BUDGET

AN OVERVIEW

2021

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1. INTRODUCTION

The stock markets have it that Hon. FM Nirmala Sitharaman's is the best Union Budget since 1997, giving a 5% buoy and a rarely seen Nifty gain of 8%. While the US has posted record deficit of $3.1 Trillion, the Indian FM has boldly announced a near double digit deficit at 9.5%: in a pandemic year this is welcome and revivifying as it is counter-cyclical in the short-term. The focus on physical infrastructure has expanded to 7400 projects (from 6835) under key ministries. This National Infrastructure Pipeline enhances capex to Rs 5.54 Lakh Crore, up 34%. This mirrors and significantly reduces the deficit-risk. If this addresses the medium-term, the long-term can only be addressed by human development and for this Rs 3,000 Cr has been set aside seeking to amend the National Apprenticeship Training Scheme for post education articleship. The short, medium and long would be supported by new Development Finance Institutions for which Rs. 20000 Crore is initially provided. Perhaps the Higher Education Commission to be formed will ultimately replace the UGC? The first Digital Census costing Rs3700 Cr will provide quick discovery of data. The heft of 13 percent allocation towards Pandemic Support covers Rs 2200 Cr for clean air, Rs 35000 Cr for vaccines and Rs64000 Cr for health schemes. The Agricultural initiatives include 5 major fishing harbors to be developed as hubs for fishing, rivers, waterways, building a "blue economy". The "Swamitwa" scheme will now be extended to all states, and a record of rights is being given to property owners in villages. Agri credit of 16.5 lakh Crore in FY2022 will support Rural Infrastructure Development Fund increased to Rs. 40,000 Crore. Start-ups received a boost as did MSME with a handful of measures. It is now for the youth to work towards creating a job creator mindset. The Union Budget renews the Aatmanirbhar Bharat program and per PM Modi, "features every section of society", a claim not too tall, as it instils our self-confidence in the world.

2. EXECUTIVE SUMMARY

DIRECT TAX

- No change in the tax rates across all assesees
- Extension of deduction on affordable Housing loans approved upto 31st March 2022
- Profits from Affordable housing projects deduction extended till 31st March 2022 including rental housing projects
- Permitted variance between guideline value and agreed sale consideration extended to 20 %
- Receipts from Unit linked Insurace plans are subject to tax beyond the premiums in excess of Rs.250,000/-
- 75 years and above resident senior citizen no return if pension & interest income alone on which TDS is done
- Time of reopening assessment is now reduced to 3 Years from existing 6 Years; For Serious tax cases, if Rs. 50 Lakhs and above tax evasion, it is 10 Years
- Faceless Income Tax Appellate Tribunal (ITAT) Centre
- Tax audit limit increased from Rs. 5 Crores to Rs. 10 Crores for Receipts and Payments if in non-cash mode is 95% and above
- Dispute Resolution Committee for small taxpayers
- Affordable housing interest extended for loans sanctioned up to 31st March 2022
- Employees contribution of PF/ESI not deductible if not remitted with in due date under those respective Acts
- Proposed pre- filling of returns for Capital Gains from listed securities, dividend income, interest from bank, post office etc.

GOODS AND SERVICE TAX

- GST audit withdrawn
- Refunds are linked to foreign exchanges receipts for Zero rated supplies for notified supplies under IGST only
- Additional conditions for availing input credit notified

3. DIRECT TAX PROPOSALS

3.1 TAX RATES

There is no change in Income Tax rates for Individual, HUFs, AOPs, BOI, Cooperative societies, Firms and Companies.

3.2 NEW TAX INCENTIVES AND RELIEFS

Relaxation from filing return

It is proposed to amend Section 139 by providing some relief to resident senior citizens, aged 75 years and above, to reduce their compliance burden.

Such senior citizens should be having only pension income and interest income from the same bank where they receive pension. Senior citizen are required to give a declaration to such specified banks, which will be notified by the Government. The specified bank, based on declaration, will provide deduction under chapter VIA and rebate under section 87A and then deduct tax at source. Thereafter there is no requirement to furnish return of income by such senior citizens.

This amendment is effective from assessment year 2021-22.

Changes in Minimum Alternate Tax

It is proposed to amend section 115JB, for computing book profit of foreign companies, to give deduction for dividend received by such company in computing book profit as dividends are now taxed in the hands of the recipient.

Similar adjustment will also be provided for any income which is added under advance pricing agreement or on account of secondary adjustment. This will be done by assessing officer on an application to be made to him to recompute the book profit of past years

This amendment is effective from assessment year 2021-22.

Exemption from withholding tax on Dividend to Business Trust

It is proposed to amend section 194 with respect to deduction of tax at source from payment of dividend paid to any person, notified by the Government or to a business trust, by a special purpose vehicle.

This amendment is effective from assessment year 2020-21.

Interest on deferment of Advance tax installment on Dividend Income

It is proposed to amend section 234C to provide exclusion for dividend income in calculating interest payable under that section. The same will be considered for levy of interest only if dividend is received.

This amendment is effective from assessment year 2021-22.

Time for filing of return of income

It is proposed to amend Section 139 in case of a firm which is required to file a report of an accountant for entering into International transaction or specified domestic transaction as per section 92E. Due date for filing return of a partner of such firm is also extended to 30th November.

Further the belated or revised return which could be filed up to one year from the end of the financial year, is now reduced to 9 months.

It is further proposed to relax the conditions for defective return in certain specific cases, empowering the board to relax the same for certain classes of assessees or apply them with modification/s.

This amendment is effective from assessment year 2021-22.

Constitute dispute resolution committee for certain class of persons

It is proposed to introduce a new section 245MA for the central government to constitute a dispute resolution committee for certain classes of persons, subject to certain conditions to be fulfilled by such a person, to settle the dispute at the option of the person concerned. The same will only be applicable in cases where returned income is less than Rs 50 lakh and the proposed variation of income in assessment order is less than Rs 10 lakh.

This amendment is effective from assessment year 2021-22.

Deduction of profit from housing projects:

It is proposed to extend benefit of 80IBA for project approved by competent authority upto 31st March, 2022. Similar benefit is also proposed to be expended for developing and building “rental housing projects”, the project to be notified by Central Government and fulfilling certain conditions to be notified, by inserting sub-section (1A).

Extension of benefit of interest on housing loan:

It is proposed to extend benefit of interest on affordable housing loans upto Rs.1,50,000/- for loans sanctioned upto 31st March 2022.

Exemption for LTC

It is proposed to allow exemption for LTC exercised for block year 2018-21 to an extent of less than Rs 36,000 per person or one third of specified expenditure. The specified expenditure means expenditure incurred during the period 12th October 2020 to 31st March 2021on goods or services which are liable to tax at the rate of 12% or above and purchased from a registered dealer or service provider and payment is made by any mode other than cash.

This amendment is only for assessment year 2021-22

Permitted valuation variance:

It is proposed to amend section 43CA by increasing the difference between the sale consideration and the value adopted for stamp duty from 10% to 20%, subject to following conditions:

1. The registration takes place between 12th November 2020 to 30th June 2021.
2. Transfer is by the way of first-time allotment of residential units.
3. The consideration is less than Rs.2 Crores.

Consequential relief to buyers has been provided by way of amendment to clause 10 of subsection 2 to section 56 by treating the difference as other income only if the difference is more than 20 % from circle rate

This amendment is effective from assessment year 2021-22.

3.3 ADDITIONAL TAX BURDEN

TDS / TCS on non-filer at higher rates

There are certain amendments proposed in respect of tax deduction at source and tax collection at source as under:

a. It is proposed to introduce section 194Q whereby a person having sales or gross receipt or turnover from business exceeding Rs 10 crore will have to deduct tax at source at 0.1 % of the aggregate value of purchase is over rupees 50 lacs. No tax is required to be deducted if the same is done under any other section or under section 206C except if it is under section 206C(1H).

b. On the lines of higher rate of deduction for persons not having PAN, it is now proposed to introduce sections 206AB for TDS and section 206CCA for TCS, for non-filers of income tax return by “specified persons”.

c. Specified person defined as a person who has not filed a return for two years and aggregate of TDS and TCS is Rs 50,000 or more in each of the years.

   Rate of TDS (206AB) will be higher of:

   i. Twice the specified rate;
   Ii. Twice the rate in force;
   iii. At 5%.

   This section will not apply to where taxes are deducted under section 192,192A,194B, 194BB, 194LBC or 194N.

   Rate of TCS (206CCA) will be higher of:

   i. Twice the specified rate;
   ii. At 5%.

d. In case section 206CC is applicable, then higher rates applicable under this section or under section 206CC will apply.

These amendments are effective from 1st July 2021.

Capital Gains changes on Partnership Dissolution and Reconstitution:

It is proposed to amend section 45(4) and insert section 45(4A) to bring to tax any amount which is paid to retiring partner of a firm or member of other association of persons or body of individuals (not being a company or a cooperative society) Over and above his balance in capital account at the time of retirement and tax the same in the hands of firm or other association of persons or body of individuals (not being a company or a cooperative society) At fair market value. Consequently section 48 is also amended accordingly.

This amendment is effective from assessment year 2021-22.

Withdrawal of exemptions for ULIPs:

It is proposed to withdraw from the definition of capital asset the Unit Linked Insurance Policy (ULIPs) by inserting a new sub clause (c), where exemption for ULIP under clause 10D of Section 10 for premium payable above Rs.2,50,000 has been withdrawn . This withdrawal of exemption is not applicable in case of death of life insured.

The sale/ redemption of ULIPs will be taxed under Section 111A and 112A like the Equity Oriented Mutual funds. The CBDT will issue necessary guidelines binding the income tax authorities and the government.

Employer and employee contribution to Social Securities scheme:

The bill proposes to clarify by amending clause 5A of Subsection 1 to section 36 of the act that provisions of section 43B does not apply in determining the due date. Consequently section 43 B has been amended by inserting Explanation 5 that employees contribution is disallowed if not paid before the due date.

3.4 PROCEDURAL CHANGES

Income escaping assessment and search assessments

It is proposed to introduce a new section 148A, to modify the existing provisions of taxation of income escaping assessment and search assessments after 31st March 2021. This will be done only after getting prior approval of the Principal Commissioner, if the period is less than three years and Principal Chief Commissioner, if the period is beyond three years. The time for reopening the assessment is also reduced to three years from existing six years, except in cases where the escaped income is more than Rs.50 lakhs, for which time is up to 10 years. The new section also mentions many conditions to be fulfilled before any action can be initiated for escapement of income.

This amendment is effective from assessment year 2021-22.

Faceless Proceedings before Income-tax Appellate Tribunal (ITAT)

In continuation of introducing faceless assessment and appeal procedures, it is proposed to introduce section 255 for similar procedure for appeal before Income Tax Appellate Tribunal. It will be on similar lines as the faceless assessment and appeal, subject to certain conditions.

This amendment is effective from assessment year 2021-22.

Reduction of time limit for completing assessment

It is proposed to amend section 153 with respect to the time limit for completion of assessment and reassessment within nine months from the end of assessment year as against the existing twelve months.

This amendment is effective from assessment year 2021-22.

Discontinuing Income Tax Settlement Commission

It is proposed to discontinue Income Tax Settlement Commission with effect from 1st February, 2021 and to constitute interim board for settlement for all pending cases. All pending applications under 245C, where no orders passed under 245D(4) upto 31st January, 2021 shall be dealt with by the interim board.

Inclusions of Other Assessees in Presumptive Tax:

The bill proposes to extend benefits of section 44ADA, to HUFs and partnership firms carrying on profession and having gross receipts of less than Rs. 50 Lakhs to opt for presumptive basis of taxation.

Amendment to Tax Audit:

It is proposed to amend 44AB by exempting the applicability of audit threshold limit from Rs. 5 Crores to Rs. 10 Crores, subject to condition that aggregate receipts and payments is by mode other than cash to an extent of 95% of total receipts and payments.

This amendment is effective from assessment year 2021-22.

Rationalisation of Charitable Trusts:

It is proposed to amend section 11(1)(d) that voluntary contributions made with specific direction shall form part of the corpus and shall be invested or deposited specifically. Any application from the corpus fund, shall not be considered as application of funds. However, if it is invested in specified modes, as prescribed under 11(5), such amount shall be allowed as application in the previous year in which it is so deposited. The spending out of loan and borrowings shall not be considered as applications unless it is repaid.

4. INDIRECT TAX PROPOSALS

4.1 GOODS AND SERVICE TAX

1. Amendments proposed to omit the provisions relating to GST Audit. GST Annual Return and Reconciliation statement to be submitted on self-certification basis. Commissioner to be empowered to exempt a class of taxpayers from the requirement of filing the annual return. These changes will be effective from a date to be notified.
2. Amendments proposed to zero rate supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit only when the said supply is for authorised operations; restrict the zero-rated supply on payment of integrated tax only to a notified class of taxpayers or notified supplies of goods or services; and link the foreign exchange remittance in case of export of goods with refund.
3. Retrospective amendment proposed, effective from 1st July 2017 proposed so as to charge interest on net cash liability.
4. Amendment proposed to insert an additional condition for availing input credit; namely, input credit to be availed only on the when the suppliers furnish the details of such invoice or debit note in the statement of outward supplies in addition to communicating the details to the recipient
5. Retrospective amendment proposed with effect from the 1st July, 2017, so as to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
6. Other proposed amendments are relating to seizure and confiscation of goods, provisional attachment, appeals and proceedings under the GST law.

4.2 CUSTOMS DUTY

Amendments in the Customs Act, 1962.

Section 25 of the Customs Act is being amended to prescribe that all conditional exemptions, unless otherwise specified or varied or rescinded, given under Customs Act shall come to an end on 31st March falling immediately two years after the date of such grant or variation. All existing conditional exemptions in force as on the date on which the Finance Bill 2021 receives the assent of the President unless having a prescribed end date, shall come to an end on 31st March, 2023 (if not specifically extended/ rescinded earlier) on review.

A new section 28BB is being introduced prescribing a two-year time limit, further extendable by one year by the Commissioner, for completion of any proceedings under this act which would culminate in issuance of a notice under section 28 of the Customs Act, 1962.

Sub section (3) of section 46 is being amended so as to:

a) mandate filing of bill of entry before the end of the day preceding the day (including holidays) of arrival of goods.

b) A new proviso is being introduced therein, to enable the Board to notify the time period for presenting bill of entry in certain cases as it may deem fit.

Section 153 is being amended so as to insert a new clause „(ca)‟ under sub section (1) thereof so as to enable service of order, summons, notice, etc. by making it available on the common portal.

A new section 154C for notification of a common portal for facilitating registration, filing of bills of entry, shipping bills, any other document or form prescribed under this act or under any other law for the time being in force or the rules and regulations made thereunder, payment of duty and for carrying out such other functions and for such purposes as may be specified.

Amendments in the Customs Tariff Act, 1975

Section 9/9A of the Customs Tariff Act is being amended to include provisions for anti-absorption, retrospective levy from the date of initiation of investigation in anti-circumvention cases, aligning countervailing duty provisions with those in safeguard measures in respect of levy on goods cleared from EOU and SEZ into Domestic Tariff Area, stipulating that when countervailing duty is revoked temporarily, such revocation shall be for a period not exceeding one year at a time and to provide for imposing Countervailing duty/ Anti Dumping Duty on review for period not exceeding 5 years at a time, instead of the 5 years at present.

Imposition of Agriculture Infrastructure and Development Cess on Import of Certain Items [to be effective from 02.02.2021]

An Agriculture Infrastructure and Development Cess (AIDC) has been proposed on import of specified goods. To ensure that imposition of cess does not lead to additional burden in most of these items on the consumer, the BCD rates has been lowered. This cess shall be used to finance the improvement of agriculture infrastructure and other development expenditure

5. OTHER MAJOR POLICY INITIATIVES

- To reduce the compliance burden on small corporate entities, it is proposed to amend the definition of Small Companies by increasing the threshold for paid up capital to Rs. 2 Crores and turnover to Rs. 20 Crores
- Proposal to Decriminalization of Limited Liability Partnerships (LLP) Act 2008 on lines of Companies Act, 2013
- Focus on Capex and development of infrastructure in all areas
- Disinvestment and strategic sale of Government Controlled Institutions such as Banks, Companies, Businesses
- Further relaxing foreign Direct Investment in Insurance Sector
- NCLT framework will be strengthened, e-Courts system shall be implemented and alternate methods of debt resolution and special framework for MSMEs shall be introduced, to ensure faster resolution of cases
- SEBI Act, 1992, Depositories Act, 1996, Securities Contracts (Regulation) Act, 1956 and Government Securities Act, 2007 shall be consolidated into single Securities Markets Code
- Introduction of Agriculture Infrastructure and Development Cess on certain specified goods with effect from 2nd February 2021
- Major expressway and corridors proposed
- Several initiatives proposed on education
- Tax incentives for IFSC
- LIC to be listed thru a proposed IPO
- Fiscal Deficit – pegged at 9.5% of GDP for FY 2020-21 and Estimated at 6.8% of GDP for FY 2021-22

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