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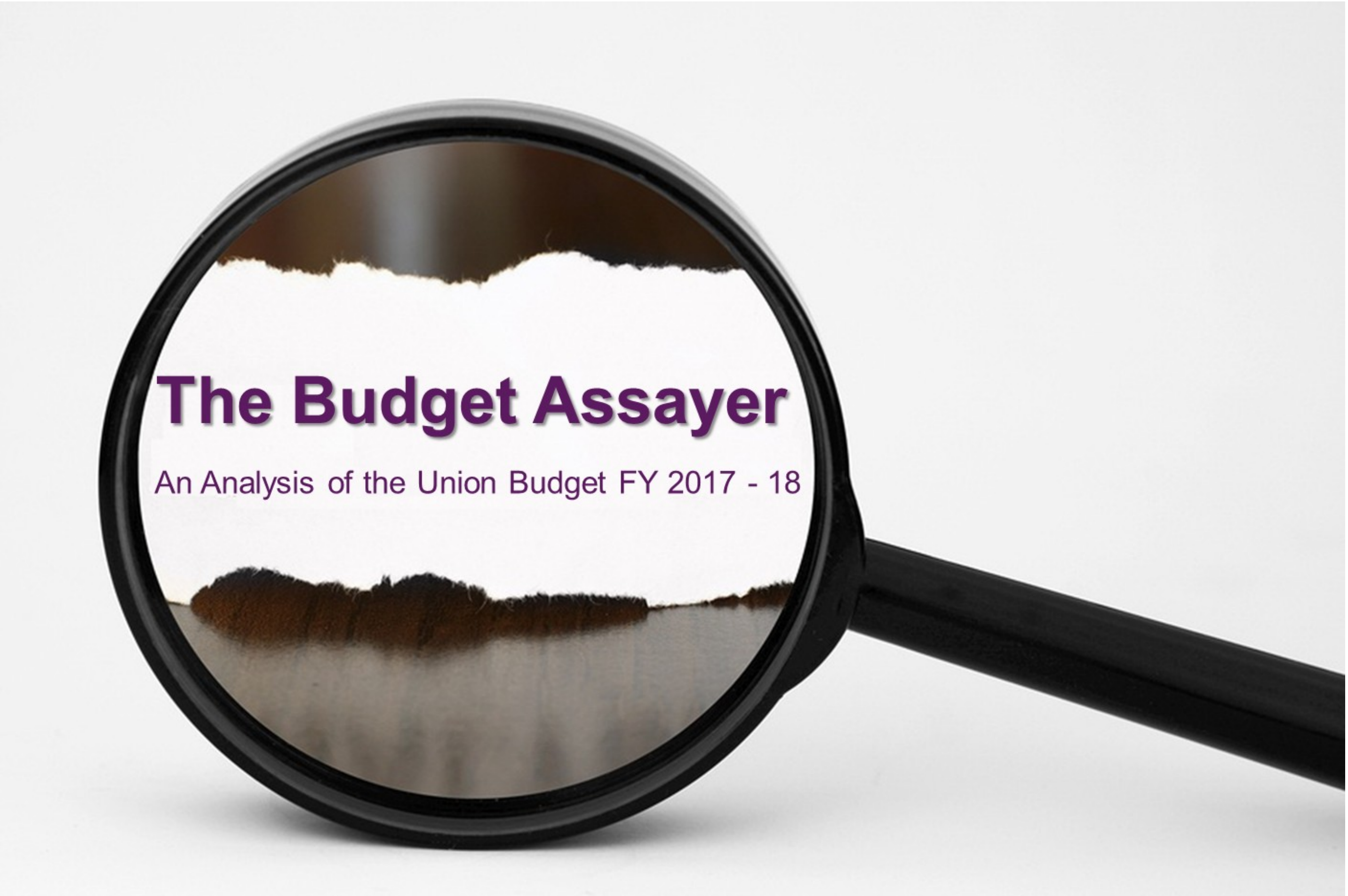

100 YEARS OF VALUES

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Foreword

With immense pleasure I present to you, the latest issue of the Cyril Amarchand Mangaldas Budget Assayer, our comprehensive analysis of the Budget for FY 2017-18. Continuing with our efforts to provide a analytic and detailed perspective of the Budget this year, we have taken a close look at the provisions of the Budget with special emphasis on changes impacting M&A.

The fourth budget of the NDA Government comes amidst uncertainty faced by the world economy due to major economic and political developments during the last one year. However, it is estimated that the world GDP will grow by 3.1% in 2016 and 3.4% in 2017. Growth in a number of emerging economies is expected to recover in 2017, after relatively poor performance in 2016. India's CPI inflation has been brought down from 6% in July 2016 to 3.4% in December, 2016 and is expected to remain within RBI's mandated range of 2% to 6%. India's Current Account Deficit declined from about 1% of GDP last year to 0.3% of GDP in the first half of 2016-17. FDI has increased by 36%, despite 5% reduction in global FDI inflows.

The Budget with an agenda - *"Transform, Energise and Clean India",* focuses on investment in agriculture, social sector, infrastructure and employment generation on the one hand and simultaneously holds on to the fiscal consolidation path on the other hand. Focused attention has been paid to farmers, rural sectors and the youth.

The Budget focuses mainly on the farmers, youth and the rural sector with special emphasis on infrastructural development therein. To further the purpose of the long-term irrigation fund set up in NABARD it has been decided to be augmented by 100% to increase the total corpus of the fund, model law on contract farming to be prepared and new mini labs to be set up to ensure 100% coverage of Krishi Vigyan Kendras for soil sample testing marketing.

The Budget also introduces a change in the personal income tax slabs with the rate of taxation from existing 10% being reduced to 5% for individual taxpayers between the income slab of INR 250,000 to INR 500,000. This would reduce the tax liability of all persons below INR 500,000 income either to zero (with rebate) or 50% of their existing liability. However, corporate tax rate remains unchanged (except in the case of MSMEs).

The Budget contains nearly 150 clauses and several substantive provisions and the changes remain lesser in number as compared to the record changes in terms of numbers from the last year's budget.

The Budget with lesser tax reforms and greater impetus to growth by enhanced spending on capital and welfare measures has received mixed reviews. The reduction of the corporate tax rate for MSMEs to 25% is a welcome move. The proposal to abolish FIPB is being considered as a bold step, expected to reduce M&A timelines and create new investment opportunities for foreign investors. The FM in his speech giving reasons for the same stated that the Government has already undertaken substantive reforms in FDI policy in the last two years and more than 90% of the total FDI inflows are now through the automatic route and the FIPB has successfully implemented e-filing and online processing of FDI applications and has now reached a stage where FIPB can be phased out.

The attempt to bring transparency in political funding, investing more on education, skill development and making youth ready for jobs are noteworthy. However, there are number of changes made in various provisions of the IT Act, which would have a substantial bearing on the M&A market.

The FM in his speech mentioned that the shares of Railway public sector enterprises like IRCTC, IRFC and IRCON will now be listed on stock exchanges to foster greater public accountability and enhance the value of these companies and listing and trading of security receipts issued by a securitization company or a reconstruction company under the SARFAESI Act shall be permitted on SEBI registered stock exchanges in order to enhance capital flows into the securitization industry.

Changes have also been proposed to enhance the ease of doing business in India.

There were number of expectations from the Budget, *inter alia*, including the deferment of POEM by one year, introduction of provisions in relation to multilateral instruments as proposed by BEPS, carving out private equity players and venture capital funds from the indirect transfer provisions, etc., which have remained unfulfilled. Additionally, there are certain provisions introduced in the Budget, like, thin capitalization, deemed sale consideration on transfer of unquoted shares, etc., which may have a significant impact on the taxpayers. However, the market sentiment so far has been positive, with the SENSEX and NIFTY on a consistent rally.

In accordance with our tradition, we have dedicated most of our efforts to analysing the impact of the Budget on the tax regime and its impact on the taxpayers. We hope you will find our work informative and helpful in your decision making process.

We would appreciate your feedback on our work and do look forward to receiving your comments at **budget.assayer@cyrilshroff.com**.

Yours Sincerely,

Cyril Shroff
Managing Partner
Mumbai

Executive Summary

The Finance Bill was presented in the times of considerable uncertainty being faced by the world economy with uncertainty building up around commodity prices especially crude oil, current monetary policy stance of the US Federal Reserve, to increase the policy rates more than once in 2017 and signs of retreat from globalization to protectionism.

In the last one year, India has witnessed many a transformational reforms against the backdrop of robust macro-economic stability, with a war against black money being launched by the action to demonetise the two highest denomination notes, enactment of Insolvency and Bankruptcy Code and the passage of the Constitutional amendment, paving the way for implementing the transformational GST. Despite all the ups and downs, the Economic Survey of India has projected a range of 6.75-7.5% growth for 2017-18.

The Finance Bill announces its agenda as *'Transform, Energise and Clean India - TEC India'* with ten distinct themes, namely farmers, rural population, youth, poor and the underprivileged, infrastructure, financial sector, digital economy, public service, prudent fiscal management and tax administration. It appears to be a fine balance of interests with more focus on development.

The amendments proposed in direct taxation are significant not only in terms of the number of proposed changes, but also the far reaching effects they may have, especially in the area of M&A transactions which, *inter alia,* include proposed tax exemption for conversion of preference shares into equity shares, disentitling long-term capital gains tax exemption benefit in case of listed shares where no STT was paid at acquisition, and far reaching changes in relation to income from other sources. The amendments also seek to include the various BEPS initiatives into the Indian tax framework, and have introduced thin capitalization, secondary adjustments in relation to transfer pricing and deemed sale consideration on transfer of unquoted shares, etc., which may have a significant impact on the taxpayers.

The investments in FPIs have been exempted from the application of indirect transfer related taxation. Similarly, Indian corporates contemplating overseas fundraising may rejoice now that the concessional withholding tax of 5% on interest income, applicable to rupee and foreign currency denominated bonds has been extended till June 2020.

There were number of expectations from the Finance Bill, *inter alia*, including the deferment of POEM, introduction of provisions in relation to multilateral instruments as proposed by BEPS, exemptions to private equity players and venture capital funds from the indirect transfer provisions, etc., which have remained unfulfilled.

In a major step to cleanse the funding system of political parties, FM announced that a political party can receive maximum donations of up to INR 2,000 in cash from one person and donations to political parties can soon be made by purchasing electoral bonds from authorized banks. A scheme in this regard and an amendment is being proposed to the RBI under which a donor could purchase bonds from authorised banks against cheque and digital payments only. These bonds shall be redeemable in the designated account of a registered political party within the prescribed time limit from issuance of bond. This may lead to significant transparency in the accountability of political parties.

In order to weed-out corruption and black money and encourage digital economy, the FM accepting a suggestion by "Special Investigation Team on Black Money" announced that no transaction above INR 300,000 will be permitted in cash.

On the indirect tax front, with GST in the horizon, major changes were proposed by last year's Finance Act which included the complete overhaul of the CCR and the changes were well received by the industry since the same aimed at better credit availability. This year, in continuance to the efforts of smooth transition to the GST regime, a clear step has been taken by the move to consolidate the Authority of Advance Rulings for indirect taxes with the Authority of Advance Rulings under the IT Act. However, the changes in the current budget are limited to correcting the inverted duty structure and clarifying some tax positions. The changes in duty rates are also aimed at boosting the Make in India campaign of the Government by taking further steps, to encourage the manufacturing sector in India. The FM also very prudently avoided the announcement of any specific timelines for the implementation of the proposed GST. However, there appears to be an underlying text that the new legislation would not see the light of day on April 1, 2017, since he indicated that the Government proposes to start its training and awareness initiatives in tandem with the new FY.

Overall, the significant Budget changes have been aimed at spending more in rural areas, infrastructure and poverty alleviation. However, maintenance of best standards of fiscal prudence is also taken care of by a promise to ensure economic reforms, promotion of higher investments and acceleration of growth.

Section: A

ANALYSIS OF THE PROPOSED CHANGES IN DIRECT TAXES

Analysis of the proposed changes in direct taxes

I. Rates of tax[1]

1. Corporate tax rates

There is no change in the tax rate (including the surcharge) applicable to the domestic and foreign companies. While there is no reduction in the overall basic rate of corporate tax, with a view to promote MSMEs and to encourage firms (including LLP) to migrate to company format, the proposed rate of tax in case of domestic company, having turnover or gross receipts not exceeding INR 500 million in FY 2015-16, is proposed to be reduced to 25%. This move will reduce the tax incidence on small entities by 5%, as against the existing tax rate of 30% and will provide impetus to MSMEs and enable them to become more competitive globally. This is a welcome move by the Government and the benefit of lower tax rate of 25% has been extended to all classes of companies and not restricted to manufacturing companies.

Corporate tax rate for MSMEs reduced to 25%

There is no change in the MAT rate.

2. Other tax rates

Tax rates for individual, HUF, AOP and BOI having income between INR 250,000 to INR 500,000 is proposed to be reduced from 10% to 5%. On similar lines, the tax rate for senior citizen taxpayers (i.e. person of age of sixty years or more but less than age of eighty years) having income between INR 300,000 to INR 500,000 is also proposed to be reduced from 10% to 5%. This reduction of rates has been proposed with the twin intention of reducing the burden on honest small taxpayers and making India a tax compliant society.

This proposal for reduction in rate will confer benefit of INR 12,500 to other categories of taxpayers in subsequent slabs.

In light of the proposed rationalisation of tax rates above, it is also proposed to reduce the maximum amount of rebate available to eligible resident individuals from INR 5,000 to INR 2,500 for income below INR 350,000.

To nullify the effect of the expected loss to Revenue on account of reduction in tax rates, a surcharge of 10% of tax payable is proposed to be levied on individuals, HUF, AOP and

1. All rates mentioned in this document are exclusive of the applicable surcharge and education cess unless otherwise specified and all provisions of the Finance Bill mentioned in this document are proposed to come into effect on April 1, 2018 unless specified otherwise.

BOI having total income between INR 5 million to INR 10 million. This combination of reduction in tax rate and levy of surcharge goes on to reduce tax burden on persons whose income stands at the bottom of pyramid, but at the same time increases tax burden on the affluent class.

The existing rate of surcharge of 15% of tax for total income in excess of INR 10 million will continue to apply.

There is no change in the basic tax rate for firms (including LLP).

II. Taxation of non-residents

1. Introduction of thin capitalization

Restrictions on allowance of interest paid to AE

Companies are typically financed or capitalized through a mix of debt and equity. The manner of capitalization of a company may also have a significant impact on the tax paid by the company. If the company capitalizes by way of debt, the interest paid on such debt is generally allowed as a deductible expense under the IT Act. Globally, several jurisdictions have laws that restrict the amount of interest that can be deducted in computing a company's profits for tax purposes. Additionally, India has also been an active participant in the BEPS initiative of the OECD, which has strongly recommended measures to cap excess interest deductions by MNCs in Action Plan 4.

Following the recommendation, the Finance Bill proposes that interest expense claimed by an entity in relation to payments made to its AE will be restricted to either 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to such AE, whichever is less.

The provisions shall apply to an Indian company or a PE of a foreign company (being the borrower), who pays interest on any form of debt taken from an AE.

Interestingly, it is also proposed that the debt shall be deemed to be treated as issued by an AE, where such AE provides any implicit or explicit guarantee to the lender, or deposits a corresponding and matching amount of funds with the lender.

In case any interest expense cannot be claimed as a deduction during the relevant FY, it can be carried forward to the following FY or FYs, for set off against the profits or gains if any of business or profession carried on, for the next eight years.

The threshold limit for such interest payments is proposed to be pegged at INR 10 million. Further, banks and insurance businesses have been excluded from the ambit of this provision.

The proposed thin capitalization rules may assume significance, especially since debt instruments like compulsorily convertible debentures, non convertible debentures, etc. have been issued to offshore group entities have often been used as a means to repatriate funds (in the form of interest) from India. Further, these provisions can have significant impact on capital intensive companies (like infrastructure companies), who incur losses in their initial set up. Thus, a careful examination of the facts of the case is warranted to identify the most appropriate structure to ensure that there are no adverse tax consequences.

2. Deemed advance income for secondary adjustment under international transfer pricing regulations

Under the existing provisions of the IT Act, any income arising from an international transaction entered into between AEs is to be computed having regard to the ALP. If any transaction is not undertaken at ALP, then a primary adjustment is made to the taxable income of the taxpayer, which invariably would result in an additional income (or reduction of loss, as the case may be). However, the existing provisions of the IT Act do not contain specific provisions for carrying out secondary adjustment to the income of the taxpayer.

In order to align the transfer pricing provisions with the OECD transfer pricing guidelines and international best practices, the Finance Bill now proposes that the taxpayer shall be required to carry out secondary adjustment to the income of the taxpayer, where the primary adjustment to ALP:

(i) has been made suo motu by the taxpayer in his tax return;

(ii) has been made by the tax officer and which has been accepted by the taxpayer;

(iii) is determined by an advance pricing agreement or made as per the safe harbor rules; or as a result of an assessment by way of mutual agreement procedure.

Secondary adjustment to income under transfer pricing rules

The expression "secondary adjustment" means an adjustment in the books of account of the taxpayer and its AE to reflect that the allocation of profits between the taxpayer and its AE are consistent with the ALP determined as a result of the primary adjustment, thereby removing the imbalance between cash account and the actual profits of the taxpayer.

Further, it is proposed that where as a result of the primary adjustment to the ALP, there is an increase in the total income or reduction of the loss, as the case may be, of the taxpayer, the excess money, which is not available with its AE, if not repatriated to India, within the prescribed time, shall be deemed to be an advance made by the taxpayer to such AE and the interest on such advance, shall be computed as the income of the taxpayer, as may be prescribed.

As a safe harbour rule, this secondary adjustment would not be made if the amount of primary adjustment made is less than INR 10 million and is in respect of any assessment of any period prior to FY 2014-15.

The proposed provisions can have significant impact on the transactions between Indian entities and their AEs. Additionally, one would need to consider whether these transactions can also be construed as deemed dividend in the hands of the deemed recipient of such income thereby giving rise to potential dividend distribution and withholding tax implications in the hands of the deemed payer.

However, no secondary adjustment is required where the taxpayer has disputed the primary adjustment and the matter is pending before the appellate forum. In such case, the secondary adjustment would be treated as an income only in the year in which the taxpayer accepts the adjustment and shows the same as an income in its books of account.

3. Indirect transfer provisions not applicable to investments in specified FIIs/ FPIs

Under the existing provisions[2] of the IT Act, all incomes accruing or arising, directly or indirectly, *inter alia*, through the transfer of a capital asset situated in India shall be deemed to accrue or arise in India.

The issue of taxability of indirect transfers, wherein transfer of shares of foreign entities with underlying assets in India invited the attention of the Government through the much publicized case of Vodafone. Pursuant to the decision of the SC in the case of *Vodafone International Holdings B.V,*[3], the IT Act was amended with retrospective effect, to overrule the SC decision so that tax can be levied on such indirect transfers (i.e. transfer of capital assets at the offshore level leading to transfer of underlying Indian capital assets). The amendments, *inter alia,* included insertion of Explanation 5[4] in section 9(1)(i)

2. Section 9(1)(i) of the IT Act.
3. Vodafone International Holdings B.V. v. Union of India (2012) 17 taxmann.com 202 (SC).

of the IT Act with retrospective effect from April 1, 1962.

While indirect transfer provisions had been introduced, a number of outstanding issues and ambiguities remained for want of clarity and absence of machinery provisions. The indirect transfer rules were notified in June 2016 which, *inter alia*, prescribed the manner in which the assets have to be valued.

Thereafter, the CBDT had, *vide* Circular No. 41 of 2016 issued certain clarifications with regard to the applicability and scope of the indirect transfer provisions. The said Circular had clarified that the transfer of units/shares of an offshore fund having significant assets (i.e. >50%) in India, would be chargeable to tax in India. However, due to concerns raised by various stakeholders (FPIs, venture capital funds and other stakeholders), the CBDT *vide* Press Release[5], announced that the operation of this Circular has been kept in abeyance, until a decision is made by the Government to address the concerns raised by the stakeholders.

Investment in FPIs exempt from indirect transfers

The Finance Bill proposes to clarify that the indirect transfer provisions will not apply to an asset or a capital asset, which is held by a non-resident by way of investment, directly or indirectly, in an FII[6] registered as a Category - I or Category - II FPI under the SEBI (FPI) Regulations, 2014[7] made under the SEBI Act, 1992. This amendment is proposed to be introduced retrospectively from April 1, 2012, i.e. AY 2012-2013 and subsequent AYs.

The FM in his speech had indicated that a clarification shall be issued that the indirect transfer provisions shall not apply in case of redemption of shares or interests outside India as a result of or arising out of redemption or sale of investment in India, which is already chargeable to tax in India. It is expected that a clarification on this issue shall be issued by the CBDT shortly.

Basis the above proposals, it could be summarised that all non-resident investors making investments, directly or indirectly, in the Category - I or Category - II FPI entities shall not be subject to the indirect transfer provisions. However, transfer of share or interest, directly or indirectly in Category - III FPI entities such as corporate bodies, family offices, individuals, charitable trusts, etc. may still attract the indirect transfer provisions, subject to fulfilment of the necessary conditions.

While there has been no specific mention about P-Note holders[8], one may note that the issuance of P-Note is a contractual arrangement and the P-Note holders are generally only entitled to the returns on the underlying security and have no other rights in relation to the securities in respect of which the P-Note is issued. Furthermore, in the case of P-Note holders, while the value of the P-Note may be linked to the value of the underlying securities in India, P-Note may not, per se, be in the nature of a “share” or “interest” in any foreign entity since it is merely a contractual arrangement.

It is pertinent to note that in spite of multiple amendments / clarifications on this issue,

4. Explanation 5 clarified that an asset or capital asset, being any share or interest in a company or entity registered or incorporation outside India shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.
5. Dated January 17, 2017.
6. As referred to in clause (a) of the Explanation to section 115AD i.e. such investor as the Central Government may, by notification in the Official Gazette, specify in this behalf.
7. According to SEBI (FPI) Regulations, 2014 there are three categories of FPIs. Category – I FPI includes Government and Government related investors such as central banks, Governmental agencies, sovereign wealth funds and international or multilateral organizations or agencies. Category – II FPI includes; (i) appropriately regulated broad based funds such as mutual funds, investment trusts, insurance/ reinsurance companies; (ii) appropriately regulated persons such as banks, asset management companies, investment managers/ advisors, portfolio managers; (iii) broad based funds that are not appropriately regulated but whose investment manager is appropriately regulated; (iv) university funds and pension funds; and (v) university related endowment funds already registered with SEBI as FIIs or sub-accounts. It is pertinent to note that Category III FPIs include all others not eligible under Category I and II FPIs such as endowments, charitable societies, charitable trusts, foundations, corporate bodies, trusts, individuals and family offices.
8. P- Notes are a form of Offshore Derivative Instruments (“**ODIs**”) that are issued by FIIs to entities that do not directly invest in the Indian public markets by registering themselves under the FII Regulations.

uncertainties continue to persist. It would have been excellent had all these outstanding issues been addressed in the Finance Bill itself.

4. Taxation of Rupee Denominated Bonds

With a view to liberalizing the ECB framework, the RBI had issued the guidelines for issuance of RDB (generally known as "**Offshore Masala Bonds**") by Indian companies. The RDB has been gaining popularity among Indian companies to raise capital abroad especially since the bond is denominated in INR. In order to provide relief to the non-resident investors in such bonds, the Finance Bill has proposed to introduce the following amendments:

(i) Taxation of capital gains

Currently, there is ambiguity on whether RDB, which are issued overseas by an Indian company, would be considered to be a capital asset situated in India and accordingly, give rise to potential capital gains tax liability in India in the hands of the non-resident investor, upon transfer of such RDB.

Further, in a case where a non-resident investor transfers the RDB to another non-resident investor and the same is held to be taxable in India, it could entail withholding tax obligations on the buyer. This could act as a hindrance for such non-resident investors and could make RDB less attractive as a financial instrument.

In order to remove these ambiguities and also to further popularise RDB, the Finance Bill proposes to exempt the gains arising from transfer of RDB of an Indian company made by one non-resident investor to another outside India.

Withholding tax rate of 5% for interest on RDB / ECB extended

This provision shall provide much needed clarity to the foreign investors and add more spice to the Offshore Masala bonds!

(ii) Withholding tax on interest payments

The CBDT had issued a Press Release[9], wherein it was clarified that the concessional rate of 5% under the extant provisions of the IT Act shall be applicable to RDB as well. Further, the release had stated that a legislative amendment to clarify this aspect, would be introduced under Finance Act, 2016.

However, the said amendment was not brought through the Finance Act, 2016 and hence, there was uncertainty regarding the applicability of concessional rate of tax for interest income on RDB, since the binding nature of a press release was not free from doubt.

In order to end this uncertainty, the Finance Bill proposes to clarify that interest payable on RDB would be entitled to the concessional tax treatment and also that this benefit shall be available in respect of monies borrowed by way of RDB, before July 1, 2020.

This amendment is proposed to be effective retrospectively from FY 2015-16.

(iii) Gains due to currency fluctuation

Under the existing provisions of IT Act, any gains arising on account of appreciation of the rupee against a foreign currency at the time of redemption of RDB, which has been 'subscribed' to by a foreign investor was not considered for purpose of computing capital gains.

Thus, based on a literal interpretation of the provisions, it is evident that gains arising from the appreciation of the rupee would be ignored only if the

9. Dated October 29, 2015.

RDB was procured by the investor concerned by way of primary subscription, and such benefits shall not be available in a case where the RDB was purchased by an investor in the secondary market.

Based on representations made by various stakeholders, the Finance Bill proposes to extend the tax exemption in respect of the foreign exchange gains made by investors who acquired RDB through secondary purchases.

5. Extension of concessional tax rate on interest payable on ECB

Under the existing provisions of the IT Act, interest payable to a non-resident, by an Indian company or a business trust on monies borrowed in foreign currency from a source outside India, under a loan agreement or by way of issue of any long-term bond (including long-term infrastructure bond) is eligible for concessional rate of withholding at 5%. However, this concessional rate of taxation is only applicable on such borrowings made before July 1, 2017.

To further incentivise overseas fundraising, the Finance Bill proposes to extend the concessional rate of 5% to borrowings made before July 1, 2020. This extension is a welcome step for Indian companies since they would have access to foreign capital at a lower cost.

6. Extension of eligible period of beneficial rate of withholding tax on interest paid to FIIs and QFIs

Under the existing provision of the IT Act, any interest payable to FIIs or QFIs on their investments in Government securities and RDBs, before July 1, 2017 is eligible to a concessional rate of withholding tax at 5%. The Finance Bill proposes to extend this benefit to interest payable before July 1, 2020.

7. Benefit of concessional rate of tax on gains from shares of unlisted company shall be available retrospectively

It is proposed that the benefit of concessional tax rate of 10% for long-term capital gains arising to non-residents from transfer of shares of closely held companies shall be available retrospectively from April 1, 2013, i.e. AY 2013-14 and subsequent AYs.

This is a welcome move by the Government to provide clarity. However, it could be a challenge for the taxpayers to claim refund of tax in case they have already deposited their taxes and filed their tax returns, considering the fact that they may not be able to file a revised return.

8. Relaxation in conditions of special tax regime for offshore funds

The IT Act contains a special regime applicable to eligible investment offshore funds. It provides that fund managements activities carried on through a fund manager, acting on behalf of an eligible investment fund, would not constitute business connection of such fund. Further, an eligible investment fund is not said to be resident in India, merely because the fund manger undertaking fund management activities on behalf of the eligible fund, is situated in India. However, to qualify as an eligible investment fund, certain conditions have been prescribed, which *inter alia*, require that the monthly average of the corpus of the fund should not be less than INR 1 billion, except in the FY in which the fund has been established or incorporated.

Acknowledging the difficulty of the stakeholders in maintaining such monthly average of the corpus during the year in which the trust is being wound up, it is proposed that the condition pertaining to maintaining monthly average of the corpus, will not apply during the FY in which the fund is being wound up.

This is a welcome move from the Government, as it clears the practical impossibility of maintaining the specified monthly average of the corpus during the FY in which the fund is being wound up.

This amendment is proposed to be introduced with effect from April 1, 2016, i.e. AY 2016-17 and subsequent AYs.

III. Taxation of M&A transactions

1. Deemed sale consideration for sale of unquoted shares

Under the existing provisions of the IT Act, income chargeable under the head "capital gains" is computed by taking into account the amount of full value of consideration received or accrued on transfer of a capital asset. In order to ensure that the full value of consideration is not understated, the IT Act also contains deeming provisions in relation to the full value of consideration in certain cases.

FMV deemed to be sale consideration for unquoted shares

In order to rationalise the provisions relating to deeming the full value of consideration for computation of income under the head "capital gains", it is proposed to insert section 50CA to provide that where the consideration received or accruing as a result of transfer by a taxpayer of a capital asset, being share of a company other than quoted share, is less than the FMV of such share (determined in manner as may be prescribed), the value so determined shall be deemed to be the full value of consideration received or accruing as a result of such transfer. It is proposed to define "quoted share" to mean the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transactions made in the ordinary course of business.

In other words, where the sale consideration of a capital asset, being unquoted shares, is less than the FMV (to be determined in the manner as prescribed), the full value of consideration shall be deemed to be the FMV for the purposes of computing the income under the head "capital gains". Interestingly, this leads to a proposal to introduce yet another deeming provision into the IT Act and therefore, in the given scenario, the actual price paid may not be considered to be the sale consideration. It may also be noted that while there are several judicial precedents to support the argument that the actual price paid must be considered to be the sale consideration/ full value of the consideration, the introduction of such deeming provisions in the statute itself would overrule such precedents.

The aforesaid proposed amendment could be triggered only in case of transfer of a "capital asset" and therefore, any such asset held as a "business asset" will not fall within the ambit of the said proposal. Secondly, one can observe that this proposal may not apply to a gift transaction on account of absence of any "consideration received or accruing as a result of transfer".

It is unclear as to how the FMV of a share of a company other than a quoted share will be determined in the absence of any specific statutory guidance at this stage and, therefore, one will have to wait for the necessary guidance to be introduced by the Government. This deeming provision would also apply to listed shares, if the listed shares are not "quoted on any recognised stock exchange with regularity from time to time". It may be noted that this amendment proposes to cover both equity as well as preference shares (other than quoted shares). From the proposed language, it appears that this amendment will not impact transfer of unquoted shares forming part of an undertaking and transferred on a slump sale basis.

From an internal structuring and reorganisation perspective, this proposed amendment may lead to adverse tax consequences for a group as a whole irrespective of the actual value at which such shares were proposed to be transferred. It could, therefore, compel such transactions to take place at FMV and consequential tax considerations shall have to be taken into account.

It is disappointing to see that no exceptions or carve outs have been provided in the proposed amendment, especially in such cases which have been specifically exempted from tax in accordance with the provisions of section 47 of the IT Act. For instance, transfer of a capital asset by a holding company to its wholly owned subsidiary company is not considered to be a taxable transfer; subject to fulfilment of a couple of conditions under section 47(iv) of the IT Act. Therefore, transfer of an unquoted share by a holding company to a subsidiary company could invite significant amount of unnecessary litigation on this aspect. In order to avoid such a situation, it is advisable for the legislature to specifically carve out the circumstances which have been specifically exempted from capital gains tax so that such transactions are not affected by the proposed deeming fiction. Further, the manner of determining the FMV of the unquoted share of a company should also be notified so that the taxpayers are aware of the implications.

Receipt of listed securities at less than FMV to be taxable

2. Deemed income on receipt of monies and property

Under the existing provisions[10] of the IT Act, any sum of money or any property[11], which is received without consideration or for inadequate consideration (in excess of INR 50,000) by an individual or HUF is chargeable to tax in the hands of the recipient under the head "Income from other sources", subject to certain exceptions.

Further, under the existing provisions[12] of the IT Act, receipt of shares of a closely held company without consideration or for inadequate consideration, by a firm (including LLP) or a closely held company is chargeable to tax in the hands of the recipient under the head "Income from other sources", subject to certain exceptions.

The above provisions covered specific transactions undertaken by specified categories of investors and transactions. Other categories of investors were excluded from the application of these anti-abuse provisions. Thus, with an objective to expand the scope of these anti-abuse provisions, the Finance Bill proposes to include within the ambit of "other income", the following types of income:

(i) sum of money without consideration, the aggregate value of which exceeds INR 50,000; or

(ii) any immovable property without consideration (the stamp duty value of which exceeds INR 50,000) or for a consideration which is less than the stamp duty value by an amount exceeding INR 50,000; or

(iii) any property, other than immovable property, without consideration (the aggregate FMV of which exceeds INR 50,000) or for a consideration which is less than the aggregate FMV of the property by an amount exceeding INR 50,000

It may be noted that this proposed amendment seems to cover not only individuals, HUFs, firms and closely held companies but also all companies (listed/ unlisted), trusts, AOP, etc. Further, the scope of assets covered has also been comparatively widened. It is pertinent to note that the proposed amendment seeks to specifically carve out business reorganisations.

From the investor perspective, it is anticipated that this proposal could impact private

10. Section 56(2)(vii) of the IT Act.
11. Explanation to section 56(2)(vii) of the IT Act defines "property" to mean (i) immovable property being land or building or both; (ii) shares and securities; (iii) jewellery; (iv) archaeological collections; (v) drawings; (vi) paintings; (vii) sculptures; (viii) any work of art; or (ix) bullion.
12. Section 56(2)(viia) of the IT Act.

placement transactions undertaken by promoters, private equity investors and strategic investors. This would effectively mean that investments would have to be necessarily made at the FMV, otherwise, such investors would be hit by a potential tax outflow to the extent of 30% of the discount (to the FMV) granted to the specific resident investors. The impact on non-resident investors will also have to be examined, considering the exchange control regulations in India and DTAA entered into between India and the respective home jurisdiction of the non-resident investor concerned.

Further, it could impact transactions that are being undertaken at book value / cost. From the transferor perspective, the provisions of section 50C (deemed full value of consideration for land and buildings) of the IT Act and the proposed section 50CA (deemed full value of consideration for shares of a company other than quoted shares) of the IT Act would compel the transferor to transfer such assets at the stamp duty value/FMV only. On the other hand, the recipient would now have to exercise additional caution on account of the proposed provisions of section 56(2)(x) in order to examine the scope and extent of its applicability in each case.

Gains taxable if STT not paid on acquisition of shares

While business reorganisations have been specifically carved out, it may be noted that transfer of a capital asset from a holding company to its subsidiary company and vice versa (that are considered to be non-taxable transfers under the IT Act, subject to fulfilment of certain conditions) have not been specifically carved out from the applicability of the proposed amendment. This could lead to unnecessary litigation and it is advisable for the Government to specifically exclude such non taxable transfers from the ambit of the proposed section.

While the proposed amendment may not impact transfer of assets forming part of an undertaking by way of slump sale at a value less than the FMV, the necessary conditions under the IT Act for a transaction to be considered to be a slump sale must be fulfilled.

Another important issue that could arise is with respect to receipt of warrants for no consideration or inadequate consideration. Therefore, companies, individuals and others receiving warrants by way of gift or for inadequate consideration could be subject to tax.

It will be interesting to see how these proposed changes will interplay with the proposed amendment to insert section 50CA (as discussed above). The proposed provisions of section 56 (2)(x) do not specifically carve out transactions already taxed under the proposed section 50CA and therefore, could lead to issues of double taxation of the same income, if the transactions are not undertaken at the FMV, assuming the concept of FMV is the same for both the proposed provisions.

It appears that there are a lot of uncertainties with regard to the proposed amendment and, therefore, one hopes that the aforesaid aspects would be taken care of by the time the Finance Bill receives Presidential assent.

3. Restrictions on long-term capital gains tax exemption

Under the existing provision of the IT Act, long-term capital gains arising from transfer of an equity share or a unit of an equity oriented fund is exempt from tax, provided that the sale of such equity share or unit is subject to STT. Such exemption of long-term capital gains, was being misused by certain taxpayers to declare their unaccounted income as exempt long-term capital gains by entering into sham transactions. In order to curb such unscrupulous activities, it is proposed that the aforementioned exemption to long-term capital gains tax arising from transfer of equity shares would be available only if STT was paid on the acquisition of such equity shares. However, to protect the exemption for genuine cases where the STT could not have been paid, it is proposed to notify certain transfers (such as initial public offer, follow-on public offer, bonus or right issue by a listed company or acquisition by non-resident in accordance with FDI policy) for which the condition of chargeability to STT on acquisition would not be applicable.

Though this proposal is in consonance with the Government's fight against black money, it could impact certain genuine investment transactions like domestic private equity investments, strategic investments by domestic investors, preferential allotments to certain investors including financial institutions, shares acquired through off market transactions, employees allotted shares under an employee stock option scheme, shares acquired through a merger or demerger, etc. In all the aforementioned cases, shares would have been acquired by the investor concerned without payment of STT.

While non-resident investors making investments under any of the aforesaid mechanisms would not be impacted since such investment shall be in accordance with the extant FDI Policy of the Government, domestic investors may not avail such benefits unless the proposed notification specifically exempts the aforesaid transactions from the application of this anti-abuse provision.

The Government should issue an appropriate notification after due consideration, so that genuine investments are not affected and honest taxpayers are not unduly harassed.

4. Conversion of preference shares to equity shares to be tax neutral

The issue of whether conversion of preference shares into equity shares is subject to capital gains tax has been a perennial one. Though the provisions explicitly excluded conversion of bonds and debentures from the purview of "transfer", there was no equivalent exemption for conversion of preference shares into equity shares.

Section 55(2) of the IT Act provides that the cost of acquisition on conversion of one kind of share of company into another kind shall be the cost of the shares or stock from which such asset is derived. While introducing the said section, a clarificatory Circular[13] was issued which clarified that where one type of share was converted into another type of share (including conversion of debentures into equity shares), there was, in fact, no "transfer" of a capital asset within the meaning of section 2(47) of the IT Act.

In light of the aforesaid section and circular, the taxpayers used to treat transfer of preference shares into equity shares as a tax neutral transfer. This was, however, not free from doubt and there were contradictory Court rulings.[14]

With an aim to ending long standing litigation, the following provisions are proposed to be introduced to provide tax neutrality on conversion of preference shares to equity shares:

(i) Conversion of preference shares to equity shares shall not be considered as a taxable transfer and thus shall not be chargeable to capital gains tax.

(ii) For determination of period of holding on subsequent sale of equity shares received post conversion, the period of holding would be reckoned from the date of acquisition of the convertible preference share.

(iii) While computing the capital gains on subsequent sale of the converted equity shares, the cost of acquisition shall be determined based on the cost at which the convertible preference share was purchased.

This is a very welcome move and it provides much desired clarity on the issue.

13. F. No. 12/1/64-IT(AI) dated May 12, 1964.
14. ACIT v. Trustees of H.E.H.The Nizam's Second Suplementary Family Trust (1967) 102 ITR 248 (Andhra Pradesh HC); CIT v Santosh L. Chowgule (1998) 234 ITR 787 (Bombay HC); CIT v. Goel Investments (ITA No.1429(Del) of 1978-79 (Allahabad HC).

5. Expanding scope of additional dividend tax

The Finance Act, 2016 had introduced a new provision per which dividend income in excess of INR 1 million was chargeable to tax at the rate of 10%. The said provision was applicable only to resident individuals, HUF and firms.

With a view to providing equal treatment amongst all categories of taxpayers, it is proposed that the said law shall be applicable to all resident taxpayers, other than a domestic company and certain specified charitable institutions, public religious trusts, etc. Thus, for e.g. now discretionary trusts may also be liable to tax on such dividends.

6. Cost of acquisition in case of tax neutral demerger of a foreign company

Under the existing provisions, the transfer of shares of an Indian company by a demerged foreign company to a resulting foreign company is not regarded as a taxable transfer and accordingly, is not subject to capital gains tax.

In furtherance of the above provision, the Finance Bill proposes that in case of a tax neutral demerger of a foreign company, for the purposes of computing capital gains on subsequent sale of the shares of Indian company, the cost of acquisition of the shares in the hands of the resulting foreign company shall be the same as that in the hands of the demerged foreign company.

7. Clarification of mutual fund merger

The Finance Bill proposes to insert a new clause where the cost of acquisition of the units in a consolidated plan of mutual fund scheme shall be the cost of units in consolidating plan of mutual fund scheme. The period of holding of the units of consolidated plan of mutual fund scheme shall include the period for which the units in consolidating plan of mutual fund scheme were held by the taxpayer. This proposal seems to be a clarification to the amendment[15] made in the Finance Act, 2016, which provided that the unit/units transferred in a consolidation plan of mutual fund scheme is not a taxable transfer. The proposed change shall be effective from AY 2017-18.

8. Penalty on professionals for furnishing incorrect information in reports or certificates

Under the IT Act, in certain cases, the taxpayer is required to obtain reports or certificates from a qualified professional to ensure that the information furnished by the taxpayer under the provisions of the IT Act is correct. The IT Act penalizes the taxpayer for furnishing inaccurate particulars of income. However, no such penalty was levied on the qualified professionals issuing such reports or certificates.

In order to ensure that the qualified professional also undertakes requisite due diligence before making such certification, it has been proposed that if the “accountant” or “merchant banker” or “registered valuer”, as the case may be, furnishes incorrect information in a report or certificate under any provisions of the IT Act or the IT Rules, the AO or the CIT(A) may direct such professional to pay a sum of INR 10,000 for each such report or certificate by way of penalty. However, no penalty shall be imposed, if the professional proves that there was reasonable cause for such failure.

Although the amount of penalty is nominal, an obligation has now been cast on the professionals which would make them more vigilant in issuing reports or certificates and not purely rely on representations provided by the taxpayer.

15. Section 47(xix) of the IT Act.

IV. Measures for promoting affordable housing and real estate sector

1. Taxability of capital gains arising from the execution of a joint development agreement

Joint Development Agreement ("**JDA**") is an agreement between a land owner and a developer wherein the land owner transfers the possession of his land to the developer who in turn undertakes the responsibility to construct/develop the land at his own cost. In most cases, disputes arise between the tax authorities and the taxpayer with regard to the year of taxability of resultant capital gains. This is due to the fact that according to the revenue, tax implications arise at the time of execution of the JDA since definition of "transfer" includes a case where a transferee, in part performance of the contract, takes possession of the property. There have been contradictory judgments in this regard.

Gains from JDA taxable on issuance of certificate of completion

The Hon'ble Punjab & Haryana HC in the case of *C.S Atwal*[16] held that all the requirements under section 53A of the Transfer of Property Act, 1882 have to be fulfilled in order to treat the alienation of property pursuant to the JDA as "transfer" under section 2(47)(v) of the IT Act. Thus, taxability of capital gains under a JDA has remained a contentious issue. The Finance Bill proposes to clarify the situation by introducing a new provision which confirms that capital gains arising on account of a JDA shall be taxable in the year in which certificate of completion for the whole or part of the project is issued by the competent authority. This provision will be applicable where an individual or an HUF enters into a JDA in relation to land, building or both.

Further, the proposed amendment also states that for the purpose of computing the full value of consideration for land or building or both, the stamp duty value as on the date of the issue of the completion certificate for his share, as increased by cash consideration, if any, shall be taken into account.

It is also proposed that in a case where the taxpayer transfers his share in the project on or before the date of issue of the completion certificate, capital gains shall be taxed in the year in which such transfer takes place, in accordance with the relevant provisions of the IT Act.

Consequential amendments are proposed to be made to cost of acquisition to provide that the cost of acquisition of the asset for the land owner shall be the full value of consideration (i.e. stamp duty value plus any cash consideration as determined).

It is a laudable amendment by the Government. One hopes that this amendment will put an end to the controversies surrounding the year of taxation in case a JDA is executed between the land owner and the developer. As per the extant provisions, since the full value of consideration under the JDA could not be determined at the time of execution of the JDA, there was always an apprehension that the tax authorities would attribute entire FMV of the land or building as full consideration, in the year of executing the JDA. This would have resulted in huge tax outflows for the land owner even before he receives any consideration. Moreover, there is also no assurance that the developer will be able to successfully construct and sell the project and hence, the land owner could end up paying tax in respect of an income which never accrues. This amendment is expected to provide the much needed relief to the land owners.

2. Incentive for promoting investments in immovable property

In a major move to incentivize the real estate sector, the Finance Bill has proposed to

16. C.S Atwal v. CIT (2015) 378 ITR 244 (Punjab & Haryana HC).

reduce the holding period for considering gain from immovable property to be long-term, from the existing 36 months to 24 months.

3. Temporary breather for house property held as stock-in-trade

The Finance Bill proposes to provide relief to the property developers by granting them a grace period of one year to dispose off their newly constructed house properties within which time no deemed notional value shall be computed in the hands of the developers. Existing provisions of the IT Act states that a deemed annual value shall be charged to tax on the house property, which was not self occupied or used for business or profession, even if such property is vacant for the whole year. The IT Act also provides for vacancy allowance for the whole or part of the year in case of house properties, which were earlier let out for rent and subsequently became vacant. However, there was no clarity regarding the house properties newly constructed by the property developers, but not sold out after construction. Consequently, the tax authorities used to adopt a deemed value to the said properties by alleging that they were not eligible for the vacancy allowance as the house properties were never let out.

The Finance Bill proposes to amend the IT Act to provide that the deemed annual value of the house properties which are held as stock-in-trade shall be taken as *nil* for a period of up to one year from the end of FY in which the certificate of completion of construction of house property is obtained from the competent authority.

This amendment should come as a welcome relief to property developers who have unsold inventory. The amendment also assumes significance because the real estate sector is going through an extremely difficuilt time due to number of reasons, and almost every developer is straddled with a significant amount of inventory.

4. Shifting of base year for computing long-term capital gains

Currently, for computation of capital gains in case of an asset which has been acquired on or before April 1, 1981, the taxpayer had an option to take the cost of acquisition as either the actual cost of acquisition or the FMV of the asset, as on April 1, 1981.

As the base year of 1981 was very old, there was difficulty in obtaining the FMV as on such date. Thus, in order to do away with this difficulty, the base year for computation of capital gains has been proposed to be changed from the year 1981 to 2001.

Consequentially, even for cost inflation index purposes, the base year is proposed to be changed to the year 2001.

5. Expanding the scope of capital gains exemption

Under the IT Act, long-term capital gains arising from transfer of capital assets are exempt to the extent of INR 5 million, provided the taxpayer invests the whole or any part of the capital gains in “long-term specified assets” (i.e. bonds) issued by the National Highway Authority of India or by the Rural Electrification Corporation Limited. The Government proposes to widen the scope of the term “long-term specified asset” to include any other bonds as may be notified by the Central Government.

Thus, a taxpayer investing the long-term capital gains in any bond notified by the Government for this purpose would be eligible for exemption subject to such bonds being held for a period of at least three years.

The proposed expansion of the list of specified assets is likely to provide additional options to taxpayers.

6. Rationalization of provisions to promote affordable housing

The Government is constantly undertaking measures to facilitate higher investment in affordable housing. In order to make the scheme of affordable housing more attractive, the following amendments have been proposed:

(i) The limit of 30 square meters or 60 square meters which was earlier applicable with respect to "built-up area" shall now be applicable with respect to "carpet area".

(ii) The limit of 30 square meters shall not apply to a place located within 25 kms from the municipal limits of the four metro cities.

(iii) Time limit of completion of project extended from three years to five years.

This makes affordable housing more lucrative for the builders, and the purchasers will get more spacious homes, thus enabling the builders to market the property to a larger segment. Further, the proposal to increase the time limit for completion of project is also a welcome change as the earlier limit of three years was very short and impractical for builders to complete projects.

7. Capital gains tax incentive for the development of capital of Andhra Pradesh

The new capital of Andhra Pradesh, Amaravathi, is being constructed by innovative land-pooling mechanism without the use of Land Acquisition, Rehabilitation and Resettlement Act, 2014. The land pooling scheme is an alternative scheme called the Land Pooling Scheme covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015, made under the provisions of the Andhra Pradesh Capital Region Development Authority. The scheme was made by the Government of Andhra Pradesh to avoid land acquisition disputes and reduce the financial burden associated with the payment of compensation.

In order to incentivize the owners of such land as on June 2, 2014 (the date on which the state of Andhra Pradesh was reorganized), the Finance Bill proposes to exempt the levy of capital gains tax on transfer of such land for development of the Greenfield city.

It is also proposed that the cost of acquisition of reconstituted plot or land, received under the land pooling scheme is transferred after the expiry of two years from the end of FY in which the possession of such land or plot was handed over, shall be deemed to be its stamp duty value as on the last day of the second FY after the end of the FY in which the possession was handed over to the taxpayer.

This will be a welcome relief to those who transferred their land for the developmental agenda of the country's newest capital city, since the transfer was evidently not only with a view to earn capital gains income.

V. Measures to promote digital economy

1. Penal consequences on cash receipts

In line with the Government's continued efforts to curb black money and promote digitization, the Finance Bill proposes to stipulate that no person shall receive, other than by way of an account payee cheque / account payee bank draft / electronic clearing system through a bank account, an amount exceeding INR 300,000:

(i) In aggregate from a person in a day; or

(ii) In respect of a single transaction; or

(iii) In respect of transactions relating to one event or occasion from a person.

The above provisions shall not apply to any amount received by Government, any banking company, post office saving or co-operative bank and such other persons, class of persons or receipts which may be notified. Also, these provisions shall not apply to transactions referred to in section 269SS of the IT Act.

Further, where a person receives any sum in contravention of the above proposed provisions, the same shall be subject to a penalty of a sum equal to the amount of such receipt. However, penalty shall not be levied in a case where such person proves that there were good and sufficient reasons for such contravention.

2. Disallowance of cash expenditure

As a measure to disincentivise cash transactions, it is proposed to reduce the threshold of maximum cash payment to a person in a single day, which can be claimed as deduction against the business income to INR 10,000 from INR 20,000[17]. Further, the Finance Bill proposes that if an expenditure is incurred as a liability in a particular year and cash payment of sum exceeding INR 10,000 (INR 20,000 under the existing IT Act) is made to a person in a single day, for such expenditure, then the amount so paid would be deemed to be the business income in the year of cash payment.

Restrictions on allowance of cash expenditure

Additionally, the Government also proposes to recognize electronic clearing system as the recognized mode of payments in addition to an account payee cheque drawn on a bank or account payee bank draft. Thus, by discouraging the taxpayer from making cash payments the Government has taken a decisive step towards making India a cashless economy.

3. Disallowance of depreciation and capital expenditure

Currently, there is a provision to curb deduction of revenue expenditure incurred in cash. However, no such similar provision has been enacted for capital expenditure incurred in cash. Thus, in order to discourage cash transactions for capital expenditure as well, it is proposed that cash expenditure incurred for acquisition of any asset in respect of which payment made or aggregate of payments made to a person in a single day exceeds INR 10,000 shall be ignored for the purpose of determination of actual cost of the asset. Further, in a similar scenario, no deduction shall be allowed for capital expenditure incurred by the eligible business[18], as referred to in section 35AD of the IT Act.

Further under the existing provisions of the IT Act, if the asset for which the benefit of deduction in relation to capital expenditure was claimed and allowed under section 35AD of the IT Act, is used for a purpose other than the specified business, the same shall be deemed to be the income (net of normal depreciation) of the taxpayer.

However, in such a case where the benefit of deduction has been withdrawn, there was no clarity with regard to computation of the actual cost of the asset for the purpose of claiming depreciation. It is now clarified that in such a case, the "actual cost" of the asset shall be the actual cost to the taxpayer as reduced by an amount equal to the amount of depreciation calculated as if the asset was used for the purpose of business.

4. Promoting digital payments in unorganized businesses

The existing provisions of the IT Act provide for a presumptive income scheme, whereby the profits of a taxpayer engaged in any eligible business[19], having a turnover of INR 20 million or less, are deemed to be 8% of the total turnover or gross receipts. The CBDT, *vide* a Press Release[20], issued in line with the Government's mission of moving towards a cashless economy, stated that existing rate of deemed profit (or deemed total income) shall be reduced from 8% to 6% in respect of amount of total turnover or gross receipts received through banking channels/ digital means for the FY 2016-17. However, the existing rate of 8% was decided to be continued in respect of total turnover or gross receipts received in cash. Further, the press release stated that the said provision shall be

17. INR 35,000 for payment made for plying, hiring or leasing goods carriages.
18. Eligible business, *inter alia* includes, setting up and operating a warehouse facility for storage of sugar, setting up and operating an inland container depot or a container freight station, etc.
19. Eligible business means, any business, except the business of plying, hiring or leasing goods carriages referred to in section 44AE of the IT Act and whose total turnover or gross receipts in the FY does not exceed an amount of INR 20 million.
20. Dated December 19, 2016.

introduced by way of a legislative amendment.

In line with the above, is has been proposed to reduce the existing rate of deemed total income from 8% to 6% in respect of gross receipts received through the banking channels/ digital means. The proposed change shall be effective retrospectively from AY 2017-18 (FY 2016-17).

In addition to tax saving by migrating to the digital mode, this proposed change would enable small businesses to build their books which may also help them get bank loans with ease.

5. Restricting cash donations

Under the IT Act, deduction for cash donations upto INR 10,000 is allowed to the taxpayers. To promote transparency and encourage cashless economy, this limit is proposed to be reduced to INR 2,000. As a result, no deduction will be allowed in respect of cash donations exceeding INR 2,000.

VI. Other significant changes in relation to taxation

1. Rationalization of MAT provisions in line with the Ind-AS

Under the existing provisions[21] of the IT Act, if the tax payable by the company on the total income is less than 18.5% of the adjusted book profits; MAT at the rate of 18.5% is payable on the "adjusted book profits". Adjusted book profits are arrived at after making specific additions and reductions from the net profit as per the profit and loss account of the company.

The Central Government notified the Ind-AS, which are converged with the International Financial Reporting Standards ("**IFRS**") and prescribed the Companies (Ind-AS) Rules, 2015 which laid down the roadmap for implementation of the Ind-AS. Additionally, the Government had issued Income Computation and Disclosure Standards (ICDS) for computation of taxable income.

Since the book profits based on Ind-AS compliant financial statements are likely to be different from the book profits based on existing Indian Generally Accepted Accounting Principles (Indian GAAP), the CBDT constituted a Committee in June 2015 to suggest a framework for computation of MAT liability for Ind-AS compliance companies in the year of adoption and thereafter.

MAT adjustments permissible under Ind-AS

The Committee submitted the reports on March 18, 2016 and August 5, 2016, which were placed in public domain by the CBDT for wider public consultations. After taking into account all the suggestions/ comments received, the Committee submitted its final report on December 22, 2016.

In view of the above, it is now proposed to amend section 115JB of the IT Act so as to provide for the framework for computation of book profits for Ind-AS compliant companies in the year of adoption and thereafter. Several adjustments and treatments have been proposed (like, adjustments for investments in subsidiaries, joint ventures and associates, changes in revaluation surplus of property / plant / equipment, etc.) and it would be interesting to see the practical implementation of the same. It is proposed to be introduced with retrospective effect from AY 2017-2018 (FY 2016-17).

2. Domestic Transfer pricing not applicable to specified domestic transactions

The existing provisions of the IT Act, *inter alia*, provided that any expenditure in respect of which payment has been made by the taxpayer to certain specified related persons[22] is covered within the domestic transfer pricing provisions and necessary transfer pricing compliances (including obtaining a

21. Section 115JB of the IT Act.
22. Section 40A(2)(b) of the IT Act.

chartered accountant report, etc.) are required to be undertaken by the taxpayer.

In order to reduce the compliance burden of the taxpayers, the Finance Bill proposes that such expenditure would not be covered under the domestic transfer pricing provisions and accordingly, the taxpayer is not required to undertake necessary transfer pricing compliances. This amendment is proposed to be made retrospectively from the AY 2017-18 (FY 2016-17).

Thus, domestic transfer pricing provisions will now be restricted only to transactions where one of the entities involved in the related party transactions, enjoys specified profit linked deductions.

Tax holidays for start-ups can be claimed within 7 years

3. Incentives for Start-Ups

(i) Extending the period for claiming tax holiday by eligible start-ups

Under the existing provision of the IT Act, an eligible start-up is entitled to a 100% deduction of the business profits derived from an eligible business, i.e. a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property. Such deductions can be claimed by the eligible start-up in any three consecutive AYs out of five years, beginning from the year in which the eligible start-up is incorporated.

In view of the fact that newly established start-ups may take more than five years to turn profitable, the Government proposes to allow the eligible start-ups to claim deduction for any three consecutive AYs out of the first seven years beginning from the year in which such eligible start-up is incorporated.

(ii) Carry forward and set off of losses for eligible start-up, incorporated as a body corporate

Under the IT Act, the business loss of a closely held company can be carried forward and set off against future profits, only if on the last day of the FY, the shares of the company, carrying not less than 51% of the voting power are beneficially held by the same persons, who beneficially held the shares carrying not less than 51% of the voting power on the last day of the year(s) in which the loss was incurred.

The Government, in pursuance of the start-up action plan and facilitating ease of doing business, intends to introduce a beneficial regime for start-up to carry forward and set off losses. It is proposed that the above restrictions of carry forward and set off of losses would not apply to eligible start-up, provided all the shareholders of such start-up which held shares carrying voting power on the last day of the year(s) in which the loss was incurred, (subject to the loss incurred during the period of seven years beginning from the year in which such eligible start-up is incorporated) continue to hold the shares on the last day of such previous year. Thus, the eligible start-up would be allowed to carry forward and set off losses even though there is more that 51% change in the beneficial shareholding, provided all the earlier shareholders (i.e. persons who where shareholders at the end of the year(s) in which losses were incurred) continue to hold shares in the eligible start-up, on the last day of the relevant previous year.

It is pertinent to note that the eligible start-up can also be set up as a LLP. Under section 78 of the IT Act, where a change has occurred in the constitution of a firm (which includes LLP), the firm shall be entitled to carry forward and set off so much of the loss proportionate to the share of the retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the FY. In other words, losses attributable to the share of profits of the retired or deceased partner shall not be allowed to be carried forward. The Finance Bill has not made any beneficial amendment in these provisions and the eligible start-up, which has been set up as a LLP, would not be allowed to carry forward the loss attributable to the share of the retiring or deceased partner.

4. Enabling claim of credit for foreign tax paid in cases of dispute

In view of Rule 128[23] of the IT Rules and in order to introduce enabling provisions in the IT Act, it is proposed to insert sub-section (14A) to section 155[24] of the IT Act to provide that where in any assessment or intimation/ deemed intimation[25], foreign tax credit has not been given on the ground that the payment of such taxes is under dispute and such dispute is settled subsequently, the AO will be required to amend the order of assessment or any intimation/ deemed intimation on the taxpayer furnishing evidence of settlement of dispute and evidence of payment of such tax along with an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other AY, within a period of six months from the end of the month in which the dispute is settled.

It is further proposed to insert a proviso to provide that the foreign tax credit under dispute shall be allowed for the year in which such income is offered to tax or assessed to tax in India.

5. Tax credit for MAT and AMT

Under the existing provisions of the IT Act, MAT credit can be carried forward by a corporate taxpayer for ten AYs succeeding the AY in which such MAT credit becomes allowable. With a view to provide relief to the corporate taxpayers paying MAT, it is proposed to provide that the MAT credit can be carried forward up to fifteen AYs. Similar extension is also proposed in respect of credit for AMT paid by non-corporate taxpayers.

This is a welcome move and would grant more time to taxpayers for claiming MAT/ AMT credit.

It is also proposed that the amount of MAT/ AMT credit shall not be allowed to be carried forward to the extent such credit relates to the difference between the amounts of foreign tax credit allowed against MAT/AMT and foreign tax credit allowable against the tax computed under the regular provisions of the IT Act.

Income from carbon credits taxable

6. Income from transfer of carbon credits

A carbon credit is a financial instrument that allows the holder, usually an energy company, to emit one ton of carbon dioxide. Credits are awarded to countries or groups that have reduced their greenhouse gases below their emission quota. It works as an incentive, which is given to an industrial undertaking for reduction of the emission of its green house gases.

It is proposed to define "carbon credit" as carbon credit in respect of one unit shall mean reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases, which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price.

Under the Kyoto Protocol, certain developed countries are required to reduce their emissions and in exchange they are given carbon credits. A reduction in emissions entitles the entity to a credit in the form of a Certified Emission Reduction certificate, which is tradable and its holder can transfer it

23. It lays down the mechanism for claim of foreign tax credit.
24. It provides for the procedure for amendment of an assessment order in case of certain specified errors.
25. Section 143(1) of the IT Act.

to an entity which is in need of carbon credits to overcome an unfavourable position on carbon credits.

In the past, the tax authorities have treated the receipts on transfer of carbon credits as a business income, subject to tax at the rate of 30%. However, there are divergent views given by the Courts in construing whether the income receivable on transfer of carbon credit is capital receipt or revenue receipt. Some Courts[26] have held it to be a non taxable capital receipt, on the reasoning that there is no asset which is generated in the course of business and the transferable right or entitlement in carbon credits was only due to global concerns. However, in other cases[27], it was held to be a revenue receipt and taxable under the IT Act, since it is a benefit accruing to the taxpayer in the course of its business activities and thus is taxable under section 28(iv) read with section 2(24) of the IT Act.

Income from carbon credits taxable

In order to clarify the tax treatment of income from transfer of carbon credits and to encourage measures to protect the environment, it has been proposed to insert a new section 115BBG in the IT Act. The amendment provides that where the total income of the taxpayer includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of 10% on the gross amount of such income. No expenditure or allowance in respect of such income shall be allowed under the IT Act.

The purpose of the amendment was to clarify the tax treatment of income from transfer of the carbon credit. However, the position still remains a bit ambiguous since there have been no change in the charging provisions. The proposal can be seen as a solitary amendment which clarifies that the applicable tax rate shall be 10%. While it can be contended by the tax authorities that there was no doubt regarding the revenue nature of the receipt and this has further been clarified by the proposed amendment, the taxpayer may still contend that it is a capital receipt by relying on the favourable case laws. It would have been appropriate had the necessary ancillary changes to the definition of "income" as provided under section 2(24) of the IT Act would have also been carried out.

7. Co-operative banks not liable to pay tax on interest on non performing loans

The existing provisions of the IT Act provide for a beneficial regime for scheduled banks, public financial institutions, state financial corporations, state industrial investment corporations and certain public companies (like, housing finance companies), whereby the interest income on certain non performing loans is taxed in the FY in which such interest income is actually received or credited to the profit and loss account of such institution/bank (which ever is earlier). In order to bring the co-operative banks on the same level field as such institutions/ banks, it is proposed to extend this beneficial regime to co-operative banks, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank. Consequently, it is also proposed that since the interest income is taxed on receipt basis in the hands of such co-operative banks, the deduction for any interest on such loan / advances shall be allowed as deduction in the hands of the borrower, when the interest is actually paid on or before the due date of furnishing the tax return of the relevant FY.

This comes as a welcome step which elevates the co-operative banks to the level of banks, public financial institutions, etc. This proposal is in line with the judgement of Hon'ble Karnataka HC in the case of *Urban Co-operative Bank Ltd.*[28], wherein the Hon'ble HC held that the interest income on non

26. CIT v. Subhash Kabini Power Corporation Ltd. (2016) 287 CTR 147 (Karnataka HC), DCIT v. Indur Green Power Pvt. Ltd. TS-447-ITAT-2015 (Hyderabad), CIT v. My Home Power Ltd. (2014) 365 ITR 82 (Andhra Pradesh HC).
27. Apollo Tyres Ltd. v. ACIT (2014) 31 ITR 477 (Cochin ITATl).
28. CIT v. Urban Co-operative Bank Ltd (ITA No. 471 of 2013). Further, the SC has rejected the SLP in this case (TS-13-SC-2015), however, the question of law has been left open. A similar judgement in the case of CIT v. Caffin Homes Ltd. (2011) 201 Taxman 273 is under appeal before the SC.

performing assets would be taxed on receipt basis. It may be noted that such beneficial regime has not been extended to the registered NBFCs or primary agricultural credit societies or primary co-operative agricultural and rural development banks.

8. Increase in deduction limit for provision of doubtful debts

Under the existing provisions of the IT Act, scheduled banks (not being a bank incorporated by or under the laws of a country outside India) or non-scheduled banks or certain co-operative banks are allowed to claim deduction for provision for bad or doubtful debts. The amount which can be claimed as deduction for provision for bad or doubtful debts is restricted to 7.5% of the total income (before making certain deductions) and an amount not exceeding 10% of the aggregate average advances made by the rural branches of such banks, computed in the prescribed manner at the end of the FY. In order to grant relief to the banks who are straddled with significant amount of non performing assets, it is proposed to raise the limit of claiming deduction for provision for bad or doubtful debts from 7.5% to 8.5% of the total income. This relief shall be welcomed by the banks struggling with non performing assets.

Deduction for bad & doubtful debts provision increased to 8.5%

However, it may be pertinent to note that the benefit of this deduction has not been extended to NBFCs and Housing Finance Companies, registered with the National Housing Bank, which may lead to an unfavourable treatment of provision of bad or doubtful debts of NBFCs and Housing Finance Companies, even though the risk element and the regulations governing such entities are similar to scheduled/non scheduled banks.

9. Maintenance of books of accounts

Under the existing provisions of the IT Act, persons carrying on business or profession (other than specified professionals) are required to maintain books of accounts and such other documents if such income exceeds INR 120,000 or total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds INR 1 million. This applies in case of newly started business or profession as well, where the income is likely to exceed the above mentioned thresholds.

It is proposed to enhance the monetary threshold limits to INR 250,000 and INR 2.5 million, respectively, in the case of individuals and HUF.

Under the extant provisions, every person carrying on business is required to get his accounts audited before a specified date, if the total sales, turn over or gross receipts exceed INR 10 million. The Finance Bill proposes to increase the threshold limit to INR 20 million. This amendment will apply retrospectively from AY 2017-2018 (FY 2016-17).

This is line with the Government's agenda of facilitating ease of doing business in India and shall reduce compliance burden on small taxpayers.

VII. Charitable institutions & political party donations

1. Changes to taxation of charitable institutions

Under the existing provisions of the IT Act, any income derived from property held (including voluntary contributions) under a charitable trust/institution registered under section 12AA of the IT Act, would be exempt from tax, provided a prescribed percentage of such income is applied for "charitable purposes". Further, the existing provisions also provide that any donations (except those made from accumulated income), made by such trust/institution to another such trust/ institution or entities exempt under section 10 (23C) of the IT Act, shall be considered as application of income for charitable purposes.

The existing provisions also stipulate that a corpus donation received by the above mentioned entities is not considered as income of such entity and the condition of application of such income for charitable purposes does not apply to such donations. Thus, the corpus contribution by one exempt entity to another exempt entity is considered as application of income for the donor trust and the same is not treated as income of the recipient trust. Hence, such donations become exempt from tax for both the entities, despite no actual application of the donation by either entity. In order to plug this loophole and to ensure that the donation monies are actually utilised for the charitable purposes, it is proposed that any corpus donation made by one exempt entity to another exempt entity, shall not be treated as application of income for charitable purposes.

Charitable institutions to file tax returns mandatorily

Similar provisions have also been proposed for prescribed entities, which are exempt under section 10(23C) of the IT Act.

It may be also pertinent to note that when a charitable trust/institution, registered under section 12AA of the IT Act, is converted or merged into a non charitable entity or fails to transfer all its assets to another charitable institution on dissolution, then the accredited income[29] of the trust would be subject to tax. It is proposed[30] to clarify that the cost of acquisition of the asset of the charitable trust/ institutions in respect of which tax on accredited income has been paid will be the FMV of the asset on the specified date[31]. However, no such clarity has been provided with regard to the period of holding of such assets.

It has been proposed to clarify that where a charitable trust/ institution which is registered under section 12AA of the IT Act, amends or modifies its objectives, which are contrary to the conditions of registration, such trust/ institution would be required to make a fresh application for registration within 30 days from such amendment or modification of the objectives. It has also been proposed to make it mandatory for a charitable trust/ institution, to file a return of income under section 139 of the IT Act, failing which it may lose tax exemption.

2. Survey of charitable institutions premises

The Finance Bill proposes to widen the scope of survey by empowering the tax authorities to conduct a survey including a place at which an activity of charitable purpose is carried on. Under the existing provisions of the IT Act, the tax authorities are empowered to conduct a search only in a place at which 'business or profession' is carried on.

3. Funding to political parties

Incentives to political parties and their donors are allowed under the current legal framework to promote multi-party parliamentary democracy. The registered political parties are exempt from paying tax, subject to fulfilment of the prescribed conditions. The prescribed conditions, *inter alia*, include maintenance and audit of books and accounts.

It has been noted that political parties continue to receive most of their contributions through anonymous donations in cash and thus go unaccounted. In a move to cleanse political funding of corruption and to bring transparency, two additional conditions are proposed to be inserted to allow political parties to avail such exemption. Firstly, a ceiling of INR 2,000 on cash donation is being proposed to make the receipt of donations more accountable. Secondly, it is also being proposed that a political party, in order to avail of such beneficial treatment

29. Accredited income is defined under section 115TD(2) of the IT Act to mean the amount by which the aggregate fair market value of the total assets of the trust or the institution, as on the specified date, exceeds the total liability of such trust or institution computed in accordance with the method of valuation as may be prescribed.
30. This provision would come into effect from June 1, 2016.
31. Defined in Explanation to section 115TD of the IT Act.

under the provisions of the IT Act, shall have to file its tax return on or before the due date.

Currently, political parties receiving voluntary contributions in excess of INR 20,000 are subject to reporting obligations, *inter alia*, disclosure of names and address of the donors. To facilitate funding though digital means and to making the funding more transparent, it is proposed that any contributions received by way of electoral bonds (issued in accordance with the government scheme) shall be excluded from such reporting obligations.

This move will pave way for accountable political funding and curbing corruption.

VIII. Changes to procedural aspects

1. Due date for filing the revised tax return

Revised tax return to be filed within one year

Currently, a taxpayer can file a revised tax return for upto two years from the end of the relevant FY or before the completion of assessment by the tax authorities, whichever is earlier.

The Finance Bill proposes to reduce the time limit for filing such revised tax return to one year from the end of relevant fiscal year or before the completion of the assessment by tax authorities, whichever is earlier.

2. Time limit for processing of tax return and fee for delayed filing of return

(i) Processing of tax return within the prescribed time limit and enabling withholding of refund in certain cases

The Finance Bill proposes to provide that the processing of tax return shall not be necessary where a notice has been issued to the taxpayer under section 143(2) of the IT Act.

So, from AY 2018-19, it would be necessary to process a tax return before the expiry of one year from the end of the FY in which the return is made. This amendment is made with a view to addressing the grievance of taxpayers due to delay in issuance of refunds in genuine cases, which are routinely selected for scrutiny assessment.

However, to address the concern of recovery of revenue in doubtful cases, the Finance Bill also proposes to provide that for the tax returns furnished for AY commencing on or after April 1, 2017, where refund of any amount becomes due to the taxpayer under section 143(1) and the tax authorities are of the opinion that the grant of refund may adversely affect the recovery of revenue, the tax authorities may, for the reasons recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, withhold the refund until the date on which the assessment is completed.

These amendments will take effect from April 1, 2017 and will, accordingly, apply to tax returns furnished for AY 2017-18 onwards.

(ii) Fee for delayed filing of tax return

The Finance Bill proposes to provide for imposition of a fee in case of belated tax returns. With a view to taking into consideration such late fee while processing a tax return of income, consequential amendments are proposed to the IT Act. As per the existing law, while processing a tax return, tax and interest are only taken into consideration while determining the amount payable and/or refund due.

The proposed amendment provides that when a tax return is processed under the normal provisions of the IT Act and the tax and interest are computed on the basis thereof, it would take into consideration the late fee proposed to be imposed. Thus, while determining the amount payable by the taxpayer or the refund due to him, such late fee would also be taken into consideration. Consequentially, penalty provisions under the IT Act for failure to furnish tax return shall not apply in respect of AY 2018-19 onwards.

3. Search and seizure provisions

(i) <u>Reason to believe to conduct a search, etc. not to be disclosed</u>

This Finance Bill has proposed to provide that in the cases of search proceedings, the reason to believe recorded by the tax authorities shall not be disclosed to any person or any authority and the ITAT and the same is applicable retrospectively with effect from April 1, 1962.

Similarly, it is also proposed that the reason to suspect, recorded by the tax authorities shall also not be disclosed to any person or any authority and the ITAT. This amendment is applicable retrospectively with effect from October 1, 1975.

The Memorandum states that the rationale behind this particular amendment is to clarify certain ambiguities created by various judicial pronouncements in respect of the disclosure of "reason to believe" or "reason to suspect" recorded by the income-tax authority to conduct a search under section 132 or to make requisition under section 132A of the IT Act.

It may be noted here that recently the Hon'ble SC in *Spacewood Furnishing (P) Ltd.*[32] clarified that the provisions of the IT Act do not confer on the taxpayer a right of inspection of documents or a communication of reasons for belief at stage of issuing of authorization. However, at the stage of commencement of assessment proceedings after completion of search and seizure, if any, requisite material may have to be disclosed to taxpayer.

Furthermore, the Allahabad HC in the case of *M.D. Overseas Ltd.*[33] had held that the Court in an appropriate case can order the tax authorities to indicate the contents or nature of information/ material and reasons to believe authorising the search.

It appears that this amendment has been proposed to nullify the effect of the above decisions, as it states that no person, authority or even the ITAT shall be entitled to refer to the reasons to believe or reasons to suspect, as the case may be, during the course of assessment or appellate proceedings.

(ii) <u>Power of provisional attachment and making reference to valuation officer</u>

The Finance Bill empowers the tax authorities to provisionally attach any property belonging to the taxpayer for six months, with prior approval of Principal Director General or Director General or Principal Director or Director, to protect the interest of the Revenue after recording the reasons in writing.

It is also proposed to provide that in a search case, the authorised officer may, for the purpose of estimating the FMV of a property, may make a reference to a Valuation Officer, who shall furnish the valuation report within sixty days of receipt of such reference.

IX. Personal taxation

1. Set-off of loss from house property

As per the existing provisions, loss under the head "Income from House Property" can be set-off against income under any other head without any limit.

The Finance Bill proposes that the set off of losses under the head "Income from House Property" against any other head of income shall be restricted to INR 200,000. The unabsorbed losses available after such set off

32. DGIT (Inv.) v. Spacewood Furnishing (P) Ltd.([2015) 57 taxmann.com 292 (SC).
33. M.D. Overseas Ltd. v. DGIT (2011) 10 taxmann.com 30.

can be carried forward for set-off in subsequent years, as per the existing provisions.

2. **Increase in deduction for self-employed individual subscriber to Government NPS**

Under the existing provisions of the IT Act, an employee enjoys deduction of upto 10% of the salary on his own contribution to NPS and upto 10% of salary on employer's contribution on NPS, thus aggregating the deduction to 20% of his salary. However, the deduction available to self-employed individuals for contribution to NPS is only 10% of their gross total incomes.

To bring parity between employees and self employed individuals, the upper limit of 10% of gross total income is proposed to be increased to 20%.

3. **Exemption on partial withdrawal from NPS trust**

The payment received by an employee from NPS on closure of his account or opting out of the scheme, is exempt upto 40% of the amount payable under the existing provisions of the IT Act.

It is now proposed to exempt from tax the partial withdrawal, not exceeding 25% of the contribution made by an employee in accordance with the specified regulations. This change shall provide relief to employee subscribers of NPS.

4. **Relaxation of advance tax provisions for specified professionals**

In light of the presumptive taxation regime[34] introduced *vide* Finance Act, 2016 for specified professionals, it is proposed to provide that professionals declaring profits or gains under presumptive taxation regime shall be liable to pay advance tax in one installment on or before the 15th of March of every FY instead of making payment in three installments. Consequential changes are proposed for levy of interest on shortfall in payment of advance tax. This amendment is proposed to be introduced from AY 2017-18 (FY 2016-17).

5. **Exemption from withholding tax on insurance commission**

Under the existing provisions of the IT Act, the payment of insurance commission exceeding a threshold of INR 15,000 per FY is subject to TDS at the tax rate of 5%. However, currently there is no provision of obtaining a self declaration in the prescribed form[35], declaring that the tax on his estimated income would be *nil*.

In view of the same, it is proposed that in respect of payments in nature of insurance commission, tax should not be deducted if the recipient of such payments furnishes to the payer a self declaration in the prescribed form declaring that tax payable on his estimated total income of previous year is *nil*. The proposed change shall be effective from June 1, 2017.

6. **Withholding tax on rental payment**

It is proposed that individuals or HUF (other than those covered under tax audit provisions) shall be liable to deduct tax at source @ 5% on the rent payable to a resident in excess of INR 50,000 for a month or part thereof. In order to reduce the compliance burden, the deductor shall not be required to obtain the tax deduction account number and shall be required to deduct tax only once in a FY. This amendment will take effective from June 1, 2017.

7. **Levy of interest on non payment of tax on dividend income**

Under the IT Act, certain taxpayers are required to pay tax on receipt of dividend income in excess of INR 1 million. However, in case of uncertainty of receiving the dividend income, the taxpayer is unable to correctly determine his advance tax liability. In order to address this concern and save the taxpayer from levy of interest, it is proposed

34. Section 44ADA of the IT Act.
35. Form No. 15G/ 15H.

that subject to fulfillment of prescribed conditions, shortfall in payment of advance tax on account of under-estimation of dividend income in excess of INR 1 million shall not be subject to levy of interest. This amendment is proposed to be introduced retrospectively from AY 2017-18 (FY 2016-17).

8. Discontinuance of deduction for investments in equity savings scheme

Currently, taxpayers having gross total income of less than INR 1.2 million are entitled to a deduction of upto INR 25,000 for three consecutive AYs for investments in an equity savings scheme, subject to fulfillment of certain conditions. This deduction is proposed to be discontinued and shall be phased out from FY 2019-20.

Section: B

ANALYSIS OF THE PROPOSED CHANGES IN INDIRECT TAXES

Analysis of the proposed changes in indirect taxes

I. Service tax

1. Changes in the negative list

Under the existing provisions, the services rendered, by way of carrying out any process amounting to manufacture or production of goods on which duties of excise are leviable, excluding liquor for human consumption, was included in the negative list under section 66D of the Finance Act, 1994 ("**Finance Act**"). The said services are proposed to be omitted by the Finance Bill. However, the service tax exemption is being continued by incorporating these services in the Notification No. 25/2012-ST dated June 20, 2012 ("**Mega Exemption Notification**"). Consequently, the definition of 'process amounting to manufacture' in relation to the above services in the Finance Act is also proposed to be omitted from the Finance Act and is being incorporated in the Mega Exemption Notification. The proposed amendments would come into effect from the day the Finance Bill comes into force.

The net effect of this amendment is neutral. However, the transition from the negative list to the Mega Exemption Notification empowers the Government to make further amendments in this regard through a notification, without recourse to the Parliament.

2. Valuation

Works contract involving transfer of goods and land or undivided share of land

The Rule 2A of Service Tax (Determination of Value) Rules, 2006 which provides the determination of value of service portion in the execution of works contract is proposed to be retrospectively amended with effect from July 1, 2010. This amendment would bring clarity in relation to the exclusion of value of property in land or undivided share of land from value of service portion in the execution of works contract involving transfer of goods and land or undivided share of land. The proposed amendments would come into effect from the day the Finance Bill comes into force.

2. Retrospective amendments proposed

(i) Insurance of defence personnel by group insurance funds

The life insurance services provided to members of Army, Naval and Air Force by the Army, Naval and Air Force group insurance funds under the group insurance schemes of Central Government has been inserted in the Mega Exemption Notification *vide* Notification No. 7/2017-ST dated February 2, 2017, to provide exemption

from service tax with effect from September 10, 2004 to February 1, 2016. The exemption would also apply to all transactions with effect from February 2, 2017.

(ii) One time upfront amount on long-term lease by industrial units

The exemption from service tax available in terms of Notification No. 41/2016-ST dated September 29, 2016 on one time upfront amount (called as premium, salami, cost, price, development charge or by whatever name called) in respect of service of grant of long-term lease, of a period of thirty years or more, of industrial plots by a State Government Industrial Development Corporation or undertaking to industrial units, is proposed to be extended with retrospective effect from June 1, 2007.

Ambit of exemptions expanded

4. New exemptions

(i) Exemption to promote RCS

Serial No. 23A has been inserted in the Mega Exemption Notification *vide* Notification No. 7/2017-ST dated February 2, 2017. The said insertion provides exemption from service tax on viability gap funding ("**VGF**") payable to airlines transporting passengers, beginning from or terminating at RCS airports, i.e. selected Tier II city airports, for a period of one year from the date of commencement of operation of RCS airport as notified by the Ministry of Civil Aviation. The said entry comes into effect from February 2, 2017.

(ii) Exemption to Indian Institutes of Management on non-residential programmes

Serial No. 9B of the Mega Exemption Notification has been amended to expand the scope of exemption available to Indian Institutes of Management to now include non-residential PGP in management course as well, to which admissions are made on the basis of Common Admission Test ("**CAT**"). Earlier, the exemption was available only to full time residential PGP in management course, admission to which was through CAT. The said exemption is applicable forthwith.

5. Withdrawal of exemption

Repeal of Research and Development Cess Act, 1986

The Finance Bill proposes to repeal the Research and Development Cess Act, 1986 ("**R&D Cess Act**") with effect from April 01, 2017. Accordingly, the exemption of service tax incorporated under Notification No. 14/2012-ST dated March 17, 2012, exempting service tax equivalent to the amount of cess payable on the import of technology under the R&D Cess Act would also stand withdrawn from the date of the enactment of the Finance Bill.

II. Central excise

1. Changes in rates of duty on various goods

(i) The present Budget, with its motive of mitigating hindrances posed to businesses by inverted duty structure reflects the Government's commitment towards its "Make in India" initiative, promotion of digital payments and the renewable energy sector.

(ii) There is no change in the median rate of excise duty, which remains at 12.5%.

(iii) The rates of additional excise duty, leviable under section 85 of the Finance Act, 2005 have been enhanced for most tobacco products and pan masala.

(iv) The proposed changes in the effective rates of excise duty on goods is given as below:

Sr. No.	Description	Pre-Budget rate	Post Budget rate	Change
	Tobacco and tobacco products[36]			
1.	Cigars and cheroots, cigarillos	12.5% or INR 3,755 per thousand, whichever is higher	12.5% or INR 4,006 per thousand, whichever is higher	↑
2.	Cigarettes of tobacco substitutes	INR 3,755 per thousand	INR 4,006 per thousand	↑
3.	Cigarillos of tobacco substitutes	12.5% or INR 3,755 per thousand, whichever is higher	12.5% or INR 4,006 per thousand, whichever is higher	↑
4.	Others of tobacco substitutes	12.5% or INR 3,755 per thousand, whichever is higher	12.5% or INR 4,006 per thousand, whichever is higher	↑
5.	Handmade paper rolled biris	INR 21 per thousand	INR 28 per thousand	↑
6.	Machine made paper rolled biris	INR 21 per thousand	INR 78 per thousand	↑
7.	Pan Masala	6%	9%	↑
8.	Unmanufactured tobacco	4.2%	8.3%	↑
	Fertilizers			
9.	Animal or vegetable fertilisers, whether or not mixed together or chemically treated; fertilisers produced by the mixing or chemical treatment of animal or vegetable products	1% (Without CENVAT credit)	Nil	↓
	Miscellaneous chemical products			
10.	Catalyst for use in manufacture of cast components of wind operated electricity generator	12.5%	Nil (subject to actual user condition)[37]	↓
	Plastics and articles thereof			
11.	Resin for use in the manufacture of cast components of wind operated electricity generator	12.5%	Nil (subject to actual user condition)[38]	↓
12.	Membrane sheet and tricot/ shaper for use in manufacture of reverse osmosis (“**RO**”) membrane for house hold type filter	12.5%	6% (subject to actual user condition)[39]	↓

36. Rates effective immediately.
37. Valid till June 30, 2017.
38. Rates effective immediately.
39. Id.

Sr. No.	Description	Pre-Budget rate	Post Budget rate	Change
13.	Solar tempered glass for use in solar photovoltaic cells/ modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications	Nil	6% (subject to actual user condition)[40]	↑
14.	Parts/raw materials for manufacture of solar tempered glass for use in solar photovoltaic cells/ modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition	12.5%	6% (subject to actual user condition)[41]	↓

Sr. No.	Description	Pre-Budget rate	Post Budget rate	Change
15.	All items of machinery required for fuel cell based power generating systems to be set up in the country or for demonstration purposes	12.5%	6%	↓
16.	All items of machinery required for balance of systems operating on biogas/ bio-methane/ by-product hydrogen	12.5%	6%	↓
	Miscellaneous			
17.	All parts for manufacture of LED lights or fixtures, including LED lamps	6%	6% (subject to actual user condition)	↑
18.	Miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, finger print reader / scanner or iris scanner	12.5%	Nil[42]	↓

40. Id.
41. Id.
42. Id.

Sr. No.	Description	Pre-Budget rate	Post Budget rate	Change
19.	Parts and components for manufacture of miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, finger print reader / scanner or iris scanner	12.5%	Nil (subject to actual user condition)[43]	↓
20.	Waste and scrap of precious metals or metals clad with precious metals arising in course of manufacture of goods falling in Chapter 71 Strips, wires, sheets, plates and foils of silver Articles of silver jewellery, other than those studded with diamond, ruby, emerald or sapphire	12.5%	Nil (No CENVAT credit availed)	↓
	Silver coin of purity 99.9% and above, bearing a brand name when manufactured from silver on which appropriate duty of customs or excise has been paid	12.5%	Nil (No CENVAT credit availed)	↓
21	Motor vehicles for transport of more than 13 persons	27%	12.5%[44]	↓

2. Other substantive changes

(i) Changes in provisions relating to remission of duty

In case of loss or destruction of goods of a manufacturer, by natural causes or by unavoidable accidents or in a case where the manufacturer who has paid duty on such goods, claims that such goods are unfit for consumption or marketing, at any time before their removal, the time limit for the grant of rebate is proposed to be 3 months from the date of filing the application. The Budget proposes to extend the period to a maximum of 6 months.[45]

(ii) Clarifications in relation to EOU

In terms of the proviso to section 5A of the Central Excise Act, 1944 ("**CE Act**") any notification, issued by the Central Government, granting exemption (partially/ fully) to any excisable goods, from the duty of excise leviable, thereon, shall not be applicable to any goods produced or manufactured by an EOU and brought

43. Id.
44. Retrospectively with effective from January 01, 2017.
45. Notification No. 5/ 2017-CE (N.T.) dated February 02, 2017.

into DTA. Therefore, in cases where an EOU was engaged in the import or domestic procurement of inputs for the manufacture of goods to be cleared in DTA, the input level exemption benefits, if any, available to the domestic manufacturers, were being denied to them.[46]

It has been now clarified that in terms of Notification No. 334/7/2017-TRU dated February 01, 2017, EOUs would also be eligible to import or procure raw materials/ inputs at concessional/ nil rate of excise duty, BCD/ CVD or SAD, as the case may be, provided that they fulfill all the conditions for being eligible to such concessional or nil duty. There is no additional registration requirement for availing these benefits.

III. Customs

1. Changes in rates of duty on various goods

The Budget proposals include changes in the custom duty rates of commodities pertaining to various sectors including information technology ("**IT**") hardware, capital goods, mineral oils, chemicals, metals, renewable energy, etc.

Amendments have been proposed for aligning the classification of various commodities in order to with the rulings at the WCO.

Section 9(3)(c) of the Customs Tariff Act, 1962 is proposed to be substituted to withdraw the exemption to three categories of non-actionable subsidies specified therein, from the scope of anti-subsidy investigations.

The proposed item wise changes in rates of duty have been tabulized as below:

Sr. No.	Description	Pre-Budget rate	Post Budget rate	Change
	Export duty			
	Ores and concentrates			
1.	Other aluminium ores, including laterite export	Nil	15%	↑
	Customs duty			
	Machinery and mechanical appliances			
2.	Ball screws, linear motion guides and CNC systems for use in manufacture of all CNC machine tools, subject to actual user condition	BCD – 7.5%	BCD – 2.5%	↓
	Renewable energy			
3.	Resin and catalyst for manufacture of cast components for wind operated energy generators, POS, subject to actual user condition	BCD – 7.5% CVD – 12.5% SAD – 4%	BCD – 5% CVD – Nil SAD – Nil, subject to the condition that the exemption of CVD shall not be available after June 30, 2017	↓
4.	All items of machinery required for fuel cell based power generating systems to be set up in the country or for demonstration purposes, subject to certain specified conditions	BCD – 10% / 7.5% CVD – 12.5%	BCD – 5% CVD – 6%	↓

46. Notification No. 22/2003-CE dated March 31, 2003 and Notification No. 52/2003-Cus dated March 31, 2003.

Sr. No.	Description	Pre-Budget rate	Post Budget rate	Change
	Export duty			
	Ores and concentrates			
5.	All items of machinery required for balance of systems operating on biogas/ bio-methane/ by-product hydrogen, subject to certain specified conditions	BCD – 10% / 7.5% CVD – 12.5%	BCD – 5% CVD – 6%	↓
6.	Solar tempered glass for use in the manufacture of solar cells/ panels/ modules, subject to actual user condition	BCD- 5%	BCD- Nil	↓
7.	Parts/raw materials for manufacture of solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition	BCD- 12.5%	BCD- 6%	↓
	Mineral fuels and mineral oils			
8.	Liquefied natural gas	BCD- 5%	BCD- 2.5%	↓
	Chemicals & petrochemicals			
9.	o-Xylene	BCD- 2.5%	BCD- Nil	↓
10.	Medium Quality Terephthalic Acid (MTA) & Qualified Terephthalic Acid (QTA)	BCD- 7.5%	BCD- 5%	↓
11.	2-Ethyl Anthraquinone [29146990] for use in manufacture of hydrogen peroxide, subject to actual user condition	BCD- 7.5%	BCD- 2.5%	↓
12.	Clay 2 Powder (Alumax) for use in ceramic substrate for catalytic convertors, subject to actual user condition	BCD- 7.5%	BCD- 5%	↓
13.	Vinyl Polyethylene Glycol (VPEG) for use in manufacture of Poly Carboxylate Ether, subject to actual user condition	BCD- 10%	BCD- 7.5%	↓

Sr. No.	Description	Pre-Budget rate	Post Budget rate	Change
	Textiles			
14.	Nylon mono filament yarn for use in monofilament long line system for Tuna fishing, subject to certain specified conditions	BCD- 7.5%	BCD- 5%	↓
	Finished leather, footwear and other leather products			
15.	Vegetable tanning extracts, namely wattle extract and myrobalan fruit extract	BCD- 7.5%	BCD- 2.5%	↓
	Metals			
16	Co-polymer coated MS tapes / stainless steel tapes for manufacture of telecommunication grade optical fibres or optical fibre cables, subject to actual user condition	BCD- Nil	BCD- 10%	↑
17.	Nickel	BCD- 2.5%	BCD- Nil	↓
18.	MgO coated cold rolled steel coils [7225 19 90] for use in manufacture of cold-rolled grain-oriented steel, subject to actual user condition	BCD- 10%	BCD- 5%	↓

Sr. No.	Description	Pre-Budget rate	Post Budget rate	Change
19.	Hot Rolled Coils [7208], when imported for use in manufacture of welded tubes and pipes falling under heading 7305 or 7306, subject to actual user condition	BCD- 12.5%	BCD- 10%	↓
20	Populated Printed Circuit Boards (“**PCB**”) for the manufacture of mobile phones, subject to actual user condition	SAD- Nil	SAD- 2%	↑
	Miscellaneous			
21	All parts for manufacture of LED lights or fixtures, including LED lamps, subject to actual user condition	BCD- Nil CVD- Nil	BCD – 5% CVD – 6%	↑
22.	De-minimis customs duties exemption limit for goods imported through parcels, packets and letters	Duty payable not exceeding INR 100 per consignment	CIF value not exceeding Rs.1,000 per consignment	↑

Sr. No.	Description	Pre-Budget rate	Post Budget rate	Change
23.	Membrane sheet and tricot / spacer for use in manufacture of RO membrane element for household type filters, subject to actual user Condition	BCD- 12.5%	BCD- 6%	↓
24	Silver medallion, silver coins having silver content not below 99.9%, semi manufactured form of silver and articles of silver	BCD- Nil	BCD- 12.5%	↑
25	Cashew nut, roasted, salted or roasted and salted	BCD – 30%	BCD – 45%	↑

2. Exemption of customs duty

The following key exemptions have been introduced:

(i) The levy of customs duty has been wholly exempted on the import of miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, finger print reader / scanner or iris scanner, and parts and components thereof.

(ii) In terms of Notification No. 5/2017-Customs, dated February 2, 2017, customs duty on import of items for initial setting up of fuel cell based system for generation of power or systems operating on bio-gas or bio-methane or by-product hydrogen have been reduced to 6%, subject to completion of specified procedural compliances.

3. Substantive Changes

(i) <u>Power to notify "International courier terminals" and "Foreign post office"</u>

Section 7 of the Customs Act, 1962 ("**Customs Act**") is proposed to be amended to empower the Board to notify "International courier terminal" and "Foreign post office" for the clearance of imported or exported goods. Consequently, Section 2(13) of the Customs Act is also proposed to be amended to include "International courier terminal" and "Foreign post office" in the definition of "customs station".

(ii) <u>Submission of documents for self assessment</u>

Section 17(3) of the Customs Act is proposed to be amended to empower the proper officer to seek any document or information from the importer, exporter or any other person, whereby the duty leviable on the imported or exported goods can be ascertained. This amendment is aimed towards rationalizing the requirement of documents for verification of self assessment.

(iii) <u>Ambit of unjust enrichment</u>

First proviso to Section 27(2) of the Customs Act is proposed to be amended to exclude the refund of duty paid in excess, by the importer before an order permitting clearance of goods for home consumption is made, from the application of unjust enrichment.

(iv) <u>Submission of passenger and crew manifest during import and export</u>

Section 30A is proposed to be inserted in the Customs Act to mandate the person-in-charge of a conveyance that enters India or any other person as may be specified by the Central

Government, to deliver to the proper officer the passenger and crew arrival manifest and passenger name record information of arriving passengers in such form, containing such particulars, in such manner and within such time as may be prescribed.

A similar Section 41A is proposed to be inserted in the Customs Act, mandating the delivery of such documents/ information for a conveyance that departs from India to a place outside India.

Consequently, it is proposed to empower the Board under Section 157 (2)(ab) of the Customs Act to make regulations in this regard.

(v) Time for filing of bill of entry

Section 46(3) of the Customs Act, which allows for presenting the Bill of Entry at any time after the delivery of the import manifest or import report, has been proposed to be amended to mandate the filing of the bill of entry before the end of the next day following the day (excluding holidays) on which the vessel or aircraft or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or for warehousing. It is also proposed to impose charges for late presentation of the bill of entry.

(vi) Time-limit for payment of duty for clearance for home consumption

Section 47(2) of the Customs Act is proposed to be amended to provide clear time-lines for payment of duty separately for self assessment, assessment/ reassessment/ provisional assessment and deferred payment. The proposed amendment also seeks to impose an interest in the case non-payment/short-payment of such duty at a rate not less than ten per cent but not exceeding thirty-six per cent per annum, as may be fixed by the Central Government, by notification in the Official Gazette.

(vii) Storage of imported goods into public warehouse pending clearance

It is proposed to substitute Section 49 of the Customs Act to provide for storage facility of imported dutiable goods in public warehouses. The imported goods/ imported dutiable goods may be permitted to be stored for a period of 30 days, unless further extended. The extensions would be allowed for a block of 30 days at a time.

(viii) Omission of Section 82 of the Customs Act

Section 82 of the Customs Act, which provides for treating a label or declaration accompanying goods as an 'entry', is proposed to be omitted.

(ix) Import of goods for petroleum or coal bed methane operations

It is proposed to allow the import of goods for petroleum and coal bed methane operations, availing custom duty benefit, on payment of customs duty on depreciated value (maximum 70%) of goods, subject to the conditions specified.

IV. CENVAT credit rules

1. Key amendments

(i) Rationalisation measure incorporated under Rule 6 of the CCR

The meaning of 'value' provided in Explanation 1 to Rule 6 (3D) of CCR for the purpose of reversal of common input tax credit taken on inputs and input services used in providing taxable and exempt services excludes the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount. This Explanation is being amended to exclude from its ambit banks and financial institutions including NBFCs engaged in providing services by way of extending deposits, loans or advances. This would do away with the loophole with respect to exclusion of interest consideration received by banks and NBFCs while calculating the value of exempt services for purposes of reversal of credit and would ensure parity across all industry players. This amendment comes into effect from February 02, 2017.

(ii) Amendment to Rule 10 of the CCR (transfer of CENVAT credit)

A sub-rule 4 has been inserted so as to provide for a time limit of three months, which, is further extendable upto 6 months, for approval of requests regarding transfer of CENVAT credit on shifting, sale, merger, etc. by the jurisdictional Deputy/ Assistant Commissioner of Central Excise. The introduction of mandatory approval for transfer of credits in corporate restructuring transactions would be excessively burdening for companies and lead to delays in transactions. This amendment comes into effect from February 02, 2017.

Unified AAR for direct and indirect taxes

V. Common changes in indirect taxes

1. Changes in provisions relating to advance rulings

(i) In order to streamline the provisions relating to advance rulings under the tax laws, the Budget has proposed to align such provisions under the indirect tax laws, with the IT Act. In this regard, in terms of the Finance Bill, the definition of the term 'Authority', as defined under the under the CE Act, Finance Act and the Customs Act, is proposed to be amended to mean the 'Authority for Advance Ruling' as constituted under section 245O of the IT Act.

(ii) Subsequently, provisions in relation to the disallowance of invalidation of the proceedings/ pronouncements of advance rulings on the sole ground of vacancy or defect in the constitution of the authority, are proposed to be omitted *vide* the Finance Bill.

(iii) In addition, the Finance Bill, has proposed to increase the application fee for seeking an advance ruling, from INR 2,500 to INR 10,000, which is in line with that under the IT Act.

(iv) The time limit for the Authority for Advance Ruling to pronounce its decision is sought to be amended and enhanced from a prescribed period of 90 days to a period of 6 months from the receipt of application.

(v) The Finance Bill proposes the insertion of new sections in the CE Act, Finance Act and the Customs Act in order to facilitate the transfer of pending applications before the present Authority for Advance Ruling (central excise, customs and service tax) to the new authority sought to be constituted under section 245O of the IT Act, with effect from the date on which the Finance Bill receives the assent of the President.

2. Changes in provisions relating to settlement of cases

(i) It is proposed by the Finance Bill to introduce new sub-sections under the CE Act, Finance Act and the Customs Act, in order to enable persons, other than an assessee, to make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the assessee which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority.

(ii) It is further proposed to empower the Settlement Commission to amend an order passed by it, in order to rectify any errors apparent from record.

Glossary of Terms

ABBREVIATION	MEANING
AE	Associated Enterprise
ALP	Arms Length Price
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Person
ATM	Automated Teller Machine
AY	Assessment Year
BEPS	Base Erosion and Profit Shifting
BCD	Basic Customs Duty
BOI	Body of Individual
Budget	Union Budget 2017-2018
CBDT	Chairperson, Central Board of Direct Taxes
CCR	CENVAT Credit Rules, 2004
CIT	Commissioner of Income Tax
CIT(A)	Commissioner of Income Tax(Appeal)
CNC	Computer Numerical Controlled
Courts	Courts of competent jurisdiction in India
CPI	Consumer Price Index
CVD	Additional Duty of Customs
DTA	Domestic Tariff Area
DTAA	Double Taxation Avoidance Agreement
ECB	External Commercial Borrowings
EOU	Export Oriented Unit
FDI	Foreign Direct Investment
FII	Foreign Institutional Investor
Finance Bill	Finance Bill, 2017
FIPB	Foreign Investment Promotion Board
FM	Finance Minister
FMV	Fair Market Value
FPI	Foreign Portfolio Investor
FY	Financial Year
GDP	Gross Domestic Product
GST	Goods and Services Tax
HC	High Court
HUF	Hindu undivided family
INR	Indian National Rupee
IRCON	IRCON International Limited
IRCTC	Indian Railway Catering and Tourism Corporation
IRFC	Indian Railway Finance Corporation
IT Act	Income Tax Act, 1961
IT Rules	Income Tax Rules, 1962
ITAT	Income Tax Appellate Tribunal
ITR	Income Tax Reporter

ABBREVIATION	MEANING
LED	Light-emitting Diode
LLP	Limited Liability Partnership
MAT	Minimum Alternate Tax
Memorandum	Memorandum to the Finance Bill, 2017
MNC	Multinational Corporation
MSME	Micro Small and Medium Enterprises
NABARD	National Bank for Agriculture and Rural Development
NBFC	Non Banking Financial Companies
NPS	National Pension Scheme
OECD	Organization for Economic Cooperation and Development
P-Note	Participatory Note
PE	Permanent Establishment
PGP	Post Graduate Programme
POEM	Place of Effective Management
POS	Point of Sale
QFI	Qualified Foreign Investor
RBI	Reserve Bank of India
RCS	Regional Connectivity Scheme
RDB	Rupee Denominated Bonds
Revenue	Department of Revenue, Ministry of Finance, Government of India
SAD	Special Additional Duty
SARFAESI Act	The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
SC	Supreme Court
SEBI	Securities and Exchange Board of India
SLP	Special Leave Petition
STT	Securities Transaction Tax
TDS	Tax Deducted at Source
WCO	World Customs Organisation

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Acknowledgements

We acknowledge the contributions received from S. R. Patnaik, Mekhla Anand, Kalpesh Unadkat, Shruti KP, V.P. Thangadurai, Kiran Jain, Abhilasha Singh, Rupa Roy, Shiladitya Dash, Niyati Dholakia, Darshana Jain, Bipluv Jhingan, Gurkaran Singh Arora and Mehreen Zafar under the overall guidance of Mrs. Vandana Shroff.

We also acknowledge the assistance from Madhumita Paul and Avishkar Malekar in bringing this publication to its current shape and form.