

DEVMANTRA TIMES

BUDGET EDITION

ISSUE NO : 24, FEBRUARY 2023

Dear Readers,

We welcome you to the **Twenty Fourth** edition of **Devmantra Times** for the month of **February 2023**.

Highlights of the Economic Survey 2023-24

- ❖ India to witness GDP growth of 6.0% to 6.8% in 2023-24, depending on the trajectory of economic and political developments globally
- ❖ Economic survey 2022-23 projects a baseline GDP growth of 6.5% in real terms in FY24
- ❖ Economy is expected to grow at 7% (in real terms) for the year ending March 2023, this follows an 8.7% growth in the previous financial year
- ❖ Credit growth to the micro, small, and medium enterprises

(msme) sector has been remarkably high, over 30.5%, on average during Jan-Nov 2022

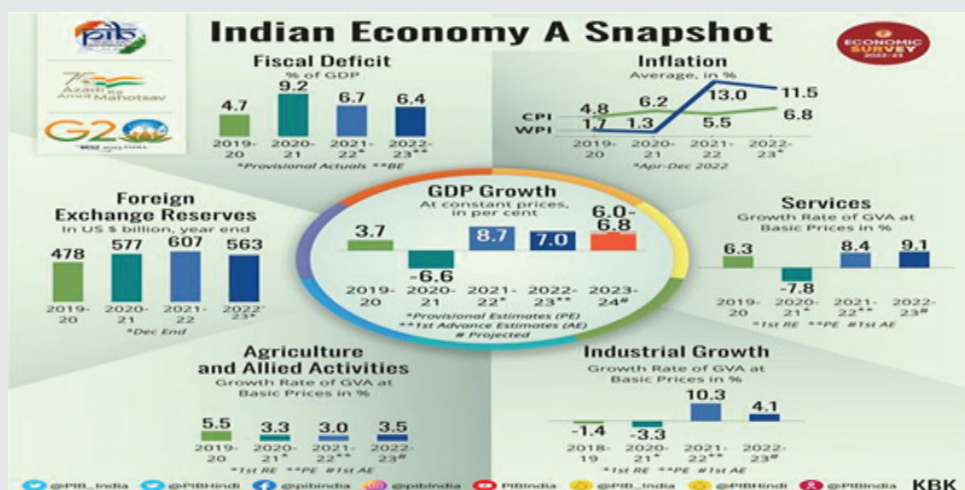
- ❖ Capital Expenditure (Capex) of the central government, which increased by 63.4% in the first eight months of FY23, was another growth driver of the Indian economy in the current year
- ❖ RBI projects headline inflation at 6.8% in FY23, which is outside its target range
- ❖ Return of migrant workers to construction activities helped housing market witnessing a significant decline in inventory overhang to 33 months in Q3 of FY23 from 42 months last year
- ❖ Surge in growth of exports in FY22 and the first half of FY23 induced a shift in the gears of the production processes from mild acceleration to cruise mode

❖ Private consumption as a percentage of GDP stood at 58.4% in Q2 of FY23, the highest among the second quarters of all the years since 2013-14, supported by a rebound in contact-intensive services such as trade, hotel and transport

Startup updates

❖ Webxpress launches GreenXpress WebXpress, the transportation and logistics SaaS provider, launched a new sustainable initiative GreenXpress to leverage technology to help companies accurately measure the Greenhouse Gas (GHG) footprint and find opportunities to reduce and replace the same. GreenXpress focuses on technology that would share a real-time dashboard to help brands measure, reduce, and replace CHG emissions in transportation and warehouse networks operated by them and their partners.

❖ StanPlus rebrands to RED.Health, announces four new business verticals RED.Health (formerly known as Stanplus), a medical emergency response platform, has announced four new business verticals—RED Ambulances, RED Assist, RED Priority Clinics, and RED Academy—to offer a holistic emergency care network in the country.



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Budget 2023 Sectoral Impact

Individual	Corporates	Infrastructure	Markets & Investors	Agriculture
<ul style="list-style-type: none"> ❖ Taxpayers who aim to opt for the newer tax regime, will now likely pay lower taxes, depending on their income. There will be no tax charged for salaries up to 7 lakh under the new tax regime. ❖ The maximum rate of surcharge under NTR has been cut to 25% from 37% . ❖ The tax exemption limit for leave encashment on retirement for non-govt salaried individuals increased to Rs 25 lakh from Rs 3 lakh. 	<ul style="list-style-type: none"> ❖ The tax holiday of 100% of profits (for a block of 3 years in the first 10 years of incorporation) is extended by one more year. Startups incorporated till March 31, 2024 will enjoy this tax holiday. Carry forward of business loss of startups is extended to 10 years (from earlier 7 years) provided all the shareholders in the year of loss continue to remain invested even in the year of setoff India Inc (except startups) will suffer tax on premium.. received in excess of 'fair market value' even from non-resident investors. This was previously taxable only if it was received from resident subscribers . Intangible assets to have zero value for tax purposes. Deeming fiction proposed be inserted to prescribe the cost of acquisition of intangible assets acquired on or after April 1, 2023 to be 'Nil'. As a result, there will be a higher component of taxable capital gain on the transfer. 	<ul style="list-style-type: none"> ❖ The FM has budgeted for a hefty 33% spike in capital expenditure (capex) at Rs 10 lakh crore. <p>The government's continued emphasis on ramping up capex spending should provide a fillip to both near- and medium-term growth.</p> <p>The Centre's bigger push for capex without fiscal profligacy will aid growth and strengthen investment recovery.</p>	<ul style="list-style-type: none"> ❖ As for the investors, stable government borrowings despite high capex are likely to keep interest rates calm, and support markets. <p>However, market-linked debentures will now attract higher taxes, thereby denting this popular investment option.</p> <p>MSMEs got a support package in the Budget as the revamped credit guarantee scheme will take effect from April 1, 2023 through an infusion of Rs 9,000 crore in the corpus.</p>	<ul style="list-style-type: none"> ❖ The agriculture credit target will be increased to Rs 20 lakh crore with focus on animal husbandry, dairy and fisheries. <p>A digital public infrastructure for agriculture will be built as an open source, open standard and inter operable public good.</p> <p>An Agriculture Accelerator Fund will be set up to encourage agri startups by young entrepreneurs in rural areas which will aim at bringing innovative and affordable solutions</p>

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Why this Volume of Newsletter is important for reader?

Through the series of this newsletter, we aim at covering all relevant Income Tax, Goods & Service Tax and Companies Act notification, circulars and case laws which may directly or indirectly impact our readers.

At Devmantra, it is our utmost priority to help our readers to be informed with respect to the changes in relevant laws for a smoother compliance.

Devmantra was founded based on the unalterable premise of excellence, acuity, integrity and an unwavering commitment to delivery. These principles continue to form the edifice of our approach as an organization, to our clients, our professionals and our community, and this has served us well in our journey so far. This approach has allowed Devmantra to work with and advise the very best clients, both in India and internationally. We encourage our people to strive for excellence and innovation within a meritocratic working environment and support their entrepreneurial spirit. It is our consistent endeavour with our people, to ensure that they imbibe the culture of the firm and form part of the weft and weave of the fabric of Devmantra. Our core values remain the guiding principles for everything we do, and we would like to emphasize "Knowledge" as one of the fundamental beliefs which drive the success of our operations. As we keep on reiterating, Knowledge is our number one priority.

We don't count time when it comes to gain any new knowledge or to reinstate the earlier one. Our clients trust our expertise and putting countless hours in keeping ourselves up to date on the subject we are advising on, deserve their trust.

Regards,
CA. PRATIK NIYOGI, FCA
On behalf of the Editorial Team



GST

REGULATORY UPDATES

Highlights of the Indirect Taxes Proposals of Finance Bill 2023

Union Finance and Corporate Affairs Minister Smt Nirmala Sitharaman announced indirect tax proposals in Budget 2023, emphasising tax structure simplification with fewer tax rates to help reduce compliance burden and improve tax administration:

CUSTOMS-Amendments in Duty

i) The number of basic customs duty rates on goods has been reduced from 21 to 13, other than textiles and agriculture.

ii) The basic customs duties, cesses, and surcharges on items like toys, bicycles, automobiles, and naphtha have been slightly modified.

iii) To avoid tax cascading on blended compressed natural gas, excise duty on GST-paid compressed biogas contained in it has been waived.

iv) The customs duty exemption on the import of specified capital goods and machinery required for the manufacture of lithium-ion cells used in the batteries of electrically powered vehicles (EVs) has been extended until March 31, 2024.

v) Vehicles, specified automobile parts and components, sub-systems, and tyres proposed to be exempt from customs duty when imported for testing and/or certification by notified testing agencies, subject to conditions.

vi) In order to increase domestic value addition in the manufacture of mobile phones, the Finance Minister announced a reduction in customs duty on certain parts and inputs, such as camera lenses. Customs duties on camera lenses and their parts that are used to make camera modules for cell phones have been cut to zero, and the reduced duty on lithium-ion cells used in batteries has been extended for another year.

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vii) The basic customs duty on parts of open cells in TV panels has been reduced to 2.5%.

viii) The budget also proposes changes to the basic customs duty in order to correct the inversion of duty structure and encourage the production of electrical kitchen chimneys. The basic customs duty on electric kitchen chimneys has been raised from 7.5% to 15%.

The basic customs duty on heat coils used to make electric kitchen chimneys has gone down from 20% to 15%.

x) Denatured ethyl alcohol used in the chemical industry is set to be duty-free.

xi) The basic customs duty on acid grade fluorspar (containing more than 97% calcium fluoride by weight) has been reduced from 5% to 2.5%.

xii) The basic customs duty on crude glycerin used to make epichlorohydrin would go from 7.5% to 2.5%, according to a proposal.

xiii) Duty reduction on key inputs for domestic shrimp feed manufacturing

xiv) The basic customs duty on seeds that are used to make diamonds in a lab has been cut.

xv) Import duties on silver jewellery, bars, and articles have been raised to match those on gold and platinum.

xvi) The basic customs duty exemption on raw materials used in the production of CRGO steel, ferrous scrap, and nickel cathode was maintained.

xvii) The 2.5% BCD on copper scrap is maintained.

xviii) The basic customs duty rate on compounded rubber was raised to 25% from 10% or Rs. 30 per kg, whichever is lower.

xix) The NCCD (National Calamity Contingent Duty) on some cigarettes was raised by about 16%.

Customs Legislative Amendments

a) The Customs Act of 1962 should be amended to specify a time limit of nine months from the date of filing the application for the Settlement Commission to issue a final order.

b) Amending the Customs Tariff Act to clarify the intent and scope of provisions relating to anti-dumping duty (ADD), countervailing duty (CVD), and safeguard measures.

CGST Act to be amended

The budget for 2023 proposes amending the CGST Act in order to:

a) Increase the minimum tax amount limit for launching a GST prosecution from one crore to two crores, except for the offence of issuing invoices without supplying goods and services or both;

b) reduce the compounding amount from 50 to 150% of the tax amount to 25 to 100% of the tax amount;

c) decriminalise certain CGST offences or clauses, such as obstructing and preventing any officer from performing his duties, deliberately tampering with evidence, or failing to supply information.

d) limit the amount of time you have to file returns and statements to three years from the date they were due; and

e) Let unregistered vendors and composition taxpayers sell goods within the same state through E-Commerce Operators (ECOs).

RECENT JUDICIAL RULINGS ON GST

CLASSIFICATION OF SERVICES

Test bench equipment - Mermoz System : Test bench equipment (Mermoz system) is used for testing air worthiness of an aircraft which neither forms part of aircraft nor forms a component of aircraft, therefore same is classifiable under Heading No 998719 instead of Heading No 9987 and concessional rate of GST of 5% is not applicable on said services - Testmesures Sphera Solutions (P.) Ltd.,

In re - [2023] 146 taxmann.com 86 (AAR - KARNATAKA)

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SECTION 2(86) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SUPPLY - PLACE OF SUPPLY

Since determination of place of supply is beyond jurisdiction of instant Advance Ruling Authority, determination of whether impugned services fall under definition of 'export of services' is not feasible - Testmesures Sphera Solutions (P.) Ltd., In re - [2023] 146 taxmann.com 86 (AAR - KARNATAKA)

SECTION 19 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - INPUT TAX CREDIT - JOB WORK, TAKING CREDIT OF INPUTS AND CAPITAL GOODS SENT FOR

Where assessee paid IGST considering a supply to be an inter-state supply, but same was actually an intra-state supply, as there is no provision for adjustment of erroneously paid IGST with CGST and SGST, assessee should pay CGST and SGST and file application separately for refund of IGST paid erroneously - OLA Fleet Technologies (P.) Ltd. v. Union of India - [2023] 146 taxmann.com 83 (Telangana)

SECTION 68 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SEARCH, SEIZURE, ETC. - GOODS IN MOVEMENT, INSPECTION OF

GOODS IN MOVEMENT, INSPECTION OF

Detention of goods and conveyance on ground that old batteries were sold by taxpayer on per piece basis and not by weight, was not sustainable and department was to be directed to

refund penalty paid by assessee - Ganpati Battery Traders v. State of U.P. - [2023] 146 taxmann.com 49 (Allahabad)

SECTION 73 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY - TAX OR INPUT TAX CREDIT DUE NOT INVOLVING FRAUD MISSTATEMENT OR SUPPRESSION

Ex-parte order passed without granting fair opportunity of hearing and without assigning any reason for computation of amount due and payable was not sustainable, therefore matter was to be remanded for fresh consideration - Ghar Ghar Ki Awaz Having v. State of Bihar - [2023] 146 taxmann.com 51 (Patna)

SECTION 122 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - PENALTY - FOR CERTAIN OFFENCES

Where applicant-assessee was alleged to commit tax evasion, for amount less than 500 lakhs, which was categorized as a bailable offence and applicant had no crime record against him, bail application was to be allowed - Vishnu Pratap v. State of U.P. - [2023] 146 taxmann.com 56 (Allahabad)

SECTION 132 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - OFFENCES - PUNISHMENTS FOR CERTAIN OFFENCES

High Court granted bail in view of specific facts that investigation was complete, challan stood presented, accused was not involved in any other case, any amount was not recoverable from accused and trial was yet to be commenced - Gaurav Dhir v. Central Goods and Services Tax - [2023] 146 taxmann.com 50 (Punjab & Haryana)



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INCOME TAX

REGULATORY UPDATES

Highlights of the Direct Tax Proposals of Finance Bill 2023

The Finance Minister has made several announcements in Budget 2023 regarding personal income tax amendments, including an increase in the tax rebate limit, an increase in the tax-exempt income slab, an increase in the tax-exempt leave encashment limit, and so on. In addition, the benefit of the standard deduction has been extended to salaried and pensioner taxpayers, and the highest surcharge rate has been reduced under the new tax regime.

Budget 2023 direct tax proposals aim to maintain continuity and stability in taxation, simplify and rationalise various provisions to reduce compliance burden, promote entrepreneurial spirit, and provide tax relief to citizens. The Income Tax Department will

continue to improve taxpayer services by making compliance simple and easy. The following is a summary of the direct tax proposals in the Finance Bill 2023:

Common Income Tax Return (ITR) Form

In Budget 2023, the Finance Minister proposed introducing a next-generation "Common Income Tax Return (ITR) Form" for the convenience and benefit of taxpayers.

Strengthening of the Grievance Redressal Mechanism

In Budget 2023, the Finance Minister proposed to strengthen the grievance redressal mechanism for direct taxes. While presenting the Budget 2023, the Finance Minister announced that she would deploy approximately 100 Joint Commissioners to handle small appeals in direct tax matters. She also stated that the department would be more selective in accepting cases for

review of returns received this year. **Increase of Tax Rebate limit to Rs. 7 lac**

In Budget 2023, the Finance Minister proposed raising the limit for Tax Rebate u/s 87A from Rs. 5 lac to Rs. 7 lac in the new tax regime. Thus, under the new tax regime, individuals earning up to Rs. 7 lac are exempt from paying tax.

Increase of Tax Exemption Limit/Slab to Rs. 3 lac

In Budget 2023, the Finance Minister proposed raising the tax exemption limit (slab) in the new tax regime to Rs. 3 lac. The new regime's personal income tax structure has six income slabs, which will be reduced to five with an increase in the tax exemption limit to Rs. 3 lac. This modification will provide significant relief to all taxpayers under the new regime.

New Income Tax Rates/ Slabs (New Regime): Finance Bill 2023

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Benefit of Standard Deduction to be extended to New Tax Regime

In Budget 2023, the Finance Minister proposed extending the benefit of the standard deduction of Rs. 50,000 to salaried individuals and the deduction from family pension up to Rs. 15,000 for taxpayers under the new tax regime also.

Reduction in Highest rate of Surcharge from 37% to 25%

The Finance Minister proposed in Budget 2023 to reduce the highest surcharge rate in the new tax regime from 37% to 25%, resulting in a reduction of the maximum marginal rate (personal income tax rate) from 42% to 39%.

Increased limit for leave encashment exemption

In Budget 2023, the Finance Minister proposed raising the limit for tax exemption on leave encashment on retirement for non-government salaried employees to Rs. 25 lakh.

New Tax Regime to be made Default Tax Regime

The Finance Minister has announced that the income tax regime introduced in 2020 will be implemented as the default tax regime. However, taxpayers will have the option to continue receiving the benefits of the previous tax regime.

Enhanced Limits for Presumptive Taxation of MSMEs and Professionals

Budget 2023 proposes increased limits for micro, small, and medium-sized enterprises (MSMEs) and certain professionals to take advantage of presumptive taxation. The increased limit will apply only if the amount or total amount received in cash during the year does not exceed 5% of total gross receipts or turnover. The budget describes MSMEs as the growth engines of our economy and proposes increased limits for microenterprises and certain professionals to take advantage of presumptive taxation. Revised limit is 3 crores & 75 Lakhs respectively for business & profession.

New tax regime		Old tax regime	
	FY24		FY24
Rs 0-3 lakh	Nil	Rs 0-2.5 lakh	Nil
Rs 3-6 lakh	5%	Rs 2.5-5 lakh	5%
Rs 6-9 lakh	10%	Rs 5-10 lakh	20%
Rs 9-12 lakh	15%	Rs 10 lakh+	30%
Rs 12-15 lakh	20%		
Rs 15 lakh+	30%		

Those earning up to Rs 7 lakh are entitled to a rebate

Those earning up to Rs 5 lakh are entitled to a rebate

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Deductions only after actual payments to MSMEs

To assist MSMEs in receiving payments on time, Budget 2023 proposes deducting expenditures incurred on payments made to MSMEs only when the payment is actually made to them. In other words, the deduction for expenditure incurred on payments made to MSMEs will be allowed only when the payment is made in order to assist MSMEs in receiving payments on time.

Booster for Cooperative Sector

The Finance Minister made numerous proposals for the cooperative sector in Budget 2023, including the following:

- i) New co-operatives that begin manufacturing activities before March 31, 2024, will be eligible for a 15% tax rate, which is currently available to new manufacturing companies.
- ii) Allowing sugar co-operatives to claim payments made to sugarcane farmers prior to the assessment year 2016–17 as expenditures. This is expected to provide them with nearly Rs. 10,000 crore in relief.
- iii) A higher limit of Rs. 2 lakh per member for cash deposits to and cash loans from primary agricultural cooperative societies (PACS) and primary cooperative agriculture and rural development banks (PCARDBs).
- iv) Co-operative societies will be given a higher limit of Rs. 3 crore for TDS on cash withdrawals.

Support for Startups

In Budget 2023, the Finance Minister made a number of proposals for “startups,” including the following:

- i) The date of incorporation for income tax benefits to startups will be extended from March 31, 2023, to March 31, 2024.
- ii) Extend the benefit of carrying forward losses on shareholding changes in startups from seven to ten years after incorporation.

Capital Gains-Capping of Deduction u/s 54 and 54F at Rs 10 crore

In Budget 2023, the Finance Minister proposed capping the deduction from capital gains on residential house investments under Sections 54 and 54F at Rs. 10 crore in order to better target tax concessions and exemptions.

No exemption for Insurance Policies with Aggregate Premium above Rs. 5 lac

The Finance Minister proposed in Budget 2023 to limit the income tax exemption from proceeds of very high-value insurance policies where the aggregate premium for life insurance policies (other than ULIP) issued on or after April 1, 2023, is more than Rs. 5 lakh. Thus, only income from policies with aggregate premiums of up to Rs. 5 lakh will be exempt.

Exemption for Income of Authorities, Boards and Commissions

The Finance Minister proposes in Budget 2023 to exempt the income of Authorities, Boards, and Commissions established by Union or State statutes for the purpose of housing, development of cities, towns, and villages, and regulating, or regulating and developing, an activity or matter.

No minimum threshold of Rs. 10,000 for TDS

Finance Minister has proposed in Budget 2023 to remove the minimum threshold of Rs. 10,000/- for TDS.

Taxability of Online Gaming

Finance Minister has proposed to clarify the taxability relating to online gaming, i.e. to clarify about TDS and taxability on net winnings at the time of withdrawal or at the end of the financial year.

EEE Status for Agniveer Fund

The Finance Minister has proposed that the “Agniveer Fund” be granted “EEE” status. The Agniveer Corpus Fund payment received by Agniveers enrolled in the Agnipath Scheme, 2022 has also been proposed to be exempt from income tax. Furthermore, it is proposed to allow Agniveer members to claim a deduction from their total income for any contribution made to their Seva Nidhi account by either the taxpayers or the Central Government.

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TDS Rate reduced to 20% for EPF withdrawal in Non-PAN cases
The Finance Minister has proposed lowering the TDS rate on the taxable portion of EPF withdrawals in non-PAN cases from 30% to 20%.

Other Direct Tax Proposals (Finance Bill 2023):

i) Changing gold into electronic gold receipts or electronic gold receipts into gold is not considered a capital gain;

ii) Taxation of income from market-linked debentures;

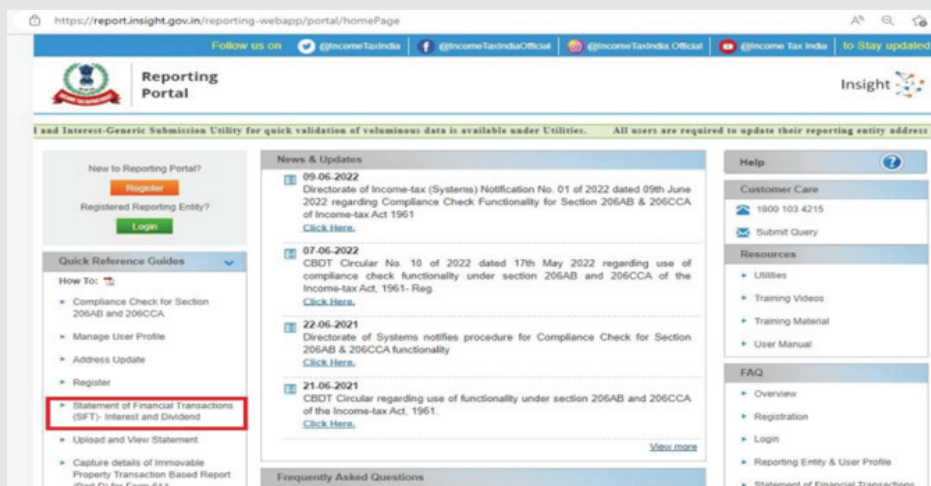
iii) The period of tax benefits for funds relocating to GIFT City in the IFSC has been extended until March 31, 2025.

iv) Certain acts of omission committed by liquidators under Section 276A of the Income Tax Act will be decriminalised beginning April 1, 2023.

v) Losses on strategic disinvestment, including IDBI Bank, will be carried forward

NOTIFICATION NO. 1 DATED 5th JANUARY 2023 ISSUED BY CBDT

CBDT has abolished the limit of Rs. 5,000 mentioned in (a) above, with effect from 5th January 2023 onwards. The revised remark reads as 'the information is to be reported for all account / deposit holders where any interest exceeds 0% in the FY excluding Jan Dhan accounts.'



RECENT JUDICIAL RULINGS ON INCOME TAX

SECTION 9 OF THE INCOME-TAX ACT, 1961 - INCOME - DEEMED TO ACCRUE OR ARISE IN INDIA

FTS/Royalty - Sales support service : Where assessee-company was in business of providing software solutions and services to various industries and it entered into marketing agreement with a non-resident company located in Dubai for marketing its products in Middle East Asian countries and agreement specified that assessee will train resources of marketing partner to provide pre-sale and after sale product services to customers, services rendered by marketing partner were in nature of fees for technical services as per Explanation 2 to section 9(1)(vii) - Sunsmart Technologies (P.) Ltd. v. Assistant Commissioner of Income-tax - [2022] 145 taxmann.com 591 (Chennai - Trib.)

SECTION 14A OF THE INCOME TAX ACT, 1961 - EXPENDITURE INCURRED IN RELATION TO INCOME NOT INCLUDIBLE IN TOTAL INCOME

To confer jurisdiction to Assessing Officer to reopen assessment under section 147 beyond four years from end of relevant assessment year, two conditions must be satisfied namely, that Assessing Officer must have reason to believe that income chargeable to tax has escaped assessment and that same was occasioned on account of either failure on part of assessee to make a return of his income for that assessment year or to disclose fully and truly all material facts necessary for that assessment year - P C Snehal Engineers (P.) Ltd. v. Assistant Commissioner of Income-tax, Circle 3(1)(1) - [2023] 146 taxmann.com 54 (Gujarat)

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SECTION 68 OF THE INCOME TAX ACT, 1961 - CASH CREDIT

In absence of any tangible material to form an opinion that income chargeable to tax had escaped assessment and in absence of any satisfaction recorded by Assessing Officer by merely relying upon information received from Office of DCIT Central Circle 2(2), Mumbai, impugned action of reopening assessment while exercising power under section 148 could not be sustained - Vijay Ramanlal Sanghvi v. Assistant Commissioner of Income-tax, Circle 2(1)(2) - [2023] 146 taxmann.com 55 (Gujarat)

SECTION 80G OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - DONATIONS TO CERTAIN FUNDS, CHARITABLE INSTITUTIONS

Grant of approval : Where issue as to whether assessee was eligible for deduction under section 80G would depend on continuance of registration granted to assessee under section 12A and said issue was subject matter of a show cause proceeding pending before Commissioner, impugned order passed by Tribunal holding assessee entitled section 80G(5) approval was to be quashed and matter was to be remitted to Commissioner to pass a fresh

order on application for approval under section 80G after further order was passed in show cause notice seeking to cancel registration granted to assessee under section 12A(a) - Commissioner of Income-tax v. Madras Medical Mission - [2022] 145 taxmann.com 586 (Madras)

SECTION 148A OF THE INCOME TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - CONDUCTING INQUIRY, PROVIDING OPPORTUNITY BEFORE ISSUE OF NOTICE

Extended limitation of 10 years u/s 149(1)(b) for reassessment of income escaped more than Rs. 50 lakhs can't be invoked by AO based only on assessee's express disclosure - Azim Premji Trustee Co. (P.) Ltd. v. Deputy Commissioner of Income-tax, Circle 4(1)(1) - [2023] 146 taxmann.com 58 (Karnataka)

SECTION 260A OF THE INCOME-TAX ACT, 1961 - HIGH COURTS - APPEAL TO

Time limit : Once an efficacious alternative remedy by way of statutory appeal is provided under special enactment (Income-tax Act,

1961) and assessee has failed to avail that remedy, High Court in exercise of power conferred under article 226 of Constitution of India cannot extend statutory period of appeal which has otherwise expired - Nidhi Corporation v. Income-tax Officer - [2022] 145 taxmann.com 588 (Gujarat)

While deciding a substantial question of law, HC can't interfere with Tribunal's Perverse findings without framing a specific separate question of law - Muthoot Leasing and Finance Ltd. v. Commissioner of Income-tax - [2023] 146 taxmann.com 53 (SC)

SECTION 276B OF THE INCOME TAX ACT, 1961 - OFFENCE AND PROSECUTION - FAILURE TO PAY TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES/DEDUCTED AT SOURCE

As agreed by ITD & respondent-assessee, SC allows ITD's SLP & sets aside trial court's order of discharge from offences u/ss. 276B & 276BB confirmed by HC - Income Tax Department v. Jenious Clothing (P.) Ltd. - [2023] 146 taxmann.com 52 (SC)

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CORPORATE LAW UPDATES

Requirement to intimate grounds for disqualification of directorship to Registrar of Companies (RoC) in Form DIR-8 – Ministry of Corporate Affairs (MCA) expands requirement for disclosure to include grounds of disqualification u/s 164(1) of Companies Act, 2013

Section 164 of the Companies Act, 2013 provides various grounds for disqualification of directors in a company as below:

Grounds for disqualification u/s 164(1) (related to individual)

- Director is declared by court to be of unsound mind, or
- an undischarged insolvent, or

convicted by court for any offence involving moral turpitude and has been imprisoned for the said offence for more than 6 months, or convicted of any offence with respect to related party transactions u/s 188 of Companies Act during last 5 years, or

holding directorships in more than 20 companies at the same time

- A court order is in force disqualifying the individual to be appointed as director in a company
- Non-payment of share application money due on the shares held by a director for more than 6 months from the due date for payment
- Director fails to obtain Director Identification No. (DIN) as per the Companies Act

Grounds for disqualification u/s 164(2) (related to company in

which the individual is a director)
If the individual is a director in a company that has defaulted in:

- Filing its financial statements / annual returns for 3 continuous FYs
- Repayment of deposits and debentures (including interest thereon) continuously for more than a year
- Payment of declared dividend to shareholders continuously for more than a year.

Earlier, if an individual at the time of his / her appointment (or reappointment) as director in a company would be disqualified u/s 164(2) of the Companies Act, 2013, he / she had to intimate the same to the company in Form DIR-8, at the beginning of each FY.

MCA vide notification dated 20th January 2023 has now included section 164(1) as well within the above requirement for intimation to the company. Form DIR-8 has been suitably amended to incorporate the said disclosure requirement.

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Once the company receives the intimation / disclosure from the director in Form DIR-8, the company shall report the same to RoC in e-Form DIR-9 within 30 days from the date of receiving such intimation from the director.

Issue of bonus shares – No requirement to annex shareholders' approval with e-Form PAS-3 (return of allotment of shares) to be submitted with RoC

Requirement to annex shareholders' approval with e-Form PAS-3 done away with Currently, Rule 12(6) of the Companies (Prospectus and Allotment of Securities) Rules, 2014 requires mandatorily to annex shareholders' approval with e-Form PAS-3 to be submitted with RoC for issue of bonus shares. MCA vide notification dated 20th January 2023 has dispensed the above requirement. Rule 12(6) has been omitted.

Conversion of Partnership firm / Limited Liability Partnership (LLP) / Registered Societies / Trusts into Company – MCA relaxes procedural compliances

Section 366 of the Companies Act, 2013 read with Companies (Authorized to Register) Rules, 2014 deal with conversion of:

- Partnership firms / Limited Liability Partnership (LLPs) into Company; and
 - Registered Societies / Trusts into (not-for-profit) Section 8 company
- Pursuant to Rule 3 of the above rules, every Partnership firm / LLP / Registered Society or Trust proposing to convert into a company as above, is required to apply to RoC in e-Form URC-1 along with the prescribed documents.

Notification dated 19 January 2023 issued by MCA

MCA has notified below changes in the documents / information to be submitted with RoC in eForm URC

SEBI

Relaxation up to 30th September 2023 from the requirement of sending physical copy of annual reports to the shareholders of listed companies

Pursuant to regulation 36(1)(b) of SEBI Listing Obligations and Disclosure Requirements (LODR), every listed company is required to send physical copies of its annual reports to all the shareholders who have not registered their email addresses with the company.

Considering the representations received from listed companies seeking dispensation from the said requirement, SEBI vide circular dated 13th May 2022 had provided the said relaxation to all the listed companies till 31st December 2022. Now, vide circular dated 5th January 2023, SEBI has once again extended the said relaxation till 30th September 2023.



DEVMANTRA TIMES

BUDGET EDITION

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Tax Compliance Calendar for February 2023

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7 th February		TDC/TCS deposit	Non-Government Deductors
		Equalization Levy deposit	All Deductors
10 th February		a) GSTR-7 (TDS return under GST) b) GSTR-8 (TCS return under GST)	a) Person required to deduct TDS under GST b) Person required to collect TCS under GST
11 th February	Oct-Dec 2022	GSTR-1 (Outward supply return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2021-22 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
13 th February		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
		Invoice Furnishing Facility – IFF (Details of outward supplies of goods or services)	Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and opted for QRMP scheme
15 th February		Deposit of PF & ESI contribution	All Deductors
	January 2023	Issue of TDS Certificate (other than salary)	
20 th February		GSTR-3B (Summary return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2021-22 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and not opted for QRMP scheme
		a) GSTR-5 (Return by Non-resident). b) GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	a) Non-resident taxable person b) OIDAR services provider
25 th February		Form GST PMT-06 (payment of tax for QRMP filers)	Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and opted for QRMP scheme

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