Shardul Amarchand Mangaldas

BUDGET INSIGHTS 2024

The Annual Budget 2024 was presented by the Finance Minister on July 23, 2024. The Modi Government in past 10 years has introduced various ambitious policies and schemes including *Atmanirbhar* (self-reliant) *Bharat* - promoting domestic manufacturing, and latest vision of *Viksit Bharat* (Developed India) by 2047. India has been on the path of fiscal consolidation and reduction of fiscal deficit has been the key agenda of the Government. It is expected that the fiscal deficit will fall below 4.5% in FY2025-26 from 5.6% in FY2023-24.

Key Reforms

Finance Minister bifurcated her proposals into 9 priority sectors covering agriculture, employment and skilling, human resource development, manufacturing and services, urban development, energy security, infrastructure, innovation, research & development and next generation reforms. For many priorities which were based on the reforms proposed in the interim budget, have now been operationalised. Numerous new initiatives specifically in respect of employment, skill development and other opportunities have been envisaged with a capital outlay of INR 2 trillion (approx. USD 24 billion) over the next five years and allocation of over INR 3 trillion (USD 36 billion) to schemes benefiting women and girls, reflecting the government's commitment to strengthening women's position in the Indian economy.

A key focus area for the Government has been to promote ease of doing business, which found place in the current budget. After enactment of Jan Vishwas (amendment of provisions) Act 2023, which amended 42 Central Acts and decriminalised 183 provisions, the Finance Minister now has announced introduction of the Jan Vishwas Bill 2.0. Foreign Direct Investment rules have been proposed to be simplified. Further, reforms have been proposed for the Insolvency and Bankruptcy Code 2016 to speed up insolvency resolutions and establishment of additional tribunals to decide cases exclusively under Companies Act.

This alert seeks to provide a high-level summary of the key amendments proposed in direct and indirect taxes.

Key amendments proposed on Direct Taxes:

Tax rates

- Corporate tax rate for foreign companies reduced from 40% to 35%.
- Surcharge to not apply to taxes on dividend and interest payable by Category-III Alternate Investment Funds and investment divisions of Offshore Banking Units located in International Financial Services Centers (which are registered as Foreign Portfolio Investors).
- Tax rates applicable to individuals, Hindu Undivided Families ("HUF"), association of persons, body of individuals and artificial juridical persons relaxed under the new tax regime:

Existing Tax Rates (for FY 2023-24)		Proposed Tax Rates (w.e.f. FY 2024-25)	
Total Income	**Rate**	**Total Income**	**Rate**
Up to INR 300,000 (approx. USD 3,600)	Nil	Up to INR 300,000 (approx. USD 3,600)	Nil
INR 300,001 (approx. USD 3,600) to INR 600,000 (approx. USD 7,200)	5%	INR 300,001 (approx. USD 3,600) to INR 700,000 (approx. USD 8,000)	5%
INR 600,001 (approx. USD 7,200) to INR 900,000 (approx. USD 10,800)	10%	INR 700,001 (approx. USD 8,000) to INR1,000,000 (approx. USD 12,000)	10%
INR 900,001 (approx. USD 10,800) to INR 1,200,000 (approx. USD 14,000)	15%	INR 1,000,001 (approx. USD 12,000) to INR 1,200,000 (approx. USD 14,000)	15%
INR 1,200,001 (approx. USD 14,000) to INR 1,500,000 (approx. USD 18,000)	20%	INR 1,200,001 (approx. USD 14,000) to INR 1,500,000 (approx. USD 18,000)	20%
Above INR 1,500,000 (approx. USD 18,000)	30%	Above INR 1,500,000 (approx. USD 18,000)	30%

Threshold of standard deduction for salaries and family pension increased from the current limit of INR 50,000 (approx. USD 600) and INR 15,000 (approx. USD 180) to INR 75,000 (approx. USD 900) and INR 25,000, respectively (approx. USD 300).

Rationalization of TDS rates

- The TDS rate on following payments to Indian residents reduced from 5% to 2% (with effect from October 1, 2024):
  - Payments under Life insurance policy;
  - Commission or brokerage (including commission exceeding INR 15,000 (approx. USD 180) on sale of lottery tickets);
  - Rental payments exceeding INR 50,000 (approx. USD 600) per month;
  - Certain payments by Individuals and HUF (not qualifying as fee for professional/ technical services, commission or brokerage or payments to contractors, etc.)
- TDS rate applicable to payments of sale of goods and services made on an online marketplace reduced from 1% to 0.1%, to bring it at par with TDS/TCS rate on offline sales;
- The INR 5 million (approx. USD 60,000) threshold for TDS applicable on sale of immovable property is clarified as being applicable to the aggregate sale consideration and not sale consideration payable by each individual buyer in case of multiple buyers.

Decriminalization of TDS default

- Currently, any default in payment of TDS by a payer to the exchequer can render the defaulting payer liable for prosecution proceedings that may culminate into imprisonment upto 7 years along with fine. Budget 2024 proposes to decriminalize the default in payment of TDS if the payer deposits the TDS amount in respect of particular quarter on or before the time limit prescribed for filing TDS return for such quarter.

Tax incentives to International Financial Services Centre (IFSC)

- Currently, specified funds (being Category III AIFs and investment divisions of offshore banking units) located in the IFSC enjoy certain tax benefits. The definition of 'specified fund' is proposed to be expanded to include retail funds and exchange traded funds regulated by the IFSC Authority, subject to such conditions as may be prescribed.
- Currently, to defend against addition of unexplained cash credits, a taxpayer is required to explain the nature and source of funds in his hands as well as in the hands of the creditor. An exemption from explaining the nature and source of funds is provided in cases where funds are received from a venture capital fund ("VCF") registered with SEBI. Such exemption is proposed to be extended to a VCFs regulated by IFSC Authority.
- The exemption from thin capitalisation rules to be extended to finance companies located in the IFSC, subject to conditions as may be prescribed.

Rationalisation and simplification of capital gains tax regime

- For long term capital gains ("LTCG") tax treatment, the holding period for listed securities is proposed to be 12 months and for all other assets, 24 months;
- LTCG across all asset classes is proposed to be taxed at 12.5%. However, indexation benefit will no longer be available on long term capital gains. In case of on-market trades of equity shares, units of equity-oriented mutual funds and business trusts, gains up to INR 125,000 (USD 1,500) to be exempt.
- Short term capital gains ("STCG") on on-market trades of equity shares, units of equity-oriented mutual funds and business trusts to be taxed at an increased rate of 20% from existing 15%.
- STCG on transfer of any other assets will be taxed at the applicable marginal or corporate tax rate.
- Gains realized on transfer of unlisted bonds and debentures are proposed to be taxed as STCG (irrespective of the holding period).

Taxation of share buybacks

- Buyback tax on domestic companies has been abolished. Effective October 1, 2024, proceeds from buy-backs are proposed to be taxed as dividends in the hands of the shareholders without any deductions. The original purchase cost of the repurchased shares will be considered a capital loss for the shareholder, which can be utilized to offset any capital gains tax liabilities in the future.

Abolishment of angel tax

- Angel tax abolished.

Withdrawal of 2% Equalisation Levy ("EL")

- EL of 2% on the amount of consideration received by a non-resident e-commerce operator from online supply of goods and/or services through an e-commerce platform, owned, operated or managed by such non-resident is withdrawn in respect of consideration received by such non-resident e-commerce operator on or after August 1, 2024. The withdrawal of EL is only partial as levy of 6% EL on consideration from specified services (such as online advertisement services) remains intact.

Revision of securities transaction tax ("STT") rates

- STT rates on sale of an option in securities to be increased from 0.0625% to 0.1% of the option premium.
- STT on sale of futures in securities to be increased from 0.0125% to 0.02% of the trading price of such futures.

Tax disputes

- New *Vivad se Vishwas* Scheme, 2024, to be introduced, to help settle pending tax appeals. A similar amnesty scheme was introduced in the Year 2020, which helped resulted in reducing the backlog of the pending appeals.

- The period for reassessment, where income escaping tax exceeds INR 5 million (approx. USD 60,000), to be reduced from the existing 10 years to 5 years from the end of the relevant Assessment Year.
- The monetary limits for filing appeals by the Revenue before the Income Tax Appellate Tribunal (Tax Tribunal / Tax Court), High Court (State Court) and Supreme Court revised to INR 6 million (approx. USD 72,000), INR 20 million (approx. USD 240,000) and INR 50 million (approx. USD 600,000), respectively.
- The period of limitation for filing appeals before the Tax Tribunal to be 2 months from the end of the month in which the order is communicated, as against the existing limitation of 2 months from the date of receipt of the order.
- It is proposed that penalties under the Black Money Act to not be levied where the value of undisclosed assets (other than immovable property) is less than INR 2 million (approx. USD 24,000) .
- The concept of block assessment has been re-introduced. For any search to be initiated after September 1, 2024, it is proposed that there will be one consolidated assessment in respect of the block period of 7 years (i.e. year of search and preceding 6 years). The proposed tax rate is 60% for the block period (plus applicable surcharge) and the penalty proposed is 50% of the tax payable on undisclosed income.
- Powers of Transfer Pricing Officer enhanced to assess specified domestic transactions not forming part of the reference made to him by the Assessing Officer or any specified domestic transactions not reported in the transfer pricing certificate (Form 3CEB).

Safe Harbour Rules

- Scope of Safe Harbour Rules to be expanded and rationalised.

Customs:

Key amendments to Customs Act, 1962 [“Customs Act”] and Customs Tariff Act, 1975 [“Customs Tariff”]

- Section 28 DA of the Customs Act amended to enable the acceptance of different types of proof of origin provided in trade agreements in order to align the said section with new trade agreements, which provide for self-certification.
- A proviso to sub-section (1) of Section 65 of the Customs Act to be inserted to empower the Central Government to specify certain manufacturing and other operations in relation to a class of goods that shall not be permitted in a warehouse.
- Section 143AA of the Customs Act to be amended by substituting the expression “a class of importers or exporters” with “a class of importers or exporters or any other persons” for the purpose of facilitating trade and trade documentation. Similarly, Clause (m) of subsection (2) of section 157 of the Customs Act is being amended by including “a class of importers or exporters or any other persons”.
- Section 6 of the Customs Tariff Act, 1975 which provided for levy of protective duties in certain cases by the Central Government on the recommendations of the Tariff Commission deleted, as relevant the Tariff Commission has been wound up. This change will come into effect from the date of enactment of the Finance (No. 2) Bill, 2024.

Other miscellaneous amendments

- Notification No. 37/2023 - Customs dated 10 May 2023 validated for the period from 1 April 2023 up to and inclusive of 10 May 2023 to provide exemption from basic customs duty and AIDC on imports of crude soyabean oil and crude sunflower seed oil subject to availability of unutilized quota authorization in financial year 2022-23 allotted by DGFT.
- Based on the recommendation of the GST Council in its 53rd meeting, GST Compensation Cess exempted with effect from 1 July 2017 on imports in SEZ, by SEZ units or developers for authorized operations.

- The Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 amended to insert a provision for New Shipper Review. This will be effective from 24 July 2024.

Other notification related changes

- The duration for export in the case of aircraft and vessels imported for Maintenance, Repair and Overhauling increased from 6 months to 1 year, further extendable by 1 year.
- The time-period of duty-free re-import of goods (other than those under export promotion schemes) exported out from India, under warranty increased from 3 years to 5 years, further extendable by 2 years.
- The India-UAE CEPA Tariff notification amended as consequential changes in duty rates on precious metals.

Review of Exemptions

- A comprehensive review has been undertaken in respect of 188 conditional exemptions/concessional rates (150 entries in notification No. 50/2017-Customs dated 30 June 2017 and 38 exemptions/concessional rates are standalone Notifications). The summary of changes is as below:
  - 30 exemptions/ concessional rates extended till March 31, 2029.
  - 126 exemptions/ concessional rates continued till March 31, 2026.
  - 28 exemptions/ concessional rates to lapse on their sunset date of 30 September 2024. Prominent among them are removal of exemption from Special Additional Duty on goods imported for subsequent sale on payment of GST and on goods cleared from SEZ. These notifications are removed as they are no longer relevant in the GST regime.

Amendments to the First Schedule to The Customs Tariff Act, 1975

Increase in Tariff rate (to be effective from July 24, 2024) **Select commodities are as below**:

Heading, subheading, Tariff item	Commodity	From	To
3920, 3921	**Plastics:** Poly vinyl chloride (PVC) flex films (also known as PVC flex banners or PVC flex sheets)	10%	25%
9802 00 00	**Chemicals:** Laboratory chemicals	10%	150%

- **The other key proposals involving changes in rates by notification (Basic Customs Duty has been reduced or exempted): [Illustrative Commodities]**

Changes in Basic Customs Duty (to be effective from July 24, 2024)		Rates of Duty	
Chapter, Heading	**Illustrative Commodity**	**From**	**To**
Critical Minerals (these are mainly for use in the manufacturing sector)			
2603 00 00	Copper ores and concentrates	2.5%	Nil
2605 00 00	Cobalt ores and concentrates	2.5%	Nil
2804 90 00	Selenium	5%	Nil
28045020	Tellurium	5%	Nil
2805 30 00	Alkali or alkaline earth metals, Rare-earth metals, scandium and yttrium, whether or not intermixed or inter alloyed	5%	Nil

Changes in Basic Customs Duty (to be effective from July 24, 2024)		Rates of Duty	
Chapter, Heading	**Illustrative Commodity**	**From**	**To**
2822 00 10	Cobalt oxides	7.5%	Nil
2825 60 10	Germanium oxides	7.5%	Nil
8105 20 20	Cobalt, unwrought	5%	Nil
Steel Sector			
7202 60 00	Ferro Nickel	2.5%	Nil
7204	Ferrous Scrap	Nil (till 30 September 2024)	Nil (till 31 March 2026)
7225	Certain specified raw materials for manufacture of CRGO steel	Nil (till 30 September 2024)	Nil (till 31 March 2026)
Copper			
7402 00 10	Blister Copper	5%	Nil
	Chemicals and Plastics		
3102 30 00	Ammonium Nitrate, whether or not in aqueous solution	7.5%	10%
3920 (other than 3920 99 99) or 3921	All goods other than Poly vinyl chloride (PVC) flex films/flex banner	25% (with effect from 24.07.2024)	10%
Cancer Drugs			
30	1. Trastuzumab Deruxtecan, 2. Osimertinib, 3. Durvalumab	10%	Nil

Changes in Basic Customs Duty (to be effective from July 24, 2024)		Rates of Duty	
Chapter, Heading	**Illustrative Commodity**	**From**	**To**
Precious Metals			
7108	Gold bar	15%	6%
7108	Gold dore	14.35%	5.35%
7106	Silver bar	15%	6%
7106	Silver dore	14.35%	5.35%
7110	Platinum, Palladium, Osmium, Ruthenium, Iridium	15.4%	6.4%
7118	Coins of precious metals	15%	6%
7113	Gold/Silver findings	15%	6%
71	Platinum and Palladium used in the manufacture of noble metal solutions, noble metal compounds and catalytic convertors	7.5%	5%
84	Bushings made of platinum and rhodium alloy when imported in exchange of worn out or damaged bushings exported out of India	7.5%	5%
IT and Electronics Sector			
8517 13 00, 8517 14 00	Cellular mobile phone	20%	15%
8504 40	Charger/Adapter of cellular mobile Phone	20%	15%
8517 79 10	Printed Circuit Board Assembly (PCBA) of cellular mobile phone	20%	15%
28, 29, 38	Specified parts for use in manufacture of connectors	5%/7.5%	Nil
74	Oxygen Free Copper for use in manufacture of Resistors	5%	Nil

Changes in Basic Customs Duty (to be effective from July 24, 2024)		Rates of Duty	
Chapter, Heading	**Illustrative Commodity**	**From**	**To**
40,70,76	Specified die cut parts and specified mechanics for manufacture of cellular phones	As applicable	Nil
8517 79 10	Printed Circuit Board Assembly (PCBA) of specified telecom equipment	10%	15%
Renewable Energy Sector			
84, 85, or any other chapter	Specified capital goods for use in manufacture of solar cells or solar modules, and parts for manufacture of such capital goods	7.5%	Nil
7007	Solar glass for manufacture of solar cells or solar modules	Nil	10% (w.e.f. 1 October 2024)
74	Tinned copper interconnect for manufacture of solar cells or solar modules	Nil	5% (w.e.f. 1 October 2024)
74	Tinned copper interconnect for manufacture of solar cells or solar modules	Nil	5% (w.e.f. 1 October 2024)
Shipping (for facilitation of indigenous defense production/ manufacture)			
Any Chapter	Components and consumables for use in manufacture of specified vessels	As applicable	Nil

Changes in Basic Customs Duty (to be effective from July 24, 2024)		Rates of Duty	
Chapter, Heading	**Illustrative Commodity**	**From**	**To**
Any Chapter	Technical documentation and spare parts for construction of warships (the above has been facilitated to improve indigenous defense production)	As applicable	Nil

Key amendments proposed to Excise Regulations:

The Clean Environment Cess, levied as collected as a duty of Excise, is being exempted from excisable goods lying in stock, as of June 30, 2017, subject to payment of GST Compensation Cess on supply of such goods on or after July 1, 2017.

Key amendments proposed to Goods and Services Tax ("GST") Act

- **Extra Neutral Alcohol (ENA) used in manufacture of alcoholic liquor for human consumption**: Amendments proposed in Section 9 of Central Goods and Services Tax **("CGST")** Act, Section 5 of Integrated Goods and Services Tax **("IGST")** Act and Section 7 of Union Territory Goods and Services Tax **("UTGST")** Act to exclude *un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor for human consumption* from the ambit of GST Law. The present amendment should resolve the ongoing litigation (pending before Hon'ble Supreme Court) of taxability of ENA used in manufacture of alcoholic liquor for human consumption.
- **Exemption of GST due to General Trade Practice**: A new provision to be inserted *viz.* Section 11A of CGST Act, Section 6A of IGST Act, Section 8A of UTGST Act and Section 8A of GST Compensation to States Act which in effect provides that the Government by Notification may direct that the GST payable on any supply shall not be required to be paid as a matter of general practice. By way of this provision the Government is empowered to regularize non-levy or short levy of GST due to any general practice prevalent in trade. Please note that similar provisions also existed under the erstwhile excise and service tax laws.

- **Time limit for adjustment of ITC**: The last date of adjustment of Input Tax Credit **("ITC")** for the period 2017-18 to 2020-21 has been extended to the November 30, 2021. The ITC not availed due to revocation or cancellation may be availed till 30 November of the next financial year. Further, the ITC for the period during which the registration was cancelled may be availed while filing returns for the next month subsequent to order for revocation of cancellation. The above proposal is in line with the recommendations made in 53rd GST Council Meeting.
- **Monthly returns in cases of TCS:** New provision introduced for filing of monthly returns for the person liable to deduct tax at source.
- **Issuance of Notice for recovery of dues:** The provision of Section 73 and 74 of the CGST Act under which show cause notices were issued made applicable for determination of tax for period limited to FY 2023-24 and not thereafter.
- **New provision for issuance of notice for recovery of dues:** Section 74A inserted in the CGST Act for determination of tax pertaining to financial year 2024-25 onwards. This is a common provision for issuing of notices for non-fraud cases as well as the cases involving allegations of fraud, willful misstatement or suppression of facts. However, the applicable penalty will be 10% of the tax demand for cases other than fraud, willful misstatement or suppression of facts and 100% of the demand in cases of fraud, willful misstatement or suppression of facts. The provision has a common limitation period of 42 months for issuing the show cause notice from the due date for furnishing of annual returns for the financial year to which the demand relates.
- **Jurisdiction of GSTAT:** The Government may notify cases or class of cases which shall be heard only the Principal Bench. Also, the matters under Section 171(2) of the CGST Act relating to anti profiteering, to be adjudicated by the Principal Bench. Further, the Government may notify the date for filing appeal before the GST Appellate Tribunal **("GSTAT")** and provide the revised time limit. The amount of pre-deposit for filing of appeals before GSTAT has been reduced from 20% to 10% of the tax in dispute. The above proposal is in line with the recommendations made in 53rd GST Council Meeting.

- **Waiver of interest or penalty for certain tax period:** Amnesty scheme introduced to waive interest and penalty on payment of full demand under Section 73 for period 2017-18 to 2019-20, except for demand in respect of erroneous refunds. The above proposal is in line with the recommendations made in 53rd GST Council Meeting.
- **Sunset period for Anti-profiteering law:** A provision has been inserted in Section 171 of CGST Act which provides that the Government may specify the date from which the Anti-profiteering authority shall not accept any request for examination of matters. The above proposal is in line with the recommendations made in 53rd GST Council Meeting.
- **Schedule III amended:** Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied excluded from the levy of GST. Further, services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer is also excluded from the ambit of GST. The above proposal is in line with the recommendations made in 53rd GST Council Meeting.

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