The Malad Chamber of Tax Consultants

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Date: June 14, 2024

To,

1. **Mrs. Nirmala Sitaraman,**
   The Hon'ble Finance Minister

2. **Dr. Vivek Joshi,**
   Finance Secretary

3. **Nitin Gupta,**
   Chairman, Central Board of Direct Taxes

Sub: **Pre-Budget Memorandum 2024 and suggested Amendments to the Income-tax Act 1961**

Respected Madam/Sir,

We are enclosing herewith our Pre-Budget Memorandum containing suggested amendments to certain sections of the Income Tax Act, 1961.

The Malad Chamber of Tax Consultants was established in the year 1978 having over 1,350 members comprising of Advocates, Chartered Accountants, Company Secretaries and Tax Practitioners. We, as an organization, endeavour to maintain our neutrality and objectivity, therefore present Pre-Budget Memorandum to highlight suggestions which can be mitigated by suitable amendments.

We are hopeful that suggested amendments, if adopted, could reduce litigation which would therefore be in larger interest of the economy.

Thanking you,
Yours faithfully,
For **The Malad Chamber of Tax Consultants**

KHYATI BHARAT VASANI
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CA Khyati B. Vasani
President 2023-24

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CA Atul Ruparelia
Chairman
Law and Representation Committee

PRE-BUDGET MEMORANDUM ON FINANCE BILL 2024 (No. 2)

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I. RATES OF TAX

Section 4: Charge of Income Tax

Existing Law Provision

As per the provisions of section 2 of the First Schedule to the Finance Act 2024 the rates of taxes are as follows:

For Cooperative society

Total Income (INR)	Income tax
Upto 10,000	10%
>10,000 to 20,000	20%
>20,000	30%

For AOP / BOI / Artificial Judicial Person

Total Income (INR)	Income tax
Upto 2,50,000	Nil
>2,50,000 to 5,00,000	5%
>5,00,000 to 10,00,000	20%
>10,00,000	30%

For Firms & Limited Liability Partnership (LLP) = 30% income tax on the income.

Proposed Amendment

The tax rates should be amended as follows:

For AOP / BOI / Artificial Judicial Person

Total Income (INR)	***Income tax***
Upto 3,00,000	*Nil*
>3,00,000 to 6,00,000	*5%*
>6,00,000 to 9,00,000	*10%*
>9,00,000 to 12,00,000	*15%*
>12,00,000 to 15,00,000	*20%*
>15,00,000	*30%*

For co-operative society

Total Income (INR)	***Income tax***
Upto 1,00,000	*10%*
>1,00,000 to 5,00,000	*20%*
>5,00,000	*30%*

For Firms & Limited Liability Partnership (LLP)

Total Income (INR)	***Income tax***
TO in FY ≤ 100 crores	*25%*
TO in FY > 100 crores	*30%*

Rationale

The tax rates for AOP / BOI / Artificial persons in old regime is same as to the individuals & HUFs. The proposed tax rates shall be in parity with the new regime of tax to individuals.

The change in tax limits for cooperative society shall give some relief to small cooperatives as the said limit has been unchanged since more than 2 decades when the basic exemption limit for individuals was INR 50,000/-.

The change in tax rates to partnership firms & LLPs shall be in parity with the tax structure applicable to companies.

Impact

This shall give tax relief to small cooperative societies and non-corporates.

II. REVENUE GENERATION

1. Section 44AA - Expansion of Notified Profession & Rule 6F

Existing Law Provision:

As per the existing Provision, Notified Professions are as follows:

- Legal
- Medical
- Engineering
- Architectural
- Accountancy
- Technical consultancy
- Interior decoration
- Any other profession, viz. Authorised representative, Film Artist in relation to cinematograph film (an actor, a cameraman, a director, a music director, an art director, a dance director, an editor, a singer, a lyricist, a story writer, a screenplay writer, a dialogue director and a dress designer)
  Company Secretary, Information Technology

Proposed Amendment

*We recommend **expanding the definition** of specified professionals **to include the following persons** who are engaged in various professions, including:*

- *Photographers (all kinds)*
- *Content writers*
- *Research professionals*
- *Sports commentators*
- *Media consultants*
- *Media anchors*
- *Social media influencers*
- *Singers*
- *Beauty and makeup artists*
- *Tuition teachers (all kinds)*
- *YouTubers*
- *Celebrity cooks*
- *Specialized cake designers*
- *Advertising professionals*
- *Car designers*
- *Project management consultants*
- *Bank finance syndicators and consultants*
- *Liasoning consultants*
- *Public relations consultants*

Any other profession where professional skills are required, whether from a qualified institution or otherwise, etc.

Rationale

It has been observed that many professionals, as suggested, declare their income as per the provisions of Section 44AD at specified rates provided under the provisions, whereas they should declare more earnings aligned with the minimum prescribed percentage under section 44ADA of the Income Tax Act,

1961.
Furthermore, many of such non-specified professionals earn much more than the minimum percentage declared under section 44AD by them presently.
Additionally, since they treat their activities as a business, they don't maintain their books of accounts due to the tax audit limit of Rs. 1 Crore under section 44AB and up to Rs. 10 Crores and up to Rs. 3 Crores under section 44AD.

Impact
Increase in tax compliance can be achieved by maintaining regular books of accounts, leading to an improvement in tax collections by the Government due to the higher declaration of income resulting from the expansion of scope, which in turn would enhance the GDP of the economy.
Furthermore, due to the expansion of specified professionals under section 44AA, many such non-specified professionals would now be included, potentially increasing the number of persons filing Tax Audit Returns. This, in turn, will improve tax compliance in general.
We are confident that expanding the scope of specified professionals may enable the Ministry of Finance to witness robust tax collection, achieve more revenue collection targets, and increase the economy's GDP.

2. Section 44AD: Special provision for computing profits and gains of business on presumptive basis.

Existing Law Provision
(1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to **eight per cent** of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession":

Provided that this sub-section shall have effect as if for the words "**eight per cent**", the words "**six per cent**" had been substituted, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year.

Proposed Amendment
*(1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to **twelve per cent** of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" :*

*Provided that this sub-section shall have effect as if for the words "**twelve per cent**", the words "**ten per cent**" had been substituted, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed*

during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year.

Rationale

A person in business usually earns a net profit of atleast ten percent.
It has been observed that many persons earn much more eight / six percent i.e. the minimum percentage declared under section 44AD by them presently. An increase in rate to twelve / ten percent shall be a fair rate of profit to be declared.

Impact

The increase in minimum tax rate shall enable the Ministry of Finance to generate more tax collection, achieve more revenue collection targets, and increase the economy's GDP.

3. Section 44AD: Special provision for computing profits and gains of business on presumptive basis.

Existing Law Provision

(6) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to—

(i) a person carrying on profession as referred to in sub-section (1) of section 44AA;
(ii) a person earning income in the nature of commission or brokerage; or
(iii) a person carrying on any agency business.

Proposed Amendment

(6) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to—

(i) a person carrying on profession as referred to in sub-section (1) of section 44AA;
(ii) a person earning income in the nature of commission or brokerage; or
(iii) a person carrying on any agency business.
(iv) a person engaged in the business of shares and securities trading.

Rationale

It has been observed that many traders of shares and securities declare their income as per the provisions of Section 44AD at specified rates provided under the provisions, whereas they earn more income than the specified rate under the provisions of Section 44AD. There are also cases where the persons engaged in the business of shares and securities trading earn much low than the specified rate under the provisions of Section 44AD and then they have to maintain books of account and get them audited by a chartered accountant. Further, the presumptive scheme fundamentals are to ease the compliance of small businesses by allowing them to pay tax on gross sales or receipts which eliminates the need for book-keeping. However the persons transacting in securities, their key values to enter the transaction are precise values of purchase or sales. The sales, purchase and incidental cost like brokerage etc are precisely available to them to determine actual profit / loss. Also complete data about securities transactions are available to the department in the system through robust reporting by stock exchanges and accordingly profit / loss declared by the small securities traders can be easily verified the

Department.

Impact

Increase in tax compliance can be achieved by maintaining regular books of accounts, leading to an improvement in tax collections by the Government due to the correct and higher declaration of income resulting from the exclusion of person from section 44AD, which in turn would enhance the GDP of the economy.

Furthermore, the small-scale traders whose turnover is less than the limit prescribed under provisions section 44AB and who are earning profit less than the specified percentage, shall not be required to get their books audited and shall ease their compliance. This, in turn, will improve tax compliance in general, enable to tax those earning higher than the minimum limit prescribed as per current provisions of section 44AD and at the same time provide certain relief in terms of compliance to those earning less than the minimum limit prescribed as per current provisions of section 44AD.

4. Section 44ADA: Special provision for computing profits and gains of profession on presumptive basis:

Existing Law Provision

(1) Notwithstanding anything contained in sections 28 to 43C, in case of an assessee, being an individual or a partnership firm other than a limited liability partnership as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), who is a resident in India, and is engaged in a profession referred to in sub-section (1) of section 44AA and whose total gross receipts **do not exceed fifty lakh rupees** in a previous year, a sum equal to fifty per cent of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee, shall be deemed to be the profits and gains of such profession chargeable to tax under the head "Profits and gains of business or profession".

Provided that in case of an assessee where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total gross receipts of such previous year, this sub-section shall have effect as if for the words "fifty lakh rupees", the words "**seventy-five lakh rupees**" had been substituted:

Provided further that for the purposes of the first proviso, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.

Proposed Amendment

(1) Notwithstanding anything contained in sections 28 to 43C, in case of an assessee, being an individual or a partnership firm other than a limited liability partnership as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), who is a resident in India, and is engaged in a profession referred to in sub-section (1) of section 44AA and whose total gross receipts ***do not exceed two crore rupees*** *in a previous year, a sum equal to fifty per cent of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee,*

shall be deemed to be the profits and gains of such profession chargeable to tax under the head "Profits and gains of business or profession".

*Provided that in case of an assessee where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total gross receipts of such previous year, this sub-section shall have effect as if for the words "two crore rupees", the words "**three crore rupees**" had been substituted:*

Rationale
The aforesaid Amendment is proposed to bring at par the limit pertaining to Gross Receipts as per Section 44ADA with the limit of Gross Receipts mentioned in Section 44AD.

Impact
This amendment will bring parity of Business Income earners and Professional Income earners with regards to limit of Gross Receipts / Turnover under Presumptive Taxation Schemes. Also, this will encourage Professionals earning gross receipts less than the proposed limits to declare higher income and generate more revenue for the Government.

5. Section 44AE: Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages:

Existing Law Provision
Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee, who owns not more than **ten goods carriages** at any time during the previous year and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of sub-section (2).

Proposed Amendment
*Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee, who owns not more than **fifteen goods carriages** at any time during the previous year and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of sub-section (2).*

Rationale
Ever since the Introduction of Section 44AE vide Finance Act, 1994, the limit pertaining to ownership of goods carriages was restricted to ten goods carriages. With the infrastructure being developed over the last three decades, the groundwork area for goods carriages has increased drastically. Hence, it is imminent to extend the benefit of presumptive taxation to cover more assessees under this Section.

Impact
This amendment will cover more “Small assessees” carrying on the business

of plying, hiring or leasing goods carriages under the Presumptive Taxation Scheme. Also this will encourage transport operators with less than the proposed number of carriages to declare higher income and generate more revenue for the Government.

III. MAKE IN INDIA – INCENTIVES TO INDIAN MANUFACTURING

Section 115BAB: Determination of tax in certain special cases

Existing Law Provision

(2) For the purposes of sub-section (1), the following conditions shall apply, namely:—

(*a*) the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the **31st day of March, [2024]** and,—

Proposed Amendment

(2) For the purposes of sub-section (1), the following conditions shall apply, namely:—

*(a) the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the **31st day of March, [2026]** and,—*

Rationale

The extension of time period shall be booster for start-ups, thereby bringing more assessees under its ambit.

Impact

Person shall be encouraged to start new manufacturing companies in India generating income and employment opportunities in the country which shall increase the GDP of the country.

IV. CLARIFICATORY / RECTIFICATORY / HARMONIOUS AMENDMENTS

1. Section 6: Residence in India

Existing Law Provision

For the purposes of this Act,—

(1) An individual is said to be resident in India in any previous year, if he—

(a) is in India in that year for a period or periods amounting in all to one hundred and eighty-two days or more ; or

(b) [***]

(c) having within the four years preceding that year been in India for a period or periods amounting in all to three hundred and sixty-five days or more, is in India for a period or periods amounting in all to sixty days or more in that year.

Proposed Amendment

An explanation should be added to exclude either the date of arrival or date of departure to calculate the period of stay in India.

Rationale

The person stays in India only for a part of the day on the arrival day as well as departure day. To calculate his period of stay in India precisely, one has to calculate the number of broken hours stayed in India and aggregate such 24 broken hours to count as one day. The same shall be proved in terms of hours only when the case is considered for litigation. The judicial pronouncements with similar views are Walkie v. IRC 1 AER 92 (1952), Advance Ruling P. No 7 of 195 (90 Taxmann 62) AAR - New Delhi (1997).

Impact

The proposed clarification shall ease the process to determine the residential status, remove ambiguity and ease to determine the number of days stayed in India. This shall reduce the litigations arising for such minor cases and save time of the law and order.

2. Section 54: Profit on Sale of Property used for Residence

Existing Law Provision

(1) Subject to the provisions of sub-section (2), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of a long-term capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (hereafter in this section referred to as the original asset), and the assessee has within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(i) if the amount of the capital gain is greater than the cost of the residential house so purchased or constructed (hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of **three years** of its purchase or construction, as the case may be, the cost shall be nil; or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of **three years** of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain:

Proposed Amendment

(1) Subject to the provisions of sub-section (2), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of a long-term capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (hereafter in this section referred to as the original asset), and the assessee has within a period

of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(i) if the amount of the capital gain is greater than the cost of the residential house so purchased or constructed (hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; *and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of* ***two years*** *of its purchase or construction, as the case may be, the cost shall be nil;* or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; *and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of* ***two years*** *of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain*:

Rationale

The existing provisions of Sections 2(42A) and 2(29AA) provide a holding period of Twenty Four months in respect of Immovable Properties to qualify as Long-term Capital Asset. To align with the same, it is proposed to reduce the period of holding of New Asset from three years to two years.

Impact

This amendment is rectificatory in nature and will be in alignment with existing provisions of the law.

3. Section 54F: Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house:

Existing Law Provision

(3) Where the new asset is transferred within a period of **three years** from the date of its purchase or, as the case may be, its construction, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such new asset is transferred.

Proposed Amendment

(3) Where the new asset is transferred within a period of **two years** from the date of its purchase or, as the case may be, its construction, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such new asset is transferred.

Rationale

The existing provisions of Sections 2(42A) and 2(29AA) provide a holding period of Twenty Four months in respect of Immovable Properties to qualify as Long-term Capital Asset. To align with the same, it is proposed to reduce the period of holding of New Asset from three years to two years.

Impact

This amendment is rectificatory in nature and will be in alignment with existing provisions of the law.

4. Section 269SS: Explanation (iii) -Requirements as to the mode of acceptance payment or repayment in certain cases to counteract evasion of tax

Existing Law Provision

269SS No person shall take or accept from any other person (herein referred to as the depositor), any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, if,

…….

Explanation – For the purposes of this section

iii. "loan or deposit" means loan or deposit of money;

iv. "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.

Proposed Amendment

We kindly request further clarification regarding section 269SS effective from June 1, 2015, as follows:

While reporting under section 269SS, explanation (iii) & (iv), transactions involving business activities related to the sale of immovable property held as stock in trade, such as the sale of under-construction property by Real Estate Companies in the ordinary course of their business, are not covered. This is due to the absence of the obligation to repay construction-linked monies, provided that all funds are remitted through permissible banking channels as outlined in other provisions of the Act.

It is further clarified that if the transaction involves cash receipts, such information needs to be reported under section 269ST of the Income Tax Act, as applicable.

This clarification may be introduced as an additional explanation or further clarification, as deemed appropriate.

Rationale

1. Such advances are received against an allotment letter and/or agreement for sale or deed of conveyance, on which TDS is deducted under section 194IA of the Income Tax Act, 1961, by filing requisite forms. This transfer of ownership from the assessee to the buyer occurs, and the buyer may have availed housing loans or commercial property loans for purchasing the property.
2. GST is paid on under-construction property by considering it as a supply under section 7 read with Schedule II entry, and consequently, it is reported in the respective returns under GST law.

3. Such a transaction is considered a revenue transaction, not a capital transaction.
4. Income from the sale of such property is recognized as income from operations according to accounting standards, either by adopting the Percentage Completion Method or the Project Completion Method.
5. Under the clause of ratio reporting in Form 3CD, vital parameters are reported by the Tax Auditor, in addition to reporting in applicable ITR forms and reporting under section 43CA or section 50C.
6. The objective of reporting in TAR is to ensure compliance and report any violations under various clauses by the Tax Auditor so that the assessee's assessment is done properly as per the provisions of the Act.
   However, considering that reporting and monitoring are already ensured (supra 1 to 5) under respective laws, further reporting may not be necessary.
7. In addition to the above monitoring, the real estate industry must comply with specific monitoring mandates regarding funds deployment and utilization under RERA law.
8. The fundamental element of repayment is missing in transactions involving monies received on account of under-construction property vis-a-vis CLP plans, which is necessary for reporting under clause 31.
9. Especially if we consider the title to section 269SS - Mode of taking or accepting certain loans, deposits, and specified sum, whereby "specified sum" means any sum of money receivable, whether as an advance or otherwise, in relation to the transfer of an immovable property, whether or not the transfer takes place - in our understanding, the specified sum referred to in section 269SS vis-a-vis immovable property should be read where such property is held as an investment and not as a trading asset. Therefore, we need to consider both section 269SS and section 45(1) to reach a conclusion.

Given the above submissions, the trading advance would not be reported in clause 31(a) of TAR, in our considered view, for the purpose of reporting Section 269SS.

Impact

It will provide clarity in reporting the transaction under section 269SS and avoid duplication in reporting in Form 3CD filed by the taxpayer under Rule 6G (2) of the Income Tax Rules, read with Section 44AB of the Income Tax Act, 1961.

If clarified, it won't impact revenue collections, as such collections would be appropriately collected according to other provisions of the Income Tax Act, namely TDS under Section 194IA and Capital Gains under Section 45 of the Income Tax Act, 1961.

V. SIMPLIFICATION / EASE OF DOING BUSINESS / RELIEF TO TAX PAYERS

1. Section 54EC: Capital gain not to be charged on investment in certain bonds:

Existing Law Provision

(a) …

Provided that the investment made on or after the 1st day of April, 2007 in

the long-term specified asset by an assessee during any financial year **does not exceed fifty lakh rupees:**

Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year **does not exceed fifty lakh rupees.**

(1) Where the long-term specified asset is transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital asset of the previous year in which the long-term specified asset is transferred or converted (otherwise than by transfer) into money:

Provided that in case of long-term specified asset referred to in sub-clause (ii) of clause (ba) of the Explanation occurring after sub-section (3), this sub-section shall have effect as if for the words "three years", the words "five years" had been substituted.

Proposed Amendment

(a) …

Provided that the investment made on or after the 1st day of April, 2007 in the long-term specified asset by an assessee during any financial year ***does not exceed seventy five lakh rupees:***

Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year ***does not exceed seventy five lakh rupees.***

(1) Where the long-term specified asset is transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital asset of the previous year in which the long-term specified asset is transferred or converted (otherwise than by transfer) into money:

~~***Provided that in case of long-term specified asset referred to in sub-clause (ii) of clause (ba) of the Explanation occurring after sub-section (3), this sub-section shall have effect as if for the words "three years", the words "five years" had been substituted.***~~

Rationale

This Provisions of this Section pertaining to Re-investment Limit and period of holding of Long-Term Specified Asset have not been amended since long.

Considering the rise in real estate costs, it is desirable to extend the re-investment limit to Rupees Seventy Five Lacs so as to benefit "Small Tax Payers".
Further, to align the re-investment period with other re-investment sections 54 & 54F, it is desirable to reduce the period of holding of the Long-Term Specified Asset to three years from the existing five years.

Impact
This amendment will benefit many "Small Taxpayers" who prefer to re-invest in Bonds or Fixed Income bearing Investments.

2. Section 10(23C) and Section 12A

Existing Law Provision
Section 10(23C) read with rule 16CC: Form of report of audit prescribed under tenth proviso to section 10(23C)
(a) Form No. 10B where—
(I) the total income of such fund or institution or trust or university or other educational institution or hospital or other medical institution, without giving effect to the provisions of the sub-clauses (iv), (v), (vi) and (via) of the said clause, exceeds rupees five crores during the previous year;
or
(II) such fund or institution or trust or university or other educational institution or hospital or other medical institution has received any foreign contribution during the previous year; or
(III) such fund or institution or trust or university or other educational institution or hospital or other medical institution has applied any part of its income outside India during the previous year;
(b) Form No. 10BB in other cases.

Section 12A read with rule 17B: Form of report of audit prescribed under sub-clause (ii) of clause (b) of sub-section (1) of Section 12A.
'17B.Audit report in the case of charitable or religious trusts, etc.—
The report of audit of the accounts of a trust or institution which is required to be furnished under sub-clause (ii) of clause (b) of sub-section (1) of section 12A, shall be in—
(a) Form No. 10B where—
(I) the total income of such trust or institution, without giving effect to the provisions of sections 11 and12 of the Act, exceeds rupees five crores during the previous year; or
(II) such trust or institution has received any foreign contribution during the previous year; or
(III) such trust or institution has applied any part of its income outside India during the previous year;
(b) Form No. 10BB in other cases.

Proposed Amendment
Section 10(23C) read with rule 16CC: Form of report of audit prescribed under tenth proviso to section 10(23C)
(a) Form No. 10B where—
(I) the total income of such fund or institution or trust or university or other educational institution or hospital or other medical institution, without giving effect to the provisions of the sub-clauses (iv), (v), (vi) and (via) of the said clause, exceeds rupees five crores during the previous year;

or
(II) such fund or institution or trust or university or other educational institution or hospital or other medical institution has received foreign contribution exceeding rupees one crore during the previous year; or
(III) such fund or institution or trust or university or other educational institution or hospital or other medical institution has applied any part of its income outside India during the previous year;
(b) Form No. 10BB where -

(I) the total income of such fund or institution or trust or university or other educational institution or hospital or other medical institution, without giving effect to the provisions of the sub-clauses (iv), (v), (vi) and (via) of the said clause, exceeds rupees fifty lacs but does not exceed rupees five crores during the previous year;
or
(II) such fund or institution or trust or university or other educational institution or hospital or other medical institution has received foreign contribution exceeding rupees ten lacs but not exceeding rupees one crore during the previous year;

(c) A new simplified form in other cases..
Introduce a simplified version of Form 10BB for smaller trusts and institutions as suggested above. This form should require only essential information, thereby reducing the compliance burden on smaller trusts as per the earlier format of Form 10BB.

Section 12A read with rule 17B: Form of report of audit prescribed under sub-clause (ii) of clause (b) of sub-section (1) of Section 12A.
(a) Form No. 10B where—
(I) the total income of such trust or institution, without giving effect to the provisions of sections 11 and12 of the Act, exceeds rupees five crores during the previous year; or
(II) such trust or institution has received foreign contribution exceeding rupees one crore during the previous year; or
(III) such trust or institution has applied any part of its income outside India during the previous year;

(b) Form No. 10BB where -.
(I) the total income of such trust or institution, without giving effect to the provisions of sections 11 and12 of the Act, exceeds rupees fifty lacs but does not exceed rupees five crores during the previous year; or
(II) such trust or institution has received foreign contribution exceeding rupees ten lacs but not exceeding rupees one crore during the previous year;

(c) A new simplified form in other cases..
Introduce a simplified version of Form 10BB for smaller trusts and institutions as suggested above. This form should require only essential information, thereby reducing the compliance burden on smaller trusts as per the earlier format of Form 10BB.

Rationale
As "foreign contribution" has the same meaning assigned to it in clause (h) of sub-section (1) of section 2 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010). And accordingly even a nominal interest earned in the FCRA SBI Delhi or FCRA Utilization account will require the assesse to file under the Form 10B instead of Form 10BB.
Implementing these suggestions will significantly reduce the administrative

burden on charitable trusts, allowing them to focus more on their core activities of serving society.

3. Section 10(23C) and Section 12AA or 12AB

Existing Law Provision

With reference to Circular No. 3/2024 dated 6th March, 2024:

Income of any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Income tax Act, 1961 (the Act) (hereinafter referred to as the first regime) or any trust or institution registered u/s 12AA or 12AB of the Act (hereinafter referred to as the second regime) is exempt, subject to the fulfilment of certain conditions provided for the two regimes in the Act. These conditions inter-alia include the following for the entities (hereinafter referred to as trust 1 institution in the two regimes):-

(a) at least 85% of income of the trust / institution should be applied during the year for the charitable or religious purposes;

(b) Trusts or institutions are allowed to apply mandatory 85% of their income either themselves or by making donations to the trusts with similar objectives; and

(c) If donated to other trust / institution, the donation should not be towards corpus to ensure that the donations are applied by the donee trust / institution for charitable or religious purposes.

In order to ensure intended application towards charitable or religious purposes, Finance Act, 2023 has provided that eligible donations made by a trust / institution shall be treated as application for charitable or religious purposes only to the extent of 85% of such donations.

Accordingly, Finance Act, 2023 has made the following amendments:-

(a) clause (iii) in Explanation 2 to third proviso of clause (23C) of section 10 "any amount credited or paid out of the income of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or subclause (via), other than the amount referred to in the twelfth proviso, to any other fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), or trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid"

(b) clause (iii) in Explanation 4 to sub-section (1) of section 11 any amount credited or paid, other than the amount referred to in Explanation 2, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid

Proposed Amendment

Consideration of Administrative Expenses: Trusts or institutions are allowed to apply mandatory 85% of their income either themselves or by making donations

to the trusts with similar objectives; and if the Trusts decide to allocate the total income earned during the previous year to another Trust or institution then the Trust will required to use all its earlier accumulated revenues for the administrative expenses.
Allow trusts and institutions to allocate a reasonable percentage of their income specifically for administrative expenses. This allocation should be exempt from the mandatory 85% application requirement. A clear and fair guideline on what constitutes permissible administrative expenses should also be provided.

Rationale
The proposed adjustments aim to create a more balanced and sustainable regulatory framework for trusts and institutions. By allowing a portion of income to be allocated to administrative costs, trusts can maintain their operational integrity while continuing to fulfill their charitable objectives effectively.

4. Section 43B: Certain deductions to be only on actual payment.

Existing Law Provision
43B. Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of –

(h) any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006),

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him :
Provided that nothing contained in this section [except the provisions of clause(h)] shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return.

Proposed Amendment
43B. Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of –

(h) any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006),

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him :
***Provided that nothing contained in this section shall apply** in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return*

Rationale
The assessee should be allowed to claim the deduction in the year of expense

if the same is paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return.

Impact

The intention of the amendment in Finance Act 2023 was to provide benefit to micro and small enterprises. However the same resulted to discourage the registration as small and medium enterprise under MSME Act. The proposed amendment shall also provide benefit to micro and small enterprises as intended during amendment in Finance Act 2023 and at the same time shall ease the tax compliance of the persons which shall not discourage people to trade with the micro and small enterprises and shall enable them to generate more business.

5. Section 44AB : Audit of accounts of certain persons carrying on business or profession.

Existing Law Provision

Every person,-

(a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or **exceeds one crore rupees** in any previous year:
Provided….

(b) carrying on profession shall, if his gross receipts in profession **exceed fifty lakh rupees** in any previous year; or

Proposed Amendment

Every person,-

*(a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or **exceeds three crores rupees** in any previous year:*
Provided….

*(b) carrying on profession shall, if his gross receipts in profession **exceed seventy five lakh rupees** in any previous year; or*

Rationale

The threshold limit of one crore rupees for person carrying on business is since AY 2012-13 and the threshold limit of fifty lakh rupees for person carrying on profession is since AY 2017-18. The limits should be increased considering the inflation rate and if increased as per proposed amendment then the same shall also be in parity with limit as per presumptive taxation scheme.

Impact

This shall reduce the compliance cost of the small taxpayers.

6. Section 55A: Reference to Valuation Officer:

Existing Law Provision

With a view to ascertaining the fair market value of a capital asset for the purposes of this Chapter, the Assessing Officer may refer the valuation of capital asset to a Valuation Officer—

(a) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, if the Assessing Officer is of opinion that the value so claimed is at variance with its fair market value;

(b) in any other case, if the Assessing Officer is of opinion—
  (i) that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than such percentage of the value of the asset as so claimed or by more than such amount as may be prescribed in this behalf; or
  (ii) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (ha) and (i) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

Proposed Amendment

The Scope of Reference to Valuation Officer should be extended to also cover cases of Redevelopment of Properties as referred to in Sec 45(5A).

Rationale

The aforesaid Amendment is proposed to bring at par the opportunity to refer to Valuation Officer covering all cases of Property Transactions.

7. Section 57: Deductions:

Existing Law Provision

(iia) in the case of income in the nature of family pension, a deduction of a sum equal to **thirty-three and one-third per cent** of such income or **fifteen thousand rupees, whichever is less**.

Proposed Amendment

(iia) in the case of income in the nature of family pension, a deduction of ***fifty thousand rupees.***

Rationale

There has been no change in the deduction allowed from family pension of rupees fifteen thousand or thirty-three and one-third per cent of such income, whichever is less, since the Finance Act, 1997. Considering the rise in pay-scale as well as Inflation, it is desirable that said sub-section be amended.

Impact

This amendment will be in alignment with provisions of section 16(ia), which provides a standard deduction of rupees fifty thousand from salary income.

8. Section 71: Set off of loss from one head against income from another

Existing Law Provision

(3A) Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss and the assessee has

income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds **two lakh rupees**, against income under the other head.

Proposed Amendment

*(3A) Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds **three lakh rupees**, against income under the other head.*

Rationale

The said clause was inserted by Finance Act 2017. There has been a significant increase in the value of property today compared to 2017 and the repo rate then was 6% which has increased to 6.5% today. Considering the inflation in the real estate market, the loss set off limit should be increased.

Impact

This shall benefit the tax payers, boost the real estate market as many middle class people can afford housing only with the aid of home loan.

9. Section 80AC: Deduction not to be allowed unless return furnished

Existing Law Provision

Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after—

> (ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes",

no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.

Proposed Amendment

Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after—

> (ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes",

no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.

Provided that this sub-section shall have effect as if for the words "under sub-section (1) of Section 139", the words "under sub-section (1) or sub-section (4) or sub-section (5) of Section 139" had been substituted, in respect Persons claiming deduction under Section 80P.

Rationale

Many Co-operative Societies, especially Housing Societies find it difficult to file the Return on time, thereby loosing the benefit of Deduction under Section 80P.

Impact

The aforesaid Amendment will benefit many Small and Medium Co-operative Societies as well as Housing Societies who are otherwise eligible for deduction under Section 80P.

10. <u>Section 80D -Deduction in respect of health insurance premia:</u>

<u>Existing Law Provision</u>

(1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted such sum, as specified in sub-section (2) or sub-section (3), payment of which is made by any mode as specified in sub-section (2B), in the previous year out of his income chargeable to tax.

(2) Where the assessee is an individual, the sum referred to in sub-section (1) shall be the aggregate of the following, namely:—

(a) the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his family or any contribution made to the Central Government Health Scheme or such other scheme as may be notified by the Central Government in this behalf or any payment made on account of preventive health check-up of the assessee or his family as does not exceed in the aggregate **twenty-five thousand rupees**; and

(b) the whole of the amount paid to effect or to keep in force an insurance on the health of the parent or parents of the assessee or any payment made on account of preventive health check-up of the parent or parents of the assessee as does not exceed in the aggregate **twenty-five thousand rupees**;

(c) the whole of the amount paid on account of medical expenditure incurred on the health of the assessee or any member of his family as does not exceed in the aggregate **fifty thousand rupees**; and

(d) the whole of the amount paid on account of medical expenditure incurred on the health of any parent of the assessee, as does not exceed in the aggregate **fifty thousand rupees**:

Provided that the amount referred to in clause (c) or clause (d) is paid in respect of a senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person:

Provided further that the aggregate of the sum specified under clause (a) and clause (c) or the aggregate of the sum specified under clause (b) and clause (d) shall not exceed **fifty thousand rupees**.

<u>Proposed Amendment</u>

(1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted such sum, as specified in sub-section (2) or sub-section (3), payment of which is made by any mode as specified in sub-section (2B), in the previous year out of his income chargeable to tax.

(2) Where the assessee is an individual, the sum referred to in sub-section (1) shall be the aggregate of the following, namely:—

(a) the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his family or any contribution made to the Central Government Health Scheme or such other scheme as may be notified by the Central Government in this behalf or any payment made on account of preventive health check-up of the assessee or his family as does not exceed in the aggregate ***fifty thousand rupees****; and*

(b) *the whole of the amount paid to effect or to keep in force an insurance on the health of the parent or parents of the assessee or any payment made on account of preventive health check-up of the parent or parents of the assessee as does not exceed in the aggregate* ***fifty thousand rupees****;*

(c) *the whole of the amount paid on account of medical expenditure incurred on the health of the assessee or any member of his family as does not exceed in the aggregate* ***seventy-five thousand rupees****; and*

(d) *the whole of the amount paid on account of medical expenditure incurred on the health of any parent of the assessee, as does not exceed in the aggregate* ***seventy-five thousand rupees****:*

Provided that the amount referred to in clause (c) or clause (d) is paid in respect of a senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person:

Provided further that the aggregate of the sum specified under clause (a) and clause (c) or the aggregate of the sum specified under clause (b) and clause (d) shall not exceed ***seventy-five thousand rupees****.*

Rationale

Given the rise in medical insurance premiums, this adjustment would benefit all taxpayers in general.

Impact

Positive Impact on the Insurance & Hospital Industry, which in turn would help in increasing the GDP of the Economy.

11. Section 80DDB -Deduction in respect of maintenance, including medical treatment of a dependant who is a person with disability:

Existing Law Provision

(1) Where an assessee, being an individual or a Hindu undivided family, who is a resident in India, has, during the previous year,—..... the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of **one hundred and twenty-five thousand rupees** from his gross total income in respect of the previous year:

Explanation
(a).....
(b).....
(c) .....
(d).....
(e) **medical authority**" means the medical authority as referred to in clause (p) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) [or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with a disability" and "severe disability" referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999)];

Proposed Amendment

The existing limit of deduction under section 80D may be increased to ***Rs. 1,50,000 (Rupees One Lakh Fifty Thousand Only****). Further, it is*

recommended to amend the explanation defining ***medical authority to include highly reputed doctors practicing in multi-specialty hospitals across the country.***

Rationale

"Considering the increase in the cost of medical, it would help all taxpayers in general.

It is recommended to modify the explanation of medical authority, as many doctors working in government hospitals are unaware of income tax provisions in general, and they are extremely hesitant to certify individuals with severe disabilities as defined in clause (g)."

Impact

Positive Impact on the Insurance & Hospital Industry, which in turn would help in increasing the GDP of the Economy.

12. Explanation (b) to Section 80U: Deduction in case of a person with disability:

Existing Law Provision

(2) Every individual claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed.

Explanation –

(a) …..

(b) "**medical authority**" means the medical authority as referred to in clause (p) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

Proposed Amendment

(2) Every individual claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed.

Explanation –

(a) …..

*(b) "**medical authority**" means the medical authority as referred to in clause (p) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996),* ***or any Qualified Medical Practitioner holding at least M.B.B.S. Degree and registered with Medical Council of India*** *or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person*

with disability" and "severe disability" referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999)

Rationale

The aforesaid Amendment is proposed to provide ease of access by the disabled person to arrange the prescribed Disability Certificate from the prescribed Medical Authorities.

Impact

This amendment will be highly beneficial as disabled person can easily access their regular Medical Practitioners and get the certificate from them.

13. Section 87A: Rebate of income-tax in case of certain individuals:

Existing Law Provision

An assessee, being an individual resident in India, whose total income does not exceed five hundred thousand rupees, shall be entitled to a deduction, from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent of such income-tax or an amount of twelve thousand and five hundred rupees, whichever is less.

Provided that where the total income of the assessee is chargeable to tax under sub-section (1A) of section 115BAC, and the total income—

(a) does not exceed seven hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing for the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to **one hundred per cent of such income-tax or an amount of twenty-five thousand rupees, whichever is less;**

(b) exceeds seven hundred thousand rupees and the income-tax payable on such total income exceeds the amount by which the total income is in **excess of seven hundred thousand rupees**, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, of an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income **exceeds seven hundred thousand rupees.**

Proposed Amendment

An assessee, being an individual resident in India, whose total income does not exceed five hundred thousand rupees, shall be entitled to a deduction, from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent of such income-tax or an amount of twelve thousand and five hundred rupees, whichever is less.

Provided that where the total income of the assessee is chargeable to tax under sub-section (1A) of section 115BAC, and the total income—

***(a) does not exceed eight hundred thousand rupees**, the assessee shall be entitled to a deduction from the amount of income-tax (as computed*

before allowing for the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to ***one hundred per cent of such income-tax or an amount of thirty-five thousand rupees, whichever is less;***

(b) exceeds eight hundred thousand rupees *and the income-tax payable on such total income exceeds the amount by which the total income is in* ***excess of eight hundred thousand rupees****, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, of an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income* ***exceeds eight hundred thousand rupees.***

Rationale

The aforesaid Amendment is proposed with an intent to provide relief to small taxpayers.

Impact

The aforesaid Amendment will provide benefit the large number of taxpayers considering the inflation.

14. Section 115BAC(3): Tax on income of individuals [and Hindu undivided family]:

Existing Law Provision

(1) For the purposes of sub-section (1A), the total income of the person referred to therein, shall be computed—

(i) .....

(ii) without set off of any loss,—

(a) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i);

(b) under the head "Income from house property" with any other head of income;

(iii) ...

(iv) ...

(2) The loss and depreciation referred to in clause (ii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of assets which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2020 in the prescribed manner, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2021.

Provided further that in a case where,

(i) the assessee has not exercised the option under sub-section (5) for any previous year relevant to the assessment year beginning on or before the 1st day of April, 2023;

(ii) the income-tax on the total income of the assessee is computed under sub-section (1A); and

(iii) there is a depreciation allowance in respect of a block of assets which has not been given full effect prior to the assessment year beginning on the 1st day of April, 2024,

corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2023 in the manner as may be prescribed.

Proposed Amendment

We hereby propose to allow the carry forward of all losses under the Old Regime to the New Regime.

(1) For the purposes of sub-section (1A), the total income of the person referred to therein, shall be computed—

(i) …

~~*(ii) without set off of any loss,—*~~

~~*(a) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i);*~~

~~*(b) under the head "Income from house property" with any other head of income;*~~

(iii) …

(iv) …

~~*(2) The loss and depreciation referred to in clause (ii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:*~~

~~*Provided that where there is a depreciation allowance in respect of a block of assets which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2020 in the prescribed manner, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2021.*~~

~~*Provided further that in a case where,*~~

~~*(i) the assessee has not exercised the option under sub-section (5) for any previous year relevant to the assessment year beginning on or before the 1st day of April, 2023;*~~

~~*(ii) the income tax on the total income of the assessee is computed under sub-section (1A); and*~~

~~*(iii) there is a depreciation allowance in respect of a block of assets which has not been given full effect prior to the assessment year beginning on the 1st day of April, 2024,*~~

~~*corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2023 in the manner as may be prescribed.*~~

Rationale

The aforesaid Amendment is proposed so that genuine losses incurred shall be allowed to be carried forward.

Impact

The aforesaid Amendment will provide benefit all those taxpayers who have carried forward losses and are willing to opt for New Tax Regime under Section

115BAC.

15. Section 144B: Procedure for Assessment - Faceless assessment

Existing Law Provision

(iv) where a case is assigned to the assessment unit, under clause (*i*), it may make a request through the National Faceless Assessment Centre for….
(v) where a request under sub-clause (*a*) of clause (*iv*) has been initiated by the assessment unit, ….
(vi) where a request, ….

Proposed Amendment

A sub-clause (via) should be inserted as under:
(via) The power to requests referred to in sub-clause (iv), sub-clause (v) and sub-clause (vi) shall also be made available to the assessees whose cases undergo faceless assessment proceedings as per the provisions of Section 144B.

Rationale

If such an option is provided to the assessee/taxpayer, it would be perceived as a level playing field and a fair proposition by taxpayers. Furthermore, by offering this option, it could mitigate direct tax litigation at higher forums. Thus, providing the option as per Principles of Natural Justice, and extending a level playing opportunity to all stakeholders.

Impact

It will promote fairness and minimize litigation in the execution of the Faceless assessment mechanism.

16. Section 194IC: Payment under specified agreement

Existing Law Provision

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 in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax thereon.

Proposed Amendment

We hereby propose to **exclude Hardship Compensation, Shifting Allowance, Corpus, Transport Allowance, etc**. from the aforesaid TDS provisions, **by specifically defining the term "consideration**" under the said Section 194IC.

Rationale

Hardship Compensation, Shifting Allowance, Corpus, Transport Allowance, etc. are in the nature of reimbursement of expenses incurred and do not partake the nature of Income. Accordingly, collecting TDS on the same is unconstitutional in nature.

Impact

The aforesaid Amendment will be in line with the provisions of TDS to deduct

tax only on the income part. It will also provide complete funds at disposal of the assessee which are in the nature of reimbursement of expenses. Further, it shall also mitigate the income mismatch reporting by the assessee and CPC.

17. <u>Section 194J: Fees for professional or technical services:</u>

<u>Existing Law Provision</u>

(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of—

(a) fees for professional services, or

(b) fees for technical services, or

(ba) **any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company**, or

(c) royalty, or

(d) any sum referred to in clause (va) of section 28,

shall, at the time of credit ……

Provided that no deduction shall be made under this section—

(A) …..

(B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed—

(i) **thirty thousand rupees**, in the case of fees for professional services referred to in clause (a), or

(ii) **thirty thousand rupees**, in the case of fees for technical services referred to in clause (b), or

(iii) **thirty thousand rupees**, in the case of royalty referred to in clause (c), or

(iv) **thirty thousand rupees**, in the case of sum referred to in clause (d).

<u>Proposed Amendment</u>

(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of—

(a) fees for professional services, or

(b) fees for technical services, or

*(ba) **any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company exceeding fifty thousand rupees, or***

(c) royalty, or

(d) any sum referred to in clause (va) of section 28,

shall, at the time of credit ….

Provided that no deduction shall be made under this section—

(A) ….

(B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed—

*(i) **fifty thousand rupees**, in the case of fees for professional services referred to in clause (a), or*

(ii) ***fifty thousand rupees***, *in the case of fees for technical services referred to in clause (b), or*

(iii) ***fifty thousand rupees***, *in the case of royalty referred to in clause (c), or*

(iv) ***fifty thousand rupees***, *in the case of sum referred to in clause (d).*

(v) fifty thousand rupees, in the case of sum referred to in clause (ba).

Rationale

The threshold limit of rupees thirty thousand was last amended in the Finance Act, 2010. Considering the inflation and rise in pay scales, it is required that the threshold limit be raised to rupees fifty thousand.

Minimum threshold limit is specified for various types of professional fees, however, no limit is specified for payment of remuneration, etc. to directors of a company. In order to bring parity of threshold limit of various payments under this section, it is required to bring remuneration to directors under it's ambit.

Impact

The aforesaid amendment will benefit many TDS deductors and will lead to smooth compliance.

18. Section 139(5): Revision of Return of income:

Existing Law Provision

If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at **any time before three months prior to the end of the relevant assessment year** or before the completion of the assessment, whichever is earlier.

Proposed Amendment

If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at ***any time before the end of the relevant assessment year*** *or before the completion of the assessment, whichever is earlier.*

Rationale

The due date u/s 139(1) for persons liable to audit u/s 92E is 31st November and the due date for revised return is 31st December. It provides very less time for these persons to file a revised return id any error is identified. Further the penalty for filing ITR-U is huge which does not encourage them to voluntarily rectify the mistake identified. Hence, it is pertinent that more time gap is offered between original return due date and revised return due date.

Impact

The aforesaid amendment will provide some time for those Taxpayers whose due date for return filing falls on 31st November to file the Revised Return of Income.

19. Section: 270A - Penalties Imposable:

Existing Law Provision

(9) The cases of misreporting of income referred to in sub-section (8) shall be the following, namely
(a) misrepresentation or suppression of facts
(b) failure to record investments in the books of account;
(c) claim of expenditure not substantiated by any evidence
(d) recording of any false entry in the books of account;
(e) failure to record any receipt in books of account having a bearing on total income; and
(f) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction to which the provisions of Chapter X apply.

Proposed Amendment
Option to file Form 68 – Immunity from the imposition of Penalty under section 270AA (2) of the Income Tax Act, 1961, is available in all cases where misreporting is involved, and the amount involved is less than Rs. 25 Lakhs. Such misreporting of income should have been noticed only once in the lifetime of the assessee.

Rationale
Currently, such an option is available only in cases involving under-reporting of income. If such an amendment is provided, it will help mitigate litigation and assist taxpayers who have committed misreporting under a bona fide belief without any intention of mens rea.

Impact
It would boost taxpayers' confidence and consequently mitigate tax litigation in general at all forums in genuine cases. Further, it would provide a reprieve and provide much-deserved relief to the taxpayers.

VI. ASSESSMENT PROCEDURE / COMPLIANCES

1. Section 285BB: Annual information statement:

Existing Law Provision
The prescribed income-tax authority or the person authorised by such authority shall upload in the registered account of the assessee an annual information statement in such form and manner, within such time and alongwith such information, which is in the possession of an income-tax authority, as may be prescribed.

Explanation.—For the purposes of this section, "registered account" means the electronic filing account registered by the assessee in designated portal, that is, the web portal designated as such by the prescribed income-tax authority or the person authorised by such authority.

Proposed Amendment
It is proposed to provide an option to give our remarks as well as an attachment option to upload documents while filing reply to the information reflected in the Annual Information Statement.

Rationale
Currently, there is an option to response only from the drop-down list. In some

cases, more detailed explanation is needed. Hence, it is required that an option to submit remarks as well as uploading supporting documents be provided.

Impact
The aforesaid Amendment will provide smooth reporting, in line with the intention of Annual Information Statement being made to available to the assessees and it will also provide transparency & reduce litigations.

2. **Section 206 Persons deducting tax to furnish prescribed returns and/or Section 206CB -Processing of statements of tax collected at source.**

Existing Law Provision
Presently, when taxpayers register DSC, they are not allowed to file the TDS/TCS Returns using Aadhar OTPs.

Proposed Amendment
We recommend that OTP validation via Aadhar OTP is also provided in cases where the taxpayer has registered their DSC on the ITD Portal.

Rationale
It will improve return compliance facilitations.

Impact
Positive Impact on TDS/TCS compliance in general.

3. **Section 44AB - Form 3CD – clause 34 Rule 6G (2):**

Existing Law Provision
TDS data reporting under clause 34

Proposed Amendment
We recommend that there should be no limit for reporting data under clause 34 of Form 3CD.

Rationale
Considering the ever-increasing volume of data required to be reported under multiple sections such as 194Q/194Retc., restrictions on the number of rows for reporting result in incomplete data submission. This adversely affects` the purpose and objective of data reporting in Form 3CD by taxpayers.

Impact
It will facilitate data reporting and improve revenue assessments, thereby mitigating potential litigations resulting from taxpayer non-reporting.

4. **Section 44AB - Form 3CA -Rule 6G(1)(a) /3CB- 6G(1)(b)):**

Existing Law Provision
Observation reporting - clause 3 of Form 3CA & Clause 5 of Form 3CB - Presently, the maximum number of observations that could be reported by the auditor is restricted to 36 rows only.

Proposed Amendment
Observation reporting - clause 3 of Form 3CA & Clause 5 of Form 3CB -We recommend increasing the maximum number of observations that the auditor

can report to 100 rows from the existing 36 rows, only in the ITD utilities

Rationale

Given the complexity of the business nature, the Tax Auditor is required to report their observations in addition to the notes forming part of annual financial statements to fulfil their attestation function while filing Form 3CA/3CB along with Form 3CD. This explains their validated observations, justifying their reporting of true and correct opinion basis the information gathered by them regarding the books of accounts.

Impact

It will aid the assessment mechanism by scrutinizing each observation reported by the Tax Auditor to arrive at a validated and considered view while determining and ascertaining the information reported in the revenue assessments under the provisions of Chapter XIV.

Furthermore, it would enhance the quality of assessment, mitigating litigation by issuing speaking orders, which will assist all stakeholders.