutual Funds Non STT	Slab Rate	Slab Rate
Equity Mutual Funds STT (LT)	10%	Upto 22.07.24: 10% After 22.07.24: 12.50%
Equity Mutual Funds STT (ST)	15%	Upto 22.07.24: 15% After 22.07.24: 20%
Listed Tax Free Bonds	20%	Upto 22.07.24: 20% After 22.07.24:12.50%
Buyback of Shares	In the hands of the company	In the hands of the shareholders
LTCG on sale of flats	Upto 23.07.24: - 20% with indexation	After 23.07.24: - 12.5% without indexation or - 20% with indexation Whichever is lower
Other material changes in tax proposals impacting the company including carried forward losses	No Change	
Income from House Property	No Change	
Income from Jewellery		Period of holding reduced from 36 months to 24 months for long-term
Income from Salary	Standard Deduction: 50,000/-	- Standard Deduction: 75,000/- in new regime - 50,000/- in old regime
Fees as Chairman	No Change	
Deduction for Donation	No Change	Not available under new regime
Market linked debentures	No Change	
Interest income on FDs	No Change	
Deduction for medical, PPF, LIC	No Change	
Deduction on interest on Savings Deposits	No Change	