

## **BUDGET-2023-2024: AN ANALYSIS OF TAX PROPOSAL**

Anushka Chatterjee<sup>1</sup> and Dr Snigdha Sarkar<sup>2</sup>

<sup>1</sup>*Student, KIIT School of Law, Bhubaneswar – 24, email: 2283030@kls.ac.in, ORCID ID: 0009-0006-6263-7930*

<sup>2</sup>*Assistant Professor, KIIT School of Law, Bhubaneswar – 24, email: snigdha.sarkar@kls.ac.in, ORCID ID: 0000-0002-5380-3486*

### **Abstract**

*Indian National Budget is an annual financial report of the country. The Indian government generates revenue from taxes and fees which are then used to fund welfare programmes as well as the nation's infrastructural needs, education, research, national defence and cultural grants. All these aspects are covered in the Annual Budget published by the Ministry of Finance. The Union Budget 2023 also known as the Amrit Kaal Budget 2023 aims to simplify direct tax administration and incorporate the rolling out of Next-generation Common IT Return Form, making it convenient for the taxpayers. It also focuses on strengthening the grievance redressal mechanism. New authorities in the ranks of Joint Commissioner (Appeals) have been introduced to expedite the disposal of certain appeals pending with the Commissioner (Appeals). Our honourable Finance Minister Smt. Nirmala Sitharaman stated, "These (direct taxes) proposals aim to maintain continuity and stability of taxation, further simplify and rationalise various provisions to reduce the compliance burden, promote the entrepreneurial spirit and provide tax relief to citizens." Moreover, while talking about the indirect taxes, she said – "My indirect tax proposals aim to promote exports, boost domestic manufacturing, enhance domestic value addition, encourage green energy and mobility."*

**Keywords:** Indian National Budget, Ministry of Finance, Grievance Redressal Mechanism, Next-generation Common IT Return Form, Direct taxes, Indirect taxes

### **Introduction**

**Introducing the topic:** Few days in India are as significant as February 1, the day on which the finance minister of the ruling party presents the federal budget. Among other things, the union budget serves as the country's guide for determining how to collect taxes and allocate funds for spending during the forthcoming fiscal year ("FY"). The union budget for the fiscal year 2023–2024 was unveiled by Ms Nirmala Sitharaman on February 1, 2023. Although this would be the Modi government's final budget, it would offer an interim budget the next year before the May 2024 general elections. "The Union Budget is growth accretive, fiscally prudent and

consumption supportive. The huge emphasis on capital expenditure could be the perfect recipe for a private investment cycle that is already visible. Support for MSME and Agriculture will broaden base credit growth. Reasonable Government borrowing numbers will support lower interest rates and the move towards a clutter-free new tax regime will significantly spur consumption. Overall, the budget is forward-looking and will support an inclusive economy.”

*- Dinesh Khara, Chairman, SBI*

In Budget 2023, the finance minister made several statements addressing changes to personal income tax, such as raising the tax rebate cap, the tax-exempt income threshold, the tax-exempt leave encashment threshold, and others. Also, the standard deduction advantage has been extended to taxpayers who are employed or retired, and the maximum surcharge rate has been cut under the new tax system. The direct tax ideas included in the Budget 2023 are meant to guarantee continuity and stability in the tax system, simplify and rationalize numerous rules to lessen the cost of compliance, encourage innovation and entrepreneurship, and give citizens tax breaks. By making compliance simple, the Income Tax Department will keep enhancing the services it offers to taxpayers. <sup>1</sup>***What the paper is pointing out:*** This article aims at covering the various aspects of the 2023 Budget regarding the tax proposals and the various outcomes that the citizens of India would derive from the same. ***Contribution of the paper:*** The paper has found and then analysed the notable direct and indirect tax proposals in the financial year 2023-24. ***Skeleton of the paper:*** The paper starts with an abstract followed by the introduction then the objectives, research methodology, conceptual understanding, answering of the research questions and then at the end the conclusion.

### **Objectives**

This current work is aiming to find out the substance of the following concepts. For this, the authors have taken into consideration journals, books, news clips, government data, records etc. The objectives of this study are to explicate the contents of:

- 1) The notable indirect tax proposals
- 2) The notable direct tax proposals

### **Research Methodology**

The current work is a conceptual work to identify the importance and weakness of recent tax

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<sup>1</sup> Garg, K. (2023) *Summary of direct/ indirect tax proposals: Budget 2023-24, CA Club*. Available at: <https://caclub.in/summary-of-direct-indirect-tax-proposals-finance-bill-2023-budget-2023-24/> (Accessed: 2 March 2023).

proposals. The authors have analysed the budget for 2023-24. To reach the destined objectives the researchers have used both primary and secondary data available in books, journals, articles, government reports, news clips, news articles etc.

### **Conceptual Understanding**

*Indian National Budget:* The Union Budget also known as the Indian National Budget is India's yearly financial report; it contains an estimation of the government's monthly revenue and expenses. It is a duty that the government must do in accordance with Article 112 of the Indian Constitution<sup>2</sup>. "On February 18, 1860, James Wilson, a Scot, delivered India's first budget. On November 26, 1947, RK Shanmukham Chetty delivered the first Union Budget of Independent India<sup>3</sup>. This Budget lays a futuristic 'Amrit Kaal' for women, youth, and marginalised communities, big public investment for infrastructure guided by PM Gati Shakti, productivity enhancement, energy transition, and climate action, and financing of investments," Finance Minister Nirmala Sitharaman said in her speech when introducing the 2023 Union Budget.<sup>4</sup>

*Ministry of Finance:* "The Ministry of Finance, which also serves as the Indian Treasury, is a ministry within the Indian Government that is responsible for the country's economy. It specifically addresses taxation, financial regulation, financial institutions, capital markets, centre and state finances, and the Union Budget.<sup>5</sup> Four core civil services, including the Indian Revenue Service, Indian Audit and Accounts Service, Indian Economic Service, and Indian Civil Accounts Service, are under the overall direction of the Ministry of Finance. Also, the Indian Cost and Management Accounts Service, one of the central commerce services, report to it as its highest regulating authority."

*Grievance Redressal Mechanism:* Each administration's apparatus includes a grievance redressal mechanism. Without having built an effective and efficient grievance resolution procedure, no administration can assert that it is responsible, responsive, and user-friendly. As

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<sup>2</sup> 2023 Union Budget of India (2023) Wikipedia. Available at: [https://en.wikipedia.org/wiki/2023\\_Union\\_budget\\_of\\_India](https://en.wikipedia.org/wiki/2023_Union_budget_of_India) (Accessed: 2 March 2023).

<sup>3</sup> Balakrishnan, P. (2020) *First Union Budget, November 1947: The crying concern was to dress wounds of uprooted humanity, Partition | The first union budget of India in November 1947 tried to deal with aftermaths of the partition - Telegraph India*. Available at: <https://www.telegraphindia.com/india/the-first-union-budget-of-india-in-november-1947-tried-to-deal-with-aftermaths-of-the-partition/cid/1741154> (Accessed: 02 March 2023).

<sup>4</sup> Livemint (2023) *Decoding 'Amrit Kaal' from FM Nirmala Sitharaman's union budget 2023 speech, mint*. Available at: <https://www.livemint.com/news/india/what-is-amrit-kaal-decoding-the-term-from-fm-nirmala-sitharaman-s-union-budget-2023-speech-11675244285059.html> (Accessed: 02 March 2023).

<sup>5</sup> *Department of Financial Services: Ministry of Finance: Government of India Home | Department of Financial Services | Ministry of Finance | Government of India*. Available at: <https://financialservices.gov.in/> (Accessed: 03 March 2023).

it offers valuable input on how the administration is doing its duties, an organization's grievance redressal process serves as a benchmark for efficiency and effectiveness.<sup>6</sup>

*Next-generation Common IT Return Form:* “To replace six of the seven currently used ITR forms (ITR 1 through ITR 6), the Central Board of Direct Taxes (CBDT) recently suggested a unified income tax return form. The standard ITR form will consist of an online inquiry. The proposed form includes several schedules that are universally applicable, such as the basic information (PAN, name, and address), the computation of total income and total taxes, the details of bank accounts, and the schedule of tax payments (taxes deducted at source, self-assessment tax, etc.). The planned common ITR form will feature "Yes" or "No" questions, and depending on the taxpayer's responses, it will require them to provide information that is specific to them. The goal of the proposed single ITR is to do away with the process of choosing the appropriate income tax return form for a taxpayer.<sup>7</sup>”

*Direct taxes:* “A direct tax is paid by an individual or group of people to the institution that levied it. Examples include taxes on assets, real estate, personal property, and income that are all paid by the individual taxpayer directly to the government.<sup>8</sup>”

*Indirect taxes:* “Before a good or service reaches the customer, it is subject to an indirect tax (such as a sales tax, per-unit tax, value-added tax (VAT), goods and services tax (GST), excise tax, consumption tax, or tariff). The customer ultimately pays the indirect tax as part of the market price of the good or service they have purchased.<sup>9</sup> The tax is indirect if, on the other hand, the entity that pays the tax to the tax collecting authority does not experience a comparable drop in income, i.e., effect and tax incidence are not on the same entity implying that tax can be moved or passed on.<sup>10</sup>”

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<sup>6</sup>CPGRAMS Grievance redress mechanism in Government. Available at: <https://www.pgportal.gov.in/Home/RedressMechanism> (Accessed: 03 March 2023).

<sup>7</sup> *Common ITR form for all: What's new in the proposed income tax return form? - common income tax return form proposed* (no date) *The Economic Times*. Available at: <https://economictimes.indiatimes.com/wealth/tax/common-itr-form-for-all-whats-new-in-the-proposed-income-tax-return-form/will-cbdt-discontinue-all-the-existing-itr-forms/slideshow/95578540.cms> (Accessed: 03 March 2023).

<sup>8</sup> *Common ITR form for all: What's new in the proposed income tax return form? - common income tax return form proposed* (no date) *The Economic Times*. Available at: <https://economictimes.indiatimes.com/wealth/tax/common-itr-form-for-all-whats-new-in-the-proposed-income-tax-return-form/will-cbdt-discontinue-all-the-existing-itr-forms/slideshow/95578540.cms> (Accessed: 03 March 2023).

<sup>9</sup> *Indirect tax* (2023) *Wikipedia*. Available at: [https://en.wikipedia.org/wiki/Indirect\\_tax](https://en.wikipedia.org/wiki/Indirect_tax) (Accessed: 03 March 2023).

<sup>10</sup> Schenk, Alan; Oldman, Oliver (2007). "Chapter 1: Survey of Taxes on Consumption and Income, and Introduction to Value Added Tax". *Value Added Tax: A Comparative Approach* (1st ed.). Cambridge University Press. pp. 5, 23. ISBN 978-0-521-85112-1.

## **The notable indirect tax proposals**

### **Central Goods and Services Tax Act, 2017**

#### **1. Corporate Social Responsibility (CSR)**

The CGST Act of 2017 is being proposed to add a new sub-clause (fa) to subsection 5 of Section 17. As a result, there would be no Input Tax Credit (ITC) available on goods or services obtained by a taxable person that is intended to be utilised for activities connected to the CSR duties mentioned in Section 135 of the Companies Act of 2013.<sup>11</sup> Many separate authorities for Advance Rulings (AAR) have rendered rulings in favour of and against the applicant-taxpayer on the applicability of ITC on CSR-related activities. The planned inclusion of the clause puts the matter to rest, although it is likely that the Supreme Court will rule that the provision is illegal.<sup>12</sup>

#### **2. New limitation period for filing certain returns**

A registered person is obliged to file returns, among other things, under Sections 37, which calls for the return of outbound supplies in Form GSTR-1, Section 39, which calls for the monthly return in Form GSTR-3B, and Section 44, which calls for the yearly report in Form GSTR-9. An e-commerce operator must file a statement in Form GSTR-8 by Section 52(4). Nevertheless, it is suggested to add a new restriction period, according to which a registered person or e-commerce operator cannot provide such a return or statement if three years have passed after the due date for providing the relevant return.<sup>13</sup> For a certain class of registered people, the government may, however, specify in a notification that the return may be filed more than three years after the due date. Before, Section 37 did not have a deadline for filing returns. By spending the requisite money, late returns might be submitted. Under the aforementioned clauses, a three-year time restriction has now been recommended. Yet, there doesn't seem to be any arbitrary behaviour in the application of such a deadline, and it appears that certain gaps in the GST legislation are being closed.<sup>14</sup>

#### **3. New penalty for non-compliance by e-commerce operators**

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<sup>11</sup> Fernando, J. (2023) *Corporate Social Responsibility (CSR) explained with examples*, Investopedia. Available at: <https://www.investopedia.com/terms/c/corp-social-responsibility.asp> (Accessed: 28 June 2023).

<sup>12</sup> *Corporate Social Responsibility (2023) Wikipedia*. Available at: [https://en.wikipedia.org/wiki/Corporate\\_social\\_responsibility](https://en.wikipedia.org/wiki/Corporate_social_responsibility) (Accessed: 04 June 2023).

<sup>13</sup> *Limitation periods*. Available at: <https://incometaxindia.gov.in/Charts%20%20Tables/Limitation%20periods.htm> (Accessed: 08 June 2023).

<sup>14</sup> *Taxmann* <https://www.taxmann.com>. Available at: <https://www.taxmann.com/budget/budget-story/507/union-budget-2023-2024-a-synopsis-of-the-notable-direct-tax-and-indirect-tax-proposals-of-the-finance-bill-2023> (Accessed: 02 June 2023).

The CGST Act is proposing to add a new sub-section (1B) to Section 122 that states that if an e-commerce operator permits unregistered individuals to transact through it if interstate supplies are made through it by people who aren't allowed to do so, or if the statement required to be provided under Section 52(4) contains inaccurate information about outward supplies, a penalty of Rs. 10,000 is imposed, or the amount of tax that would have been incurred had the supply.<sup>15</sup>

#### **4. Certain offences to be decriminalized, specific punishment for issuing fake invoices, change in minimum and maximum thresholds for compounding of offences<sup>16</sup>**

“Section 132 deals with punishment for certain offences. The following offences listed under Section 132(clauses g, j, k) are proposed to be decriminalized:

- a) obstructs or prevents any officer in the discharge of his duties under the Act.
- b) tampers with or destroys any material evidence or documents
- c) fails to supply any information which he is required to be supplied under the Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;”

A GST officer may be prevented from doing his responsibilities in a variety of situations; thus, the modification is beneficial since such taxpayer actions cannot be considered criminal offences. Second, even if tampering with or deleting tangible evidence may not technically constitute an economic crime, taxpayers must be given some leeway when anything is classified as an "offence" for legal purposes. Evidence tampering or destruction is not an "offence," but rather a prerequisite for the granting of bail under Section 439 of the Criminal Process Code, hence it cannot be considered such. Finally, it is impossible to classify providing misleading information as a criminal offence.<sup>17</sup> Even in the most serious situations, it never involves robbing someone of money or deceiving someone else, etc. It is an effort to escape taxes; it is not actual tax evasion; rather, it is an attempt to evade taxes by providing misleading information. Hence, it cannot be a crime and should be decriminalised. According to Section

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<sup>15</sup>*Budget 2023: Penal provisions introduced for e-commerce operators (2023) Trilegal.* Available at: [https://trilegal.com/knowledge\\_repository/budget-2023-penal-provisions-introducedfor-e-commerce-operators/](https://trilegal.com/knowledge_repository/budget-2023-penal-provisions-introducedfor-e-commerce-operators/) (Accessed: 28 June 2023).

<sup>16</sup>G.S. Bajpai & Vikram Karuna (2022) *Explained: Decriminalisation of offences under GST, The Hindu.* Available at: <https://www.thehindu.com/business/Economy/explained-decriminalisation-of-offences-under-gst/article66279310.ece> (Accessed: 04 March 2023).

<sup>17</sup>Surabhi (2022) *Financialexpress, The Financial Express.* Available at: <https://www.financialexpress.com/economy/gst-panel-relaxes-prosecution-norms/2918162/> (Accessed: 18 April 2023).

132's clause (b), providing false invoices without the provision of goods or services carries a specified punishment of one year in prison and a fine if the tax avoided or the ITC improperly claimed is between Rs. 1 crore and Rs. 2 crores.<sup>18</sup> By changing clause (c) of Section 139, the offence of providing false invoices for the purpose of avoiding taxes and improperly claiming ITC is no longer compoundable.<sup>19</sup> The amount for compounding has been changed, and now calls for a minimum payment of 25% of the tax at issue and a maximum payment of 100% of the tax at issue.<sup>20</sup>

## **5. Sharing of certain details by the GST common portal with other systems**

“A new Section 158A is proposed to be introduced where the following information furnished by the registered person may be shared by the common portal with such other systems as may be notified and in the prescribed manner:

- a) particulars furnished in the application for registration under Section 25 or the return filed under Section 39 or Section 44.
- b) particulars uploaded on the common portal for preparation of invoice, the details of outward supplies 92 furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;
- c) such other details as may be prescribed.

However, the consent of the supplier will be required under all the above clauses, and the consent of the recipient will be required in clause (b) and clause (c) where such details include the identity information of the recipient. Proposed sub-section 3 makes it clear that no action will lie against the government or the common portal for any information shared by it and there will be no impact on the liability to pay tax on the supply or basis of the return.”<sup>21</sup>

## **6. Retrospective operation for certain exemptions provided under Schedule III to the CGST Act**

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<sup>18</sup> *Offences and penalties under GST cleartax*. Available at: <https://cleartax.in/s/offences-and-penalties-gst> (Accessed: 19 April 2023).

<sup>19</sup> Poonamgandhi (2022) *Fake invoice and departmental clarification thereof*, *IndiaFilings*. Available at: <https://www.indiafilings.com/learn/fake-invoice-and-departmental-clarification-thereof/> (Accessed: 28 April 2023).

<sup>20</sup> *Central Board of Direct Taxes*. Available at: <https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/540/Compounding-Guidelines-dated-16.09.2022.pdf> (Accessed: 01 May 2023).

<sup>21</sup> *Taxmann* <https://mgst.taxmann.com>. Available at: <https://www.taxmann.com/budget/budget-story/507/union-budget-2023-2024-a-synopsis-of-the-notable-direct-tax-and-indirect-tax-proposals-of-the-finance-bill-2023> (Accessed: 05 May 2023).

The activities and transactions that fall under Schedule III are those that neither constitutes a supply of commodities nor a provision of services. The supply made from one place in a non-taxable area to another without the products entering India is covered in paragraph 7 of that document. The provision of warehoused products to anybody before approval for domestic use is covered by paragraph 8. It is proposed that each of the aforementioned sentences take effect retroactively on July 1, 2017.<sup>22</sup>

## **Integrated Goods and Services Tax Act, 2017**

### **1. Amendment of the definition of non-taxable online recipient<sup>23</sup>**

“When a person is located in the taxable territory, Section 2(16) is proposed to broaden the definition of a non-taxable online recipient to include any unregistered person who receives online information and database access and retrieval services for purposes other than commerce, industry, or any other business or profession. Online information retrieval and database access services are defined in Section 2(17).” Hence, services like downloading e-books or advertising fall within this category of services given to non-taxable internet recipients.

### **2. Change in place of supply of services by way of goods transported outside India<sup>24</sup>**

The location of the site of provision of services by mail or courier is outlined in Section 12(8). The proviso stipulates that the location of the source for commodities shipped outside of India will serve as their final destination. It is suggested that the proviso be removed. Hence, the location of the provision of services for items moved outside of India would not be outside of India.

## **The notable direct tax proposals**

### **1. New changes in Section 115BAC about slab rates under old and new tax regimes**

With the Finance Act of 2020, a new Section 115BAC was added, giving the assessee the choice of paying tax under the aforementioned provision beginning in AY 2021–2022 or under the current rates. Nevertheless, if the option to pay tax under Section 115BAC was chosen, the majority of Chapter VI-A deductions (under Section 80C, for example), as well as depreciation,

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<sup>22</sup> Gupta, A.P. (2023) *Important GST amendments in budget 2023*, TaxGuru. Available at: <https://taxguru.in/goods-and-service-tax/important-gst-amendments-budget-2023.html> (Accessed: 06 May 2023).

<sup>23</sup> Taxmann <https://mgst.taxmann.com>. Available at: <https://www.taxmann.com/budget/budget-story/450/oidar-services-under-gst-mayhem-in-order> (Accessed: 08 May 2023).

<sup>24</sup> *Gstzen GSTZen*. Available at: <https://www.gstzen.in/a/place-of-supply-of-goods-and-service.html> (Accessed: 27 June 2023).



the setting off of losses, etc., would not be accessible. The standard deduction now stands at Rs. 3,00,000 instead of Rs. 2,50,000. Nevertheless, this option won't be accessible this AY, i.e., AY 2023-2024, because of the increased standard deduction, difference in slab rates, and income. It will only be available from AY 2024-2025. The personal income tax surcharge was reduced from 37% to 25%. As a result, for individuals, HUFs, AOPs (not cooperative societies), BOIs, and artificial juridical bodies, income beyond Rs. 2 crores will only be subject to a surcharge of 25% rather than 37%.<sup>25</sup>

## **2. Interplay between the provisions of Section 44AB, Section 44AD and Section 44ADA of the Income-tax Act, 1961**

“Section 44AB provides for audit of accounts of certain persons carrying on business or profession. Proviso 1 has been amended and now provides that the said section shall not apply to persons who declare income from business or profession under Section 44AD and Section 44ADA. Therefore, no audit under Section 44AB will be required for such persons. Section 44AD provides for presumptive taxation in the hands of an eligible assessee in the case of an eligible business. The presumptive scheme can be utilized by the assesses if they are engaged in an eligible business. Clause (b) of the Explanation to Section 44AD defines 'eligible business'. Two provisos to clause (b) of the Explanation to Section 44AD have been inserted to provide that:

- i) if the total cash receipts of a business do not exceed 5% of the total turnover or gross receipts, the business will be eligible if the total turnover does not exceed 3 crores (Proviso 1)
- ii) For the (i) above, if the cheque drawn on a bank is not account payee, the amount of the receipt would be deemed to be in cash (Proviso 2)

Therefore, the business may have a turnover of up to 3 crores in case the conditions are satisfied to avoid audit under Section 44AB. Section 44ADA provides for the computation of profits and gains of a profession on a presumptive basis. Proviso 1 is inserted which states that if the total cash receipts do not exceed 5% of the gross receipts, the total gross receipts for Section 44ADA would be Rs. 75 lacs. Therefore, assuming proviso 1 is complied with, an assessee

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<sup>25</sup> *Section 115BAC of Income Tax Act: What is 115bac? eligibility, deduction & calculation (2023) Digit Insurance*. Available at: <https://www.godigit.com/income-ctax/section-115bac-of-income-tax-act> (Accessed: 15 May 2023).

may have gross receipts of up to 75 lac to claim the benefit of Section 44ADA. Proviso 2 of Section 44AD applies *mutatis mutandis* to Section 44ADA.”<sup>26</sup>

### **3. New changes in rebate under Section 87A**

For a total income up to Rs. 5,00,000, there was a Rs. 12,500 rebate available under Section 87A. Raising the total income eligible for the refund to Rs. 7,00,000 and the tax rebate to Rs. 25,000 has been raised.<sup>27</sup> As a result, residents of India who earn up to Rs. 7,00,000 would not be required to pay any income tax.

Tax Slab (in lakh)	Tax Rate (in %)
0-3	Nil
3-6	5
6-9	10
9-12	15
12-15	20
Above 15	30

<sup>28</sup>

### **4. Changes in taxability of trusts and educational institutions under Section 11 and Section 10(23C)**

By the Finance Bill of 2023, it is recommended that when an institution's operations have not yet begun, provisional permission be granted for a term of three years. The institution must submit a full registration application after three years, at least six months before the temporary authorisation expires. Subject to meeting the other requirements of the second proviso, authorisation is to be given immediately when the activities have started for a term of five years. So, the Finance Bill, 2023 in this specific context focuses on whether or not the institution's operations have "commenced".<sup>B</sup>Before the Finance Act of 2021, trusts and institutions were able to directly apply for loans and borrowings for exemptions. However, it

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<sup>26</sup> Taxmann <https://mgst.taxmann.com>. Available at: <https://www.taxmann.com/budget/budget-story/507/union-budget-2023-2024-a-synopsis-of-the-notable-direct-tax-and-indirect-tax-proposals-of-the-finance-bill-2023> (Accessed: 17 May 2023).

<sup>27</sup> Soni, C.A. (2023) *Income tax rebate under Section 87A: Claiming the 87A rebate*, *Income Tax Filing Online*. Available at: <https://tax2win.in/guide/section-87a> (Accessed: 19 June 2023).

<sup>28</sup> *Summary of the union budget 2023-24* Press Information Bureau. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1895320> (Accessed: 26 May 2023).

was discovered that loans must be returned and that any sum borrowed cannot be claimed as an exemption since it does not belong to the assessee trust seeking it. The money is not considered "income" in any way. As a result, the deduction won't be accessible until the money has been returned to the lender. The Finance Bill of 2023 establishes a deadline on repaying the loan of five years from the end of the preceding year when the amount was applied, beyond which point no deduction would be permitted. Thus, no amount applied from borrowed funds may be claimed as a deduction if the assessee trust or institution is unable to return the amount within five years. As the agreement's conditions may no longer provide a longer payback time, this is severe and burdensome for some assessee trusts or organisations. Now that the agreement must include a 5-year payback term, the assessee's freedom to enter into contracts may be restricted.<sup>29</sup> The Finance Bill of 2023 proposes to classify every payment made to a different fund, trust, or organisation that is comparable to it as an application of income to the degree that the payment exceeds 85% of the application. Nevertheless, the circumstance when voluntary donations are given to the corpus of another trust, fund, or institution is covered by the 12th proviso. It is not recognised as the application of income, perhaps to prevent transactions from being circular in which money is moved from one institution to another and an exemption is claimed. Nonetheless, if they are genuine, amounts other than donations are acceptable as applications of income.<sup>30</sup>

### **5. Changes in what constitutes benefit or perquisite under Section 28(iv)**

Benefits in kind (whether convertible into money or not) as well as benefits in cash, or partially in cash or partly in kind, are now included in the definition of benefit or perquisite under section 28(iv). The modification broadens the scope of a benefit or perk that was formerly solely intended to be given in kind. "Consequently, the ruling in *Mahindra & Mahindra Ltd. v. Commissioner of Income Tax*. (2003) 261 ITR 501 (Bom), which held that ex-facie Section 28(iv) does not apply to amounts received in cash or money, and which was cited with approval in *Prashant S. Joshi v. ITO* [2010] 324 ITR 154 (Bom) and upheld by the Supreme Court in, has been overruled." Under this expanded definition, receipts of any kind will count as perks or perquisites if they otherwise qualify.

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<sup>29</sup> *Deduction of tax at source — income-tax deduction from salaries under ...* Available at: [https://dor.gov.in/sites/default/files/1\\_0\\_0.pdf](https://dor.gov.in/sites/default/files/1_0_0.pdf) (Accessed: 28 June 2023).

<sup>30</sup> Choudhury, A. (2023) *Proposals under the finance bill 2023 and impact of the recent Supreme Court decisions in relation to charitable trusts - financial services - India, Proposals Under The Finance Bill 2023 And Impact Of The Recent Supreme Court Decisions In Relation To Charitable Trusts - Financial Services - India*. Available at: <https://www.mondaq.com/india/financial-services/1284772/proposals-under-the-finance-bill-2023-and-impact-of-the-recent-supreme-court-decisions-in-relation-to-charitable-trusts> (Accessed: 29 June 2023).

## **6. Changes in taxation of capital gains on investment in residential property**

A capital gain on the sale of a residential home is excluded under Section 54 when a new residential home is bought. However, starting on April 1, 2024, it is planned that when the price of the new asset (new residential property) surpasses Rs. 10 crores, the amount beyond Rs. 10 crores would not be considered for the capital gains exemption.<sup>31</sup>

## **7. New provision for computation of income from cooperative society<sup>32</sup>**

It is proposed to add a new Section 115BAE that, if certain requirements are met, would tax a cooperative society's revenue at 15% for AY 2024-2025 and following years, or 22% if it is not involved in the manufacturing of any goods. Short-term capital gains on transfers of capital assets for which no allowance for depreciation is made are subject to a 22% tax. One of the requirements for claiming exemption is that the co-operative society must be registered on or after April 1, 2023, have started manufacturing and producing anything before March 1, 2024, and not have been created by the division or reconstruction of another firm.

## **8. Changes in the law of reassessment/reopening of proceedings**

There is now no deadline under Section 148 for submitting a return in response to the reopening notice. "The recommended deadline to file the return is three months from the end of the month in which such notice is issued or as extended on an application filed to the Assessing Officer by the assessee." The subsequent filing of a return will be assumed to be the filing of a non-return if no return is filed within the aforementioned period.<sup>33</sup> If a search is started after March 15th for any given fiscal year, the Assessing Officer will have a further 15 days to reopen the assessment, and the notice will be regarded to have been issued on March 31st of that particular fiscal year. There is also a new limitation period for enacting an order of assessment under Section 153, which is now twelve months for any such order enacted after April 1, 2022.<sup>34</sup>

## **9. Changes in taxation of income from online games**

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<sup>31</sup> *Section 54 of Income Tax Act – Capital Gains Exemption cleartax*. Available at: <https://cleartax.in/s/section-54-capital-gains-exemption> (Accessed: 30 May 2023).

<sup>32</sup> Team, C. (2023) *Budget 2023-2024: 15% concessional tax to promote New Manufacturing Co-operative Society, CAclubindia*. Available at: <https://news.caclubindia.com/budget-2023-2024-15-concessional-tax-to-promote-new-manufacturing-co-operative-society-22009.asp> (Accessed: 28 June 2023).

<sup>33</sup> *Tax charts & tables - central board of direct taxes*. Available at: <https://incometaxindia.gov.in/pages/charts-and-tables.aspx> (Accessed: 13 June 2023).

<sup>34</sup> *Tax Department reopening old tax assessments based on algorithm The Economic Times*. Available at: <https://economictimes.indiatimes.com/news/economy/finance/tax-department-reopening-old-tax-assessments-based-on-algorithm/articleshow/90191453.cms> (Accessed: 17 June 2023).

It is now obvious that Section 115BB, which is used to tax winnings from card games, horse races, and other activities, does not apply to winnings from online gaming. It is suggested that a new Section 115BBJ be added, which would tax internet games. Online gaming income will be taxed at a rate of 30%. “An ‘online game’ is a game that is offered online and that a user can access through a computer resource, including any telecommunication equipment, as described in clause (iii) of the Explanation.” The aforementioned Explanation defines “Internet” and “computer resource” as well.<sup>35</sup> Starting on July 1st, 2023, wins from online games are exempt from TDS under Section 194B. To deduct TDS on profits from an online game, a new section 194BA is being suggested. The charge section, subsection 1, provides for TDS to be deducted in the manner specified. It is made clear by Proviso 1 that a TDS deduction is required regardless of when a withdrawal from the account occurs throughout the financial year. On net wins, the TDS must be subtracted. TDS must be taken out of the user account after the fiscal year.<sup>36</sup> Regardless of whether the amount is in cash or in-kind, TDS must be applied to net winnings. If there are issues with how the laws are being put into practice, the CBDT may issue regulations. Due to the complexities inherent in interpreting those sections, identical instructions/regulations have been adopted under Sections 9B and 45(4) in comparable situations.<sup>37</sup>

## **10. Miscellaneous**

- a) No matter where the investor resides, a company would be subject to the proposed Angel Tax under Section 56(2) (viib). Hence, after April 1, 2024, investments made by non-residents will also be eligible for this provision.<sup>38</sup>
- b) A business incorporated up until the first of April 2024 is now included in the definition of an eligible start-up under Section 80-IAC.<sup>39</sup>

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<sup>35</sup> *Winnings from online games to be taxed at flat 30%, on par with Cryptos, proposes budget 2023* *The Economic Times*. Available at: <https://economictimes.indiatimes.com/wealth/tax/winnings-from-online-games-to-be-taxed-at-flat-30-on-par-with-cryptos-proposes-budget-2023/articleshow/97527415.cms> (Accessed: 18 June 2023).

<sup>36</sup> Guest (2023) *Financialexpress, Online Gaming Tax in India 2023: Taxability of winnings from Online Games – A Pandora’s Box | The Financial Express*. Available at: <https://www.financialexpress.com/money/online-gaming-tax-in-india-2023-taxability-of-winnings-from-online-games-a-pandoras-box/2993013/> (Accessed: 19 June 2023).

<sup>37</sup> *Online gamers should watch out for new TDS, income tax provisions on winnings* (2023) *Business Today*. Available at: <https://www.businesstoday.in/opinion/columns/story/online-gamers-should-watch-out-for-new-tds-income-tax-provisions-on-winnings-369473-2023-02-08> (Accessed: 20 June 2023).

<sup>38</sup> *No angel tax on past foreign investments in startups* *The Economic Times*. Available at: <https://economictimes.indiatimes.com/tech/startups/no-angel-tax-on-past-foreign-investments-in-startups/articleshow/97586882.cms?from=mdr> (Accessed: 20 June 2023).

<sup>39</sup> Editor (2023) *Section 80-IAC deduction- incorporation date extended for eligible start-up*, *TaxGuru*. Available at: <https://taxguru.in/income-tax/section-80-iac-deduction-incorporation-date-extended-eligible-start-up.html> (Accessed: 21 June 2023).

c) It is proposed to create a new Section 50AA to tax capital gains on the sale of market-linked debt obligations without including the STT paid as part of the transfer.<sup>40</sup>

d) The MSME Act of 2006's Section 15 specifies a time restriction for payments to be made, and it is suggested to add a new clause (h) to this Section to prohibit deductions made under this Section for any amounts paid after that period. The aforementioned clause calls for payments to be paid by the buyer to the supplier within a specific period; if the payment is not made within that time, Section 43B deductions are not permitted.<sup>41</sup>

## **Conclusion**

The Finance Minister today unveiled the Budget 2023, which nearly covers all areas of national development parameters with generous endowments and is genuinely geared towards ensuring that no area of the country is left behind in terms of growth, i.e., walking the rhetoric of "Sabka Sath Sabka Vikas. Despite this, appropriate attention has been given to the priority areas, such as infrastructure, health, the environment, agriculture, and backward groups and areas, to ensure that the main economic forces continue to propel overall economic and national growth. The seven priorities—inclusive development, reaching the last mile, infrastructure and investment, unleashing potential, green growth, youth power, and financial sector—are appropriately positioned for growth and should not be confused with populist measures, which frequently dominated previous governments' final full budgets." By encouraging savings, consideration has been given to the needs of women and senior residents.<sup>42</sup> The admirable feature is that all of these goals have been predicted to be met while upholding standards of financial responsibility. By connecting the customs tariff structure with the Make-in-India, PLI, and other programmes, among others, the tax ideas represent holistic thinking and support the wider national aspirations. Together with other key measures included in the Budget that stimulate savings, investments, and growth, this also includes a review of direct tax compliances.<sup>43</sup> In all, 2023-24 is a budget for inclusive growth.

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<sup>40</sup> Teachoo (2023) *Complete details new section 50aa - capital gains in case of market*, teachoo. Available at: <https://www.teachoo.com/20129/4235/New-Section-50AA---Capital-gains-in-case-of-Market-Linked-Debt/category/Budget-Changes-2023/> (Accessed: 22 June 2023).

<sup>41</sup> *Taxmann* (no date) <https://mgst.taxmann.com>. Available at: <https://www.taxmann.com/budget/budget-story/449/payments-to-micro-and-small-enterprises-now-covered-us-43b-of-the-act> (Accessed: 23 June 2023).

<sup>42</sup> *Welcome to the United Nations*. Available at: [https://www.un.org/en/ecosoc/docs/pdfs/fina\\_08-45773.pdf](https://www.un.org/en/ecosoc/docs/pdfs/fina_08-45773.pdf) (Accessed: 25 June 2023).

<sup>43</sup> *EY Global Review 2020*. Available at: [https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_gl/topics/global-review/2020/ey-global-review-2020-v3.pdf?download](https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/global-review/2020/ey-global-review-2020-v3.pdf?download) (Accessed: 25 June 2023).