ERNAKULAM BRANCH OF SIRC OF ICAI

ONE DAY SEMINAR ON UNION BUDGET 2024

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CLAUSE BY CLAUSE DISCUSSION ON DIRECT TAXES PROPOSALS

Profit and Gains from Business or Profession

i. Amendment in section 28 – Income from letting out of a residential house

- → It is proposed to insert Explanation 3 to clarify that income from letting out of a residential house or a part of the house by the owner shall not be chargeable under the head "Profits and Gains of Business or Profession" and shall be chargeable under the head "Income from House Property."

- → The rationale for this amendment is that observations were made that some taxpayers are reporting rental income from letting out of house property under the head "Profits and Gains of Business or Profession" instead of "Income from House Property" and hence reducing their tax liability substantially by showing house property income under the wrong head of income.

- → This amendment can be used to fortify the position that income from rental of shops and establishments in malls is to be taxed under the head "Profit and Gains from Business or Profession".

- → This amendment is proposed to take effect from assessment year 2025-26

ii. Increase in deduction for contribution to Pension scheme under section 80CCD

- → Amendment u/s.36(1)(iva) is proposed to be made to increase the amount of employer contribution allowed as deduction to the employer (to be made while computing income under the head Profits and Gains of Business or Profession), from 10% to 14% of the salary of the employee in the previous year.

- → Consequently it is proposed to amend section 80CCD(2) which provides for deduction in the hands of the employee for contribution made by any other employer (not being Central Government or State Government) to a pension fund. The deduction is proposed be allowed on amount not exceeding 14% (previously 10%) of the employee's salary, where the employee opts to pay taxes under the new tax regime u/s.115BAC(1A).

- → This amendment is proposed to take effect from assessment year 2025-26.

iii. Amendment in section 37 – Expenditure incurred for any purpose which is prohibited by law

→ Insertion of clause (iv) to Explanation 3 is proposed to provide that "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" shall include any expenditure incurred by an assessee to settle proceedings initiated in relation to a contravention of such law (for the time being in force), as may be notified by the Central Government in the Official Gazette.

→ The rationale for this amendment is that settlement amounts arise from legal infractions and contraventions etc., and therefore should not be allowable as business expenses.

→ This amendment is proposed to take effect from assessment year 2025-26.

iv. Amendment in section 40 – Increase in limit of remuneration to working partners of a firm allowed as deduction

→ Section 40(b)(v) provides for disallowance of any payment of remuneration to any partner who is working partner. The current limit was first put place in the statute w.e.f. assessment year 2010-2011.

→ It is proposed to amend the limit of remuneration to working partners in a partnership firm, which is allowed as deduction. It is proposed that on the first Rs.6,00,000 of the book-profit or in case of a loss, the limit of remuneration is increased to Rs.3,00,000 or at the rate of 90 per cent of the book-profit which ever is more as follows:

(a)	on the first Rs. 6,00,000 of the book profit or in case of a loss	Rs. 3,00,000 or at the rate of 90 per cent of the book profit, whichever is more
(b)	on the balance of the book profit	at the rate of 60 per cent

→ This amendment is proposed to take effect from assessment year 2025-26.

v. Amendment in section 43D – Removal of reference to National Housing Bank

→ It is proposed to remove reference to National Housing Bank by omitting section 43D(b) of the Act and clause (a) and (b) of Explanation to section

43D of the Act. It is also proposed to remove the words “public companies” in the marginal heading.

- → Section 43D(b) of the Act states that in the case of a public company involved in housing finance, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the National Housing Bank (NHB) in relation to such debts shall be chargeable to tax in the previous year in which it is credited by the public company to its profit and loss account for that year or, as the case may be, in which it is actually received by that company, whichever is earlier. Explanation to the said section also contains references to National Housing Board.

- → However, the Finance (No. 2) Act, 2019 (23 of 2019) has amended the National Housing Bank Act, 1987, conferring powers for regulation of Housing Finance Companies (HFCs) with Reserve Bank of India (RBI). Consequently, HFCs have come under the purview of the RBI as a category of Non-Banking Financial Companies (NBFCs). In the Act, separate provisions already exist in section 43D with respect to NBFCs and therefore the omission has been made.

- → This amendment is proposed to take effect from assessment year 2025-26.

vi. <u>Presumptive taxation for domestic cruise ship operations for Non-Residents</u>

- → It is proposed to insert a new Section 44BBC, which, subject to prescribed conditions, deems 20% of the aggregate amount received/ receivable by, or paid/ payable to, the non-resident cruise-ship operator, on account of the carriage of passengers, as profits and gains of such cruise-ship operator.

- → It is also proposed to insert a new clause (15B) in Section 10 to exempt the lease rentals, by whatever name called paid by a specified company, in the hands of the recipient foreign company, and such recipient foreign company and the specified company are subsidiaries of the same holding company; and such incomes is received, accrues or arises in India till assessment year 2030-31.

- → Subsidiary company and holding company have been defined in the Explanation to this new clause as follows:

- “specified company” means any company, other than a domestic company which operates cruise ships in India and opts to pay tax in accordance with the provisions of section 44BBC.

- “holding company”, in relation to a foreign company or a specified company, means a company of which such companies aresubsidiary companies;

- “subsidiary company” or “subsidiary”, in relation to a holding company, means a company in which the holding company exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies.

→ Consequently, it is also proposed that provisions of Section 44B relating to presumptive taxation for shipping business of non-residents, shall no longer apply to cruise-ship business.

→ These amendments are proposed to take effect from assessment year 2025-26.

Capital gains and Income from Other Sources

i. **Amendments in determination of period of holding u/s.2(42A)**

→ It is proposed that there will only be two holding periods, 12 months and 24 months, for determining whether the capital gains is short-term capital gains or long term capital gains.

→ For all listed securities, the holding period is proposed to be 12 months and for all other assets, it shall be 24 months.

→ This amendment would apply for transfers which takes place on or after the 23rd of July 2024.

→ However, for slump sale - short term capital gains is to be computed if the undertaking sold is held for less than or equal to 36 months since no amendments have been made to that section.

ii. Amendments in rates of tax for Capital Gains

- → The tax rate for short-term capital gain under provisions of section 111A of the Act on the transfer of equity shares on which STT has been paid, units of equity oriented mutual fund and unit of a business trust is proposed to be increased to 20% from the present rate of 15%. Other short-term capital gains shall continue to be taxed at applicable rate.

- → The rate of long-term capital gains is proposed to be 12.5% in respect of all category of assets. This rate earlier was 10% for STT paid listed equity shares, units of equity-oriented fund and business trust under section 112A and for other assets it was 20% with indexation under section 112.

- → Indexation available under second proviso to section 48 is proposed to be removed for calculation of long-term capital gains.

- → However, an exemption of gains upto Rs.1,25,000/- (in aggregate) is proposed for long-term capital gains under section 112A on STT paid equity shares, units of equity oriented fund and business trust, thus, increasing the previously available exemption which was upto Rs.1,00,000/- of income from long term capital gains on such assets.

- → To bring parity of taxation between residents and non-residents, corresponding amendments to sections 115AD, 115AB, 115AC, 115ACA and 115E (which provide for taxation in the case of specific classes of non-residents) are also proposed to be made to align the rates of taxation in respect of long-term capital gains proposed under section 112A and 112 and rates of short term capital gains proposed under section 111A.

- → Further, consequential amendments to align the withholding tax provisions with the substantive provisions to give effect to the proposed changes in rates of capital gains tax are being made under section 196B and 196C. (115AB / 115AC)

- → These amendments is proposed to be applicable for transfers which takes place on or after the 23rd of July 2024.

iii. Amendments in Section 50AA

- → Finance Act, 2023 had introduced special taxation regime of deemed short term capital gains taxation for Market Linked Debentures and Specified Mutual Funds by introduction of Sec 50AA.

→ The Finance Bill 2024 proposes to amend the definition of "Specified Mutual Fund" under clause (ii) of Explanation of Section 50AA to provide that a specified mutual fund shall mean:

(a) A mutual fund investing more than 65% of its total proceeds in debt and money market instruments; or

(b) A fund investing 65% or more of its total proceeds in units of such funds.

→ Unlisted bonds and Unlisted debentures which are transferred, redeemed or matures on or after 23.07.2024 are proposed to be taxed at applicable rates as short term capital gains by including them under Section 50AA which is relating to special provision for computation of capital gains in case of Market Linked Debentures.

→ The amendment is proposed to take effect from assessment year 2026-27.

iv. Amendment in section 55 - Cost of Acquisition for Certain Shares under Offer-for-Sale Route

→ Prior to Finance Act, 2018, section 10(38) of the Act provided for exemption in respect of gains arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust where the transaction is subject to Securities Transaction Tax (STT). Finance Act, 2018 withdrew the exemption on long-term capital gains from the transfer of equity shares if STT is paid on both acquisition and transfer.

→ A specific provision in the form of section 112A of the Act was inserted to tax long-term capital gains on transfer of equity shares on which STT is paid at the time of acquisition and transfer. Simultaneously, section 55(2)(ac) of the Act was inserted to provide a special mechanism for computation of cost of acquisition in respect of assets covered under section 112A of the Act and acquired prior to 01.02.2018.

→ The cost of acquisition under section 55(2)(ac) of the Act, for an asset referred to in section 112A is to be determined as per the following formula:

Higher of (a) and (b), where:

(a) Actual cost of acquisition

(b) lower of:

(i) Fair Market Value (FMV) of shares as of 31st January 2018; and

(ii) Full value of Consideration received upon sale

- → Further, sub-clause (iii) of clause (a) of the Explanation to section 55(2)(ac) of the Act provides for the 'fair market value' where the capital asset is an equity share in a company which is not listed on a recognised stock exchange as on the 31st day of January, 2018 **but listed on such exchange on the date of transfer** or, listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on 31.01.2018 by way of transaction not regarded as transfer under section 47. The Explanation thus envisages defining the Fair Market Value of shares which are listed at the time of transfer.

- → In such cases, "fair market value" means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the financial year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the first day of April, 2001, whichever is later.

- → Thereafter, as provided by section 112A(4) of the Act, the Central Government notified some cases of acquisitions to be given the benefits of section 112A where STT could not have been paid at the time of acquisition. Due to the notification, the condition of payment of STT was relaxed for transactions of acquisition which are not chargeable to STT other than some exceptional situations defined. As a consequence, the payment of STT at the acquisition is not required for unlisted equity shares.

- → Due to this relaxation, a lacuna has arisen in computation of cost of acquisition under section 55(2)(ac) of the Act in the case of equity shares transferred under Offer-For-Sale (OFS) as part of Initial Public Offering (IPO) where STT is paid at the time of transfer. Since the condition of STT payment at the time of acquisition is relaxed through the aforementioned Notification, it becomes an asset referred to under section 112A. Hence, for determination of cost of acquisition under section 55(2)(ac) of the Act, the computation of FMV as on 31.01.2018 as per the Explanation is required to be determined. However, the equity shares at the time of OFS are unlisted on the date of transfer, since the listing happens a few days after the transfer, and therefore some taxpayers have taken a plea that the

computation of FMV is not covered on a literal reading of the Explanation to section 55(2)(ac).

→ Therefore a proposal is made to amend sub-clause (iii) of clause (a) of the Explanation to section 55(2)(ac) of the Act, to specifically provide that in a case where the capital asset is an equity share in a company which is not listed on a recognised stock exchange as on the 31st day of January, 2018, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st day of January, 2018 by way of transaction not regarded as transfer under section 47, but listed on such exchange subsequent to the date of transfer, where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer, "fair market value" would mean an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the financial year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the first day of April, 2001, whichever is later.

→ This amendment is proposed to be deemed to apply retrospectively from assessment year 2018-19 onwards.

v. <u>Amendment in section 47(iii) – Gift</u>

→ Section 47 of the Act provides exclusion to certain transactions not regarded as transfer for the purposes of chargeability under 'Capital Gains' under section 45. The first proviso to the said clause makes an exception to the clause in respect of specified ESOPs.

→ Section 47(iii) provides that nothing contained in section 45 shall apply to any transfer of a capital asset under a gift or will or an irrevocable trust.

→ Various High Courts and Tribunals have held that transaction of gift of shares by a person other than an Individual or a HUF is still not liable to capital gains tax, in view of the provisions of section 47(iii) of the Act.

Jai Trust v UOI [2024] 160 taxmann.com 690 (Bombay)

Gujarat Infrapipes P.Ltd v DCIT (2024] 111 ITR (Trib) (S.N.) 47 (Ahmedabad)

→ Hence, it is proposed to substitute section 47(iii) and its proviso, to provide that nothing contained in section 45 shall apply to transfer of a capital asset, under a gift or will or an irrevocable trust, by an individual or a Hindu

undivided family. The rationale is that a gift is given out of natural love and affection.

→ These amendments is proposed to take effect from assessment year 2025-26.

vi. Buyback of shares

→ Section 115QA(1) has been proposed to be amended by adding a proviso which provides that that the provisions of the this 115QA(1) shall not apply in respect of any buyback of shares which takes place after 01.10.2024.

→ It is proposed to add sub clause (f) to section 2(22) to provide that the sum paid by a domestic company for purchase of its own shares as per section 68 of The Companies Act, 2013 shall be treated as dividend in the hands of shareholders, and shall be charged to income-tax at applicable rates.

→ It is proposed to insert a proviso to section 57(1)(b) to provide that no deduction for expenses shall be available against such dividend income while determining the income from other sources.

→ It is proposed to amend section 46A to provide that the consideration received by the shareholders on buyback of shares would be considered as Nil and therefore the cost of acquisition of the shares which have been bought back would generate a capital loss in the hands of the shareholder as these assets have been extinguished.

→ Therefore when the shareholder has any other capital gain from sale of shares or otherwise subsequently, he would be entitled to claim his original cost of acquisition of all the shares.

→ It is also proposed to amend section 194 of the Act to include dividends paid u/s.2(22)(f).

→ The rationale for this amendment is that both dividend as well as buy-back are methods for the company to distribute accumulated reserves and thus ought to be treated similarly.

→ This amendment is proposed to be applicable for buybacks on or after 01.10.2024.

→ However, it is not clear if the company does not have accumulated reserves on the date of buyback, whether the proposed provisions of section 2(22)(f) would be applicable.

→ Further, given the fact that buy back of shares would be considered as dividend in the hands of the shareholder, a question arises as to whether a deduction u/s.80M would be applicable on receipt of proceeds from buyback of shares.

→ It may also be noted that if the shareholders of the company are non-residents or a foreign company, buy back of shares may still continue to be taxed as capital gains if the non-resident or the foreign company opts to avail the provisions of the DTAA. If the provisions of DTAA are not preferred, then the dividend would be taxed u/s.115A at a rate of 20% plus applicable Surcharge and Education Cess.

→ It is also pertinent to note that the sums paid by a domestic company would fall within the ambit of the proposed section 2(22)(f) which means that shares owned by a domestic company or a resident in India bought back by a foreign company would not be considered as dividend u/s.2(22)(f) and would continue to be considered as capital gains.

vii. <u>Section 56(2)(viib) – Angel Tax</u>

→ Section 56(2)(viib) of the Act was inserted to prevent generation and circulation of unaccounted money through share premium received from persons in a closely held company in excess of its fair market value and is not applicable for consideration received from non-resident investors exceeding such fair market value shall be chargeable to income tax under the head “Income from other sources”.

→ Amendment to section 56(2)(viib) of the Act is proposed to provide that the provisions of this clause shall not apply from the assessment year 2025-26.

viii. <u>Amendment in section 57 – Family pension</u>

→ The existing provision of section 57(iia) of the Act provides that in the case of income in the nature of family pension, a deduction of a sum equal to thirty-three and one-third per cent of such income or fifteen thousand rupees, whichever is less, shall be made before computing the income chargeable under the head "Income from other sources".

→ With It is also proposed to insert a proviso in clause (iia) of section 57 to provide that in a case where income-tax is computed under section 115BAC(1A)(ii) of the Act (i.e., the proposed new tax rates) the provisions of this clause shall have effect as if for the words "fifteen thousand rupees", the words "twenty five thousand rupees" had been substituted.

→ This amendment is proposed to take effect from assessment year 2025-26.

International Taxations & Transfer Pricing

i. Amendment in section 92CA – Maintenance, keeping and furnishing of information in Transfer Pricing

→ It is proposed to include "specified domestic transaction" also within the ambit of Sections 92CA(2A) and 92CA(2B) such that specified domestic transactions which are **not referred by AO** and/ or not reported in the TP audit report may also be considered by TPO for determination of ALP.

→ This amendment is proposed to take effect from assessment year 2025-26.

Times Global Broadcasting Company Ltd. v UOI [2019] 413 ITR 42 (Bombay) – No longer applicable
Swastik Coal Corporation Pvt Ltd [TS-714-ITAT-2019(Ind)-TP] – Confirmed
DP Jain Nagda Gogapur BOT Annuity Project Pvt Ltd [TS-45-ITAT-2022(NAG)-TP] - Confirmed

Tax Rates

i. Amendment in section 115BAC – New Regime

→ It is proposed that the following rates provided under the proposed clause section 115BAC(1A)(ii) of the Act shall be the rates applicable for determining the income-tax payable in respect of the total income of a person, being an individual or Hindu undivided family or association of persons [other than a co-operative society], or body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2:

Sl. No.	Total income	Rate of tax
(1)	(2)	(3)
1.	Upto Rs.3,00,000	Nil
2.	From Rs.3,00,001 to Rs.7,00,000	5 per cent.
3.	From Rs.7,00,001 to Rs.10,00,000	10 per cent.
4.	From Rs.10,00,001 to Rs.12,00,000	15 per cent.
5.	From Rs.12,00,001 to Rs.15,00,000	20 per cent.
6.	Above Rs.15,00,000	30 per cent.

ii. Foreign Company

→ It is proposed that tax rates in case of foreign companies be reduced from 40% to 35% on income other than income chargeable at special rates specified under Chapter XII (sections 110 to 115BBJ).

Exemption u/s.10

i. Incentivization of operations from IFSC

→ The Item (I) of sub-clause (i) of clause (c) of Explanation in section 10(4D), is proposed to be amended to expand the ambit of specified funds which can claim exemption under the said section, to include retail funds and Exchange Traded Funds in IFSC.

→ Specified income of Core Settlement Guarantee Funds set up by recognised clearing corporations in IFSC, is proposed to be exempted by amending the definition of "recognised clearing corporation" and "regulations" in the Explanation to the clause (23EE) of section 10 of the Act.

→ Finance Act, 2023 amended the provisions of section 68 so as to provide that the nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider.

→ However, this additional onus of proof of satisfactorily explaining the source in the hands of the creditor, would not apply if the creditor is a well regulated entity, i.e., it is a Venture Capital Fund (VCF) or Venture Capital Company (VCC) registered with SEBI. Section 68 accordingly makes a reference to the definition of VCF/VCC in the Explanation to clause (23FB) of section 10.

→ It is now proposed to extend the relaxation in place for VCFs registered with SEBI, to those VCFs which are regulated by IFSCA. It is therefore, proposed to amend the definition of VCF in the Explanation to clause (23FB) of section 10, to include VCFs in IFSC.

→ It is also proposed that the provisions of section 94B shall not apply to finance companies, located in IFSC, as defined in clause (e) of sub-regulation (1) of regulation 2 of the IFSCA (Finance Company) Regulations, 2021 made under the IFSCA Act, 2019, which satisfy such conditions and carry on such activities as may be prescribed.

→ These amendments is proposed take effect from assessment year 2025-26.

Assessment / Reassessment procedures

i. Amendments in connection with return of income in pursuance of order passed u/s.119(2)(b)

→ An amendment is proposed u/s.139 to provide that where any return of income is furnished in pursuance of an order under section 119(2)(b), the provisions of this section 139 shall apply.

→ Consequently amendment has been made u/s.153(1B) (which currently provides for time limits to complete assessments under sections 143(3) and 144) to provide that where a return is furnished in consequence of an order under u/s.119(2)(b) the time limit for passing of an assessment order may be made before the expiry of 12 months from the end of the financial year in which such return is furnished.

→ This amendment is proposed to take effect from 01.10.2024

ii. Removal of Search u/s.132 and Requisition u/s.132A from the ambit of reassessment

→ It was observed that due to absence of any legal requirement for consolidated assessments in search cases under Section 148, a situation arose where every year only the time-barring year is reopened in the case of the searched assessee which resulted in staggered search assessments for the same search and consequentially, the searched assessee may be engaged in the search assessment process for almost up to ten years.

→ In order to make the procedure of assessment of search cases cost effective, efficient and meaningful, the Finance Bill, 2024 proposes to introduce the scheme of 'block assessment' for the cases in which search under Section 132 or requisition under Section 132A has been initiated or made. The scheme of block assessment has been provided for in Chapter XIV-B.

iii. <u>Substitution of section 148A of the Act</u>

→ Sections 148A(a) to (d) in the current regime have been substituted with sections 148A(1) to (3) and a new sub-section 148A(4) has been included.

→ Section 148A(1) is proposed to provide that where the Assessing Officer has information which suggests that income chargeable to tax has escaped assessment he shall provide an opportunity of being heard to such assessee, by serving upon him a notice to show cause as to why a notice under section 148 should not be issued in his case, **and such notice shall be accompanied by the information which suggests that income chargeable to tax has escaped assessment** in his case for the relevant assessment year.

→ The provision that the Assessing Officer is to provide the information in his possession to the assessee has not been explicitly stated in the current law. However, various High Courts have held that the material forming basis of such information must be supplied to the assessee.

- ***Best Buildwell (P.) Ltd. v ITO [2022] 447 ITR 26 (Delhi)***
- ***Vinod Lalwani v UOI [2023] 455 ITR 738 (Chhattisgarh)***
- ***Anurag Gupta v ITO [2023] 454 ITR 326 (Bombay)***
- ***ACIT v SABH Infrastructure Ltd. [2024] 461 ITR 339 (SC) – SLP dismissed - under the old reassessment framework***

→ However, the Hon'ble Madhya Pradesh High Court in the case of ***Amrit Homes (P.) Ltd. v DCIT [2023] 457 ITR 334 (Madhya Pradesh)*** has held that the statute does not compel Assessing Officer to supply material/evidence (documentary/oral) on basis of which aforesaid opinion has been formed by Assessing Officer. This decision under the proposed law may not apply.

→ On receipt of notice under section 148A(1), the assessee may furnish his reply, within such time, as may be specified in such notice. The Assessing Officer shall, on the basis of material available on record and

taking into account the reply of the assessee furnished under 148A(2), if any, pass an order with the prior approval of the specified authority under section 148A(3), determining whether or not it is a fit case to issue notice under section 148.

→ It can be noted that no timelines are specified in which the assessee is required to comply for the notices issued under this section also for passing an order u/s.148A(3).

→ The procedure to conduct enquiry in the current law has been done away with.

→ It has also been proposed to exclude the applicability of this section in cases where the Assessing Officer received information under the scheme notified u/s.135A of the Act. However, in such a case, notice u/s.148 can only be issued with the prior approval of the specified authority.

iv. <u>Substitution of Section 148 – Notice for reopening</u>

→ Presently the time limit for filing the return of income is within 3 months from the end of the month in which the notice u/s.148 is issued, or any such extended period as may be granted by the Assessing Officer on the basis of an application from the assessee.

→ In the proposed law, the timelines in connection with furnishing of returns remains the same, however the provision for the Assessing Officer to extend the timeline to furnish the return of income on the basis of an application from the assessee has been removed.

→ Further, the meaning of the term “information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment”, would include any information in the case of the assessee emanating from a survey conducted u/s.133A other than in case of a TDS survey on or after 01.09.2024.

→ In the current regime, where a survey [other than 133A(2A)] has been conducted in the case of the assessee, the Assessing Officer is deemed to have information which suggests that the income chargeable to tax has escaped assessment. The words used in the current law are reproduced below:

"a survey is conducted under section 133A, other than under sub-section (2A) of that section, on or after the 1st day of April, 2021, in the case of the assessee"

→ It can be noted that the words used have been modified and on reading the proposed law it may be noted that survey in the premises of any person other than the assessee but information is received in the case of the assessee may also be termed as information chargeable to tax has escaped assessment.

v. <u>Substitution of Section 149 – Time limit for issuance of notice u/s.148</u>

→ The current law does not provide for limitation for issuance of notice u/s.148A of the Act but provides limitation only for issuance of notice u/s.148. However, the proposed law provides for limitation for issuance of notice u/s.148 as well as u/s.148A.

→ The limitation for issuance of notice under section 148A and section 148 of the Act is proposed to be provided in section 149 of the Act as follows:

- No notice under sections 148A shall be issued if three years have elapsed from the end of the relevant assessment year.

- No notice under section 148 shall be issued if three years and three months have elapsed from the end of the relevant assessment year.

- However, where as per the information with the Assessing Officer, the income escaping assessment amounts to or is likely to amount to fifty lakh rupees or more, notice under section 148A can be issued beyond the period of three years but not beyond the period of five years from the end of the relevant assessment year;

- Where the Assessing Officer has in his possession books of account or other documents or evidence related to any asset or expenditure or transaction or entry (or entries) which show that the income chargeable to tax, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more, notice under section 148 can be issued beyond the period of three years and three months but not beyond the period of five years and three months from the end of the relevant assessment year

→ As on date, the only assessment year which would be affected by the reduction of timelines for issuance of notice u/s.148 (in cases where the

income chargeable to tax has escaped assessment is likely to be Rs.50,00,000/- or more) would be assessment year 2018-19.

→ For example, as per the proposed regime the due date for issuance of notice u/s.148 would be 30.06.2024 and as per the current law the due date is 31.03.2025 as per the first proviso to Section 149 (exclusions for computation of time limits provided in the respective provisos to section 149 not considered).

→ However, since the proposed law is only applicable from 01.09.2024, the revenue has time until 31.08.2024 to issue notices u/s.148 for the assessment year 2018-19

vi. <u>Amendment in Section 151 – Sanction for issue of notice u/s.148 & 148A</u>

→ It has been proposed that the specified authority for the purpose of sections 148 and 148A shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

→ It may be noted that no bifurcation has been made based on the time limits proposed u/s.149.

vii. <u>Amendment in Section 152 – Reasssesement / Search prior to 01.09.2024</u>

→ It is proposed to amend the section 152 of the Act so as to provide that where a search has been initiated under section 132 or requisition is made under section 132A or a survey is conducted under section 133A [other than under sub-section (2A)] on or after the 1st day of April, 2021 but before the 1st day of September, 2024, the provisions of section 147 to 151 shall apply as they stood immediately before the commencement of the Finance (No.2) Act, 2024.

→ It is also proposed to amend section 152 of the Act so as to provide that where a notice under section 148 has been issued or an order u/s.148A(d) has been passed, prior to 01.09.2024, the assessment, reassessment or re-computation in such case shall be governed as per the provisions of sections 147 to 151, as they stood prior to their amendment by Finance (No.2) Act, 2024.

→ However, no provision has been made if notice u/s.148A(b) has been issued before 01.09.2024 but order u/s.148A(d) has not been passed before 01.09.2024.

→ The proposed provisions in sections 148, 148A, 149 and 151 is proposed to be substituted with effect from 01.09.2024

Assessment in the case of Search / Requisition

i. **Introduction of block assessment provisions in cases of search under section 132 and requisition under section 132A**

DEFINITIONS

→ Block period means period comprising of previous relevant to 6 assessment years preceding the previous year in which the search was initiated u/s.132 or any requisition was made u/s.132A and also includes the period starting from the 01.04 of the previous year in which the search was initiated or requisition was made and ending on the date of the execution of the last of the authorization for such search or such requisition

→ Undisclosed income includes

- Any money, bullion, jewellery or other valuable article or thing or
- Any expenditure or any income based on any entry in the books of account or other documents or transactions

  Where such money, bullion, jewellery, valuable article or thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act or

- Any expense, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period

ASSESSMENT OF TOTAL INCOME AS A RESULT OF SEARCH – SECTION 158BA

→ Applicable to search initiated u/s.132 or a requisition made u/s.132A on or after 01.09.2024

→ Assessment, Reassessment, recomputation pertaining any assessment year falling in the block period pending on the date of initiation of search u/s.132 or requisition u/s.132A shall abate

→ Where in the course of any assessment etc., reference have been made to TPO u/s.92CA(1) or where an order u/s.92CA(3) has been passed such assessment etc. along with such reference made or order passed, shall also abate

→ Where any assessment under this chapter is pending in whose case a subsequent search is initiated or a requisition is made, such assessment shall be completed and thereafter the assessment in respect of such subsequent search or requisition shall be made.

→ If the time limit for completing the assessment in respect of the subsequent search is less than 3 months such period shall be extended to 3 months from the end of the month in which the assessment of the earlier search was completed.

→ The total income other than the undisclosed income of the assessment year relevant to the previous year in which the last of the authorization is executed, shall be assessed separately

→ Total income relating to block period shall be charged to tax at rates specified u/s.113 which is 60% plus surcharge if any levied by the Central Act. As on date no surcharge has been proposed.

→ If any proceeding under initiated under this chapter or any order of assessment / reassessment u/s.158BC(1)(c) has been annulled in appeal or any other legal proceeding, then notwithstanding the provisions of this chapter or section 153(2), the assessment or reassessment for the abated years shall revive with effect from the date of the receipt of order of such annulment by the PCIT / CIT.

→ If the annulment is set aside, such revival shall cease to have effect.

Computation of Total income of Block Period – Section 158BB

→ Total income shall be aggregate of the following – Section 158BB(1):

- Total income disclosed in the return filed u/s.158BC

- Total income assessed u/s.143(3) or 144 or 147 or 153A or 153C prior to the date of initiation of search or requisition
- Total income declared in the return of income filed u/s.139 or 142(1) or 148 and not covered in above
- Total income determined where the previous year has not ended on the basis of entries relating to such income or transactions as recorded in the books of account maintained in the normal course on or before the last of authorization for the search or requisition relating to such previous year
- Undisclosed income determined by the Assessing Officer.

→ Undisclosed income shall be computed as follows:

- On the basis of evidence found as a result of search or survey or requisition of books of account or other documents and such other materials or information as are either available with the AO or come to his notice during the course of proceedings under this Chapter.

→ International transactions and specified domestic transactions

- Where any evidence found as a result of search or requisition and

- Such other materials or information as are either available with the AO or come to his notice during the course of proceedings under this Chapter or

- Determined on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course on or before the date of search or requisition

Relates to any international transaction or specified domestic transaction referred to in section 92CA and pertaining to period from 01.04 of the previous year in which the last of authorization was executed and ending with the date on which the last of authorization was executed.

Then the said evidence shall not be considered for the purpose of determining the total income of block period. The same shall be considered in the assessment made under other provisions of this Act

→ For the purpose of determination of undisclosed income

(i) In the case of a firm the income determined for each of the year in the block period shall be before allowing deduction of salary, interest, commission, bonus or remuneration to any partner not being a working partner

(ii) Provisions of sections 68 to 69C shall apply. Reference to financial year in those sections shall be referred to relevant previous year falling within the block period

(iii) Provisions of section 92CA shall apply. Reference to previous year in that section shall be referred relevant previous year falling within the block period except for the year or search

→ Tax referred to in section 158BA(7) shall be charged on

The total income determined u/s.158BB(1)

(-) Total income assessed u/s.143(3) or 144 or 147 or 153A or 153C prior to the date of initiation of search or requisition.

(-) Total income declared in the return of income filed u/s.139 or 142(1) or 148 and not covered in above.

(-) Total income determined where the previous year has not ended on the basis of entries relating to such income or transactions as recorded in the books of account maintained in the normal course on or before the last of authorization for the search or requisition relating to such previous year.

→ If the disclosed income or the returned income or the assessed income or the income determined under this chapter for any of the previous years comprised in the block period is a loss, the same shall be ignored.

→ Losses brought forward from previous year prior to first previous year in the block period or unabsorbed depreciation shall not be set off against undisclosed income determined in the block period but can be carried forward and set off in the previous year subsequent to assessment year in which the block period ends, for the remaining period

The Madras High Court in the case of ***CIT v G.K.Senniappan [2006] 284 ITR 220 (Madras)*** has held that "*A mere reading of section 158BB clearly indicates that the sentence "such other materials or information as are available with the Assessing Officer" cannot be bisected or taken in isolation for the purpose of computation. Such other materials or information as are available with the Assessing Officer should be relatable to such evidence. The word 'such' used as a prefix to the word 'evidence', assumes much significance, as it indicates only the evidence found as a result of search on requisition of books of account or other documents at the time of search. Any other material cannot form basis for computation of undisclosed income of the block period*"

Procedure for block assessment – Section 158BC

→ To issue notice u/s.158BC granting a period of not more than 60 days to file the return of income including the undisclosed income for the block period

→ The said return shall be construed as ROI filed u/s.139 and notice u/s.143(2) has to be issued

→ ROI filed beyond the period allowed u/s.158BC shall not be deemed to be return u/s.139

→ No notice u/s.148 is required to be issued for the purpose of this chapter

→ No revised return can be filed in respect of a return filed u/s.158BC

→ AO to determine the total income including the undisclosed income of the block period in the manner laid down in section 158BB and the provisions of section 142, 143(2), 143(3), 144, 145, 145A and 145B shall so far as may be apply

→ AO on determination of total income of the block period shall pass an order of assessment or reassessment and determine the tax payable

→ Provisions of section 144C shall not apply

→ Same block period where proceedings were initiated u/s.158BD

→ No 143(1) in respect of ROI furnished u/s.158BC

→ Prior approval from Addl CIT / Addl DIT or JCIT or JDIT to be obtained before issuance of notice u/s.158BC

Undisclosed income of any other person – Section 158BD

→ Where AO is satisfied that undisclosed income belongs to or pertains to or relates to any person other than the person who is searched or requisitioned, then any money, bullion, jewellery or other valuable article or thing or assets or expenditure or books of account or other documents or any information contained therein, seized or requisitioned shall be handed over to the AO having jurisdiction over such other person.

→ The block period for such assessment / reassessment shall be the same as determined in respect of the person in whose case search was made under section 132, or whose books of account or other documents or any assets were requisitioned under section 132A, and proceedings under section 158BD were initiated due to such search or requisitionthe person.

→ Such AO shall proceed u/s.158BC against such other person and the provisions of this chapter shall apply accordingly

Time limit for completion of block assessment – Section 158BE

→ Order u/s.158BC for the block period to be passed within 12 months from the end of the month in which the last of the authorizations for search u/s.132 or requisition u/s.132A was executed or made.

→ Where any reference is made u/s.92CA(1) during the course of the block assessment proceedings, the period available for making an order of assessment or reassessment shall be extended by 12 months.

→ While calculating the period of limitation, the period commencing from the date of initiation of search or requisition and ending on the date on which the books of account etc seized u/s.132 or requisitioned u/s.132A are handed over to the AO having jurisdiction over the assessee in whose case the search is initiated shall be excluded subject to maximum of 180 days.

→ Where after the above exclusion the period of limitation for making an assessment or reassessment expires before the end of a month, such period shall be extended to the end of such month.

→ Order u/s.158BD has to be passed within 12 months from the end of the month in which the notice u/s.158BC in pursuance of section 158BD was issued to such other person.

→ Where any reference is made u/s.92CA(1) during the course of the block assessment proceedings in the case of person referred to in section 158BD, the period available for making an order of assessment or reassessment shall be extended by 12 months.

→ Exclusion of certain periods while computing the period of limitation

- Period during which the assessment proceeding is stayed by an order or injunction of any court

- Period starting from the date a reference is made for exchange of information under an international agreement (section 90 or 90A) and ending on the date the information is last received by the authority, or a maximum of one year, whichever is less.

- Time taken in reopening any part of the proceeding or giving an opportunity to the assessee to be reheard under the proviso to section 129.

- Period starting from the date the Assessing Officer directs the assessee to get accounts audited or inventory valued under section 142(2A), and

  - (a) ending with the last date for furnishing the audit or valuation report.
  - (b) if challenged in court, ending with the date on which the court's order setting aside the direction is received.

- Period starting from the date the Assessing Officer makes a reference to the Valuation Officer under section 142A(1) and ending with the date the Valuation Officer's report is received.

- Period starting from the date the Assessing Officer intimates the Central Government or prescribed authority about contraventions of

certain provisions under section 10, and ending with the date the order withdrawing approval or rescinding the notification is received.

- Period starting from the date the Assessing Officer makes a reference to the Principal Commissioner or Commissioner regarding certain approvals under section 143(3), and ending with the date the order is received by the Assessing Officer.

- Period starting from the date a reference is made for declaring an arrangement as an impermissible avoidance arrangement under section 144BA(1), and ending on the date a direction or order under the said section is received.

- Period starting from the date an application is made before the Authority for Advance Rulings or Board for Advance Rulings under section 245Q(1), and ending with the date the order rejecting the application is received.

- Period starting from the date an application is made for an advance ruling under section 245Q(1), and ending with the date the advance ruling is received by the Principal Commissioner or Commissioner.

- If the remaining period for assessment after the exclusion is less than 60 days, it shall be extended to 60 days. If the extended period for making an assessment order expires before the end of a month, it shall be extended to the end of that month.

Certain interest and penalties not to be levied – Section 158BF

→ No interest shall be levied u/s.234A, 234B and 234C

→ No penalty shall be imposed u/s.270A in respect of the undisclosed income assessed or reassessment for the block period

Levy of Interest and Penalty – Section 158BFA

→ Where ROI is not filed in response to notice u/s.158BC within the time specified or is not furnished simple interest at the rate of 1.5% shall be levied on the tax on undisclosed income determined for every month or part of a month from the date of expiry of time specified in the notice till the date of completion of assessment u/s.158BC

→ Penalty shall be levied at 50% of tax on undisclosed income determined by the AO in the order passed u/s.158BC

→ No order imposing penalty u/s.271AAD, 271AD, 271DA or 271E shall be made for the block period if the following conditions are satisfied:

- ROI is filed u/s.158BC(1)(a)
- Tax payable as per the said return has been paid or the seized money has been offered for adjustment against the tax payable
- Evidence of tax paid is furnished along with ROI
- An appeal is not filed against the assessment of that part of income which is shown in the ROI

→ However if the undisclosed income determined by the AO is in excess of income shown in the ROI then penalty penalty u/s.271AAD, 271AD, 271DA or 271E shall be imposed on the excess income determined by the AO

→ Order of penalty

- Cannot be passed without offering reasonable opportunity of being heard
- Where the amount of penalty exceeds Rs.2 lakhs order cannot be passed by the DCIT / ACIT / DDIT / ADIT without previous approval of the Addl CIT / Addl DIT / JCIT / JDIT
- Where assessment is subject matter of appeal before CIT(A) or ITAT, the time limit for imposition of penalty is

  - After the end of the financial year in which the proceedings (during which penalty action was initiated) are completed, or

  - Six months from the end of the financial year in which the order of the Commissioner (Appeals) or the Appellate Tribunal is received by the Principal Commissioner or Commissioner,

  whichever period expires later

- Where the assessment is subjected to 263, penalty order to be passed after the expiry of 6 months from the end of the financial year in which the order u/s.263 is passed

- In any other case other than where the order is subject to appeal or revision, the penalty order has to be passed

  - After the end of the financial year in which the proceedings (during which penalty action was initiated) are completed, or

  - Six months from the end of the financial year in which the notice for imposition of penalty is issued,

  Whichever period expires later.

- The following period shall be excluded for computing the period of limitation

  - Time taken in giving opportunity to be reheard under proviso to section 129
  - Period during which proceedings are stayed by an order or injunction of any Court

  If the remaining period for passing the penalty order after the above exclusion is less than 60 days, it shall be extended to 60 days. If the extended period for passing the penalty order expires before the end of a month, it shall be extended to the end of that month.

Authority Competent to make Block Period Assessment – Section 158BG

→ AO not below the rank of DCIT / ACIT / DDIT / ADIT

→ No order shall be passed without the previous approval of Addl CIT / Addl DIT or JCIT or JDIT.

Appeals & Revision

ii. Section 251 – Power of Commissioner (Appeals)

→ It is proposed that in cases where the assessment order was passed as a best judgment assessment under Section 144, the Commissioner (Appeals) shall be empowered to set aside the assessment and refer the case back to the Assessing Officer for a fresh assessment.

→ Additionally, it is proposed to amend Section 153(3) of the Act to provide that the time limit to pass an order of assessment in this case would be nine months from the end of the financial year in which the order of the CIT(Appeals) is received by the PCCIT / CCIT / PCIT / CIT as the case may be.

→ This amendment is proposed to take effect from 01.10.2024.

iii. Section 253 – Appeals to Appellate Tribunal

→ It is proposed to amend Section 253(1)(a) to include the reference of Section 158BFA since in absence of the said insertion, an aggrieved assessee could not appeal against penalty orders passed by CIT(Appeals).

→ It is also proposed to amend of Section 253(3) to provide that the appeal before the ITAT may be filed within 2 months (earlier 60 days) from the end of the month in which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or Commissioner, as the case may be.

→ These amendments are proposed effect from October 01, 2024.

TDS / TCS

There are various provisions of Tax Deduction at Source (TDS) with different thresholds and multiple rates between 0.1%, 1%, 2%, 5%, 10%, 20%, 30% and above. To improve ease of doing business and better compliance by taxpayers, the TDS rates are proposed to be reduced. However, no change would occur with respect to sections such as TDS on salary, TDS on virtual digital assets, TDS on winnings from lottery etc. race horses, payment on transfer of immovable property and payments to non-residents, TDS on contracts etc.

Rationalization of TDS rates is proposed as below:

Section	Present TDS Rate	Proposed TDS Rate	With effect from
Section 194D - Payment of insurance commission (in case of person other than company)	5%	2%	1.4.2025
Section 194DA - Payment in respect of life insurance policy	5%	2%	1.10.2024
Section 194G – Commission etc on sale of lottery tickets	5%	2%	1.10.2024
Section 194H - Payment of commission or brokerage	5%	2%	1.10.2024
Section 194-IB - Payment of rent by certain individuals or HUF	5%	2%	1.10.2024
Section 194M - Payment of certain sums by certain individuals or Hindu undivided family	5%	2%	1.10.2024
Section 194-O - Payment of certain sums by e-commerce operator to e-commerce participant	1%	0.1%	1.10.2024
Section 194F relating to payments on account of repurchase of units by Mutual Fund or Unit Trust of India	Proposed to be omitted		1.10.2024

i. <u>Amendment in section 192 – TDS on salary</u>

→Section 192(2B) of the Act provides for consideration of income under any other head and tax, if any, deducted thereon to be taken into account for the purposes of making the deduction under sub- section (1) of the aforesaid section, subject to certain conditions.

→However, the credit of TCS paid is not taken into account while deducting tax at source.

→Hence, it is proposed that of section 192(2B) may be amended to expand the scope of the said sub-section to include any tax deducted or collected under the provisions of Chapter XVII-B or Chapter XVII-BB, as the case may be, to be taken into account for the purposes of making the deduction under section 192(1).

→This amendment is proposed to take effect from 01.10.2024.

ii. Amendment in Section 194-IA – TDS on sale of immovable property

→ Section 194-IA of the Act provides for deduction of tax on payment of consideration for transfer of certain immovable property other than agricultural land.

→ Section 194-IA(1) provides that any person responsible for paying to a resident any sum by way of consideration for transfer of any immovable property shall, at the time of credit or payment of such sum to the resident, deduct an amount equal to one per cent. of such sum or the stamp duty value of such property, whichever is higher, as income-tax thereon. 194-IA(2) provides that no deduction of tax shall be made where the consideration for the transfer of an immovable property and the stamp duty value of such property, are both less than fifty lakh rupees.

→ It has been observed that some taxpayers are interpreting that the consideration being paid or credited refers to each individual buyer's payment rather than the total consideration paid for the immovable property

Oxcia Enterprises (P.) Ltd. [2019] 109 taxmann.com 19 (Jodhpur - Trib.)
Vinod Soni v ITO [2019] 101 taxmann.com 190 (Delhi - Trib.)

→ Hence if the buyer is paying less than Rs.50,00,000/- no tax is being deducted, even if the value of the immovable property and stamp duty value exceeds Rs.50,00,000/-. This is against the intention of legislature.

→ Accordingly, it is proposed to amend section 194-IA(2) of the Act to clarify that where there is more than one transferor or transferee in respect of an immovable property, then such consideration shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property.

→ This amendment is proposed to take effect from 01.10.2024.

iii. Amendment in Section 193 – Tax Deduction at source on Floating Rate Savings (Taxable) Bonds (FRSB) 2020

→ Section 193 of the Act provides for deduction of tax at source on payment of any income to a resident by way of interest on securities.

→ The Government has introduced Floating Rate Savings (Taxable) Bonds (FRSB) 2020. The provisions of section 193 of the Act are proposed to be amended to allow for deduction of tax at source at the time of payment of interest exceeding ten thousand rupees on —

- The Floating Rate Savings Bonds (FRSB) 2020 (Taxable)
- any security of the Central Government or State Government, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

→ This amendment is proposed to take effect from 01.10.2024.

iv. <u>Amendment in Section 194C – Excluding sums paid under section 194J from section 194C</u>

→ Clause (iv) of the Explanation of section 194C defines "work" to specify which all activities would attract TDS under section 194C. However, there is no explicit exclusion of assessees who are required to deduct tax under section 194J from requirement to deduct tax under section 194C of the Act.

→ It is proposed to explicitly state that any sum referred to in section 194J(1) does not constitute "work" for the purposes of TDS under section 194C

→ This amendment is proposed to take effect from 01.10.2024

v. <u>Insertion of section 194T TDS on payment of salary, remuneration, interest, bonus or commission by a partnership firm to partners</u>

→ It is proposed that section 194T may be inserted to bring payments such as salary, remuneration, commission, bonus and interest to any account (including capital account) of the partner of the firm under the purview of TDS at a rate of 10% for aggregate amounts more than Rs.20,000/- in the financial year.

→ This amendment is proposed to take effect from 01.10.2024.

vi. <u>Amendment in section 197</u>

→ To facilitate ease of doing business due to applicability of sections 194Q and 206C(9) to transactions and to provide an option to seek a lower deduction certificate so as to reduce compliance burden on the assessee, it is proposed:

a) to amend section 197(1) to bring section 194Q in its ambit

b) to amend section 206C(9) to bring section 206C(1H) in its ambit.

→ This amendment is proposed to take effect from 01.10.2024.

vii. Amendment in section 198 – Taxes withheld outside India deemed to be income

→ Section 198 of the Act provides that all sums deducted (tax deducted), in accordance with the provisions of Chapter XVII-B shall, for the purpose of computing the income of an assessee, be deemed to be income received.

→ It was seen that some assessees are not including taxes withheld outside India for the purposes of calculating their total income which was leading to under reporting of total income as only their net income was being offered for taxation. However they were claiming credit for the taxes withheld abroad resulting in double deduction on account of income not being included in total income but credit for foreign taxes withheld was being taken.

→ In order to address this issue, it is proposed to amend section 198, to provide that all sums deducted in accordance with the provisions of Chapter XVII-B and income tax paid outside India by way of deduction, in respect of which an assessee is allowed a credit against the tax payable under the Act, are for the purpose of computing the income of the assessee, deemed to be income received.

→ This amendment is proposed to take effect from 01.04.2025.

viii. Amendment to provide for the last date to file TDS / TCS correction statements

→ While there is a time limit for furnishing statements detailing the TDS/TCS, however, there is no time limit for furnishing correction statements. Hence such statements may be revised multiple times indefinitely and thus these provisions are misused causing difficulty to deductees / collectees.

→ Accordingly, in order to put certainty and finality on the filing process of TDS and TCS statements, it is proposed to amend section 200 and sub-section 206C(3B) to provide that no correction statement shall be delivered

after the expiry of six years from the end of the financial year in which the statement referred to in of section 200(3) and statement referred to in the proviso to of section 206C(3) are respectively delivered.

→ These amendments are proposed to take effect from 01.04.2025.

ix. Amendment in Section 200A – processing of statements other than those filed by deductor

→ Section 200A of the Act provides for the manner in which statement of tax deduction at source or a correction statement made by a person deducting any sum under section 200 shall be processed.

→ There are statements, such as Form No. 26QF which is filed by an Exchange wherein the deductee is filing details of the tax. It is proposed to widen the ambit of section 200A of the Act to state that in respect of statements which have been made by any other person, not being a deductor, the Board may make a scheme for processing of such statements.

→ This amendment is proposed to take effect from 01.04.2025.

x. Amendment Reducing time limitation for orders deeming any person to be assessee in default

→ Section 201 and section 206C of the Act provides for the consequences when a person does not deduct/ collect, or does not pay, or after so deducting/ collecting fails to pay, the whole or any part of the tax, as required by or under the Act.

→ As per section 201(3) of the Act, there is a time limit of seven years for passing order u/s.201(1) of the Act deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax where the payee is a person resident in India.

→ However, there is no time limit when there has been a failure to deduct the whole or any part of the tax from a non-resident

→ Similarly for TCS, section 206C(6A) of the Act provides the consequences when a person does not collect the whole or part of the tax or after collecting fails to pay the tax as required by or under this Act, he shall be deemed to be an assessee in default.

- → It is proposed to amend section 201(3) and insert new sub-section (7A) in section 206C of the Act to provide that no order shall be made deeming any person to be assessee in default for failure to deduct/ collect the whole or any part of the tax from any person, at any time after the expiry of six years from the end of the financial year in which payment is made or credit is given or tax was collectible or two years from the end of the financial year in which the correction statement is delivered, whichever is later.

- → This amendment is proposed to take effect from 01.04.2025.

xi. Amendments under section 206C

- → It is proposed to provide that no collection of tax shall be made or that collection of tax shall be made at such lower rate in respect of specified transaction, from such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government in the Official Gazette, in this behalf.

- → It is proposed to increase the interest rate under Section 206C(7) for default in payment of tax collected at source to the government from 1% to 1.5% per month or part thereof. This rate applies to the amount of tax from the date on which the tax was collected to the date on which the tax is actually paid

- → This amendment is intended to align the interest rate applicable for late collection or deposit of TCS with the interest rate applicable under Section 201(1A) for late deduction or deposit of TDS.

- → These amendments are proposed to take effect from assessment year 2025-26.

- → It is also proposed to amend section 206C of the Act, to allow the Board to notify the rules for cases where credit of tax collected are given to person other than collectee.

- → However, to prevent misuse of this provision, TCS credit for a minor will only be allowed if the minor's income is clubbed with that of the parent in accordance with Section 64(1A).

- → It is proposed to amend Section 206C(1F) to extend the levy of TCS to any other goods with a value exceeding Rs.10 lakhs, as may be specified by the Central Government.

→ These goods are intended to encompass items classified as luxury goods.

→ The above amendments will be effective from 01.01.2025

xii. Amendments under section 271H – Penalty for failure to furnish statements

→ Section 271H inter alia relates to penalty for failure to file TDS or TCS returns/ statements within the due date. Section 271H(3) states that no penalty shall be levied if the person proves that after paying TDS/ TCS along with fees and interest to the credit of the Central Government, the person has filed the TDS/TCS statement before the expiry of 1 year from the time prescribed for furnishing such statement.

→ While earlier the due date to file a belated return by the assessee was one year from the end of the assessment year, the time limit presently is 31st December of the same assessment year.

→ Deductees/ collectees face great inconvenience if the TDS/TCS statements by deductors/ collectors are not furnished in time leading to mismatch in TDS/TCS during processing of income tax returns and raising of infructuous demands.

→ To ensure better compliance, it is proposed to reduce the time limit prescribed under Section 271H(3) to furnish TDS/TCS statement pursuant to payment of TDS/TCS along with fees and interest to the credit of Central Government, from period of 1 year to 1 month in order to avoid the levy of penalty.

→ This amendment will be effective from assessment year 2025-26.

Charitable Trusts and Educational Institutions

i. Merger of trusts under first regime with second regime

→ It is proposed that the first regime be sunset and trusts, funds or institutions be transited to the second regime in a gradual manner.

→ Applications seeking approval or provisional approval under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10, and filed on or after 1st October, 2024, shall not be considered

→ Applications filed under these sub-clauses before 1st October, 2024, and which are pending would be processed and considered under the extant provisions of the first regime itself.

→ Approved trusts, funds or institutions would continue to get the benefit of exemption, as per the provisions of sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10, till the validity of the said approval.

→ They would be eligible to apply for registration, subsequently, under the second regime. Amendments have accordingly been proposed in section 12A

→ Certain eligible modes of investment, under the first regime (viz. those specified in clause (b) of third proviso to clause (23C) of section 10) shall be protected in the second regime, by way of amendment in section 13.

→ These amendments are proposed to take effect from 01.10.2024.

ii. Condonation of delay in filing application for registration by trusts or institutions

→ A trust or institution desirous of seeking registration under section 12AB is inter alia required to apply within timelines specified in Section 12A(1)(ac).

→ It is proposed that the Principal Commissioner/ Commissioner may be enabled to condone the delay in filing application and treat such application as filed within time. The delay may be condoned if he considers that there is a reasonable cause for the same.

Little Angels Education Society v UOI [2021] 434 ITR 423 (Bombay) – No longer applicable

→ These amendments are proposed to take effect from 01.10.2024

iii. Rationalisation of timelines for funds or institutions to file applications seeking approval under section 80G

→ The first proviso section 80G(5) provides that the institution or fund referred to in Section 80G(5)(vi) shall make an application in the

prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval.

- It is proposed to amend the first proviso of section 80G(5) so as to insert "or" between the clause (iii) and (iv) of the said first proviso and to amend clause (iv) of first proviso thereof to provide that, where activities of the institution or fund have not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought; or commenced, at any time after the commencement of such activities shall make an application for grant of approval.

- Clause (ii)(b)(B) of second proviso to Section 80G(5), inter alia, provides that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso, shall where the application is made under clause (ii) or clause (iii) or sub-clause (B) of clause (iv) of the first proviso, after satisfying himself about the genuineness of activities and the fulfilment of all the conditions if he is not so satisfied, pass an order in writing, in this manner specified therein after affording it a reasonable opportunity of being heard.

- It is also proposed to amend Clause (ii)(b)(B) of second proviso to section 80G(5) to provide that if the Principal Commissioner or Commissioner is not so satisfied, shall pass an order in writing, rejecting such application and cancelling its approval, if any, after affording it a reasonable opportunity of being heard.

- Third proviso to section 80G(5) provides that the order under clause (i), sub-clause (b) of clause (ii) and clause (iii) of the second proviso to section 80G(5) shall be passed in such form and manner as may be provided by rules, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received.

- It is also proposed to amend the third proviso to section 80G(5) to omit that the order under clause (ii)(b) of the second proviso to the section 80G(5) shall be passed in such form and manner as may be provided by rules, before expiry of the period of six months, calculated from the end of the month in which the application was received.

- It is also proposed to insert a proviso after the third proviso to section 80G(5) to provide that the order under clause (ii)(b) of the second proviso shall be passed in such form and manner as may be provided by rules,

before expiry of the period of six months from the end of the quarter in which the application was received.

→ These amendments are proposed to take effect from 01.10.2024.

iv. <u>Rationalisation of timelines for disposing applications made by trusts or funds or institutions, seeking registration for exemption under section 12AB or approval under section 80G</u>

→ Applications seeking registration under section 12AB, filed by trusts or institutions, are required to be processed by the Principal Commissioner or Commissioner within a period of six months from the end of the month in which the application was received.

→ Similarly, the applications of funds or institutions referred to in section 80G(2)(a)(iv), seeking approval are required to be processed by the Principal Commissioner or Commissioner within a period of six months from the end of the month in which the application was received.

→ For better administration and monitoring, it is proposed to rationalise timelines for disposing applications made by trusts or funds or institutions to six months from the end of the quarter in which the application was received. Thus, where provisionally registered/ approved trusts or funds or institutions apply for registration/ approval or where registered/ approved trusts or funds or institutions apply for further registration/ approval under section 12AB or section 80G, as the case may be, the order granting registration/ rejecting application shall be passed before expiry of the period of six months from the end of the quarter in which the application was received.

→ These amendments are proposed to take effect from the 01.10.2024.

v. <u>Merger of trusts under the exemption regime with other trusts – Accreted Income</u>

→ When a trust or institution which is approved / registered under the first or second regime, as the case may be merges with another approved / registered entity under either regime, it may attract the provisions of Chapter XII-EB, relating to tax on accreted income in certain circumstances.

→ It is proposed that conditions under which the said merger shall not attract provisions of Chapter XII-EB, may be prescribed, to provide greater clarity

and certainty to taxpayers. A new section 12AC is proposed to be inserted for this purpose.

→ The proposed section 12AC provides that where any trust or institution registered u/s.12AB or approved under sub-clause (iv) or sub-clause (v) or subclause (vi) or sub-clause (via) of section 10(23C) merges with another trust or institutions the provisions of Chapter XII-EB which provides for tax on accreted income for trusts and institutions shall not apply if –

- the other trust or institution has same or similar objects;
- the other trust or institution is registered under section 12AA or section 12AB or approved under subclause (iv) or sub-clause (v) or sub-clause (vi) or subclause (via) section 10(23C), as the case may be;
- the said merger fulfils such conditions as may be prescribed.

→ These amendments are proposed to take effect from the 01.04.2025.

vi. <u>Inclusion of reference of clause (23EA), clause (23ED) and clause (46B) of section 10 in sub-section (7) of section 11</u>

→ Section 11(7) of the Act lays down that registration under section 12AB shall become inoperative, if the trust or institution is approved / notified under clause (23C), (23EC), (46) or (46A) of section 10 (different types of institutions). Such trust or institution has a one-time option to apply to make its registration under section 12AB operative. Thus, a trust or institution may choose the provisions under which it seeks to claim exemption.

→ It is proposed to amend section 11(7) of the Act to include reference of clause (23EA), clause (23ED) and clause (46B) of section 10 of the Act, to enable trusts under the second regime to claim exemption under the above-noted specific clauses of section 10.

→ These amendments are proposed to take effect from the 01.04.2025.

vii. <u>Addition of National Sports Fund under the ambit of section 80G</u>

→ It is proposed to extend the deduction available under Section 80G to any sums paid by the assessee in the previous year as donations to the National Sports Development Fund set up by the Central Government.

→ This amendment would apply from assessment year 2025-26.

Miscellaneous

i. Increase in standard deduction – New Scheme

→ It is proposed to insert a proviso after section 16(ia) to provide that in a case where income-tax is computed under section 115BAC(1A)(ii) of the Act, the provisions of this section shall have effect as if for the words "fifty thousand rupees", the words "seventy five thousand rupees" had been substituted.

ii. Life Insurance Companies

→ It is proposed to amend Rule 2 of the First Schedule to provide that expenditure inadmissible under Section 37 to be added back to the profits and gains of the life insurance business.

→ This amendment aims to counter instances where non-business expenses are claimed by life insurance companies and there is no provision to add back these expenses.

→ This amendment is proposed to take effect from assessment year 2025-26.

iii. Equalisation Levy discontinued

→ It is proposed that equalisation levy of 2% will no longer be applicable to income of a non-resident e-commerce operator for ecommerce supply or services provided or facilitated by such non-resident, on or after 01.08.2024.

→ Consequently, the exemption available to such incomes under Section 10(50) is also proposed to be amended.

iv. Submission of Statement by Non-resident's Liaison Office in India

→ Section 285 provides that a non-resident having a liaison office in India is required to submit a statement of its activities to the Assessing Officer within 60 days from the end of the financial year.

→ It is proposed insert a new Section 271GC to provide that failure to furnish a statement may attract a penalty of Rs.1,000/- for every day for which the failure continues, provided the period of failure does not exceed 3 months. In any other case, a penalty of Rs.1,00,000/- will be levied.

→ It is also proposed to amend Section 273B to provide that the penalty will not be levied if the assessee proves that there was reasonable cause for the failure.

→ These amendments are proposed to take effect from assessment year 2025-26.

v. <u>Advance Rulings</u>

→ It is proposed to amend Section 245Q to allow application for withdrawal by 31.10.2024 for the transferred applications before BAR (from AAR) in cases where the order under sub-section (2) of Section 245R has not been passed.

→ It is further proposed to provide that on receipt of an application under the proviso to Section 245Q(4), the BAR may, by an order, reject the application referred to in sub-section (1) thereof as withdrawn on or before 31.12.2024.

→ This amendment will be effective from 01.10.2024.

vi. <u>Rationalisation of Provision of Section 276B</u>

→ It is proposed to amend Section 276B by providing for exemption from prosecution to a person under clause (a) of the Section subject to payment of tax deducted for quarter has been made to the Central Government at any time on or before time prescribed for filing of statement of such quarter under Section 200(3) of the Act.

This amendment is proposed to take effect from 01.10.2024.

vii. <u>Rationalisation of Provisions relating to Period of Limitation for Imposing Penalties</u>

→ It is proposed to amend Section 275 to omit the reference to "the date of receipt of order by the Principal Chief Commissioner or Chief Commissioner ambiguity for the purposes of calculation of the number of days for imposition of penalties as a consequence of the orders referred to in the said section.

→ This amendment it proposed to take effect from 01.10.2024.

viii. Set off and Withholding of Refunds

- → Presently, section 245 of the Act empowers the Assessing Officer (AO) to adjust the refund (or a part of the refund) against any tax demand that is outstanding from the taxpayer. Further, where refund becomes due to a person but the assessment or reassessment proceeding is pending in his case, then, the Assessing Officer may, with the approval of the Principal Commissioner of Income-tax or Commissioner of Income-tax, withhold the refund till the date on which such assessment or reassessment is completed. Moreover, no additional interest on refund under section 244A of the Act is payable to the assessee for the period beginning from the date on which such refund is withheld and ending with the date on which assessment/reassessment is made.

- → Under Section 245(2), the AO is required to fulfil two requirements. One is that he should form an "opinion that the grant of refund is likely to adversely affect the revenue" and the second is that he has to record the reasons in writing for withholding the refund.

- → The second condition of recording of reasons takes care of the first condition as even if an opinion is formed, it has been expressed in terms of reasons recorded in writing.

- → Thus, Section 245(2) is proposed to be amended to omit the phrase "is of the opinion that the grant of refund is likely to adversely affect the revenue" and retain the phrase "he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner of Income-tax or Commissioner of Income-tax".

- → Further, the period of withholding the refund 'up to the date of assessment' is inadequate as the demand itself becomes due after thirty days of the date of assessment. Hence, the period of withholding of the refund is proposed to be extended up to sixty days from the date on which such assessment or reassessment is made

- → Consequential amendment is also proposed to be made in section 244A of the Act to allow non-payment of additional interest up to the date till which such refund is withheld under the provisions of sub-section (2) of section 245 of the Act.

- → This amendment is proposed to take effect from 01.10.2024

ix. Tax Clearance Certificate

→ It is proposed to amend Section 230(1A) by inserting a reference to liabilities under the Black Money Act, 2015 for the purpose of obtaining a tax clearance certificate.

→ The amendment was required since it was observed that most of the liabilities arising under the Acts administered by the CBDT are covered in 230(1A) of the Act for the purpose of obtaining a tax clearance certificate, except the liabilities arising under the Black Money Act, 2015.

→ This amendment is proposed to take effect from 01.10.2024.

x. Adjusting liability under Black Money Act, 2015 against seized assets

→ Section 132B of the Act in its existing form provides that any existing liability under the Income-tax Act, 1961, the Wealth-tax Act, 1957(27 of 1957), the Expenditure-tax Act, 1987 (35 of 1987), the Gift-tax Act, 1958 (18 of 1958) and the Interest-tax Act, 1974 (45 of 1974), and the amount of liability determined on completion of the assessment or reassessment in consequence of search or requisition, may be recovered from the taxpayer out of the seized assets under section 132 or requisitioned under section 132.

→ Most of the liabilities arising under the Acts administered by the Central Board of Direct Taxes (CBDT) have been covered in section 132B of the Act, for the purpose of extinguishment of liability by recovery out of the seized assets, except the liabilities arising under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

→ it is proposed to insert the reference of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in the section 132B of the Income-tax Act, 1961 so as to recover the existing liabilities under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, out of seized assets.

→ This amendment is proposed to take effect from 01.10.2024.

xi. Amendment in section 153

→ Section 153(8) provides that order of assessment or reassessment relating to any assessment year, which stands revived under section 153A(2), shall

be made within a period of one year from the end of the month of such revival or within the period specified in the said section or section 153B(1), whichever is later.

→ It is proposed to amend sub-section (8) of the said section to provide the timeline for passing of order in the case of revived assessment or reassessment proceedings as a consequence of annulment of block assessments under Chapter XIV-B of the Act.

→ This amendment is proposed to take effect from 01.10.2024.

xii. PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988

TIME LIMITS

→ Subsection (2A) has been inserted u/s.24 to provide that the Benamidar or the beneficial owner must file its submissions within three months from the end of the month in which the notice u/s.24(1) has been issued

→ The time limits to pass orders u/s.24(3) and 24(4) have been increased to four months from the date of issuance of notice u/s.24(1)

→ Where the IO has provisionally (or continued to) attached the property, the time limits for drawing up statement to the adjudicating authority is increased to from 15 days to - one month from the end of the month in which the said order has been passed.

IMMUNITY

→ Section 55 has been inserted which states that the Initiating Officer may, with a view to obtaining the evidence of the benamidar or any other person as referred to in Section 53, other than the beneficial owner, tender immunity from penalty for any offence under Section 53 to such person, with the previous sanction of the competent authority as referred to in Section 55, on condition of his making a full and true disclosure of the whole circumstances relating to the benami transaction.

→ The immunity renders the person immune from prosecution for any offence in respect of which the tender was made and from the imposition of any penalty under Section 53.

→ It has also been proposed that if it appears to the Initiating Officer that any person to whom immunity has been tendered under this section has not complied with the conditions subject to which the tender was made, or is wilfully concealing anything, or is giving false evidence, the Initiating Officer may record a finding to that effect, and with the previous sanction of the competent authority as referred to in section 55, withdraw the immunity tendered.

→ These amendments will take effect from 01.10.2024.

xiii. THE BLACK MONEY (UNDISCLOSED OF FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

→ Section 42 provides for penalty for failure to furnish details of foreign income and assets in the return of income. The said section is applicable in respect of an assessee being a resident other than not ordinarily resident in India who has failed to furnish the return of income when such assessee is having any asset, or is a beneficiary of an asset located outside India or is having any income from a source located outside India.

→ Similarly, section 43 of the Black Money Act provides for penalty for failure to furnish in return of income, an information or furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India. The said section is applicable when the assessee being a resident other than not ordinarily resident in India has failed to furnish the details of any asset located outside India, held by him as a beneficial owner or otherwise, or in respect of which he was a beneficiary, or relating to any income from a source located outside India.

→ Further, provisos to the aforementioned sections of the Black Money Act state that the provisions of these sections shall not apply in respect of an asset, being one or more bank accounts having an aggregate balance which does not exceed a value equivalent to Rs.5,00,000/- at any time during the previous year.

→ It is proposed to amend the provisos to sections 42 and 43 of the Black Money Act to provide that the provisions of the said sections shall not apply in respect of an asset or assets (other than immovable property) where the aggregate value of such asset or assets does not exceed Rs.20,00,000/-.

→ These amendments will take effect from 01.10.2024.

Direct Tax Vivad Se Vishwas Scheme, 2024

→ The pendency of litigation at various levels has been on the rise due to larger number of cases going for appeal than the number of disposals. Keeping in view the success of the previous Vivaad Se Vishwas Act, 2020 and the mounting pendency of appeals at CIT(A) level, introduction of a Direct Tax Vivad se Vishwas Scheme, 2024 is proposed with the objective of providing a mechanism of settlement of disputed issues, thereby reducing litigation without much cost to the exchequer.

→ It is proposed that this Scheme shall come into force from the date to be notified by the Central Government. The last date for the Scheme is also proposed to be notified.VSV-2024 is on lines similar to the 2020 scheme.

→ Eligible Taxpayer

- ➢ Appeals/ writ petition/ special leave petition has been filed either by the appellant or tax authority before any forum;
- ➢ A taxpayer has filed objections before the Dispute Resolution Panel (DRP) under section 144C of the Income Tax Act, 1961 (Act) and DRP has not issued any directions on or before the specified date;
- ➢ A taxpayer in whose case DRP has issued direction but the Assessing Officer (AO) has not completed the assessment; or
- ➢ A taxpayer who has filed an application for revision under section 264 of the Act and such application is pending as on the specified date. (22.07.2024)

→ Ineligible cases:

- ➢ Search cases: An assessment year in respect of which an assessment has been made on the basis of search initiated under section 132 or section 132A of the Act.
- ➢ Prosecution matters: An assessment year in respect of which prosecution has been instituted on or before the date of filing of declaration.
- ➢ Black money law cases: Any undisclosed income from a source located outside India or an undisclosed asset located outside India.

- ➢ Matters involving exchange of information with foreign countries: An assessment or reassessment made on the basis of information received under an agreement referred to in section 90 or section 90A of the Act, if it relates to any tax arrears.

- ➢ Others: Any taxpayer who has violated provisions of other specified laws.

→ **'Disputed Income'** in relation to an assessment year means the whole or so much of total income as is relatable to the 'Disputed Tax';

→ '**Disputed Tax**' means the Income Tax including surcharge and cess payable under the Act as computed as follows:

Particulars	Disputed Tax
Appeal or Writ petition or Special Leave Petition (SLP)	Amount of tax that is payable by the appellant if such appeal or Writ petition or SLP was to be decided against him
Where objection filed by the appellant is pending before the DRP	Tax payable by the appellant if the DRP was to confirm the variation proposed in the draft order
Where DRP has issued any direction, and the AO has not passed the final assessment order on or before the specified date	Amount of tax payable by the appellant as per the assessment order to be passed by the AO

→ In a case where the dispute in relation to an assessment year relates to reduction of tax credit under section 115JAA or section 115JD of the Act, or any loss or depreciation computed thereunder, the appellant shall have an option either to include the amount of tax related to such tax credit or loss or depreciation in the amount of disputed tax, or to carry forward the reduced tax credit or loss or depreciation, in such manner as may be prescribed.

→ Disputed Interest' means the interest determined in any case under provisions of the Act where
- ➢ such interest is not charged or chargeable on disputed tax;
- ➢ an appeal has been filed by the appellant in respect of such interest.

- → 'Disputed Fee' means the fee determined under the provisions of the Act in respect of which an appeal has been filed by the Appellant.

- → 'Disputed Penalty' means the penalty determined in any case under provisions of the Act where
  - ➢ such penalty is not levied or leviable in respect of disputed income or disputed tax, as case may be;
  - ➢ an appeal has been filed by the appellant in respect of such penalty.

- → 'Appellate Forum' means the Supreme Court or the High Court or the Income Tax Appellate Tribunal or the Commissioner (Appeals) or Joint Commissioner (Appeals), as the case may be.

The amount of tax/ arrear payable by the taxpayer under this Scheme is tabulated below:

S. No.	**Particulars**	**On or before 31.12.2024**	**On or after 01.01.2025 but on or before last date**
1	Cases (where the tax arrear is aggregate of disputed tax, interest thereon and penalty) and appeal is filed after 31 January, 2020 but before 22 July 2024	Amount of disputed tax	110% of amount of disputed tax
2	Cases (where the tax arrear is aggregate of disputed tax, interest thereon and penalty) and appeal is filed on or before 31 January 2020	110% of amount of disputed tax	120% of amount of disputed tax
3	Cases involving interest, penalty or fees (where tax arrear relates to disputed interest or penalty or disputed fee) and the appeal is filed after 31 January 2020 but before 22 July 2024	25% of disputed interest/ penalty/ fee	30% of disputed interest/ penalty/ fee
4	Cases involving interest, penalty or fees (where tax arrear relates to disputed interest or penalty or disputed fee) and the appeal is filed on or before 31 January 2020	30% of disputed interest/ penalty/ fee	35% of disputed interest/ penalty/ fee

- → In case where the appeal or writ petition or SLP is filed by the Income tax authority on any disputed issue before the appellate forum, the amount payable shall be one half of the amount in the table above calculated on such issue.

- → Where an appeal is filed before the CIT(Appeals) or Joint Commissioner (Appeals) or objections is filed before the DRP by the appellant on any issue on which the appellant has already got a decision in his favour from the ITAT (where such decision on such issue is not reversed by the High Court or the Supreme Court) or the High Court (where the decision on such issue is not reversed by the Supreme Court), the amount payable shall be one-half of the amount in the Table above calculated on such issue.

- → In a case where an appeal is filed by the appellant on any issue before the ITAT on which he has already got a decision in his favour from the High Court (where the decision on such issue is not reversed by the Supreme Court), the amount payable shall be one-half of the amount in the Table above calculated on such issue.

- → Further, the Scheme provides that in no circumstances, any amount paid under Scheme shall be refundable. However, before filing the declaration under the Scheme, if the taxpayer had paid any amount towards the tax arrears exceeding amount payable under the Scheme, he shall be entitled to a refund of the excess amount without any interest thereon.

- → Separately, the Scheme does not cover cases such as search, arbitration, or orders against which the time limit to file an appeal has not expired on specified date, which were eligible for erstwhile VSV Scheme 2020.