Salient features of the Finance Bill, 2017

[Relating to direct taxes]

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The Finance Bill, 2017 or the Union Budget, 2017-18, was presented in the Parliament on 1.2.2017. As regard the direct taxes, there are in all eighty five (85) amendments proposed in the Finance Bill, 2017, vide clauses (3) to (87).

Save as otherwise provided in the aforesaid Bill, the insertions / amendments, vide the aforesaid clauses shall be deemed to have come into force on the first day of April, 2017, viz. from financial year (FY) 2017-18, relevant to assessment year (AY) 2018-19. Further, it may also be stated here that there are some amendments which will come into operation from certain specified dates, whereas some others will come into operation with retrospective effect. Therefore, an attempt has been made to provide the date with effect from which the amendment(s), in question, shall come into effect. The term "*Section*", in this Note shall mean section of the Income-Tax Act, 1961 (the Act).

The abbreviations FY, PY, AY and AO stand for financial year, previous year, assessment year and Assessing Officer, respectively, in this Note.

In this connection, attention is also invited to the last paragraph (54) of this Note, relating to statement of the Finance Minister, vide clause (180) of the Budget Speech, under the head "***RAPID***".

In this Note, only the important amendments / insertions have been discussed and the same are as follows : -

1. Rates and slabs of income-tax

In the Union Budget, 2017-18, the basic exemption limit for Individuals, Hindu Undivided Families (HUFs), Association of Persons (AOPs), Body of Individuals (BOIs) and Artificial Juridical Persons (AJPs), have remained unchanged.

Paragraph A of Part III of the First Schedule to the Bill, provides the following rates of income-tax :

I. In the case of every individual [other than those specifically mentioned in sub-paragraphs (II) and (III)] or Hindu Undivided Family or every Association of Persons or Body of Individuals, whether incorporated or not, or every Artificial Juridical Person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-Tax Act, not being a case to which any other Paragraph of the aforesaid Part III applies :-

(i) Up to Rs.2,50,000	Nil
(ii) Rs. 2,50,001 to Rs. 5,00,000	5 per cent.
(iii) Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
(iv) Above Rs. 10,00,000	30 per cent.;

II. In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than the age of eighty years at any time during the previous year :–

(i) Up to Rs.3,00,000	Nil
(ii) Rs. 3,00,001 to Rs. 5,00,000	5 per cent.
(iii) Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
(iv) Above Rs. 10,00,000	30 per cent.;

III. In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year :–

(i) Up to Rs.5,00,000	Nil
(ii) Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
(iii) Above Rs. 10,00,000	30 per cent.

The maximum rebate under section 87A of the Act, has been reduced from Rs.5,000 to Rs.2,500 and available to only resident individuals whose total income does not exceed Rs.3,50,000.

Rates of tax in respect of companies

The rates of tax in respect of companies will be as follows :

(i) In case of domestic companies, if total turnover or gross receipts does not exceed Rs.50 crores, the rates of tax will be 25%.

(ii) In case of other companies, the rate of tax will be 30% of the total income.

A. Surcharge

I. As regard the aforesaid entities, viz. Individuals, HUFs, AOPs, BOIs, etc. there will be no surcharge in case the taxable income is upto Rs.50 lakhs.

However, in case taxable income exceeds Rs.50 lakhs, but not exceeding Rs.1 crore, the surcharge will be levied at the rate of 10% of the amount of income-tax. But in case the income exceeds Rs.1 crore, then surcharge will be 15% of the amount of income-tax.

Marginal relief will be provided in all such cases.

II. Domestic companies

(i) There will be no surcharge if total income does not exceed Rs.1 crore

(ii) Surcharge at the rate of 7% in case income is above Rs.1 crore, but upto Rs.10 crores.

(iii) Surcharge at the rate of 12% if the total income exceeds Rs.10 crores.

Marginal relief will be provided in all such cases.

III. Foreign companies

(i) There will be no surcharge if total income is upto Rs.1 crore

(ii) Surcharge at the rate of 2% in case total income is above Rs.1 crore, but upto Rs.10 crores.

(iii) Surcharge at the rate of 5% if the total income exceeds Rs.10 crores.

Marginal relief will be provided in all such cases.

IV. In other cases

In other cases (including sections 115-O, 115QA, 115R, 115TA or 115TD), the surcharge will be levied at the rate of 12% of the income-tax chargeable.

B. Education cess

Education cess will continue to be applicable at the rate of 3% of the amount of tax computed, inclusive of surcharge in all cases.

2. Amendment of section 2 – Relating to certain definitions

Clause (42A) of section 2, relating to the definition of "*Short-term capital assets*" is to be amended. These amendments are as follows :

I. The existing provisions contained in clause (42A) of section 2 of the Act defines the expression "*Short-term capital asset*" to be a capital asset held by an assessee for not more than thirty six (36) months, immediately preceding the date of its transfer. Further, *Explanation* 1 of the said clause provides for determining the period for which the capital asset is held by the assessee.

Third proviso to the said clause is to be amended, so as to provide that in case of an immovable property, being land or building or both, the aforesaid period of holding shall be less than twenty four (24) months, for it to be treated as short-term capital asset.

In other words, the period of holding to qualify as long-term capital asset is reduced from thirty six (36) months to twenty four (24) months, in case of immovable property.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

II. Further, a new sub-clause (hf) is to be inserted in clause (i) of the aforesaid *Explanation* 1, so as to provide that in case of capital asset being equity shares in a company which becomes the property of the assessee, in consideration of a transfer referred to in clause (xb) of section 47, there shall be included the period for which the preference shares were held by the assessee.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

III. Besides, a new sub-clause (hg) is to be inserted in the aforesaid clause (i), so as to provide that in case of a capital asset being a unit or units, which becomes the property of the assessee, in consideration of a transfer referred to in clause (xix) of section 47, there shall be included the period for which the unit or units in the consolidated plan of the Mutual Fund Scheme were held by the assessee

The aforesaid amendment will take effect from 1.4.2017 and will, accordingly, apply in relation to AY 2017-18 and subsequent AYs.

3. Amendment of section 9 of the Act

Clause (i) of sub-section (1) of section 9 provides that certain incomes mentioned therein shall be deemed to accrue or arise in India. *Explanation* 5 to the said clause provides that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India, shall always be deemed to be situated in India, if the share or interest derives directly or indirectly, its value substantially from assets located in India.

A new *Explanation* 5A is to be inserted after the aforesaid *Explanation* 5, so as to clarify that *Explanation* 5 shall not apply to an asset or capital asset mentioned therein and held by a non-resident, by way of investment, directly or indirectly in a Foreign Institutional Investor (FII), as referred to in clause (a) of the *Explanation* to section 115AD and registered as Category I or Category II Foreign Portfolio Investor (FPI) under the Securities and Exchange Board of India (Foreign Portfolios Investors) Regulations, 2014, made under the Securities and Exchange Board of India Act, 1992. The aforesaid amendment is clarificatory in nature.

The aforesaid amendment will take effect retrospectively from 1.4.2012 and will, accordingly, apply in relation to AY 2012-13 and subsequent AYs.

4. Amendment of section 9A, relating to special taxation regime for off-shore funds

Section 9A of the Act provides for a special regime in respect of offshore funds. It provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund. Further, an eligible investment fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India. The benefit under section 9A is available subject to the conditions provided in sub-sections (3), (4) and (5) of the section.

Sub-section (3) of section 9A provides for the conditions for the eligibility of the fund. These conditions, *inter-alia*, are related to residence of fund, corpus, size, investor broad basing, investment diversification and payment of remuneration to fund manager at arm's length. In respect of corpus of the fund, the condition is that the monthly average of the corpus of the fund shall not be less than one hundred crore rupees except where the fund has been established or incorporated in the previous year in which case, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year.

In order to rationalise the regime and to address the concerns of the stakeholders, it is to be provided

that in the previous year in which the fund is being wound up, the condition that the monthly average of the corpus of the fund shall not be less than one hundred crore rupees, shall not apply.

The aforesaid amendment will take effect retrospectively from 1.4.2016 and shall apply to the AY 2016-17 and subsequent AYs.

5. Amendment of section 10

There are a number of insertions / amendments in section 10 of the Act, which are discussed as follows :

I. Amendment of clause (23C) of section 10, relating to corpus donation.

Clause (23C) of section 10 provides that donation made by entities referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) or clause (23C), to any trust or institution registered under section 12AA, except those made out of accumulated income, is considered as application of income for the purposes of its objects.

A new proviso is to be inserted in the aforesaid clause (23C), so as to provide that donations given by the aforesaid exempt entities to another exempt entity, with specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income, towards the objects of such entities.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

II. Amendment of section 10(38) – Exemption of long-term capital gains

Under the existing provisions of the Section 10(38) of the Income-tax Act, 1961, the income arising from a transfer of long term capital asset, being equity share of a company or a unit of an equity oriented fund, is exempt from tax if the transaction of sale is undertaken on or after 1st October, 2014 and is chargeable to Securities Transaction Tax under Chapter VII of the Finance (No.2) Act, 2004.

It has been noticed that exemption provided under section 10(38) is being misused by certain persons for declaring their unaccounted income as exempt long-term capital gains by entering into sham transactions. With a view to prevent this abuse, section 10(38) is to be amended, so as to provide that exemption under this section for income arising on transfer of equity share acquired or on after 1.10.2004, shall be available only if the acquisition of share is chargeable to Securities Transactions Tax under Chapter VII of the Finance (No 2)

Act, 2004.

However, to protect the exemption for genuine cases where the Securities Transactions Tax could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company acquisition by non-resident in accordance with FDI policy of the Government etc., it is also provided to notify transfers for which the condition of chargeability to Securities Transactions Tax on acquisition shall not be applicable.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

6. Amendment of section 10AA, relating to profits and gains from a unit operating in special economic zone (SEZ).

Under the existing provisions of the section 10AA, deduction is allowed from the total income of an assessee, in respect of profits and gains from his Unit operating in SEZ, subject to fulfilment of certain conditions.

Section 10AA allows deduction in computing the total income of the assessee, hence the deduction is to be allowed for the total income of the assessee as computed in accordance with the provision of the Act before giving effect to the provisions of section10AA. However, courts have taken a view (while deciding the matter pertaining to section 10A which also contains similar provision) that the deduction is to be allowed from the total income of the undertaking and not from the total income of the assessee.

In view of the aforesaid reasons, it is clarified that the amount of deduction referred to in section 10AA shall be allowed from the total income of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA and the deduction under section 10AA in no case shall exceed the said total income.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

7. Amendment of section 11, relating to corpus donation.

Sub-section (1) of section 11 provides that voluntary contributions made by a trust to any other trust or institution, except those made out of accumulated income, is considered as application of income, for the purposes of its objects.

A new *Explanation* 2 is to be inserted under the aforesaid sub-section (1), so as to provide that in respect of any amount credited or paid, out of income referred to in clause (a) or clause (b),

r.w. *Explanation* 1, being contribution with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of such contribution to charitable or religious purposes.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

8. Amendment of section 12A, relating to conditions for applicability of sections 11 and 12.

Section 12A is to be amended, so as to provide that where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A and subsequently it has adopted or undertaken modification of the objects, which do not conform to the conditions of registration, it shall be required to obtain fresh registration by making an application within a period of thirty days from the date of such adoption or modification of the objects in the prescribed form and manner.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

9. Amendment of section 13A – Transparency in electoral funding.

In order to discourage the cash transactions and to bring transparency in the source of funding to political parties, section 13A is to be amended, so as to provide for additional conditions for availing the benefit of the said section which are as under:

(i) No donations of Rs.2000/- or more is received otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bonds,

(ii) Political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (4B) of section 139 on or before the due date under section 139.

Further, in order to address the concern of anonymity of the donors, section 13A is further amended to provide that the political parties shall not be required to furnish the name and address of the donors who contribute by way of electoral bond.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

10. Amendment of section 23 – No notional income for house property held as stock-in-trade.

Section 23 of the Act provides for the manner of determination of annual value of house property.

Considering the business exigencies in case of real estate developers, section 23 is to be amended, so as to provide that where the house property consisting of any building and land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period upto one year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

11. Amendment of section 36(1)(viia) – Relating to provision for bad and doubtful debts, in case of banks.

In order to strengthen the financial position of the entities specified in sub-clause (a) of section 36(1)(viia) of the Act, the aforesaid sub-clause (a) is to be amended, so as to enhance the present limit from 7.5% to 8.5% of the amount of total income (computed before making any deduction under the said clause and Chapter VI-A).

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

12. Amendment of section 40A(3), measures to discourage cash transactions

In order to dis-incentivize cash transactions, section 40A(3) is to be amended, so as to provide that where payments or aggregate of payments in a day to a person, otherwise than by an account payee cheque or bank account draft or use of electronic clearing system, through a bank account, exceeds Rs.10,000, in a day, no deduction shall be allowed there under or as the case may be, such payments shall be deemed to be the profits and gains or business or profession of the assessee.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

13. Amendment of section 43B, relating to certain deductions to be only on actual payment.

Section 43B is to be amended, so as to provide that any sum payable by the assessee as interest on any loan or advance from a co-operative bank, other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, shall also be allowed as deduction, if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

14. Amendment of section 44AA, relating to maintenance of accounts by certain persons carrying on profession or business.

Clause (i) of sub-section (2) of section 44AA provides that certain persons carrying on business or profession are required to maintain books of account and such other documents, if the income from business or profession exceeds Rs.1,20,000 or total sales, turnover or gross receipts in business or profession exceeds Rs.10 lakhs in any one of the three years, immediately preceding the previous year, to enable the Assessing Officer (AO) to compute total income.

Similarly, clause (ii) of sub-section (2) of section 44A provides that certain persons carrying on **newly set-up** business or profession in any previous year are required to maintain books of account and such other documents if the income from such business or profession is likely to exceed Rs.1,20,000 or total sales, turnover or gross receipts, as the case may be, in business or profession, are, or is likely to exceed Rs.10 lakhs, during the previous year, to enable the AO to compute its total income.

The aforesaid limits of sales, turnover or gross receipts, etc, are to be enhanced by amendment of sub-section (2) of section 44AA from Rs.1,20,000 to Rs.2,50,000 and from Rs.10 lakhs to Rs.25 lakhs, respectively, in case of an individual or Hindu undivided family (HUF).

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

15. Amendment of section 45 – Special provisions for computation of capital gains, in case of Joint Development Agreement (JDA).

Under the existing provisions of section 45, capital gains is chargeable to tax in the year in which transfer of capital asset takes place, except in certain cases as provided therein.

In order to minimize the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer of the capital asset, a new sub-section (5A) is to be inserted in section 45, so as to provide that in case of an assessee, being individual or HUF, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax, as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

It is to be further provided that the stamp duty value of his share, being land or building or both in the project, on the date of issuance of the said certificate of completion, as increased by any monetary consideration received, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

It is also to be provided that the aforesaid benefit shall not be available to an assessee, who transfers his share in the project to any other person or on before the date of issuance of the said certificate of completion and in such a situation, the capital gains as determined under the general provision of the Act, shall be deemed to be the income of the previous year in which such transfer takes place.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

16. Amendment of section 47, relating to transactions not regarded as transfer.

Under the existing provisions of clause (x) of section 47, any transfer, by way of conversion of bonds or debentures, debenture stock or deposit certificates in any form of a company into shares or debentures of that company, is not regarded as transfer.

No similar tax neutrality to the conversion of preference shares of a company into its equity shares is provided there under. In order to provide tax neutrality to the conversion of preference shares of a company into equity shares of a company, a new clause (xb) is to be inserted in section 47, so as to provide that the conversion of preference shares of a company into equity shares of that company shall also not be regarded as transfer.

Further, a new clause (viiaa) is to be inserted in section 47, so as to provide that any transfer made outside India of a capital asset being rupee denominated bond of Indian company, issued outside India, by a non-resident to another non-resident, shall not be regarded as transfer.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

17. Amendment of section 48, relating to mode of computation of capital gains.

Fifth proviso to section 48 of the Act, provides that in case of an assessee being a non-resident, any gains arising on account of appreciation of rupee, against foreign currency at the time of redemption of rupee denominated bond of an Indian company subscribed by him, shall be ignored for the purposes of computation of full value of consideration.

Further, "*Indexed cost of acquisition*" is defined to be an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index, for the year in which the asset is transferred 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 1.4.1981, whichever is later.

The aforesaid proviso is to be amended, so as to provide that in case of an assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by him, shall be ignored for the purposes of computation of full value of consideration. Further, as consequential amendment, the reference to 1.4.1981, is to be replaced by 1.4.2001.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

18. Amendment of section 49, relating to cost with reference to certain modes of acquisition.

There are a number of amendments in section 49 of the Act. The important ones are as follows :

I. Sub-clause (e) of clause (iii) of sub-section (1) of section 49 is to be amended, so as to provide that cost of acquisition of the shares of Indian company referred to in section 47(vic) in the hands of the resulting foreign company, shall be the same as it was in the hands of the demerged foreign company.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

II. Further, a new sub-section (2AE) is to be inserted in section 49, so as to provide that where the capital asset, being equity share of a company became the property of the assessee, in

consideration of a transfer, as referred to in clause (xb) to section 47 [regarding conversion of preference shares of a company into equity shares of a company], cost of acquisition of the asset shall be deemed to be the cost of the preference shares, in relation to which such asset is acquired by the assessee.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

III. Besides, a new sub-section (2AF) is to be inserted in section 49, so as to provide that where the capital asset, being a unit or units in a consolidated plan of Mutual Fund Scheme, became the property of the assessee, in consideration of a transfer referred to in clause (xix) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the Mutual Fund.

The aforesaid amendment will take effect from 1.4.2017 and will, accordingly, apply in relation to AY 2017-18, onwards.

IV. A new sub-section (7) is to be inserted in section 49, so as to provide that the cost of acquisition of the share in the project [Joint Development Agreement], in the form of land or building or both, as referred to in sub-section (5A) of section 45, not being the capital asset referred to in the proviso of the said sub-section, shall be the amount which is deemed as full value of consideration in that sub-section.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

V. Further, a new sub-section (8) is to be inserted in section 49, so as to provide that where capital gain arises from the transfer of an asset, being the asset held by a trust or an institution, in respect of which accreted income has been computed and the tax has been paid thereon, in accordance with the provisions of Chapter XII-EB [sections 115TD, 115TE and 115TF], the cost of acquisition of such asset shall be deemed to be the fair market value of such asset, which has been taken into account for computation of accreted income, as on the specific date referred to in section 115TD(2). The aforesaid amendment is consequential in nature.

The aforesaid amendment will take effect retrospectively from 1.6.2016.

19. Insertion of new section 50CA, relating to special provision for full value of consideration for transfer of share other than quoted share.

In order to rationalize the provisions, relating to the deeming of full value of consideration for computation of income under the head "*Capital gains*", a new section 50CA is to be inserted, so as to provide that in case of transfer of shares of a company, other than quoted shares, the fair market value of such shares determined in the prescribed manner shall be deemed to be full value of consideration for the purpose of computing income chargeable to tax as capital gains.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

20. Amendment of section 54EC, relating to capital gain not to be charged on investment in certain bonds.

The existing provisions contained in clause (ba) of sub-section (3) of section 54EC define long-term specified asset for making any investment under the said section on or after 1.4.2007, means any bond, redeemable after three years and issued on or after 1.4.2007, by the National Highways Authorities of India (NHAI) or by the Rural Electrification Corporation Ltd (RECL).

The aforesaid clause (ba) is to be amended, so as to include any other bond, as notified by the Central Government in this behalf.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

21. Amendment of section 55, relating to the meaning of "*adjustment*", "*cost of improvement*" and "*cost of acquisition*" – Base year change from 1981 to 2001 for fair market value (FMV).

Under the existing provisions of section 55, the cost of long-term capital asset acquired before 1.4.1981, may be taken to be the cost of acquisition to the assessee or the FMV of the asset as on 1.4.1981, at the option of the assessee. The cost of improvement is also taken into account, after the assessee has acquired the asset on or after 1.4.1981.

Section 55 is to be amended, so as to advance the aforesaid cut-off date to 1.4.2001. Thus, where long-term capital asset has been acquired before 1.4.2001, then the cost of acquisition may be taken as the value of the asset, as on 1.4.2001. Similarly, in such cases, the cost of improvement will be taken to be the cost of improvement after 1.4.2001.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

22. Amendment of section 56, relating to income from other sources.

In order to prevent the practice of receiving the sum of money or the property without consideration or for inadequate consideration, a new clause (x) in sub-section (2) of section 56 is to be inserted, so as to provide that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "*Income from other sources*".

Further, the scope of existing exceptions contained in the said section is to be widened by including the receipt by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer under section 47 of the Act.

The aforesaid amendment will take effect from 1.4.2017 and the said receipt of sum of money or property on or after 1st April, 2017 shall be chargeable to tax in accordance with the provisions of the aforesaid clause (x) of sub-section (2) of section 56.

23. Amendment of section 58, relating to amounts not deductible [Disallowance for non-deduction of tax from payment to resident]

The provisions of section 58 specify the amounts which are not deductible in computing the income from other sources.

For computing income under the head "*Profits and gains of business or profession*", a disallowance is made for non-deduction of tax from payment to resident also. With a view to improve compliance of provision relating to tax deduction at source (TDS), section 58 is to be amended, so as to provide that provisions of section 40(a)(ia) shall, so far as they may be, apply in computing income chargeable under the head "income from other sources" as they apply in computing income chargeable under the head "*Profit and gains of business or Profession*".

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

24. Amendment of section 71, relating to set-off of loss from one head against income from another head [Restriction on set-off of loss from house property]

A new sub-section (3A) is to be inserted in section 71, so as to provide that notwithstanding anything contained in sub-section (1) or sub-section (2) of section 71, set-off of loss under the

head "*Income from house property*" against any other head of income, shall be restricted to Rs.2 lakhs for any assessment year.

However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years, in accordance with the existing provisions.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

25. Amendment of section 79, relating to carry-forward and set-off of losses in case of certain companies.

The existing provisions of section 79 of the Act, *inter-alia,* provides that where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set-off against the income of the previous year unless on the last day of the previous year the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by person who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred.

In order to facilitate ease of doing business and to promote **start-up India**, section 79 of the Act is to be amended so as to provide that where a change in shareholding has taken place in previous year in the case of a company, not being a company in which the public are substantially interested and being an eligible **start-up** as referred to in section 80-IAC of the Act, loss shall be carried forward and set off against the income of the previous year, if all the shareholders of such company which held shares carrying voting power on the last day of the year or years in which the loss was incurred, being the loss incurred during the period of seven years beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

26. Amendment of section 80-IAC, extending the period for claiming deduction by start-ups

The existing provisions of section 80-IAC, *inter alia,* provide that an eligible start-up shall be allowed a deduction of an amount equal to one hundred per cent of the profits and gains derived from eligible business for three consecutive assessment years out of five years beginning from the year in which such eligible start-up is incorporated.

In view of the fact that start-ups may take time to derive profit out of their business, it is provided

that deduction under section 80-IAC can be claimed by an eligible **start-up** for any three consecutive assessment years out of seven years beginning from the year in which such eligible **start-up** is incorporated.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

27. Amendment of section 80-IBA, relating to deductions in respect of profits and gains from housing projects [Reg. promotion of affordable housing]

The existing provisions of section 80-IBA provides for 100% deduction in respect of the profits and gains derived from developing and building certain housing projects subject to specified conditions. The conditions specified, *inter alia*, include the limit of 30 square meters for the built-up area of residential unit in respect of project located in the Chennai, Delhi, Kolkata and Mumbai or within 25 kms from the municipal limits of these four cities. Further, it is also provided that in order to be eligible to claim deductions, the project shall be completed within a period of three years.

In order to promote the development of **affordable housing sector**, section 80-IBA is to be amended so as to provide the following relaxations:—

(i) The size of residential unit shall be measured by taking into account the "*carpet area*" as defined in Real Estate (Regulation and Development) Act, 2016 and not the "*built-up area*".

(ii) The restriction of 30 square meters on the size of residential units shall not apply to the place located within a distance of 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai.

(iii) The condition of period of completion of project for claiming deduction under this section shall be increased from existing three years to five years.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

28. Amendment of sections 90 and 90A, with regard to interpretation of '*terms*' used in an agreement entered into under sections 90 and 90A

In order to bring clarity and avoid litigation, sections 90 and 90A of the Act are to be amended, so as to provide that where any '*term*' used in an agreement entered into under sub-section(1) of sections 90 and 90A of the Act, is defined under the said agreement, the said term shall be assigned the meaning as provided in the said agreement and where the term is not defined in the agreement, but is defined in the Act, it shall be assigned the meaning as defined in the Act or any

Explanation issued by the Central Government.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

29. Amendment of section 92BA, relating to Specified Domestic Transactions

The existing provisions of section 92BA of the Act, *inter-alia* provide that any expenditure in respect of which payment has been made by the assessee to certain "*specified persons*" under section 40A(2)(b) are covered within the ambit of specified domestic transactions.

As a matter of compliance and reporting, taxpayers need to obtain the chartered accountant's certificate in Form 3CEB providing the details such as list of related parties, nature and value of specified domestic transactions (SDTs), method used to determine the arm's length price for SDTs, positions taken with regard to certain transactions not considered as SDTs, etc. This has considerably increased the compliance burden of the taxpayers.

In order to reduce the compliance burden of taxpayers, it is provided that expenditure in respect of which payment has been made by the assessee to a person referred to, under section 40A(2)(b), are to be excluded from the scope of section 92BA of the Act. Accordingly, a consequential amendment is to be made in section 40A(2)(b) of the Act.

The aforesaid amendments will take effect from 1.4.2017 and will, accordingly, apply in relation to the AY 2017-18 and subsequent AYs.

30. Amendment of section 115BBDA, relating to tax on certain dividends received from domestic companies

Under the existing provisions of section 115BBDA, income by way of dividend in excess of Rs. 10 lakh is chargeable to tax at the rate of 10% on gross basis in case of a resident individual, Hindu undivided family or firm.

With a view to ensure horizontal equity among all categories of tax payers deriving income from dividend, section 115BBDA is to be amended so as to provide that the provisions of said section shall be applicable to all resident assessees except domestic company and certain funds, trusts, institutions, etc.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

31. Insertion of new section 115BBG, relating to taxation of income from transfer of Carbon credits

Income-tax Department has been treating the income on transfer of carbon credits as business income which is subject to tax at the rate of 30%. However, divergent decisions have been given by the courts on the issue as to whether the income received or receivable on transfer of carbon credit is a revenue receipt or capital receipt.

In order to bring clarity on the issue of taxation of income from transfer of carbon credits and to encourage measures to protect the environment, a new section 115BBG is to be inserted so as to provide that where the total income of the assessee includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of ten per cent (plus applicable surcharge and cess) on the gross amount of such income. No expenditure or allowance in respect of such income shall be allowed under the Act.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

32. Amendment of section 115JAA, relating to tax credit for minimum alternate tax (MAT)

Currently, tax credit in respect of MAT, can be carried forward upto tenth assessment year. In order to provide relief to the assessees paying MAT, section 115JAA is to be amended so as to provide that tax credit determined under this section can be carried forward upto fifteenth assessment year immediately succeeding the assessment year in which such tax credit becomes allowable.

Besides, section 115JAA is also to be amended in order to provide that amount of tax credit in respect of MAT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the difference between the amount of foreign tax credit (FTC) allowed against MAT and FTC allowable against the tax computed under regular provisions of the Act other than the provisions relating to MAT.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

33. Amendment of section 115JB, relating to special provisions for payment by certain companies

Section 115JB provides for levy of tax on certain companies on the basis of book profit which is determined after making certain adjustments to the net profit disclosed in the profit and loss account prepared in accordance with the provisions of the Companies Act, 1956.

Section 115JB is to be amended so as to align its provisions for the company preparing financial statements in accordance with the provisions of Indian Accounting Standards and to update the provisions of the Companies Act, 1956, referred to in the said section in accordance with the provisions of new Companies Act, 2013.

The aforesaid amendment will take effect from 1.4.2017 and will, accordingly, apply in relation to AY 2017-18 and subsequent AYs.

34. Amendment of section 115JD, relating to tax credit for Alternate Minimum Tax (AMT)

As already pointed out earlier, tax credit in respect of MAT is to be carried forward for a period of fifteen assessment years in place of ten assessment years earlier.

Similarly, section 115JD is to be amended so as to allow carry-forward of Alternate Minimum Tax (AMT) paid under section 115JC up to 15th assessment year in case of non-corporate assessees.

Section 115JD is to be further amended so as to provide that the amount of tax credit in respect of AMT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the difference between the amount of foreign tax credit (FTC) allowed against AMT and FTC allowable against the tax computed under the regular provisions of the Act other than the provisions relating to AMT.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

35. Amendment of sections 132 and 132A, relating to search and seizure and powers to requisition books of account, etc [Reason to believe to conduct a search, etc, not to be disclosed].

Sub-section (1) and (1A) of section 132 provide that where an authority mentioned therein, based on the information in his possession, has *'reason to believe'* or *'reason to suspect'* of circumstances referred to in the said sub-sections, he may authorize an authority specified therein to carry out search & seizure.

Similarly, sub-section (1) of section 132A provides that the specified income-tax authority based on *'reason to believe'* can authorise other income-tax authority mentioned therein to requisition from some other officer or authority to deliver books of account, documents or assets of the assessee to the income-tax authority so authorised.

Confidentiality and sensitivity are the hallmarks of proceedings under section 132 and section 132A.

However, certain judicial pronouncements have created ambiguity in respect of the disclosure of *'reason to believe'* or *'reason to suspect'* recorded by the income-tax authority to conduct a search under section 132 or to make requisition under section 132A.

In view of the aforesaid reasons, an *Explanation* to sub-section (1) and sub-section (1A) of section 132 and sub-section (1) of section 132A is to be inserted, so as to declare that "*reason to believe*" or "*reason to suspect*", as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal.

The aforesaid amendments will take effect retrospectively from the date of enactment of the said provisions viz. to sub-section (1) of section 132 from 1.4.1962 and to sub-section (1A) of section 132 and to sub-section (1) of section 132A from 1.10.1975.

36. Amendment of section 132, relating to power of Authorized Officer of provisional attachment and to make reference to Valuation Officer.

New sub-sections (9B) and (9C) are to be inserted in section 132, in order to protect the interests of revenue and safeguard recovery in such cases, so as to provide that during the course of search and seizure or within period of sixty days from the date on which the last of the authorizations for search was executed, the Authorized Officer, on being satisfied that for protecting the interest of revenue, it is necessary so to do, may attach provisionally any property belonging to the assessee, with prior approval of Pr.DGIT or DGIT or Pr.DIT. Such provisional attachment shall, however, cease to have effect after the expiry of six months from the date of order of such attachment.

Further, a new sub-section (9D) is to be inserted in section 132, in order to enable correct estimation and quantification of undisclosed income held in the form of investment or property by the assessee by the Investigation Wing of the Department, so as to provide that in case of search, the authorized officer may, for the purpose of estimation of fair market value of a property, make a reference to a Valuation Officer referred to in section 142A, for valuation in a manner provided there under. It is also provided that the Valuation Officer shall furnish the valuation report within sixty days from the receipt of such reference.

The aforesaid amendments will take effect from 1.4.2017.

37. Amendment of section 133, relating to power to call for information

Section 133 empowers certain income-tax authorities to call for information for the purpose of any enquiry or proceeding under the Act.

First proviso to section 133 is to be amended, so as to provide that the power in respect of enquiry or proceeding under the Act, as referred to in clause (6) of the said section, may be exercised by the joint director, deputy director or assistant director.

Besides, the second proviso of section 133 is also to be amended, so as to provide that the director, the deputy director or assistant director, in a case where no proceeding is pending, may exercise the powers, in respect of enquiry, without seeking prior approval of the authorities, as specified in the said proviso.

The aforesaid amendments will take effect from 1.4.2017.

38. Amendment of section 133A, relating to power of survey 8

The existing provisions of section 133A empower an income-tax authority to enter any place at which a business or profession is carried on or at which any books of account or other documents or any part of cash or stock or other valuable article or thing, relating to the business or profession are kept, for the purposes of conducting a survey.

Sub-section (1) of section 133A is to be amended, in order to widen its scope, so as to include any place, at which an activity for charitable purpose is carried on.

The aforesaid amendment will take effect from 1.4.2017.

39. Amendment of section 133C, relating to power to call for information by prescribed income-tax authority

Section 133C of the Act empowers the prescribed income-tax authority to issue notice calling for information and documents for the purpose of verification of information in its possession.

In order to expedite verification and analysis of the information and documents so received, section 133C is to be amended, so as to empower the Central Board of Direct Taxes to make a scheme for centralised issuance of notice calling for information and documents for the purpose of verification of information in its possession, processing of such documents and making the outcome thereof available to the Assessing Officer for necessary action, if any.

The aforesaid amendment will take effect from 1.4.2017

40. Amendment of section 139(4C), relating to mandatory furnishing of return by certain exempt entities

The existing provisions of sub-section (4C) of section 139 mandate filing of return by certain entities which are exempt from the levy of income-tax.

In order to verify that certain entities which enjoy exemption under section 10, actually carry out the activities for which the exemption has been provided under the Act, it is to be provided that any person referred to in clause (23AAA), Investor Protection Fund referred to in clause (23EC) or clause (23ED), Core Settlement Guarantee Fund, referred to in clause (23EE) and Board or authority referred to in clause (29A) of section 10, shall also be mandatorily required to furnish a return of income.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

41. Amendment of section 139(5), relating to furnishing of revised return of income

Sub-section (5) of section 139 provides that a person can furnish a revised return, in case he discovers any omission or wrong statement in the return of income, already furnished, within one year from the end of the relevant AY, or before completion of assessment, whichever is earlier.

The aforesaid sub-section (5) is to be amended, so as to provide that the time for furnishing of the revised return shall be available up to the end of the relevant AY, or before the completion of assessment, whichever is earlier.

The aforesaid amendment will take effect from 1.4.2018 and will, accordingly, apply in relation to AY 2018-19 and subsequent AYs.

42. Amendment of section 143, relating to assessment

Sub-section (1D) of section 143 is to be substituted by a new sub-section, so as to provide that the processing of return shall not be necessary, where a notice has been issued to the assessee under sub-section (2) of section 143.

It is also to be provided that the provisions of the aforesaid sub-section (1D) shall not apply in relation to any return furnished for the AY, commencing on or after 1.4.2017.

The aforesaid amendment will take effect from 1.4.2017.

43. Amendment of section 153, relating to time-limit for completion of assessment, reassessment and re-computation.

In the effort to minimise human interface and move towards technology, massive computerisation has been carried out in the Department, which has translated into overall enhanced efficiency in the functioning of the Department. In view of the same, sub-section (1) of the said section is to be

amended, so as to provide that for the assessment year 2018-19, the time limit for making an assessment order under sections 143 or 144 shall be reduced from existing twenty-one months to eighteen months from the end of the assessment year, and for the assessment year 2019-20 and onwards, the said time limit shall be twelve months from the end of the assessment year in which the income was first assessable.

Further, sub-section (2) of the said section is to be amended, so as to provide that the time limit for making an order of assessment, reassessment or re-computation under section 147, in respect of notices served under section 148 on or after 1.4. 2019 shall be twelve months from the end of the financial year in which notice under section 148 is served.

Besides, sub-section (3) of the said section is to be amended, so as to provide that the time limit for making an order of fresh assessment in pursuance of an order passed or received in the financial year 2019-20 and onwards under sections 254 or 263 or 264 shall be twelve months from the end of the financial year in which order under section 254 is received or order under section 263 or 264 is passed by the authority referred therein.

These amendments will take effect from 1.4.2017.

In addition, sub-section (5) of the said section is to be amended, so as to provide that where an order under section 250 or 254 or 260 or 262 or 263 or 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the time limit relating to fresh assessment provided in sub-section (3) shall apply to the order giving effect to such order.

Further, sub-section (9) of the said section is to be amended, so as to provide that where a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or under section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in *Explanation* 1, such assessment or reassessment shall be completed in accordance with the provisions of section 153 as it stood immediately before its substitution by the Finance Act, 2016.

The aforesaid amendments will take effect retrospectively from 1.6.2016.

44. Amendment of section 153A, relating to assessment in case of search or requisition

Sub-section (1) of section 153A provides that where a search is conducted under section 132 or requisition is made under section 132A, a notice shall be issued to such person to furnish the return

of income in respect of each AY falling within **six assessment years** immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made. Further, it also provides for assessment or reassessment of the total income of the said AYs.

In order to protect the interest of the revenue in cases where tangible evidence(s) are found during search operation (including section 132A cases) and the same is represented in the form of undisclosed investment in any asset, section 153A is to be amended in order to provide that **notice under the said section can be issued for an assessment year or years beyond the sixth AY upto the tenth AY if –**

(i) The Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in one year or in aggregate in the relevant four assessment years (falling beyond the sixth year);

(ii) Such income escaping assessment is represented in the form of asset;

(iii) The income escaping assessment or part thereof relates to such year or years.

However, the amended provision of section 153A shall apply only where search under section 132 is initiated or requisition under section 132A is made on or after 1.4.2017.

Consequential amendments are also to be made in section 153C.

The aforesaid amendments will take effect from 1.4.2017.

45. Amendment of section 153B, relating to time-limit for completion of assessment under section 153A

The existing provision of section 153B provides for the time-limit for completion of assessment under section 153A.

Since time-limit for completion of assessment under section 153 is to be rationalized, the time limit for completion of assessment under section 153A is also to be consequentially rationalized. Therefore, sub-section (1) of section 153A is to be amended so as to provide that for search and seizure cases conducted in FY 2018-19, the time-limit for making an assessment order under section 153A shall be reduced from the existing twenty one (21) months to eighteen (18) months from the end of FY in which the last of the authorizations for search under section 132 or for requisition under section 132A was executed. It is further provided that for search and seizure cases conducted in the FY 2019-20 and onwards the said time-limit shall be further reduced to

twelve (12) months from the end of the FY in which the last of the authorizations for search under section 132 or for requisition under section 132A was executed.

It is further provided that the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period available to make assessment or reassessment in case of person on whom search is conducted or twelve months from the end of FY in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person whichever is later.

The aforesaid amendments will take effect from 1.4.2017.

46. Amendment of section 155, enabling claim of credit for foreign tax paid in cases of dispute

The existing provision of section 155 of the Act provides for procedure for amendment of assessment order in case of certain specified errors.

In view of rule 128 of the Income-Tax Rules, 1962, which provides a mechanism for claim of foreign tax credit, a new sub-section (14A) is to be inserted in section 155, so as to provide that where credit for foreign taxes paid is not given for the relevant AY on the grounds that the payment for such foreign tax was in dispute, the AO shall rectify the assessment order or an intimation under section 143(1), if the assessee within six months from the end of the month in which the dispute is settled, furnishes proof of settlement of such dispute, submits evidence before the AO that the foreign tax liability has been discharged and furnishes an undertaking that credit of such amount of foreign tax paid has not been directly or indirectly claimed or shall not be claimed for any other AY.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

47. Insertion of new section 194-IB, relating to payment of rent by certain individuals or Hindu undivided family

A new section 194-IB is to be inserted in the Act in order to provide that any person, being an individual or HUF (other than those referred to in second proviso to section 194-I), responsible for paying to a resident any income by way of rent exceeding Rs.50,000, for a month or part of a

month during the previous year, shall deduct an amount equal to five percent (5%) of such income as income-tax thereon.

It is further provided that the aforesaid income-tax shall be deducted on such income at the time of credit of rent for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode whichever is earlier.

In addition, it is also provided that the provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of section 194-IB.

It is also provided that where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of tenancy, as the case may be.

Besides, the term '*rent*' is to be defined for the purposes of this section, which means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both.

The aforesaid amendment shall take effect from 1.6.2017.

48. Insertion of new section 194-IC, relating to deduction in respect of payment under specified agreement

A new section 194-IC is to be inserted in the Act in order to provide that notwithstanding anything contained in section 194-IA, any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (5A) of section 45, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof whichever is earlier, deduct an amount equal to ten per cent (10%) of such sum as income-tax thereon.

The aforesaid amendment will take effect from 1.4.2017.

49. Amendment of section 194J for lower TDS in respect of payments to a person engaged only in business of operation of call center.

The existing provisions of sub-section (1) of section 194J of the Act, *inter-alia,* provides that a specified person is required to deduct an amount equal to ten per cent. of any sum payable or paid (whichever is earlier) to a resident by way of fees for professional services or fees for technical services provided such sum paid/payable or aggregate of sum paid/payable exceeds thirty thousand rupees to a person in a financial year.

In order to promote ease of doing business, section 194J is to be amended so as to reduce the rate of deduction of tax at source to two per cent.(2%) from ten per cent.(10%) in case of payments received or credited to a payee, being a person engaged only in the business of operation of call center.

The aforesaid amendment will take effect from 1.6.2017.

50. Amendment of section 197A, for filing of form 15G / 15H, relating to insurance commission specified under section 194D

The existing provision of sub-section 194D of the Act, *inter-alia*, provides for tax deduction at source (TDS) at the rate of 5% for payments in the nature of insurance commission beyond a threshold limit of Rs.15,000, per financial year. Further, the existing provisions of section 197A of the Act , *inter-alia,* provide that tax shall not be deducted, if the recipient of certain payments on which tax is deductible furnishes to the payer a self-declaration in prescribed Form.No.15G/15H declaring that the tax on his estimated total income of the relevant previous year would be nil. Presently, the payment in the nature of income referred to in section 194D is not covered by provisions of section 197A.

In order to reduce compliance burden in the case of Individuals and HUFs section 197A is to be amended, so as to make them eligible for filing self-declaration in Form.No.15G/15H for non-deduction of tax at source in respect of insurance commission referred to in section 194D.

The aforesaid amendment will take effect from 1.6.2017.

51. Insertion of new section 234F, relating to fee for delayed filing of return

In order to ensure that return is filed within due date, a new section 234F is to be inserted in the Act so as to provide that a fee for delay in furnishing of return shall be levied for AY 2018-19 and onwards in a case where the return is not filed within the due dates specified for filing of return under sub-section (1) of section 139. The fee structure will be as follows:—

(i) A fee of five thousand rupees shall be payable, if the return is furnished after the due date, but on or before the 31st day of December of the assessment year;

(ii) A fee of ten thousand rupees shall be payable in any other case.

However, in a case where the total income does not exceed five lakh rupees, the fee amount shall not exceed one thousand rupees.

A consequential amendment is to be made in section 140A so as to include that in case of delay in furnishing of return of income, along with the tax and interest payable, fee for delay in furnishing of return of income shall also be payable.

Besides a consequential amendment is to be made in section 143(1), so as to provide that in computation of amount payable or refund due, as the case may be, on account of processing of return under the said sub-section, the fee payable under section 234F shall also be taken into account.

Consequentially, the provisions of section 271F in respect of penalty for failure to furnish return of income shall not apply in respect of AY 2018-19 and onwards.

The aforesaid amendments will take effect from 1.4.2018 and will, accordingly, apply in relation to the AY 2018-19 and subsequent AYs.

52. Amendment of section 244A, relating to interest on refund due to tax-deductor

The existing section 244A of the Act provides that an assessee is entitled to receive interest on refund arising out of excess payment of advance tax, tax deducted or collected at source, etc.

A new sub-section (1B) is to be inserted in the said section so as to provide that where refund of any amount becomes due to the tax-deductor, such person shall be entitled to receive, in addition to the refund, simple interest on such refund, calculated at the rate of one-half per cent. for every month or part of a month comprised in the period, from the date on which claim for refund is made in the prescribed form or in case of an order passed in appeal, from the date on which the tax is paid, to the date on which refund is granted.

It is also provided that the interest shall not be allowed for the period for which the delay in the proceedings resulting in the refund is attributable to the tax-deductor.

The aforesaid amendment will take effect from 1.4.2017.

53. Insertion of new section 269ST, relating to restriction on cash transactions

In India, the quantum of domestic black money is huge which adversely affects the revenue of the Government creating a resource crunch for its various welfare programmes. Black money is generally transacted in cash and large amount of unaccounted wealth is stored and used in form of cash.

In order to achieve the mission of the Government to move towards a less cash economy to reduce

generation and circulation of black money, a new section 269ST is to be inserted in the Act so as to provide that no person shall receive **an amount of three lakh rupees or more**,—

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

(b) In respect of a single transaction; or

(c) In respect of transactions relating to one event or occasion from a person,

– otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.

Thus a restriction has been placed on payment by cash on an amount of Rs.3 lakhs or more.

It is further provided that the said restriction shall not apply to Government, any banking company, post office savings bank or co-operative bank. Further, it is provided that such other persons or class of persons or receipts may be notified by the Central Government, for reasons to be recorded in writing, on whom the restriction on cash transactions shall not apply. Transactions of the nature referred to in section 269SS are excluded from the scope of the said section.

A new section 271DA is to be inserted in the Act so as to provide for levy of penalty on a person who receives a sum in contravention of the provisions of section 269ST. The penalty is provided to be a sum equal to the amount of such receipt. The said penalty shall, however, not be levied if the person proves that there were good and sufficient reasons for such contravention. It is also provided that any such penalty shall be levied by the Joint Commissioner.

It is also provided to consequentially amend the provisions of section 206C to omit the provision relating to tax collection at source at the rate of one per cent. of sale consideration on cash sale of jewellery exceeding five lakh rupees.

The aforesaid amendments will take effect from 1.4.2017.

54. Insertion of new section 271J, relating to penalty on professionals for furnishing incorrect information in statutory report or certificate.

The thrust of the Government in recent past is on voluntary compliance. Certification of various reports and certificates by a qualified professional has been provided in the Act to ensure that the information furnished by an assessee under the provisions of the Act is correct. Various provisions exist under the Act to penalize the defaulting assessee in case of furnishing incorrect information.

However, there exist no penal provision for levy of penalty for furnishing incorrect information by the person who is responsible for certifying the same.

In order to ensure that the person furnishing report or certificate undertakes due diligence before making such certification, a new section 271J is to be inserted so as to provide that if an accountant or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct him to pay a sum of ten thousand rupees for each such report or certificate by way of penalty.

It is further provided to define the expressions "*accountant*", "*merchant banker*" and "*registered valuer*".

It is also provided through amendment of section 273B that if the person proves that there was reasonable cause for the failure referred to in the said section, then penalty shall not be imposable in respect of section 271J.

The aforesaid amendments will take effect from 1.4.2017.

55. Suggestions in respect of an important part of the Budget Speech of the Finance Minister

The Finance Minister, vide clause (180) of the Budget Speech for 2017-18, under the head "***RAPID***" has made a very significant statement. For the sake of ready reference, the aforesaid clause (180) of the Budget Speech is reproduced as follows :

"*180. In the Annual conclave of Tax officers called 'Rajaswa Gyan Sangam' held in June 2016, the Prime Minister had expressed his desire to bring reforms in tax administration in the form of an approach of RAPID which stands for Revenue, Accountability, Probity, Information and Digitisation. This approach precisely reflects the strategy of Tax Department which is now formulated. While revenue considerations always remain the focus of Revenue Department, we are trying to bring in maximum use of Information Technology to remove human contact with assessees as well as to p0lug tax avoidance. We will try to maximize our efforts for e-assessment in the coming year. We are also using a lot of data mining capability, both in-house and outsourced.* ***We plan to enforce greater accountability of officers of Tax Department for specific act of commission and omission. I would like to assure everyone that honest, tax-compliant person would be treated with dignity and courtesy."*** [Emphasis added]

As regards the aforesaid statement of the Finance Minister, in the first place, I would like to express my appreciation that attention, at the highest level, has been focused on enforcement of greater accountability of officers of Tax Department. However, at the ground level, the situation is highly deplorable. The reason for the same is that the officers of the Income-Tax Department, in general and the Assessing Officers (AOs) in particular, are not, at all, sensitive to the fact that they should be held accountable for their acts of commission and omission.

The AOs continue to make high-pitched assessments, mostly without application of mind and thereby burden the tax-payers with uncalled for tax liability, in addition to the attendant, harassment, inconvenience and anxiety. Not only that, even after making high-pitched assessments, the AOs start putting pressure on the tax-payers for payment of tax, based on such high-pitched assessments.

It may be further stated here that most of the additions made by the AOs in such cases, do not stand the test, even of the first appeal and at the level of the second appeal, viz. at the level of the Income-Tax Appellate Tribunal, around 95% of additions in such high-pitched assessments are knocked off.

In the light of the aforesaid reasons, a question arises as to why this kind of exercise is undertaken by the officers of the Income-Tax Department. The reason for the same appears to be the fact that they do not feel at all, accountable to the uncalled for additions, which they make in such high-pitched assessment orders.

I would only hope that some in-house training and advice is imparted to such officers of the IT Department by their seniors, so that the unfortunate tax-payers are spared of the uncalled for, harassment, inconvenience and anxiety, which they face, in view of the high-pitched assessment orders.

In the present context, it is also relevant to refer to the Instruction No.17 / 2015, dt.9.11.2015, issued by the Ministry of Finance, Department of Revenue, relating to the subject "***Constitution of Local Committees to deal with Taxpayers Grievances from High-Pitched Scrutiny Assessment – reg***". The first paragraph of the aforesaid Instruction clearly brings out the problems being faced by the tax-payers on account of high-pitched assessments. For the sake of ready reference, the aforesaid paragraph (1) is reproduced as follows :

"*Board has consistently been advising the field authorities to be fair, objective and rational while framing scrutiny assessment orders. Role of supervisory authorities in this regard, has also been highlighted by the Board from time to time. It has, however, been brought to the notice of Board that the tendency to frame high-pitched and unreasonable assessment orders is still persisting due*

to which grievances are being raised by the taxpayers. Such grievances not only reflect harassment of taxpayers but also lead to generation of unproductive work for Department as well as Appellate Authorities".

In the first place, it must be appreciated that the difficulties faced by the tax-payers in view of high-pitched assessments have been acknowledged at the highest level. However, the Local Committees referred to in the aforesaid Instruction have remained almost non-functional at most of the field stations.

In the light of the aforesaid reasons, it is suggested that some drastic measures must be adopted, in order to avoid the tendency on the part of the officers of the Department to frame high-pitched and unreasonable assessment orders, because such high-pitched assessments not only cause lot of harassment, inconvenience and anxiety to the tax-payers, but also lead to generation of unproductive work, which can be avoided, if a proper approach is adopted in this regard.

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