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EDITORIAL

Friends,

Budget 2021-2022 minimizes Regulatory Compliance Burden to improve Ease of Doing Business for industry. Key announcements made in the Union Budget 2021-22 are:

- **Faster Dispute Resolution:** Budget 2021 -22 has introduced multiple initiatives related to digitization, faceless dispute resolution and simplification by replacing the authority for advance ruling with the Board of Advance Rulings and provide appeal against the order of such Board to the High Court to enable faster resolution of disputes.

- **Streamlined Export Import Procedures:** Several reform measures have been initiated and implemented to make customs clearance process faster, flexible and free from human intervention. This led to reduction in overall time and cost of exports and imports clearances. Budget 2021 has announced measures to bring ease of compliance for exporters and importers.

- **Easier Tax Compliance:** Budget 2021 announced various measures in keeping with its commitment to ease the burden on taxpayers by bringing ease of filing of tax returns. Large number of senior citizens across India will be benefited with the simplification introduced in filing income tax returns.

- **Simplified Compliance for Companies:** Budget 2021 focused on decriminalization of the LLP Act, 2008 and simplification of definition of Small Companies to make it easier for starting and operating a business in India.

- **Use of New-Age Technologies**: During the coming fiscal 2021-22, data analytics, artificial intelligence, machine learning driven MCA21 Version 3.0 will be launched. This Version 3.0 will have additional modules for e-scrutiny, e-Adjudication, e-Consultation and Compliance Management. Liberalized regulatory regime will not only boost productivity, employment and economic growth but would also further the vision of Atmanirbhar Bharat, making India the globally preferred investment destination.

Further, Finance Minister says that Budget 2021 clearly marks directional change for Indian economy. Infrastructure, health & agriculture - three large areas where big-ticket expenditure will happen. This is a budget that raised resources but not on the back of raised taxes. Government alone can't just meet the demand of a growing and aspirational India. Hence, Industry should come forward.

States' GST revenue shortfall to be lower due to better collections in last months. Budget proposal of taxing interest on employee contributions to provident fund over Rs 2.5 lakh per annum is aimed at correcting anomalies and is based on "principles of equity" and large depositors into the Employee Provident Fund (EPF) should pay tax on assured 8 per cent return. According to the Budget, interest on employee contributions to provident fund over Rs 2.5 lakh per annum would be taxed from April 1, 2021.

EDITORIAL

The Income Tax Department is working on ways to change general perception about the department to being "tax facilitators" rather than just "tax enforcers". Department is scaling up the capacity of tax officers to better facilitate taxpayers. Central Board of Direct Taxes (CBDT), the apex decision making body in matters of income tax has taken up various taxpayer-friendly moves, including introduction of faceless assessment and appeals, reducing time limit for reopening of assessment cases and setting up of a dispute resolution committee.

The Income Tax Department has detected tax evasion of more than Rs 200 crore after it raided three "leading" entities of Assam involved in construction and tea garden businesses, the CBDT said on 03.02.2021. The search and survey operation was carried out on January 29 at about 20 locations in Guwahati, Tezpur, Nalbari (all in Assam), Delhi, Gurugram, and in West Bemgal's Kolkata, Siliguri and Alipurduar. Cash worth Rs 42 lakh was also seized during the operation. The Central Board of Direct Taxes (CBDT) frames policy for the tax department. The main allegations against the three groups, it said, were that they had been inflating expenses and had taken accommodation entries in the form of non-genuine unsecured loans and security premium. Digital back-up of servers, computers and phones had been taken for further examination which will give actual picture of the business of the assessees.

A disputed amount of Rs 95,000 crore has been settled by about 1.20 lakh entities who opted for the 'Vivad se Vishwas' scheme to resolve long pending litigation issues with the Income Tax Department, as informed by CBDT Chairman. He also said the Budget 2021-22 presented by Finance Minister Nirmala Sitharaman was aimed at ensuring that income tax payers are provided with an "efficient and effective" tax administration and that no new taxes are imposed during the coronavirus pandemic which is still spreading. The Vivad se Vishwas (VsV) scheme, which was announced by the finance minister in her Budget speech last year has brought on the settlement table various category of taxpayers like corporates, non-corporates, state governments and public sector undertakings (PSUs).

We do hope that this bulletin adds value to your professional sphere.

Just to reiterate that we remain available over telecom or e-mail.

Truly Yours

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SYNOPSIS

TAX CALENDAR

Due date	Form/Return /Challan	Reporting Period	Description
7th February 2021	ITNS-281	January, 2021	Due Date for payment of TDS/TCS
10th February 2021	GSTR-7	January, 2021	Due Date of TDS Return under GST
10th February 2021	GSTR-8	January, 2021	Due Date of TCS Return Under GST for E-Commerce Agencies
11th February 2021	GSTR-1	January, 2021	Details of Outward supplies of Goods or Services for the taxpayers whose turnover is above Rs.1.5 Crores
13th February 2021	GSTR-6	January, 2021	Due Date for Input Service Distributor to furnish summary of inward and outward supplies
13th February 2021	GSTR-1	January, 2021	Due Date for furnishing Outward Supplies for the taxpayers who have opted for QRMP Scheme. (It is Optional)

INCOME TAX

AMENDMENTS IN UNION BUDGET 2021

HIGHLIGHTS OF THE UNION BUDGET 2021

As per **Press Release dated 01.02.2021**, Finance Minister Nirmala Sitharaman has highlighted the below mentioned points in the Union Budget 2021 which will impact Trade and Industry as well as Practitioners-

- There has been a relief given to senior citizens who are above 75 years of age and having only pension and interest income are not required to file ITR u/s 194P of the Income Tax Act, 1961.
- Limit of turnover for tax audit has been increased to Rs. 10 Crores from Rs. 5 Crores for entities carrying out 95% transactions digitally.
- Relief has been given for deduction of TDS in case of payment of dividend to REIT/InvIT.
- Advance Tax on Dividend Income shall be paid only after declaration or payment of dividend.
- In Case of affordable housing loan, additional deduction of interest upto Rs. 1,50,000 extended upto 31.03.2022 u/s 80EEA. Tax Holidays for developers has also been extended.
- While extracting pre-filing of returns, details of capital gains from Listed Securities, dividend and interest from banks will be prefilled in returns.
- Eligibility for tax holiday claim for start-ups has been extended by one more year.
- Capital Gains Exemption for investment in start-ups has been extended till 31st March 2022.
- Exemption limit of annual receipt has been revised from ₹1 crore to ₹5 crore for small charitable trusts running schools and hospitals.
- Rules to be notified for removing hardships faced by NRIs regarding their foreign retirement accounts.
- Time limit for re-opening cases has been reduced from 6 years to 3 years.
- Dispute Resolution Committee to be set up for taxpayers with taxable income up to Rs. 50 lakhs and disputed income up to Rs. 10 lakhs.
- Serious tax evasion cases, with evidence of concealment of income of Rs. 50 lakhs or more in a year, to be re-opened only up to 10 years, with approval of the Principal Chief Commissioner.
- National Faceless Income Tax Appellate Tribunal Centre to be established.
- Over 1 lakh taxpayers opted to settle tax disputes of over Rs. 85,000 Crores through Vivad Se Vishwas Scheme until 30th January 2021.
- “Liable to Tax” definition has been introduced u/s 2(29A) of the Income Tax Act,1961.
- TDS on purchase of goods has been amended vide amendment of Section 206AA of the Income Tax Act 1961.
- Income Tax Settlement Commission has been discontinued and constituted an Interim Board of settlement for pending cases w.e.f.01.02.2021.

GST

AMENDMENTS IN UNION BUDGET 2021

HIGHLIGHTS OF THE UNION BUDGET 2021

As per **Press Release dated 01.02.2021**, Finance Minister Nirmala Sitharaman has highlighted the below mentioned points in the Union Budget 2021 which will impact Trade and Industry as well as Practitioners-

- Applicability of clause(aa) in Section 7(1) of the CGST Act will be retrospective. Thus, the activities by clubs or other associations performed for members would now be a firm supply and not deemed to be a supply. Further, this amendment may have been done to put to rest all litigations in this matter.
- Insertion of section 107(6) of the CGST Act is to provide that no appeal shall be filed against an order made under Section 129(3), unless a sum equal to 25% of penalty has been paid by the appellant.
- Introduction of section 16(2)(aa) of the CGST Act is to provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note have been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note. This amendment has been made to provide further strength to GSTR 2A & GSTR 2B. Hence, now ITC shall not be available if it does not reflect in GSTR 2A. However, it is important to note that Section 16(2)(c) still prevails and the tax should actually be paid to the Government also for allowance of ITC to the recipient.
- Section 35(5) of the CGST Act is being omitted so as to remove the mandatory requirement of getting annual accounts audited and reconciliation statement submitted by specified professional. However, Section 44 of the CGST Act is being substituted so as to remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self-certification basis. Hence, GSTR 9C may not be applicable henceforth but GSTR 9 may be further modified.
- Section 50 of the CGST Act is being amended, retrospectively, to substitute the proviso to sub-section (1) so as to charge interest on net cash liability with effect from the 1st July, 2017. This amendment is expected to put to rest the litigation on interest under GST.
- Section 151 of the CGST Act is being substituted to empower the jurisdictional commissioner to call for information from any person relating to any matter dealt with in connection with the Act.
- Section 152 of the CGST Act is being amended so as to provide that no information obtained under sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned.
- Section 168 of the CGST Act is being amended to enable the jurisdictional commissioner to exercise powers under section 151 to call for information.
- Section 16 of the IGST Act is being amended so as to: (i) zero rate the supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit only when the said supply is for authorised operations; (ii) restrict the zero-rated supply on payment of integrated tax only to a notified class of taxpayers or notified supplies of goods or services; and (iii) link the foreign exchange remittance in case of export of goods with refund.

FEMA

CASE LAW

MANAK KALA VERSUS UNION OF INDIA AND ANR-2019 [DELHI HIGH COURT]

Brief: In this case there are below mentioned disputes:

a.) Whether there is any violation of provisions of FERA solely on the basis of the statement of Sh. Ashish Jain?

b.) Whether there is any material on record to establish that the appellant was guilty of violation of provisions of Section 9(1)(b) of FERA if the statement of Sh. Ashish Jain?

OUR COMMENTS: In the present case, Delhi High Court held that neither the Adjudicating Authority (Deputy Director, Enforcement Directorate) nor the appellate authority (Special Director, Appeals) had applied their minds on the question whether the statement made by Ashish Jain was voluntary in view of its retraction on the very next day. In fact, the Tribunal had proceeded on the basis that it was accepted by the Appellate Authority (Special Director, Appeals) that the statement of Ashish Jain had no evidentiary value. This Court is of the view that the statement of Sh. Ashish Jain could not be relied upon as, first of all, it was retracted on the very next day. And, secondly, the statement was very vague and bereft of any particulars, inasmuch as, it did not name or describe any person from whom funds had been received and whom the said funds had been distributed to. As noticed above, neither the adjudicating authority nor any of the appellate authorities, including the Tribunal, had applied their minds as to whether the said statement was voluntary or not. Thus, the question whether the appellant could be held guilty for violation of provisions of Section 9(1)(b) of FERA, on the sole basis of the statement of Sh. Ashish Jain, must be answered in the negative. Clearly, the answer to the above question must also be in the negative as there is no material whatsoever on record to establish the same. None of the orders of the authorities below, namely, the Adjudicating Authority, the Appellate Authority or the Tribunal refer to any cogent material to substantiate the allegation of the commission of an offence under Section 9(1)(b) of FERA. This Court is of the view that confiscation of the amount of ₹ 7,95,000/- from the office of the appellant is unsustainable. Consequently, the present appeal must be allowed. The order passed by the Adjudicating Authority (Deputy Director, Enforcement Directorate); the order passed by the Appellate Authority (Special Director, Appeals); and the impugned order passed by the Tribunal are unsustainable and are, accordingly, set aside. The amount seized from the premises of the appellant are liable to be returned to the appellant. Hence, the case is in favour of the appellant.

[Decided in favour of the appellant]

CUSTOMS

NOTIFICATIONS

CUSTOM NOTIFICATIONS NOTIFIED VIDE UNION BUDGET 2021

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 01/2021-Customs to Notification No.15/2020-Customs dated 01.02.2021** has notified:

- Effective rate of Basic Custom Duty on various goods has been prescribed.
- Revocation of the operation of the Notification No. 01/2017-Customs (CVD) dated 07.09.2017 for the period from 2nd February, 2021 to 30th September, 2021.
- Effective rate of Basic Custom Duty on IT/Electronic items has been prescribed.
- Amendment in Notification No.25/99-Customs dated 28.02.1999 so as to withdraw BCD exemption on the specified parts of transformers.
- Amendment in Notification No. 24/2005-Customs dated 01.03.2005 so as to clarify the scope of exemption under entry at S. No. 13S of the said notification.
- Amendment in Notification No. 08/2020-Customs dated 02.02.2020 so as to exempt the medical devices imported by international organizations and diplomatic missions, from the levy of Health Cess.
- There will be no exemption in all items of machinery and components required for the initial setting up of a solar power generation project or facility, Tags and labels or printed bags of foreign origin imported for repairs and return, and goods imported for organising FIFA under 17, world cup, 2017.
- Inclusion on temporary imports of costumes and props for film-making in the exemption of the goods.
- Amendments to the list of specified projects under heading 9801 of the First Schedule to the Customs Tariff Act.
- National High Speed Rail Corporation Ltd. as Sponsoring Authority for High-Speed Rail projects has been inserted.
- Effective rate of Agriculture Infrastructure and Development Cess for specified goods has been prescribed.
- Rescindment of Notification No. 12/2018-Customs dated 02.02.2018 in which specified goods were exempted from the of levy of Social Welfare Surcharge in excess of 3%.
- Exemption on Social Welfare Surcharge leviable on Agriculture Infrastructure and Development Cess on Gold and Silver.
- Exemption on Social Welfare Surcharge leviable on Crude or roughly trimmed or Blocks Marble or travertine.
- Amendment in effective rate of duty under Chapter 50 to 63 on textile products.

[For further details please refer the notification]

DGFT

TRADE NOTICE/CASE LAW

INTRODUCTION OF ONLINE E-TARIFF RATE QUOTA SYSTEM FOR IMPORTS

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Trade Notice No. 40/2020-21 dated 04.02.2021** has allocated e-tariff rate quota systems for imports. With effect from 08.02.2021 onwards, all applicants seeking Tariff Rate Quota (TRQ) for imports are required to submit their application online under "e-Tariff Rate Quota" in the Import Management System, through importer's dashboard on the DGFT Website. For TRQ applications which have already been submitted for FY 2021-22 and are yet to be processed, these applications will be migrated to the new system, for which no action is required by the applicant. Further, licenses for all TRQs would be issued electronically and TRQ License data would be transmitted electronically to the Customs Authorities.

[For further details please refer the Trade Notice]

RAM RATNA INTERNATIONAL VERSUS UNION OF INDIA & ORS.-2020 [BOMBAY HIGH COURT]

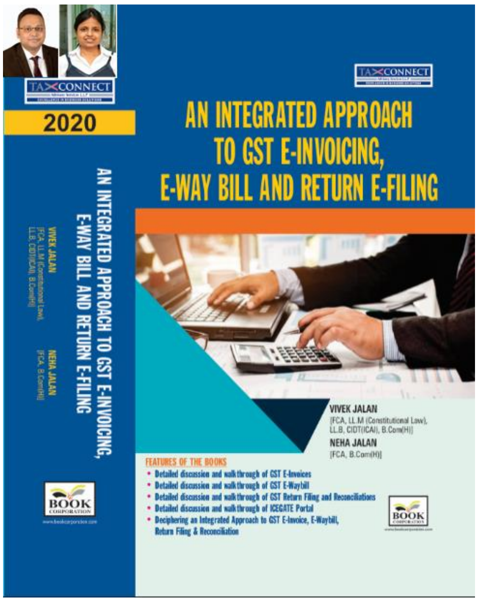
Brief: Retrospective amendment to the Target Plus Scheme was challenged by export houses.

OUR COMMENTS: In the present case, Bombay High Court held that it is evident that Petitioner has submitted the no dues certificate as prescribed. The quantum of claim of the Petitioner is also admitted by the Zonal Committee, Mumbai. However, according to the customs representative dues relating to non-submission of BRC are pending. What is required to be submitted is a certificate certifying that no dues are pending against the government including its departments - Without entering into details, we can safely say that the word 'dues' means something which is payable. Shorn of semantics, the word 'dues' means something which a person has an obligation to pay something which is enforceable. Juxtaposing the word 'dues' with the word 'government', the expression 'government dues' would mean something which is payable to and enforceable by the government on account of a legal obligation or a contract. Therefore, the amount due has to be first quantified by following the due process and as explained by the Supreme Court in the context of the scheme it should be payable to the government and subsisting i.e., not paid. The Target Plus Scheme is a beneficial provision with the objective to accelerate growth in exports by giving incentives to those export houses whose exports show an annual upward trend. Initially the benefits were graded i.e., 5%, 10% and 15% depending upon the percentage of incremental growth in exports. Petitioner fell within the 15% category for the year 2005-2006. Thereafter, by an amendment on 12.06.2006, the percentage of incentives was made uniform i.e., 5% which was given retrospective effect from 01.04.2005. Petitioner is entitled to the balance 10% benefit for the same period for which the 5% benefit was granted being within the 15% category. When one part of the benefit for a year was given, question of withholding of the remaining benefit for the same year does not arise. Respondents are directed to issue the necessary licence to the Petitioner for the balance/additional benefit of duty credit scrips for the amount of ₹ 4,22,16,175.00 for the year 2005-2006 under the Target Plus Scheme within a period of four weeks from the date of receipt of a copy of this judgment. Hence, Petition is allowed.

[Decided in favour of the petitioner]

IN STANDS

AN INTEGRATED APPROACH TO GST E-INVOICING, E-WAYBILL & E-RETURN FILING



ABOUT THE BOOK: This publication includes:

1. **Detailed discussion and walkthrough of GST E-Invoices.**
2. **Detailed discussion and walkthrough of GST E-Waybill.**
3. **Detailed discussion and walkthrough of GST Return Filing and Reconciliations.**
4. **Detailed discussion and walkthrough of ICEGATE Portal.**
5. **Deciphering an Integrated Approach to GST E-Invoice, E-Waybill, Return Filing & Reconciliation**

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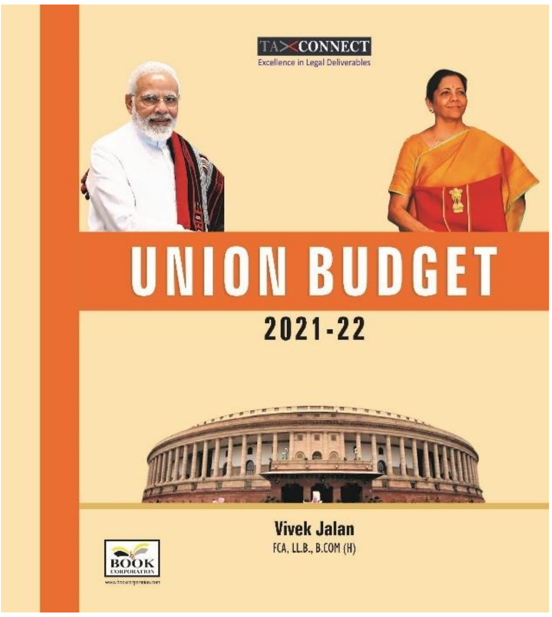
IN STANDS

UNION BUDGET 2021



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4. **Memorandum**
   a. **Direct Tax**
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   c. **Excise**
   d. **GST**
5. **Finance Bill**
6. **Notes on Clauses**

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