

## Katalyst Kaleidoscope

February 2023: The Union Budget 2023-24

### OUR ANALYSIS ON UNION BUDGET 2023 – 2024

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### A. Budget Overview

The Budget for 2023-2024 focused on seven top priorities, which are summarized as follows:

- i. **Inclusive Development:** Inclusive development across all sections of society will be focused upon by way of building digital public infrastructure for agriculture, facilitation and support for growth of agri-tech industry and start-ups, setting up Agriculture Accelerator Fund to boost startups in agri-sector, launching programs to support high value horticultural crops, focusing on education and skill development, nurturing of physical and mental health, pharma innovation, etc.
- ii. **Reaching the Last Mile:** Specific programs would be launched to improve socio-economic conditions of tribal groups, provide financial assistance to sustain micro irrigation in drought prone regions of Karnataka, recruitment of teachers for model residential schools, etc.
- iii. **Infrastructure and Investments:** In order to ramp up the cycle of investment and job creation, various incentives are being undertaken by way of continuation of 50-year interest free loan to state governments to incentivize infrastructure investments, increasing capital investment outlay to INR 10 Lakh Crore, increasing financial viability of infrastructure projects by taking consideration in the development of the Urban infrastructure in Tier 2 and Tier 3 cities through introduction of 100 transport infrastructure projects identified end to end connectivity for ports, coals, steels, and fertilizer projects.
- iv. **Unleashing the Potential - Trust Based Governance:** Various initiatives are being proposed to ensure good and transparent governance by way of introduction of centre of excellence for artificial intelligence, introduction of national data governance policy to promote innovation, simplification of KYC, one-stop solution for verification of identity of individuals, common business identifiers through PAN, unified filing process for submission of same information to government, introduction of settlement schemes and contract execution for MSMEs, etc.
- v. **Green Growth:** To achieve the goal of net carbon emission by 2070 to usher in green industrial and economic transition, various initiatives such as PM PRANAM (“PM Programme for Restoration, Awareness, Nourishment and Amelioration of Mother Earth”) to promote of usage of alternative fertilizers, establishment of 500 new Waste to Wealth management under GOBARdhan (Galvanizing Organic Bio-Agro Resources Dhan) scheme, establishment of 10,000 bio input resources centers to facilitate farmers to

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adopt natural farming, promotion of battery energy storage systems, promotion of costal shipping for energy efficient transportation etc. are intended to be undertaken.

- vi. **Amrit Peedhi – Youth Power:** In order to empower youth, various initiatives such as National Education Policy (including focus on coding, AI, robotics and 3D printing) which focuses on skills that will facilitate job creation at scale, and eventually support business opportunities are intended to be launched.
- vii. **Financial Sector:** To lead financial inclusion at scale, better and faster service delivery, ease of access to credit, and participation in financial markets, this Budget proposes to set up a National Financial Information registry to enhance financial stability, setting up a Central Data processing Systems for faster handling of administrative work under the Companies Act, launching a Credit Guarantee for MSMEs in order to enable additional collateral-free guaranteed credit of INR 2 Lakhs crore, and undertake other initiatives such as such as promoting business activities in GIFT IFSC and imparting training in securities markets via award of educational certificates.

### Budget 2023 at a glance

Budget at a Glance			
<i>(In Lakhs Crores)</i>			
Particulars	2021-22	2022-23	2023-24
	Actual Estimates	Revised Estimates	Budget Estimates
Net Tax Revenues	18.05	20.87	23.31
Non Tax Revenues	3.65	2.62	3.02
<b>Total Revenues Receipt (A)</b>	<b>21.70</b>	<b>23.49</b>	<b>26.33</b>
Non Debt Capital Receipts (B)	0.15	0.60	0.61
<b>Total Revenues (C= A + B)</b>	<b>21.85</b>	<b>24.09</b>	<b>26.94</b>
Revenue Expenditure (D)	32.01	34.59	35.02
Capital Expenditure ( E )	5.93	7.28	10.01
Gross Domestic Product (GDP)	232.14	273.08	301.75
<b>Revenue Deficit (A-D)</b>	<b>(10.31)</b>	<b>(11.10)</b>	<b>(8.69)</b>
<b>% of GDP</b>	<b>-4.44%</b>	<b>-4.06%</b>	<b>-2.88%</b>
<b>Fiscal Deficit (C-D-E)</b>	<b>(16.09)</b>	<b>(17.78)</b>	<b>(18.09)</b>
<b>% of GDP</b>	<b>-6.93%</b>	<b>-6.51%</b>	<b>-6.00%</b>

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### **B. Key Mergers & Acquisitions/ Transaction related amendments**

#### **1. Taxation of Share Premium on Infusion of Share Capital by Non-Residents**

- **Proposed Amendment (with effect from FY 2023-24):** Section 56(2)(viib) of the Income-tax Act, ("ITA") provides that any infusion of share capital by **resident investors** at a premium which is higher than the valuation arrived at either under the Net Asset Value ("NAV") method or Discounted Cash Flow ("DCF") method shall be taxable in the hands of the investee company. For example, if the DCF valuation is INR 100 per share, and the infusion is at INR 110 per share, then the excess premium (i.e., INR 10 per share) would be taxable in the hands of the investee company, as income from other sources.

The said provision is sought to be extended to investments in share capital made by non-resident investors as well.

- **Impact of the Proposed Amendment:** Any investments made by non-resident investors is governed by FEMA, where any Internationally Accepted Pricing Methodology ("IAPM) (which may, in addition to NAV/ DCF methods, also includes other methods such as comparable company multiple method, comparable transaction multiple method, etc.) is permitted to arrive at a **minimum** valuation at which the non-residents are required to invest.

However, section 56(2)(viib) only provides for NAV/ DCF valuation for arriving at the **maximum** valuation. Therefore, consider a case where the DCF valuation is INR 100 per share (i.e., the maximum price for valuation u/s 56(2)(viib)), but the FEMA valuation is INR 110 per share, which is the **minimum** valuation for FEMA purposes. Therefore, there could be scenario where the differential INR 10 is taxed in the hands of the investee company.

This provision is anyway a completely outlier provision, and to add this, based on potentially rare outlier cases, is totally contrary to Ease of Doing Business and will dampen cross border investments.

#### **2. Extension of ambit of "in-kind" perquisite or benefits**

- **Proposed Amendment (with effect from FY 2023-24):** Section 28(iv) provides that any perquisite or benefit, whether convertible into money or not, arising from exercise of business or profession is taxable in the hands of the taxpayer. The said provision (and its related provision u/s 194R for withholding of taxes at 10%) has now been extended to any perquisite or benefit either received in cash or in kind, or partly in cash and partly in kind.

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- **Impact of the Proposed Amendment:** The principal question as to what constitutes a benefit or perquisite u/s 28(iv), and even if it does constitute a benefit or perquisite, what is the valuation thereof, remains unanswered. For example, in a debt restructuring scenario, in case of write back of loans, if tax authorities (as they have in the past) contend that such write back constitutes a benefit or perquisite, there could be serious consequences as to default in withholding taxes on such lender.

Furthermore, in the past, it has been held that any write back of loans is effectively constructive receipt of money and therefore, there could be graver negative implications and uncertainty on borrowers (and withholding tax implications for the lender) if the tax authorities were to contend that write back of loans is now taxable u/s 28(iv) of the ITA basis the aforementioned amendment, since receipt of benefit in cash is also now considered as a perquisite/ benefit.

The provision seems to be aimed at neutralising the Supreme Court judgement in the case of Mahindra & Mahindra, 93 Taxmann 32. The issue of NPA resolution has made substantial progress, but there is still some way to go; the better approach should have been that write back of loans by borrowers should be expressly clarified to be not taxable, since the uncertainty of this aspect (which will be further heightened with this amendment) is a significant road block to NPA resolution and the related M&A activity.

### 3. Cost of Acquisition and Cost of Improvement for Intangible Assets

- **Proposed Amendment (with effect from FY 2023-24):** Presently, the cost of acquisition and cost of improvement for internally generated goodwill is defined to be NIL. The relevant provisions of section 55 are sought to be extended to intangible assets, which are internally generated (this is clearly stated in the Memorandum)
- **Impact of the Proposed Amendment:** The impact of this amendment would be that the cost of acquisition on sale of intangibles (internally generated) would be considered as NIL, and therefore, the entire consideration received would be taxable as capital gains in the hands of the transferor.

### 4. Substituted provisions for revision of income-tax returns in a Business Reorganization

- **Proposed Amendment (with effect from FY 2023-24):** Last year, section 170A of the ITA was inserted to enable the entities going through business reorganization to file modified returns during the period between the Appointed Date (date from which merger / demerger scheme comes into effect) and the Effective Date (date on which merger / demerger scheme becomes effective (i.e., typically upon filing of NCLT order with Registrar of Companies), within 6 months from the date of order of the relevant forum.

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The said section is now sought to be substituted to provide clarity in case of assessments and tax rates as follows:

- In case of completed assessments or pending assessments, the Assessing Officer shall pass an order modifying the total income (if the assessment is completed), or take into consideration (if the assessment is pending) the order of the business reorganization and taking into account the modified return so furnished.
- The tax provisions and tax rates shall be in accordance to the law prevailing in the relevant assessment year.

### 5. Deemed Income Provisions in case of REITs/ InvITs

- **Proposed Amendment (with effect from FY 23-24):** The Finance Bill, 2023 has introduced Section 56(2)(xii) to tax the unit holders of InvIT/REIT on account of ant distribution by InvIT/REIT (unless the distribution is towards redemption, in which case there will be a cost adjustment), except the following:
  - Income representing any interest or dividend received from SPV or rental income, which is anyway taxed in the hands of the unit holders; and
  - Other income which is already taxed at the InvIT/ REIT level at maximum marginal rate.

At the SPV level, due to depreciation and amortisation, while there may be a lower profit from an accounting perspective, there may be higher cash available and in order to upstream that cash, the REITs and InvITs would tend to invest in downstream SPVs through a combination of equity and loans, and the repayment of loans has often been done from the cash available which may not be represented by accounting profits; the intent appears to be to tax such repayment, but the on ground complexity of this will create an uncertain environment around an investment avenue which is still not as broad based an investment proposition as the potential would indicate.

- **Impact of Proposed Amendment:** The key impact of this amendment is on two accounts:
  - If the distribution of surplus cash by InvIT/ REIT is towards redemption of units, then the cost of investment would be adjusted (to the extent of original cost);

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- If the distribution of surplus cash by InvIT/ REIT is not towards redemption of units, then the entire distribution will be taxable as income from other sources u/s 56(2)(xii), which is sought to be inserted. There could be a high tax impact for HNIs (who are taxed at slab rates), and for FPI investors, which are taxed at 40%, unless a treaty exemption is available basis residence taxation for income from other sources

### 6. Taxation of Market Linked Debentures

A new tax regime, u/s 50AA of the ITA, has been sought to be inserted, with effect from FY2023-24 to provide for taxation of market linked debentures. Key aspects are as under:

- **Concept:** Market linked debentures (“MLD”) are now construed as “derivatives”, since the interest is variable and is linked to the performance of the market. Therefore, the taxation at 10% (as long-term capital gains on listed securities) is now sought to be removed. There is no grandfathering, in the sense that this applies even to MLDs issued prior to the date of the Budget, and, to that extent, it is retroactive in nature and will have a significant impact on existing MLD investments.
- **Taxation:** The difference between the cost of acquisition (including any expenditure incurred wholly in relation to transfer or redemption of such debentures) and full value of consideration would now be taxed at applicable rates as short-term capital gains (i.e., slab rates for individuals, ~25% for companies, and ~35% for partnerships).

### 7. Deemed Gift to Not-Ordinary Residents

- **Proposed Amendment (with effect from FY 2023-24):** Section 9(1)(viii) of the ITA provides that any receipt of monies, or any other properties (including shares and securities) without adequate consideration by a non-resident from any resident shall be deemed to accrue in India, and therefore, be taxable in India. It is proposed to extend the said provision to any receipt of property (without adequate consideration) by any not-ordinary resident.
- **Impact of the Proposed Amendment:** While any gift by an ordinary resident to a not-ordinary resident (excluding that between defined relatives) was anyway taxable in India u/s 56(2)(x), the said position is now reiterated by virtue of the proposed amendment, and therefore, the said amendment should not have major implications.

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### **8. Other Amendments**

- a.** In a much-needed clarification, section 94B of the ITA proposes to exclude non-banking finance companies from applicability of thin-capitalization rules i.e., even if interest paid by NBFCs to its associated enterprises (which are non-residents) exceeds 30% of the EBITDA of such NBFCs, there would not be any disallowance of such excess interest paid. Earlier, such exclusion was available to only banking or insurance companies.
- b.** Section 193 of the ITA is sought to be amended so as to remove the exemption from withholding taxes on interest payments on listed debentures/ securities made to resident investors. The said amendment will increase compliance burden on such companies which have issued listed debentures, especially if such companies are otherwise unlisted, but only have issued listed debentures.
- c.** Presently, if a person has not filed income-tax returns for preceding financial years, then higher taxes are required to be withheld at 2x the rates specified/ in force, or 5% whichever is higher. Considering that certain non-residents may not be required to obtain a PAN in India (due to no income), provisions of section 206AB and section 206CCA are proposed to be amended to exclude non-residents from applicability of higher TDS/ TCS rates.
- d.** Section 79 of the ITA is sought to be amended to provide that the business losses of an eligible startup incurred within 10 years (versus 7 years prior to the proposed amendment) from the date of incorporation shall continue to be carried forward, even if there is a change in shareholding of more than 51% in a financial year, but subject to the condition that all such shareholders continue to hold the shares in the year of set off of losses, even if the original shareholders are reduced to a nominal shareholding.
- e.** Extension of provision to obtain lower withholding tax certificate (u/s 197 of the ITA) to sovereign wealth funds and pension funds whose income in relation to distributions made by the Alternative Investment Funds is exempt u/s 10(23FE), but were subject to withholding tax u/s 194LBA of the ITA at 5%, since there was no provision to obtain lower withholding tax certificate.
- f.** The existing provisions of section 80-IAC providing for 100% tax holiday for eligible startups provide that an eligible startup should have been incorporated before 1 April 2023. The said date for incorporation is now extended to 1 April 2024.



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### C. Changes in Tax Rates and Personal Taxation

#### 1. Changes in Personal Taxation

- New Tax Regime for personal taxation has been amended, and has been made as a default option u/s 115BAC of the ITA (proposed to be amended), unless the old regime is opted voluntarily. Key changes are as under:
  - Reduction in surcharge in the highest slab (i.e., INR 5 Cr and above), to 25%, resulting in a net tax rate of 39% (from ~43% earlier)
  - Rebate u/s 87A of the ITA available till the income level of INR 7 Lacs (i.e., rebate of INR 25,000) available
  - Basic slab rate has been increased from INR 2.5 Lacs to INR 3 Lacs
  - Tax rates for each slab has been changed, as under:

Slabs & Rates	From FY 23-24
Upto INR 3 Lacs	Nil
From 3 Lacs to 6 Lacs	5%
From 6 Lacs to 9 Lacs	10%
From 9 Lacs to 12 Lacs	15%
From 12 Lacs to 15 Lacs	20%
Above 15 Lacs	30%

#### 2. Taxation of Receipt of Sum Assured in case of Life Insurance

- **Proposed Amendment (with effect from FY 2023-24):** Section 10(10D) of the ITA provides that any sum received in a life insurance policy shall be exempt if the insurance premium paid during the term of the insurance policy does not exceed 10% of the actual sum assured. It has now been proposed to amend the said provision to provide that:
  - Provisions of section 10(10D) shall not apply to such policy (other than ULIP), issued on or after 1 April 2023, where the insurance premium for any of the years exceeds INR 500,000, either for a single insurance policy or all insurance policies put together.

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- Any sum received on maturity of the life insurance policy (other than ULIP or keyman insurance policy) shall be taxed to the extent such sum exceeds the aggregate premium paid. Such receipt will be taxed as “income from other sources” u/s 56(2)(xiii) (proposed to be inserted) of the ITA.
- However, the aforementioned provisions shall not apply to any sum received on death of a person.
- **Impact of the Proposed Amendment:** If the aggregate premium paid over 10 years is INR 60 Lacs (i.e., INR 6 Lacs per annum), and the sum received at the end of 10 years INR 80 Lacs, then the excess receipt (i.e., INR 20 Lacs) shall be taxable at slab rates as “income from other sources”. This amendment is likely to impact high net worth individuals who have taken insurance policies with premiums exceeding INR 500,000. Consequently, the impact on life insurance companies would also need to be seen.

### 3. Increase in thresholds for presumptive taxation schemes:

- **Proposed Amendment (with effect from FY 2023-24):** Presently, certain eligible businesses (carried on by non-corporates) having a turnover of upto INR 2 Crore, and certain professionals having income upto INR 50 Lacs are taxed on presumptive basis at concessional tax rates. It is proposed to amend section 44AD (for businesses) to increase the threshold to INR 3 Cr (if the cash receipts do not exceed 5% of the total turnover), and section 44ADA to increase the threshold to INR 75 Lacs (if the cash receipts do not exceed 5% of the total receipts)

### 4. Prevention of double deduction of on interest on borrowed capital for house property

- **Proposed Amendment (with effect from FY 2023-24):** Presently, any amount of interest payable on borrowed capital for acquiring, renewing or reconstructing a property is allowed as a deduction under the head "Income from house property" u/s 24 of the ITA, but is capped at INR 2 Lacs per annum. It is now proposed to amend section 48 of the ITA to provide that any interest paid on housing loan and claimed as deduction either u/s 24 of the ITA or under Chapter VIA, shall not be permitted to be allowed as a double deduction as a part of cost of acquisition/ improvement. This amendment seeks to plug double deduction of the same interest cost, which has previously been allowed by certain Tribunals<sup>1</sup>.

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<sup>1</sup> ACIT v. C. Ramabrahman [2012] 27 taxmann.com 104 (Chennai Tribunal)

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### 5. Capping capital gains exemption u/s 54/ 54F to INR 10 Crores

- **Proposed Amendment (with effect from FY 2023-24):** Presently, any reinvestment of long term capital gains arising to an individual or HUF in another residential house property is exempt u/s 54 (on sale of residential property) and 54F (on sale of any long term capital asset). It is proposed amend the said section to cap the reinvestment amount to INR 10 Cr.
- **Impact of the Proposed Amendment:** This amendment will significantly restrict the capital gains tax exemption, especially in larger cities such as Delhi or Mumbai, where the property values are high. This will also impact sale of high end residential properties, both new and existing, especially considering significant transaction costs such as stamp duty.

### 6. TCS provisions on Liberalized Remittance Scheme

- **Proposed Amendment (with effect from 1 July 2023):** The TCS rates for LRS with respect to overseas tour packages has been revised from existing 5% to 20%. Further, TCS on any other amounts (other than education or medical treatment) has been revised from existing 5% (with a monetary threshold of INR 7 Lacs) to 20% without a monetary threshold.

## D. Other Direct Tax Proposals

### 1. New Provision for Exempt Income for entities engaged in Public Services

- **Proposed Amendments (with effect from FY 2023-24):** Recently, the Supreme Court<sup>2</sup> had held that bodies, authorities, trusts, or commissions established by any government would not be eligible for exemption u/s 10(46) of the ITA if the said entities were engaged in commercial activity, even though such commercial activities had a nominal markup and were prima facie engaged in public services. In order to overcome this judgment, it has been proposed to insert a new section, section 10(46A), which provides for exemption of any income of an entity (constituted by the government) engaged in specified public services such as housing, planning of cities/ towns/ villages, developing activities for the benefit of general public, etc., as may be notified by the government.

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<sup>2</sup> ACIT (Exemptions) vs Ahmedabad Urban Development Authority in Civil Appeal No 21762 of 2017

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- **Impact of the Proposed Amendment:** The key question whether commercial activities (within nominal markup) constitute “commercial activities” for non-governmental charitable entities continues to remain open, and would continue to negatively impact various charitable entities.

### 2. New Capital Gains Tax Regime for Electronic Gold Receipt

- In order to facilitate rollout of gold exchange so as to enable spot trading in gold through electronic gold receipt (“EGR”), new provisions are sought to be introduced (with effect from FY 2023-24) as under:
  - Conversion of physical gold into EGR and vice versa is not subject to capital gains tax; and
  - Cost of acquisition and period of holding of EGR would relate back to the original cost and period of holding of the original gold.

### 3. Streamlining Certain Provisions for Units in SEZ

- **Proposed Amendments (with effect from FY 2023-24):** In order to align various provisions within the ITA and FEMA Rules pertaining to exports, various amendments are sought to be made to section 10AA of the ITA, which provides for tax holiday for units established in SEZ in certain cases, summarized as under:
  - Entitlement for tax holiday only if only if return of income is furnished on or before the return filing due date u/s 139; and
  - Entitlement for tax holiday only if export proceeds are remitted to India within 6 months from the date of sale of goods or provision of services.

### 4. Changes in relation to Charitable Trusts

- Levy of exit tax at maximum marginal rate on the accreted income, when the charitable entity does not seek re-registration, or loses its character as a charitable entity by any other means (merger, etc.)
- Only 85% of the eligible donations made by a charitable entity to another to be considered as application

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- Reinstatement of funds back in the corpus or repayment of loan restricted to 5 years
- Exemption to charitable entities only available if return of income filed on or before the due date
- Forms for accumulation of income to be filed prior to 2 months of the due date for filing of return of income

### 5. Other Amendments

- Section 206C** – W.3.f 1<sup>st</sup> July 2023, the TCS rates under Liberalised Remittance Scheme for overseas tour packages has been revised from existing 5% to 20%. Further, TCS on any other amounts has been revised from existing 5% (with a monetary threshold of Rupees 7 Lakhs) to 20% without a monetary threshold.
- TDS Credit Mismatch:** In order to facilitate TDS credit on incomes already offered to tax on accrual basis much earlier, relevant amendments are proposed whereby a taxpayer may make an application to the Assessing Officer within 2 years from the date of withholding tax so as to allow credit of such taxes withheld.
- Set off of Refunds:** It has been proposed to omit section 241A (providing for withholding of refund during the pendency of assessments), and integrate the same with section 245 of the ITA. Therefore, the said provision has been streamlined procedurally to provide for set off of refund due against any tax liability.
- Payments to MSMEs:** In order to promote timely payments to MSMEs, it is proposed to amend section 43 of the ITA so as to allow deduction for overdue payments to MSMEs only on actual payment basis.
- Taxation of Online Gaming:** It is proposed to introduce section 115BBJ and 194BA (effect from FY 2023-24) so as to tax winnings from online games at 30% and withholding of an equal amount at the time of credit of net winnings to the account of the online users.
- Restriction of Claim of Loss/ Unabsorbed Depreciation:** It is proposed to amend presumptive taxation regime u/s 44BB and 44BBB so as to restrict non-residents engaged in the business of providing services/ plant and machinery used for prospecting mineral oils, or foreign companies engaged in civil construction/ turnkey projects, to claim unabsorbed depreciation and business loss pertaining to the year in which the benefit of presumptive taxation has been claimed.
- Reassessment Related:** A time limit of 3 months has been prescribed for filing return of income in response to a reassessment notice.

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### h. Changes in Cooperative Societies' ("CS") Taxation:

- Concessional tax regime at ~17% tax rate for new manufacturing setup by CS (from 1 April 2023), subject to certain conditions
- Clarification that purchase of sugarcane by sugar manufacturers CS at a price equal to or lower than the price fixed by the government, allowed as a tax deduction
- TDS at 2% on cash withdrawal (exceeding INR 3 Cr per FY) by CS
- Transactions between CS and close connections covered under the scope of specified domestic transactions

### E. Key Indirect Tax Proposals

#### 1. Key favourable amendments: GST and Customs

- **Relaxation in prosecution and compounding:** Threshold for launch of prosecution is increased from INR 2 Cr to INR 2 Cr, while the threshold for seeking compounding of certain offences has been reduced to 25% to 100% of the tax involved (which was 50% to 150% earlier)
- **Decriminalization of offences:** Decriminalization of offences relating to obstructing an officer, tempering of material evidence and failure to supply the information
- **Reduction in rate of Customs duty:** Reduction in duty on parts for manufacture of TV panels, certain parts of mobile phones like camera lens, capital goods/ machinery for manufacture of lithium-ion cells for use in EVs.

#### 2. Key adverse amendments: GST and Customs

- **Changes in the definition of OIDAR Services:** The definition of OIDAR (i.e., Online Information Data and Access Retrieval) services has been expanded to include services involving any level of human intervention and/ or automation (irrespective of the actual involvement). Further, the definition of 'non-taxable online recipient' is to be amended to include all unregistered persons located in the taxable territory and receiving OIDAR services, whether or not for the purposes of commerce, industry or any other business or profession.

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- **No ITC for activities of Corporate Social Responsibility ('CSR')**: The scope of blocked ITC is increased so as to block input tax credit on goods and services used for providing CSR activities and therefore, ITC on such goods and services procured for CSR purposes would not be available, which would defeat the intent of GST law (i.e., free flow of ITC)
- **ITC reversal in case of supply of warehoused goods before clearance** – The value of exempt supply will include supply of warehoused goods to any person before clearance for home consumption and hence, in case of such supply, ITC should be reversed.
- **Expansion in scope of penalty**: New penalty on e-commerce operators has been introduced in certain cases such as: a) for allowing specified class of unregistered & composition vendors to make supplies through its electronic platform; b) allowing inter-state supplies through it by a person who is not eligible to make such inter-state supplies (i.e., composition dealers); c) failing to report correct details in the TCS statement, of any outward supplies effected through it by a person exempted from obtaining registration.
- **Place of supply in case of transportation of goods**: In case of transportation of goods, where the supplier and recipient of goods are located in India, then irrespective of the fact that the destination of goods is outside India, the place of service will be in India (i.e., place of service recipient). The said amendment is in line with the non-extension of exemption notification on export freight
- Merchenting trade, in-bond sale and high-sea sale covered under schedule III to be treated as no-supply transactions w.e.f. July 1, 2017, and therefore, no refund for past periods from July 1st, 2017 to 31st January, 2019 will be available.
- **Increase in rate of Customs duty**: Increase in duty on bicycles, electric chimneys, toys, compounded rubber, vehicle in SKD/ CBU form etc.
- The heading 9801 of the first schedule of Customs Tariff Act, 1975 is being amended to exclude solar power plant/solar power project from the purview of Project Imports with effect from the date of assent to the Finance bill.

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