# BUDGET 2020 ANALYSIS

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GRANDMARK & ASSOCIATES (GMA) takes pleasure in presenting critical analysis of Budget 2020. We present this analysis after going through the Finance bill thoroughly. Our Budget Analysis is a team-work of Partners where we try to explain critical issues in the most simplistic manner.

The 6th Union budget of Modi Era was presented by Honourable Finance Minister Ms. Nirmala Sitharaman on 1st Feb 2020. The entire CA fraternity eagerly wait for this event and they read it, analyze it, interpret it and share their views with fellow professionals, clients and society at large. Domestic and global investors, economists, business community and society expect a lot from budget.

In the process of preparation of budget, the Finance minister starts meeting with various stakeholders like Representatives of Industry, Trade unions, Farmers associations, and professional bodies like CAs, FICCI, ASSOCHAM, CII etc. to know their views, their expectations, their demands and also to take their suggestions. All this is listed out and core budget team incorporates some of the suggestions and preparation of budget is started. But has all this happened in current budget? Has Ms. Sitaraman incorporated the views of all these stakeholders or anyone in the Finance Ministry gone through various suggestions and key inputs? I really doubt. Pre budget meetings with Industry Experts held just ten days before the presentation of budget was just a formality. Ms. Sitharaman was not even present in that meeting.

There were lot of expectations from budget because our economy is facing severe crises, as almost all the economic parameters have gone haywire. There's lack of demand in the market, GST collection is rising not because of growth but tweaking of rates and sectors like Construction, Automobile, Finance and Agriculture are facing unprecedented crisis. Our ranking on Ease of Doing Business and Ease of living is very low. There are several procedural flaws in GST which need to be addressed.

Everyone was looking at the Finance Minister with the hope that the budget would a give direction to the economy which shall put the country on growth path. But all the expectations were doomed after presentation of budget. Govt could not announce any big incentive for any sector. Important sectors like Construction and Automobile were completely neglected. There could be two reason for that, either the Govt is short of resources or it feels no need for any stimulus or package. The economy needed some direction and stimulus from the budget, but nothing was there in the kitty of FM to boost the economy. Some minor tax cuts are announced but those tax cuts are at a cost which is much higher than the benefits that will accrue on availing those tax benefits.

We believe, Budget 2020 was an opportunity missed in terms of raising the animal spirit by fuelling the growth at the cost of an expanded fiscal deficit. Finance minister had two options - either loosening the purse to buy some growth or to continue with FRBM roadmap and the choice tilted towards the latter path. The fiscal deficit was pegged at 3.5% for FY2020-21 and a big fiscal expansion was given a miss.

A detailed critical appraisal is prepared by GMA team, do have a look and give your feedback on the same.

## Backdrop to Budget 2020

1. Falling Revenue, Rising Prices
2. Growth rate falls to lowest in 11 years
3. India is seen as slowing world economy
4. Expected Budget 2020 to boost demand and address Industry-specific issues
5. Expected to Reverse slowdown in economy

## Key Indicators

1. Ease of Doing Business
2. Agricultural Sector
3. Rural Economy
4. Public Welfare Schemes

## 1. Ease of Doing Business

India ranked 142 in 2014, for Ease of Doing Business Ranking which improved to 63 in 2019, a creditable performance, no doubt. But the journey wouldn't be easy from here onwards.

Consider these two scenarios herein below:

### a. No of Licenses required to open a Restaurant:

| Bengaluru | 36 Licenses |
|---|---|
| Delhi | 26 |
| Mumbai | 22 |
| China | 04 |
| Singapore | 04 |

*Culprit: Too many Rules & Regulations*

b. No of days a sea-export container has to spend in India:

A consignment from an apparel factory in Delhi that takes 41 days to reach the buyer in USA, spends19 days within India (Vietnam: 2 days).

*Culprits: Inefficient processes and poor capacity utilisation*

Despite being competitive and having raw materials in most cases, we are NOT efficient in Rules & Regulations. We need 45 documents to open an eatery in Delhi, while 19 documents are required to buy a gun. Our ranking is worst when it comes to Enforcing Contracts.

Days spent in enforcing Contracts:

| Country | Days |
|---|---|
| **India** | 1445 |
| **Brazil** | 801 |
| **China** | 496 |
| **Indonesia** | 403 |
| **New Zealand** | 216 |

*Culprit: Legal system in India*

Thus, India's journey to north of ranking table for Ease of Doing Business wouldn't be easy going forward, as you may understand from the table below, where India continues to trail in following parameters:

| Parameters | Rank |
|---|---|
| **Ease of Starting Business** | 136 |
| **Registering Property** | 154 |
| Paying Taxes | 115 |
| Enforcing Contracts | 163 (out of 190 countries) |

*Culprits: Too many Rules & Regulations, inefficient Legal system in India*

It may not be an easy journey henceforth, to improve Ease of Doing Business rankings any sooner, due to inefficient legal system in India and a tax base of just 3-4% of population, which is not wide enough.

## 2. Agricultural Sector

Current Scenario for Agricultural Sector:

1. Slump in rural spending leading to lower GDP of less than 5%.
2. GVA growth rate of agriculture & allied sectors declined to 2.9% in 2019 from 6.3% in 2017.
3. Erratic weather patterns, such as rainfall, affected agriculture throughout the country.
4. Production of most crops such as rice, maize, oilseeds, tur, and moong expected to decline.
5. Focus should be on increasing Farmers income
6. Debt waivers for farmers, who, in some cases, suffer the most.
7. Find solutions for stub burning and encourage mechanisation
8. Insurance support for farmers

*Programmes in Budget 2020:*

1. The Budget has allocated Rs 2.83 lakh crore for agriculture & allied activities, irrigation, and rural development. This includes Rs 1.6 lakh crore for agriculture and irrigation activities, and the remaining Rs 1.23 lakh crore for rural development, which may not be sufficient, after reduction in MNREGA amounts.
2. FM has committed to double Farmer's income by 2022, with proposed 16 point action plan. This may be challenging due to execution risks, and further reduction in Market Support Price for farmer's produce.
3. The allocation for food subsidy has come down majorly from Rs 184,220 crore to Rs 108,688 crore this year (Reduction by Rs 75,532 crore). This has raised doubts whether the government is intending to withdraw from procurement operations.
4. The government has set the agriculture credit target at Rs 15 lakh crore for FY21 (up from Rs 12 lakh crore in FY20), which will cover all eligible beneficiaries of PM-KISAN under the KCC scheme.
5. "Kisan Rail" and "Krishi Udan" to be launched by the Indian Railways and ministry of civil aviation through a public-private partnership model.
6. The government has announced its plan to integrate the financing of negotiable warehousing receipts (e-NWR) with e-NAM. This is positive.
7. The government has encouraged states to adopt clusters to focus on "one product one district," which can boost marketing and export in the horticulture sector. Target: 311 million metric tonnes.

8. The government launched a scheme PM KUSUM to cover 20 lakh farmers for standalone solar pumps and an additional 15 lakh farmers for solarized grid-connected pump sets. This is a positive step and cost-effective.
9. Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) attracted Rs 61,500 crore in the current budget, which is a decline of 13% from the total estimated expenditure of Rs 71,001.81 crore in 2019-20. This may not help rural unemployment.
10. 100,000 Gram Panchayats to be connected with Bharat Net, for which Rs 6,000 crores have been allocated. Execution will be key and benefits will accrue over years.

## 3. Rural Economy

Current Scenario for Rural Economy:

1. Retail inflation has touched 7.35% in Dec 2019, a seven-year high, which indicates poor inflation management policies of the government.
2. Lack of demand and slackening investments in rural economy.
3. Demonetisation and Slump in rural spending led to a decline in rural demand pulling down country's GDP to less than 5%.
4. Providing more money into the hands of rural population (more than 50% engaged in agriculture) is the surest way to prop up the economy.
5. Bottom 60% of population holds only 4.8% of nation's wealth.
6. Poultry, Fish and Horticulture may require additional investments.
7. Water shortages affect livelihood, for which government support is a must.
8. Contract Farming is the need of the hour, for landless farmers.

*Programmes in Budget 2020:*

1. Outlay for rural employment was reduced from Rs 71,002 crore to Rs 61,500 crore, thereby slashing it by Rs 9,502 crore for rural jobs. This is despite unemployment (7.6% in Dec 2019) being at 45 year high in India.
2. Rural India gets Rs 2.83 lakh crore as focus is on helping farmers become competitive with liberal agricultural markets & state support for livestock, fisheries. No doubt government interventions have skewed agricultural markets in India.
3. Food subsidy bill has increased to Rs 171,128 crore in 2018-2019, from Rs 113,171 crore in 2014-2015 and seems to become un-sustainable in the long run. Government's subsidy bill pegged at Rs 2.27 lakh crore for FY21.
4. Government proposes 11% increase in Farm credit, from Rs 12.5 lakh crore last year to Rs 15 lakh crore. Note that only 41% of small & marginal farmers avail credit from scheduled commercial banks.

5. Government has FAILED to utilize PM-KISAN and MNREGA for creating more rural demand, which would have led to increased consumption thereby leading to a higher economic growth.
6. Fish production target has been raised to 200 lakh MT for the year 2023.
7. Dairy Milk production target has been raised to 108 million MT by 2021.
8. Village Storage Schemes for grains has been introduced to overcome shortages of warehousing in rural areas. This will also save costs for farmers.
9. Use of railway land and barren land for solar power production is a positive for rural economy.
10. Changes in the personal income tax structure are unlikely to give a push to consumption.
11. Geo-tagging of all warehouses and gap funding for all new warehouses to overcome shortage of warehousing capacity in rural India.
12. Allocation for fertilizer subsidy reduced to Rs 71,345 crore from Rs 80,034 crore in fiscal 2020.
13. Higher impetus to addressing environmental and climate change challenges with continued focus on solar power.

## 4. Public Welfare Schemes

1. FM introduced "Aspirational India", "Economic Development", and "Caring Society" concepts in Budget 2020. Focus is on wealth generation and Thalinomics for Indians at large.
2. Under Aspirational India Plan, the government is committed to realizing a better standard of living of its citizens through access to better health, education, and job status. Service delivery gap may be a concern.
3. Budget allocated Rs 1.64 lakh crore for 2020-2021, with an increase of 11.79%.
4. Rs 85,000 or 14% increase in allocation for the ministry of Social Justice for SC/ OBC/ vulnerable sections of the society. Positive for underprivileged.
5. Rs 53,700 crore, or 7.5% increase in allocation for Tribal Affairs Ministry. The biggest increase has been in scholarship schemes for meritorious students from SCs, STs, and OBCs across ministries, indicating emphasis on education for vulnerable sections of society.
6. Proposal for foreign universities to partner Indian Institutes through external commercial borrowings (ECB) and the FDI route. There are over 340 private universities in India that could gain from opening up of the funding regime. It will bring down cost of higher education in India, due to collaboration, and provide opportunities for poor and underprivileged students.
7. Currently, there are 20,000 empaneled hospitals under Ayushman Bharat, and more are required in tier 2 and tier 3 cities. This augurs well for healthcare sector and for citizens, especially in Tier 2/3 cities.

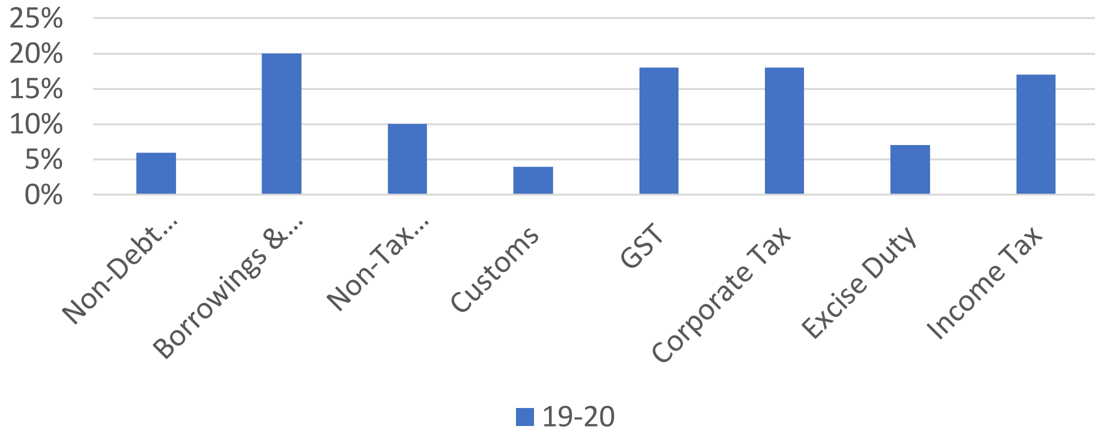
8. Proposal to start a medical college in district hospitals under the PPP mode, viability gap funding to be set up for setting up such medical colleges.
9. The health sector received an allocation of Rs 69,000 crore for FY21 in the budget. Another Rs 3,000 crore was allocated for skill development of hospital staff.
10. Government has allocated Rs 12,300 crore for the Swachh Bharat mission.

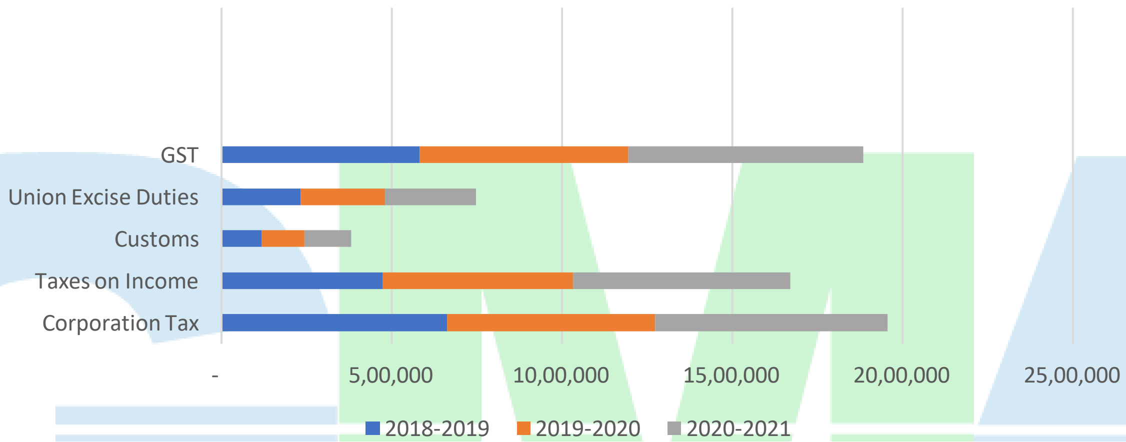
## ECONOMIC MACROS

- India is now fifth largest economy of the world.
- India's foreign direct investment got elevated to the level of US$ 284 bn during 2014-19 from US$ 190 bn that came in during the years 2009-14.
- The Central Government debt has been reduced in March 2019, to 48.7% of GDP from a level of 52.2% in March 2014.
- The budget revises estimate of expenditure for the Financial Year 2019-20 at Rs.26.99 lakh Crore and the receipts are estimated at Rs.19.32 lakh crore.
- The nominal GDP growth is estimated at 10% for FY21, whereas the increase in expenditure is pegged at 9%.
- Receipts for the year 2020-21 are estimated at Rs.22.46 lakh cr and, and level of expenditure has been raised to Rs.30.42 lakh crore.
- Fiscal deficit estimated at 3.8% in RE 2019-20 and 3.5% for BE 2020-21.
- The budget estimates net market borrowings for the year 2019-20 at Rs.4.99 lakh crore and for the year 2020-21 at Rs.5.36 lakh crore.
- Capital expenditure has been scaled up by more than 21%.
- With Introduction of GST, there was 20 per cent reduction in turnaround time for trucks, 10% reduction in overall tax incidence, Savings of about 4 per cent of monthly spending for an average household.
- There is a proposal to sell a part of its holding in LIC by way of Initial Public Offer.

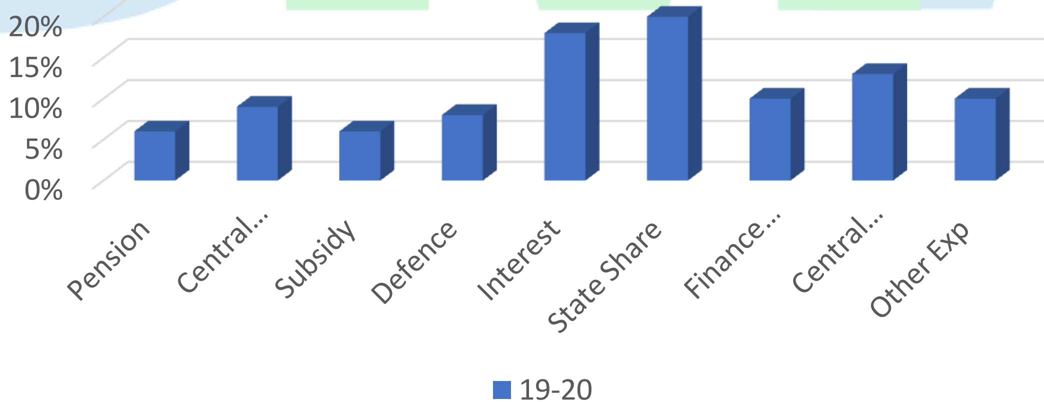
| Rupee Comes From | % |
|---|---|
| Borrowing & Other Liabilities | 20 |
| Corporation Tax | 18 |
| GST | 18 |
| Income Tax | 17 |
| Non-Tax Revenue | 10 |
| Union Excise Duties | 7 |
| Non-Debt Capital Receipts | 6 |
| Customs | 4 |

| Rupee Goes to | % |
|---|---|
| States Share of Taxes & Duties | 20 |
| Interest Payments | 18 |
| Central Sector Schemes | 13 |
| Finance, Commission & Other Transfers | 10 |
| Other Expenditure | 10 |
| Centrally Sponsored Schemes | 9 |
| Defense | 8 |
| Pensions | 6 |
| Subsidies | 6 |




*Corporate Taxes were lower by 8% during 19-20 as per the revised estimate. There is a hope of them coming back to 18-19 levels over the next year.*




*Increases in administrative spend @ of 10% every year. One key element Administration of Justice may need more focus as this is tied into Ease of Doing business and the spend there is not going up.*

| *Key outlay figures* | Amount |
|---|---|
| Agriculture, Irrigation & Allied Activities | Rs.1.60 lakh crore |
| Rural Development & Panchayati Raj | Rs.1.23 lakh crore |
| Health Sector (inclusive of Rs.6,400 cr for PMJAY) | Rs.69,000 crore |
| Swachh Bharat Mission | Rs.12,300 crore |
| Jal Jeevan Mission | Rs.11,500 crore |
| Education Sector (exclusive of Rs.3,000 cr for Skill Development) | Rs.99,300 crore |
| National Technical Textiles Mission (For 4 years from FY21 to FY24) | Rs.1,480 crore |
| Development and Promotion of Industry and Commerce | Rs.27,300 crore |
| Bengaluru Suburban Transport Project | Rs.18,600 crore |
| Transport Infrastructure | Rs.1,70 lakh crore |
| Bharatnet | Rs.6,000 crore |
| National Mission on Quantum Technologies and Applications (Over 5 years) | Rs.8,000 crore |
| Provision for power and renewable energy sector | Rs. 22,000 crore |
| Nutrition-related Programs | Rs.35,600 crore |
| Programs that are specific to women | Rs.28,600 crore |
| Scheduled Castes and Other Backward classes | Rs.85,000 crore |
| Development and welfare of Scheduled tribes | Rs.53,700 crore |
| Senior Citizens and Divyang | Rs.9,500 crore |
| Ministry of Culture | Rs.3,150 crore |
| Tourism Promotion | Rs.2,500 crore |
| Ministry of Environment, Forests and Climate Change | Rs.4,400 crore |

## GOVERNANCE

- There is a proposal for changes in Companies Act to rectify on building into statutes, criminal liability for acts that are civil in nature. This could be a step towards ease of doing business, however further developments in this direction will be known in days to come.
- It is proposed to set up a National Recruitment Agency (NRA) as an independent, professional, specialist organization for conducting a computer-based online Common Eligibility Test for recruitment to Non-Gazetted posts
- For speedy disposal of commercial and other disputes, Government has constituted various Tribunals and specialized bodies. It is proposed to evolve a robust mechanism for appointment including direct recruitment to these bodies to attract best talents

- India to host G-20 presidency in the year 2022. Budget proposed a sum of Rs.100 cr for this event.
- For development of J&K and Ladakh, an amount of Rs.30,757 cr and Rs.5,958 cr has been provided for FY21

## FINANCE SECTOR

- Government of India has already infused about Rs. 3.5 lakh cr by way of capital into Public Sector Banks for regulatory and growth purposes. Governance reforms would be carried out in these banks, so that they become more competitive
- Robust mechanism is in place to monitor the health of all Scheduled Commercial Banks and that depositors' money is safe.
- Deposit Insurance and Credit Guarantee Corporation (DICGC) has been permitted to increase Deposit Insurance Coverage for a depositor. The insurance cover has been increased from Rs.1 lakh to Rs.5 lakh per depositor
- Amendments to the Banking Regulation Act are proposed for increasing professionalism, enabling access to capital and improving governance of Cooperative Banks
- Limit for NBFCs to be eligible for debt recovery under the SARFAESI Act 2002 is proposed to be reduced for asset size of Rs. 500 cr to of Rs. 100 cr or loan size from existing Rs.1 cr to Rs. 50 lakh.
- It is proposed to sell the balance holding of Government of India IDBI Bank to private, retail and institutional investors through the stock exchange.
- Amendments to the Factor Regulation Act 2011 is proposed which will enable NBFCs to extend invoice financing to the MSMEs through TReDS
- It is proposed to introduce a scheme to provide subordinate debt for entrepreneurs of MSMEs to solve working capital issue. This subordinate debt to be provided by banks would count as quasi-equity and would be fully guaranteed through the Credit Guarantee Trust for Medium and Small Entrepreneurs (CGTMSE).
- The government has asked RBI to extend restructuring window for MSME till March 31, 2021
- An app-based invoice financing loans product will be launched. This will obviate the problem of delayed payments and consequential cash flows mismatches for the MSMEs

- For selected sectors such as pharmaceuticals, auto components and others, Government has proposed to extend handholding support – for technology upgradations, R&D, business strategy etc. There will be a scheme of Rs.1000 cr which will be anchored by EXIM Bank together with SIDBI. Both these institutions would contribute Rs.50 cr each. This Rs.100 cr would be contributed towards equity and technical assistance, also debt funding of Rs.900 cr from banks would be made available for the same

## FINANCIAL MARKETS

- For deepening the bond market, certain specified categories of Government securities would be opened fully for non-resident investors, the same would be available to domestic investors.
- Budget proposes to enhance FPI limit in corporate bonds from current 9% of outstanding stock to 15%.
- Government proposes to expand ETF by floating a new Debt-ETF consisting primarily of government securities. This will give retail investors access to government securities as much as giving an attractive investment for pension funds and long-term investors.
- To further support NBFC/HFC on liquidity, a new mechanism would be devised. Government will offer support by guaranteeing securities so floated.

## INFRASTRUCTURE FINANCING

- The Government had proposed Infrastructure projects worth Rs.103 lakh cr for next 5 years, for which Rs. 22,000 cr has already been provided, as support to Infrastructure Pipeline.
- With the approval of the regulator, there is a proposal to set up an International Bullion exchange(s) in GIFT-IFSC as an additional option for trade by global market participants.
- There has been a surge in trading volumes of Indian rupee in the offshore financial centers. The Government and RBI has taken various measures to permit Rupee derivatives to be traded in the International Financial Services Centre at GIFT city, Gujarat

## FISCAL MANAGEMENT

- It is decided to transfer to the GST Compensation Fund balances due out of collection of the years 2016-17 and 2017-18, in two installments. Hereinafter, transfers to the fund would be limited only to collection by way of GST compensation cess
- Government proposes to overhaul of Centrally Sponsored Schemes and Central Sector Schemes to align them with emerging social and economic needs of tomorrow, and to ensure that scarce public resources are spent optimally.

- Financing of working capital by providing subordinate debt for MSMEs which will be accounted as quasi-equity and would be fully guaranteed through the 27 Credit Guarantee Trust for Medium and Small Entrepreneurs (CGTMSE).
- Necessary amendments in Factory Regulation Act 2011 to enable NBFC to extend invoice financing through TReDS.
- An app-based invoice financing loans will be launched to obviate the problem of delayed payments and consequential cash flows mismatches for the MSMEs.
- Enhancement of limit of 25 crores to 100 crores for eligible start-ups to allow 100% deduction of the profits for 3 consecutive assessment years out of 10 years (previously 7 years).
- The government proposes to provide early life funding, including a seed fund to support ideation and development of early stage Start-ups.
- A new scheme NIRVIK is being launched to provide for higher insurance coverage, reduction in premium for small exporters and simplified procedure for claim settlements.
- Government has increased the target of turnover for e-Marketplace (GeM) to 3 lakh crore, which is a single platform for procuring goods by the government from MSMEs, which will further boost the MSME sector.
- To incentivize local industry, custom duty on import of items produced by MSME like footwear and furniture will be increased.
- For Ease of doing Business for MSMEs, following measures have been taken
- For the ease of doing business for MSMEs, government has proposed to set up an Investment Clearance Cell that will provide "end to end" facilitation and support, including pre-investment advisory, information related to land banks and facilitate clearances at Centre and State level.
- Removal of clause of criminal liability for acts which are civil in nature from Companies Act and other laws
- Increase in threshold for audit has been from the existing 1 crore to 5 crore in case of businesses which carry out less than 5% of their business transactions in cash.
- Simplified GST returns w.e.f. 1st April, 2020.

*The Government is relying on MSMEs for creation of Job for youths; however there is no relief to this sector from Income Tax Rates, as given to the Corporates. The Micro and Small Businesses are run majorly through Proprietorship or Partnership Firms.*

## Individual Taxation

### Changes in Personal Income Tax and simplification of taxation

The Honorable Finance Minister introduced a new Tax Regime optional for Individuals to choose, under which the Income Tax rates have been revised. The new Tax slabs are as follows

| Income Slab (Rs.) | Tax Rate |
|---|---|
| Up to 5,00,000 | 5% |
| 5,00,000-7,50,000 | 10% |
| 7,50,000-10,00,000 | 15% |
| 10,00,000-12,50,000 | 20% |
| 12,50,000-15,00,000 | 25% |
| Above 15,00,000 | 30% |

Individuals can adopt this new regime by forgoing the Deductions and Exemptions that are current available. Individuals who wish to continue availing benefits under the Deductions and Exemptions will be taxed as per the old Regime where Income above Rs. 5,00,000 will continue to be taxed at 20% and at 30% above Rs. 10,00,000. **According to the FM, the new personal income tax rates will entail estimated revenue forgone of Rs. 40,000 Crore per year, however she has ignored to mention additional revenue to be generated by withdrawal of at least 70 exemptions.**

At present, there are more than one hundred exemptions and deductions of different nature provided in the Income-tax Act, as such around 70 of them are removed in the new simplified regime. The remaining exemptions and deductions would be reviewed and rationalized in the coming years with a view to further simplify the tax system as well as to lower the tax rate.

It must be noted that this new tax scheme is optional and those who opt for it will have to forego the exemptions that they get under the old tax regime.

Individuals opting to pay tax under the new lower personal income tax regime will have to forgo almost all tax breaks they were claiming in the current tax structure.

The important tax breaks that will not be available under the new regime include Section 80C (Investments in PF, NPS, and Life insurance premium), Section 80D (medical insurance premium), tax breaks on HRA and on interest paid on housing loan etc.  Therefore, it is not clear as to

whether the new personal tax regime will really bring substantial tax savings for most of the tax payers.

Under the new tax regime, the individuals can opt to pay tax at the reduced rates without claiming the various tax exemptions and deductions. The individuals will have to work out their liability under the old and new tax regime before deciding which one is more beneficial. While the new regime seems simple on account of no exemptions, there would be individuals who have already made commitment in recurring tax savings instruments who may still want to avail exemptions and get taxed under the old regime.

List of the main exemptions that tax payers will have to forgo if they opt for the new regime.

(i) Leave travel allowance exemption which is currently available to salaried employees twice in a block of four years;

(ii) House rent allowance claimed as tax exemption up to certain specified limits if the individual was staying in rented accommodation;

(iii) Standard deduction of Rs 50,000 available to salaried taxpayers;

(iv) Deduction for entertainment allowance and employment/professional tax as contained in section 16;

(v) Tax benefit on interest paid on housing loan taken for a self-occupied property under Section 24. Interest paid on housing loan for such a property could be claimed as a deduction from income from house property which resulted in a loss from house property (as the property was self-occupied or vacant). This loss could be set off against salary income thereby reducing the individual's taxable income and in turn reducing the net tax liability;

(vi) Deduction of Rs.15,000 allowed from family pension under clause (iia) of Section 57;

(vii) Section 80C deductions claimed for provident fund contributions, life insurance premium, school tuition fee for children and various specified investments such as ELSS, NPS, PPF etc. up to Rs.150,000.

(viii) The deduction claimed for medical insurance premium under section 80D will also not be claimable;

(ix) Tax benefits for disability under sections 80DD and 80DDB will not be claimable;

(x) Tax break on interest paid on education loan under Section 80E will not be claimable;

(xi) Tax break on donations to charitable institutions available under section 80G will not be available.

All deductions under chapter VIA (like section 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc) will not be claimable by those opting for the new tax regime.

Net on net, if one analyses whether a taxpayer is benefitting out of the arrangement proposed in the new regime, it is not so as illustrated in the below simplified example:

| | Old Regime | | New Regime | | Tax Saving/ (Excess Tax) |
|---|---|---|---|---|---|
| Taxable Income | Tax Rate | Tax Amount | Tax Rate | Tax Amount | |
| Up to 500,000 | 0% | - | 0% | - | - |
| 250,000 to 500,000 | 5.20% | 13,000 | 5% | 13,000 | - |
| 500,000 to 600,000 | 20.80% | 20,800 | 10% | 10,400 | 10,400 |
| 600,000 to 750,000 | 20.80% | 31,200 | 10% | 15,600 | 15,600 |
| 750,000 to 1,000,000 | 20.80% | 52,000 | 16% | 39,000 | 13,000 |
| 1,000,000 to 1,250,000 | 31.20% | 78,000 | 21% | 52,000 | 26,000 |
| 1,250,000 to 1,500,000 | 31.20% | 78,000 | 26% | 65,000 | 13,000 |
| **Gross Tax Liability** | | **2,73,000** | | **1,95,000** | **78,000** |
| **Less: Tax saving on Deductions:** | | | | | |
| - Standard Deduction | 15,600 | | | | |
| - Deduction u/s 80C, 80D etc., | 46,800 | | | | |
| - Interest on Housing Loan | 62,400 | 1,24,800 | | | 1,24,800 |
| Net Tax Liability | | 1,48,200 | | 1,95,000 | -46,800 |

**With the cutoff of tax exemptions and deductions, there will be a huge hit on the business of insurance and other investment sectors. Taxpayers may not look at the option of securing their savings due to non-availability of exemptions instead they may only look at investing at minimal.**

During the post budget session interview of Finance Minister, she opines that the taxpayers will have fairly more money in their hands and this way an option is given to the taxpayers to spend it or save it, it is their business.

## Withdrawal of exemption on certain perquisites or allowances provided to UPSC Chairman and members and Chief Election Commissioner and Election Commissioners

Section 10(45) of the Act provides for exemption in respect of certain any allowance or perquisite as may be notified by the Central Government, paid to the serving / retired Chairman or Members of UPSC shall not be included in computing their total income and hence shall be exempt from income-tax.

It is proposed to remove these exemptions and it is proposed to:

a. delete section 10 (45) of the Act;
b. amend section 8 of the Election Commission (Conditions of Service of Election Commissioners and

Transaction of Business) Act, 1991, so as to delete the exemption from income-tax on value of rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and other such conditions of service as are applicable to a Judge of the Supreme Court, paid to Chief Election Commissioner and other Election Commissioners.

## Tax incentive for Affordable Housing

The existing provision of section 80EEA provide a deduction in respect of interest up to Rs 1.5 Lakh on loan taken for residential house property from any financial institution subject to the following conditions:

a) Loan has been sanctioned by a financial institution between 1st April, 2019 to 31st March 2020.

b) the stamp duty value of house property does not exceed Rs 45 Lakh

c) Assessee does not own any residential house property on the date of sanction of loan.

**In order to continue promoting purchase of affordable housing, the period of sanctioning of loan by the financial institution is proposed to be extended to 31st March, 2021.**

## Tax relaxation on ESOP for start-ups:

Budget proposes deferment of tax payment by employees on ESOPs from start-ups by five years or till they leave the Company or when they sell their shares, whichever is earliest.

Currently, ESOPs are taxed as perquisites under section 17(2) of the Act read with Rule 3(8)(iii) of the Rules. The taxation of ESOPs is split into two components:

1. Tax on perquisite as income from salary at the time of exercise.
2. Tax on income from capital gain at the time of sale.

The tax on perquisite under the head Salary is required to be paid at the time of exercising of option which may lead to cash flow problem as this benefit of ESOP is in kind. In order to ease the burden of payment of taxes by the employees of the eligible start-ups or TDS by the start-up employer, it is proposed to amend section 192 of the Act to provide that a person, being an eligible start-up referred to in section 80-IAC, responsible for paying any income in the nature of ESOPs to the assessee being perquisite shall be taxable and tax on such income shall be collected within fourteen days:

(i) after the expiry of 48 months from the end of the relevant assessment year **(i.e. 5 years from the end of P.Y.)** or

(ii) from the date of the sale of such ESOPs by the assessee; or

(iii) from the date of which the assessee ceases to be the employee of the Start Up;

Whichever is the earlier on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred.

Similar amendments have been carried out in section 191 (for assessee to pay the tax direct in case of no TDS) and in section 156 (for notice of demand) and in section 140A (for calculating self-assessment).

## Restriction on Employer Contribution to PF

Under the existing provisions of the Act, the contribution by the employer to the account of an employee in a recognized provident fund exceeding 12% of salary is taxable. Further, the amount of any contribution to an approved superannuation fund by the employer exceeding Rs. 1,50,000 is treated as perquisite in the hands of the employee. Similarly, the assessee is allowed a deduction under National Pension Scheme

(NPS) for 14% of the salary contributed by the Central Government and 10% of the salary contributed by any other employer.

Presently, there is no combined upper limit for the purpose of deduction on the amount of contribution made by the employer.

Now, it is proposed to provide a combined upper limit of Rs. 7,50,000 in respect of employer's contribution in a year to NPS, superannuation fund and recognized provident fund and any excess contribution is proposed to be taxable.

***Consequently, it is also proposed that any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme may be treated as perquisite to the extent it relates to the employer's contribution which is included in total income.***

## New Residency Rules for Individuals

It is proposed to amend Section 6 of Income Tax Act so as to provide that –

(i) The exception provided in clause (b) of Explanation 1 of subsection (1) to section 6 for visiting India in that year be decreased to 120 days from existing 182 days (i.e. a Citizen of India or PIO who came on visit to India now has to spend less than 120 days).

(ii) An individual or an HUF shall be said to be "not ordinarily resident" in India in a previous year, if the individual or the manager of the HUF has been a non-resident in India in 7 out of 10 previous years preceding that year. (Earlier it was 9 out of 10).

(iii) An Indian citizen who is not liable to tax in any other country or territory shall be deemed to be resident in India.

## Exemption from filing tax return in case of non-resident taxpayers

Presently, as per section 115A(5) of the IT Act, non- resident taxpayers are not required to furnish tax return in cases where their total income consists only of dividend and/or interest income and taxes thereon have been withheld at the applicable rates.

The Finance Bill proposes to grant benefit of such exemption from filing tax return in case of non- resident taxpayer if:

i) Such non-resident taxpayer derives income from dividend, specified interest, royalties or fees from technical services; and

ii) Taxes on such income have been withheld at a rate not less than the rates specified under section 115A(1) of the IT Act.

This amendment shall be made effective from fiscal year 2019-20.

## Taxation of Businesses:

### Return filing date and date of submission of Audit Report is now deinked:

In order to enable pre-filling of returns in case of persons having income from business or profession, it is required that the tax audit report may be furnished by the said assessees at least one month prior to the due date of filing of return of income. Therefore, the due date of filing tax

audit will be 30th September for all assesses and 30th October in case the assessee is liable for transfer pricing audit.

Further, the due date for filing return of income under section 139 is proposed to be amended to 31st October of the assessment year.

Also, the distinction between a working and a non-working partner of a firm for the purpose of determining the due date of filling returns has been removed.

### Deduction u/s 80M & 80JJAA allowed for domestic companies under section 115BAA and 115BAB opting for 15% or 22% tax rate

The Tax Amendment Act passed in December 2019 inserted section 115BAA and section 115BAB in the Act to provide domestic companies an option to be taxed at concessional tax rates provided they do not avail specified deductions and incentives. Some of the deductions prohibited are deductions under any provisions of Chapter VI-A under the heading "C. Deduction in respect of certain incomes" other than the provisions of section 80JJAA.

Now, it is proposed to amend the provisions of section 115BAA and section 115BAB to allow deduction under section 80JJAA (Deduction in respect of New Employment Generated) and section 80M (Dividend received), in case of domestic companies opting for concessional tax rate under these sections.

### Incentive for Power Generating Units

The benefit of the concessional rate of 15% under section 115BAB of the Act is proposed to be extended to business of generation of electricity, which otherwise may not amount to manufacturing or production of an article or thing. Accordingly, it is proposed to explain that, for the purposes of this section, manufacturing or production of an article or thing shall include generation of electricity.

### Shifting the tax burden of Dividend Distribution Tax (DDT):

It is proposed to carry out amendments so that dividend or income from units are taxable in the hands of shareholders or unit holders at the applicable rate. Now, the domestic company or specified company or mutual funds are not required to pay any DDT. It is also proposed to provide that the deduction for expense under section 57 of the Act shall be maximum 20 per cent of the dividend or income from units.

Further, section 80M has been reintroduced to remove the cascading affect, with a change that set off will be allowed only for dividend distributed by the company one month prior to the due date of filing of return, in place of due date of filing return earlier.

Section 194 is also amended to include dividend for tax deduction at the rate of 10% with the threshold limit of Rs. 5,000 instead of Rs. 2,500 for dividend paid other than cash.

***The FM stated that the removal of DDT will lead to annual revenue forgone of Rs. 25,000 Crore, however ignoring to mention additional revenue to be generated by taxing such dividend in the hands of recipient.***

### Tax on Co-operative Societies proposed to be reduced to 22%:

Cooperatives are currently taxed at a rate of 30% with surcharge and cess. As a major concession and in order to bring parity between the co-operative societies and Corporates, an option has been given to cooperative societies to be taxed at 22% plus 10% surcharge and 4% cess with no exemption or deductions. Further, these cooperatives will now be exempt from Alternative Minimum Tax (AMT) just like companies under the new tax regime are exempted from the Minimum Alternate Tax (MAT). Concessional regime once opted for, cannot be withdrawn.

### Proposal on Tax Charter, Faceless Appeal:

The decision to introduce a taxpayer's charter as a part of the statute is being viewed as a positive step. A charter defines the rights of a taxpayer and the obligations of the tax department. As of now, only three countries have the tax charter, US, Canada and Australia. The expectation from taxpayers is that it will lead to greater accountability and send a strong signal that the government intends to be taxpayer friendly. This is to ensure that the taxpayers are free from tax harassment of any kind and anyone's personal whims and fancies don't govern it and at the end of the day when a tax matter is closed, it gets closed completely.

The intention of creating faceless appeal structure is to ease the tax process, to save time in dealing with the tax matters both from tax officer's and taxpayer's perspective and also to avoid identity of the tax officer who would be conducting the audit of taxpayers return.

### MSMEs turnover threshold for Audit increase 5 times to Rs.5 Crores:

In order to reduce the compliance burden on small retailers, traders, shop keepers who comprise the Medium, Small and Micro Enterprise (MSME) sector, the Union Budget proposed to raise the threshold by 5 times for tax audit from existing Rs.1 crore to Rs.5 crores. The increased limit shall apply only to those businesses which carry out less than 5% of their business transactions in cash. This is in order to boost less cash economy. At present, businesses having turnover of Rs.1 crore and above are required to get their books of accounts audited by Chartered Accountants.

This proposal will have an impact on the professionals who are practicing Direct Tax as their specialized area by way of reduction in their professional service. It's high time now to revisit and refresh their areas of professional practice. But, at the same time, as there will be reduction in no. of MSMEs which come under tax audit purview due to increase in threshold limit, the responsibility on Government and Tax Department will increase in monitoring the tax compliances.

### Incentives for start-ups

The existing provisions of section 80-IAC of the Act provide for a deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up for 3 consecutive A.Y. out of seven years, at the option of the assessee, subject to the condition that the eligible start-up is incorporated on or after 1st April 2016 but before 1st April 2021 and the total turnover of its business does not exceed Rs. 25 crores.

In order to further rationalize the provisions relating to start-ups, it is proposed to amend section 80-IAC of the Act so as to provide that-

(i) the deduction under the said section 80-IAC shall be available to an eligible start-up for a period of 3 consecutive A.Y. out of 10 years beginning from the year in which it is incorporated;

(ii) the deduction under the said section shall be available to an eligible start-up, if the total turnover of its business does not exceed Rs. 100 crores in any of the previous years beginning from the year in which it is incorporated.

## Tax concession for foreign investments

In order to incentivize the investment by the Sovereign Wealth Fund of foreign governments in the priority sectors, FM proposed to grant 100% tax exemption to their interest, dividend and capital gains income in respect of investment made in infrastructure and other notified sectors before 31st March, 2024 and with a minimum lock-in period of 3 years.

In order to make available foreign funds at a lower cost, FM proposed to extend the period of concessional withholding rate of 5% under section 194LC for interest payment to non-residents in respect of moneys borrowed and bonds issued up to 30th June, 2023.

FM also proposed to extend the period up to 30th June, 2023 for lower rate of withholding of 5% under section 194LD for interest payment to Foreign Portfolio Investors (FPIs) and Qualified Foreign Investors (QFIs) in respect of bonds issued by Indian companies and government securities. This benefit will also be extended to Municipal bonds. In order to incentivize listing of bonds at IFSC exchange, the FM proposed to further reduce the withholding rate from 5% to 4% on interest payment on the bonds listed on its exchange.

### Incentive to Housing Sector for affordable housing project (deduction u/s 80-IBA of the Act)

The existing provisions of section 80-IBA of the Act provides that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building affordable housing projects, there shall, subject to certain conditions specified therein, be allowed a deduction of an amount equal to 100% of the profits and gains derived from such business. But, the conditions contained in the said section prescribes that the project is approved by the competent authority during the period from 1st June, 2016 to 31st March, 2020.

In order to boost the housing sector under affordable housing scheme, the period of approval of the project by the competent authority is proposed to be extended to 31st March, 2021.

### Allowing carry forward of losses or depreciation in certain amalgamations

Section 72AA of the Act provides for carry forward of accumulated losses and unabsorbed depreciation allowance in the case of amalgamation of banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government under section 45 (7) of the Banking Regulation Act, 1949. This section operates notwithstanding anything contained in sub-clause (i) to (iii) of clause (1B) of section 2 or section 72A of the Act.

In order to address the issue faced by the amalgamated public sector banks and public sector General Insurance Companies, it is proposed to extend the benefit of this section to amalgamation of:

(i) one or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or both, as the case may be, or

(ii) One or more Government Company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalization) Act, 1972.

"Corresponding new bank" is proposed to be given the meaning as assigned to it in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or clause (b) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

"Government company" is proposed to be given the meaning assigned to it in section 2(45) of the Companies Act, 2013. In addition, it is to be engaged in the general insurance business and has come into existence by operation of section 4 or section 5 or section 16 of the General Insurance Business (Nationalization) Act, 1972.

"General insurance business" is proposed to be given the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalization) Act, 1972.

### Rationalizing the provisions of Section 35AD

Under the existing provisions of law, a domestic company which opted for concessional tax rate under section 115BAA or section 115BAB of the Act, which does not claim deduction under section 35AD, may also be denied normal depreciation under section 32 due to operation of sub-section (4) of section 35AD.

It is proposed to amend sub-section (1) of section 35AD to make the deduction there under optional. It is further proposed to amend sub-section (4) of section 35AD to provide that no deduction will be allowed in respect of expenditure incurred under sub-section (1) in any other section in any previous year or under this section in any other previous year, if the deduction has been claimed by the assessee and allowed to him under this section.

***Therefore, a company opting for concessional tax rate of 22% is eligible for normal depreciation u/s 32.***

### Concession in real estate transactions

Section 43CA of the Act provides that where the consideration declared to be received or accruing as a result of the transfer of land or building or both, is less than the Stamp Duty value, the stamp duty value shall for the purpose of computing profits and gains from transfer of such assets, be deemed to be the full value of consideration. The said section also provide that where the stamp duty value does not exceed 105% of the consideration received or accruing as a result of the

transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

Section 50C of the Act provides that where the consideration declared to be received or accruing as a result of the transfer of land or building or both, is less than the stamp duty value, the stamp duty value shall be deemed to be the full value of the consideration and capital gains shall be computed on the basis of such consideration under section 48 of the Act. The said section also provides that where the stamp duty value does not exceed 105% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of section 48, be deemed to be the full value of the consideration. Similar provision was also there u/s 56(2)(x).

Thus, the present provisions of section 43CA, 50C and 56 of the Act provide for safe harbor of 5%. It is, therefore, proposed to increase the above-mentioned limit to 10%

### Change in FMV to Stamp-duty value as on 1-04-2001

The existing provisions of section 55 of the Act provide that for computation of capital gains, an assessee shall be allowed deduction for cost of acquisition of the asset and also cost of improvement, if any. However, for computing capital gains in respect of an asset acquired before 1st April, 2001, the assessee has been allowed an option of either to take the fair market value of the asset as on 1st April, 2001 or the actual cost of the asset as cost of acquisition.

*Now, It is proposed to amend the provision to provide that in case of a capital asset, being land or building or both, the fair market value of such an asset on 1st April, 2001 shall not exceed the stamp duty value of such asset as on 1st April, 2001 where such stamp duty value is available.*

### Concessional Withholding Tax Rates

Section 194LC of the IT Act currently provides for withholding of tax at concessional rate of 5% in case of interest payable to a non-resident in relation to RDB, long term infrastructure bonds and foreign currency lending to Indian companies. The Finance Bill proposes to extend the benefit of concessional withholding tax rate up to 30 June 2023.

Further, in order to attract fresh investment, the Finance Bill proposes to reduce withholding tax rate @ 4% in respect of interest payable to non-residents on RDBs and long-term infrastructure bonds listed on recognized stock exchanges in IFSC.

Section 194LD of the IT Act provides for withholding of tax at the concessional rate of 5% in case of interest payable to FPIs and QFIs, in relation investment in RDBs of Indian companies or government securities. The Finance Bill proposes to extend the benefit of concessional withholding tax rate up to 30 June 2023.

The above concessional rate of 5% has also been proposed to be extended to interest paid on municipal bonds, up to 30 June 2023.

The above amendments shall take effect from 1 April 2020

## Reducing withholding tax rate on fees for technical services

Section 194J of the IT Act provides for the withholding of tax @ 10% on payments made for fees for professional services, or fees for technical services, or any remuneration, or fees or commission by whatever name called, or royalty or other specified sum. In order to reduce litigation in relation to classification of services, the Finance Bill proposes to reduce the withholding tax rate to 2% from the existing 10% in case of fees for technical services (other than professional services).

This amendment shall be made effective from 1 April 2020.

## Withholding tax on e-commerce transaction

With a view to ensure reporting and payment of taxes by participants of e-commerce, the Finance Bill proposes to insert a new section 194-O in the IT Act. This section is applicable to a person who owns, operates or manages a digital or electronic facility or platform for e-commerce (e-commerce operator) while making payment to a person resident in India (e-commerce participant) selling goods or providing services (as defined in section 194J of IT Act) or both using such digital or e-commerce platform or facility.

The section mandates withholding @ 1% on payments made by e-commerce operators to e-commerce participants by any mode for the sale of goods or provision of services or both at the time of credit or payment, whichever is earlier.

Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant, shall be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participants and is also included within the ambit of this section.

The exception is provided for sum credited or paid to an e-commerce participant who is an individual or HUF by the e-commerce operator if the gross transaction value through e-commerce operator, during the fiscal year is less than INR 0.5 mn and such e-commerce participant has furnished PAN or Aadhar number to the e-commerce operator.

To avoid withholding of tax more than once, it is clarified that a transaction in respect of which tax has been withheld by the e-commerce operator under this section or not liable to withhold being e- commerce participant is individual or HUF as discussed above, there shall not be further liability on that transaction for withholding tax under any other provision of Chapter XVII-B of the IT Act.

Further, it is clarified that this exemption shall not apply to any sum received or receivable by e-commerce operator for hosting advertisements or providing any other services which are not in connection with the abovementioned transactions.

Consequential amendments are being proposed in section 197 (for lower withholding tax), in section 204 (to define person responsible for paying any sum) and in section 206AA (to provide a higher rate of withholding @ 5% in case of non-furnishing of PAN or Aadhar).

This amendment shall be made effective from 1 April 2020.

### Definition of work for section 194C

Section 194C of the IT Act provides for the withholding of tax on payments made to contractors for carrying out of any 'work'. The Finance Bill proposes to enlarge the definition of 'work' to provide that in case of contract manufacturing wherein the raw material is provided by the taxpayer or its associate shall fall within the purview of the 'work' under section 194C of the IT Act.

Further, the term associate shall mean a person who is placed similarly in relation to the customer as is the person placed in relation to the taxpayer as provided in section 40(A)(2b) of the IT Act.

This amendment shall be made effective from 1 April 2020.

### Consequential amendment in withholding tax provision

Existing withholding tax provisions provide exclusion to resident individual/HUF from the applicability of withholding tax in case the provision of tax audit under section 44AB of IT is not applicable to them. ***The Finance Bill proposes to amend the provisions of withholding tax in section 194A, 194C, 194H, 194J and 206C of the IT Act to remove the reference to the threshold provided under section 44AB of IT Act and specify the prescribed limit of turnover/receipts of INR 10 mn in case of business and INR 5 mn in case of profession carried out by such resident individual/HUF in a given fiscal year.***

This amendment shall be made effective from 1 April 2020.

### Widening the scope of TCS

In order to widen and deepen the tax net, the Finance Bill proposes to amend section 206C of the IT Act to levy TCS on the following:

### On foreign remittance through LRS and sale of overseas tour package

TCS shall be collected by the authorized dealer from a buyer remitting an amount exceeding Rs. 7 Lakhs (in a fiscal year) outside India under the LRS.

TCS shall be collected by the seller of an overseas tour program package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expense of similar nature or in relation thereto;

TCS shall be collected @ 5%. In case buyer is not able to furnish PAN / Aadhaar, TCS shall be collected @ 10%;

Exception is provided in case of the buyer being certain government authorities/exempted authorities or in case the buyer is liable to withholding tax under any other provision of the IT Act and buyer have withhold applicable taxes on such amount.

### On Sale of Goods

A seller whose total sales, gross receipts or turnover from the business carried on by it exceed INR 100 mn during the immediately preceding fiscal year is required to collect TCS;

TCS shall be collected if consideration received from a buyer in a fiscal year exceeds Rs. 50 Lakhs;

TCS shall be collected @ 0.1%. In case buyer is not able to furnish PAN / Aadhaar, TCS shall be collected @ 1%;

Exception is provided in case of the buyer being certain government authorities/exempted authorities or in case the buyer is liable to withholding tax under any other provision of the Act and buyer have withhold taxes on such amount or the seller is liable to collect TCS under other provision of section 206C of the IT Act.

These amendments shall be made effective from 1 April 2020.

### Charity institutions

Currently, for availing the deduction on donations made to a charitable institution, a taxpayer has to fill the complete details of the donee in the income tax returns. In order to ease the process of claiming deduction for donation, it is proposed to pre-fill the donee's information in taxpayer's return on the basis of information of donations furnished by the donee. This would result in hassle- free claim of deduction for the donation made by the taxpayer. Further, in order to claim the tax exemption, the charity institutions have to be registered with the Income Tax Department. In the past, the process of the registration was completely manual and scattered all over the country. It is proposed to make the process completely electronic and a unique registration number (URN) will be issued to all new and existing charities.

### Relaxation of condition to Business Trust

Section 115UA of the Act provides for a taxation regime applicable to business trusts. Under the said regime, the total income of the trust, excluding capital gains income is charged at the maximum marginal rate. Further, the income by way of interest and rent, received by the business trust from a Special Purpose Vehicle (SPV) is accorded pass through treatment i.e. there is no taxation of such interest or rental income in the hands of the trust and no withholding tax at the level of SPV. The business trusts are also required to furnish return of income and adhere to other reporting requirements.

The definition of "business trust" has been provided in section 2(13A) of the Act, to mean a trust registered as an Infrastructure Investment Trust (InvIT) or a Real Estate Investment Trust (REIT) under the relevant regulations made under the Securities and Exchange Board of India (SEBI) Act, 1992 and the units of which are required to be listed on a recognized stock exchange in accordance with the relevant regulations.

*Now, the benefit has been extended to unlisted business trusts also.*

### Allowing deduction for amount disallowed under section 43B, to insurance companies on payment basis.

Section 44 of the Act provides that computation of profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or a co-operative society shall be computed in accordance with the rules contained in the First Schedule to the Act.

Section 43B of the Act provides for allowance of certain deductions, 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 the assessee, only in the previous year in which such sum is actually paid.

*As per Rule 5 of the First Schedule, the deduction of expenditure was subject to the provisions of Sec 43B but there is no provision of allowance of the expenses in subsequent year on actual payment.*

Therefore, it is proposed to insert a proviso after clause (c) of the said rule 5 to provide that any sum payable by the assessee which is added back under section 43B in accordance with clause (a) of the said rule shall be allowed as deduction in computing the income under the rule in the previous year in which such sum is actually paid.

## International Taxation

### Relief for Foreign Bank Branches operating in India

Section 94B of the Act provides that deductible interest or similar expenses exceeding Rs. 1 crore of an Indian company, or a permanent establishment (PE) of a foreign company, paid to the associated enterprises (AE) shall be restricted to 30 % of EBITDA or interest paid or payable to AE, whichever is less.

Further, a loan is deemed to be from an AE if an AE provides implicit or explicit guarantee in respect of that loan. AE for the purposes of this section has the meaning assigned to it in section 92A of the Act. This section was inserted in the Act through the Finance Act, 2017 in order to implement the measures recommended in BEPS Action Plan 4 of OECD.

It is, therefore, proposed to amend section 94B of the Act so as to provide that provisions of interest limitation would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India.

### Safe Harbor Rules and APA for profit attribution to PE

Section 92CB of the Act empowers the CBDT for making Safe Harbour Rules (SFR) to which the determination of the arm’s length price (ALP) under section 92C or section 92CA of the Act shall be subject to. As per Explanation to said section the term “safe harbour” means circumstances in which the Income-tax Authority shall accept the transfer price declared by the assessee. This section was inserted in the Act to reduce the number of transfer pricing audits and prolonged disputes especially in case of relatively smaller assessees. Besides reduction of disputes, these rules also provide tax certainty.

Further, section 92CC of the Act empowers the Board to enter into an advance pricing agreement (APA) with any person, determining the ALP or specifying the manner in which the ALP is to be determined, in relation to an international transaction to be entered into by that person. APA provides tax certainty in determination of ALP for 5 future years as well as for 4 earlier years (Rollback).

SHR provides tax certainty for relatively smaller cases for future years on general terms, while APA provides tax certainty on case to case basis not only for future years but also Rollback years. Both SHR and the APA have been successful in reducing litigation in determination of the ALP.

***Now, It is proposed to have Safe-Harbor Rules and APA for the attribution of profits to the PE u/s 9(1)(i) in accordance with rule 10 of the Rules which may result in avoidable disputes in a number of cases.***

## Amendment in Dispute Resolution Panel (DRP)

Section 144C of the Act provides that in case of certain eligible assessees, viz., foreign companies and any person in whose case transfer pricing adjustments have been made under sub-section (3) of section 92CA of the Act, the Assessing Officer (AO) is required to forward a draft assessment order to the eligible assessee, if he proposes to make any variation in the income or loss returned which is prejudicial to the interest of such assessee. These eligible assessee may file his objection to the DRP and DRP has 9 months to pass directions which are binding on the AO.

The benefit of DRP is not expanded to following cases:-

(A) Cases, where the AO proposes to make any variation which is prejudicial to the interest of the assessee, within the ambit of section 144C where return was not filled;

(B) Expand the scope of the said section by defining eligible assessee as a non-resident not being a company, or a foreign company.

## Aligning the intent of MLI with DTAA

The provisions of section 90 and section 90A of the IT Act empower GOI / specified association to enter into agreements with foreign countries or specified territories, primarily for avoidance of double taxation.

India has been an active participant to the BEPS project spearheaded by the OECD and has signed the MLI along with other countries. This has since been ratified and the MLI provisions will be applicable along with the existing DTAA from fiscal year 2020- 21.

In order to align with the intent of MLI, the Finance Bill proposes to amend section 90 and section 90A of the IT Act, to include that the DTAAs, along with its intention of avoiding double taxation, would also tackle situations wherein opportunities arise for non-taxation or reduced taxation through tax evasion or avoidance (including treaty shopping arrangements).

This amendment shall be made effective from fiscal year 2020-21.

## Deferring the provisions of Significant Economic Presence

The concept of SEP was introduced in the IT Act by the Finance Act, 2018. At the time of its introduction, GOI had consciously specified that these taxation rules will be ineffective till the time a corresponding amendment is made in the PE taxation rules under the DTAAs.

Finance Bill has proposed to expand the scope of current SEP tax rules as follows:

- The rule applied to non-residents carrying out transactions in India in respect of any goods, services or property, including provision of download of data or software. The Finance Bill proposes to widen the scope to now cover within its ambit any transactions in respect of goods, services or property carried out by a non-resident with any person in India.

- The rules further applied to systematic and continuous soliciting of business activities or engagement with specified number of users through digital means. The Finance Bill proposes to do away with the requirement of interacting through digital means and thus, any medium of interaction would now trigger the SEP tax rules.

Taking into cognizance that the BEPS report covering this issue is likely to be released by the end of December 2020, the Finance Bill proposes to defer the applicability of the SEP tax rules, such that GOI would be able to specify the limits once the BEPS report on the issue is released.

These amendments shall be made effective from fiscal year 2021-22.

## Enlarging the scope of Source Rule

A new explanation 3A has been inserted to provide that the income attributable to the operations carried out in India, as referred to in Explanation 1 to Section 9, shall include income from:-

(i) Such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;

(ii) Sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and

(iii) Sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India

As per the discussion going on in international forum, countries generally agree that income from advertisement that targets Indian customers or income from sale of data collected from India or income from sale of goods and services using such data collected from India, needs to be accounted for in Indian revenue. Hence, it is proposed to amend the source rule to clarify this position.

This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years. However, for attribution of income related to SEP transaction or activities the amendment will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-23 and subsequent assessment years.

## Enlarging the scope of Royalty

Section 9(1) (vi) deems certain income by way of royalty to accrue or arise in India. Explanation 2 of said clause defines the term "royalty" to, interalia, mean the transfer of all or any rights (including the granting of a license) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for the sale, distribution or exhibition of cinematographic films.

Due to exclusion of consideration for the sale, distribution or exhibition of cinematographic films from the definition of royalty, such royalty is not taxable in India even if the DTAA gives India the right to tax such royalty. Such a situation is discriminatory against Indian residents, since India is foregoing its right to tax royalty in case of a non-resident from another country without that other country offering similar concession to Indian resident. Hence, it is proposed to amend the definition of royalty so as not to exclude consideration for the sale, distribution or exhibition of cinematographic films from its meaning.

Further, CBDT has been empowered u/s 295 to make rules to provide for the manner in which and the procedure by which the income shall be arrived at in the case of:-

(i) Operations carried out in India by a non-resident; and

(ii) Transaction or activities of a non-resident

## Exemption in respect of certain income of WOS of Abu Dhabi Investment Authority and Sovereign Wealth Fund

In order to promote investment of sovereign wealth fund, including the wholly owned subsidiary (WOS) of Abu Dhabi Investment Authority (ADIA), it is proposed to insert a new clause in the said section so as to provide exemption to any income of a specified person in the nature of dividend, interest or long-term capital gains arising from an investment made by it in India, whether in the form of debt or equity, in a company or enterprise carrying on the business of developing, or operating and maintaining, or developing, operating or maintaining any infrastructure facility as defined in Explanation to section 80-IA(4)(i) of the Act or such other business as may be notified by the Central Government in this behalf.

In order to be eligible for exemption, the investment is required to be made on or before 31st March, 2024 and is required to be held for at least three years.

For the purpose of this exemption, "specified person" is proposed to be defined to mean:

(a) a wholly owned subsidiary of the ADIA, which is a resident of the United Arab Emirates (UAE) and which makes investment, directly or indirectly, out of the fund owned by the Government of the United Arab Emirates; and

(b) a sovereign wealth fund which satisfies the following conditions:

A. It is wholly owned and controlled, directly or indirectly, by Government of a foreign country;
B. It is set up and regulated under the law of the foreign country;
C. Its earnings are credited either to the account of the Government of the foreign country or to any other account designated by that Government such that no portion of the earnings inures any benefit to any private person;
D. Its asset vest in the Government of the foreign country upon dissolution;
E. It does not undertake any commercial activity whether within or outside India; and
F. It is notified by the Central Government in the Official Gazette for this purpose

## Due date for Transfer Pricing Audits:

Presently, as per section 92F(iv) of the IT Act, every taxpayer who has entered into an international transaction or specified domestic transaction needs to submit an accountant's report in Form 3CEB within the due date of filing tax return i.e. by 30 November following the end of the relevant fiscal year.

Along with other measures for rationalization of compliances and in order to enable pre-filling of tax return, the Finance Bill proposes to amend the due date for submitting the accountants report (i.e. Form 3CEB) one month prior to the due date of filing tax return. Accordingly, the due date for submitting Form 3CEB would be 31 October following the end of the relevant fiscal year.

This amendment shall be made effective from 1 April 2020.

## Relaxation in conditions for exemption to offshore funds from "business connection"

Section 9A of the IT Act provides for a special tax regime of certain offshore funds with fund managers located in India. The regime lays down certain conditions to be fulfilled subject to which an offshore fund shall not be considered as constituting 'business connection' in India on account of the activities of its Indian fund manager. The objective of introduction of this regime was to facilitate setting up of an offshore fund manager in India.

However, this initiative has received lukewarm response due to various operational challenges. Accordingly, the Finance Bill proposes the following relaxations to some of the conditions:

For calculating the aggregate participation / investment in the fund by Indian resident in respect of the 5% cap, eligible fund manager's contribution during first 3 years up to INR 250 mn shall be excluded;

For new funds, concessional period for fulfilling the condition of maintaining monthly average of the corpus at INR 1 bn extended from 6 months to 12 months.

This amendment shall take effect from fiscal year 2019-20.

## Alignment of indirect transfer exemption as per new FPI Regulation

Section 9 of the IT Act contains 'indirect transfer' provisions that bring under the ambit of income-tax any income arising from transfer of shares or interest in foreign company, if such share or interest derives its value substantially from assets located in India.

Second proviso under explanation 5 to section 9 of the IT Act excludes investment by non-residents in Category I and Category II FPIs under SEBI (FPI) Regulations, 2014 from the application of the indirect transfer provisions. However, the SEBI (FPI) Regulations, 2014 have been repealed and replaced by the SEBI (FPI) Regulations, 2019 notified in September 2019. In the new regulations, SEBI has reduced the categories of FPIs from three to two.

In order to bring tax certainty, the Finance Bill proposes to make the following amendments to section 9 of the IT Act:

- Grandfathering of investments made in Category I and Category II FPI under SEBI (FPI) Regulations, 2014, prior to their repeal;
- Exclusion from section 9 of the IT Act for Category I FPI under SEBI (FPI) Regulations, 2019.

The amendments shall take effect from fiscal year 2019-20.

## Faceless appeals

In order to impart greater efficiency, transparency and accountability to the assessment process, a new faceless assessment scheme has already been introduced. Currently, most of the functions of the Income Tax Department starting from the filing of return, processing of returns, issuance of refunds and assessment are performed in the electronic mode without any human interface. In order to take the reforms initiated by the Department to the next level and to eliminate human interface, she proposed to amend the Income Tax Act so as to enable Faceless appeal on the lines of Faceless assessment.

## No Dispute but Trust Scheme – 'Vivad Se Vishwas' Scheme

Under the proposed 'Vivad Se Vishwas' scheme, a taxpayer would be required to pay only the amount of the disputed taxes and will get complete waiver of interest and penalty provided he pays by 31st March, 2020. Those who avail this scheme after 31st March, 2020 will have to pay some additional amount. The scheme will remain open till 30th June, 2020. Taxpayers in whose cases appeals are pending at any level can benefit from this scheme.

## Losses of merged banks

As a part of consolidation of the financial sector, our Government has brought out schemes for merger and amalgamation of public sector banks. In order to ensure that the amalgamated entities are able to take the benefit of unabsorbed losses and depreciation of the amalgamating entities, FM proposed to make necessary amendments to the provisions of the Income-tax Act.

## Taxpayer's Charter

Towards this end, and with the objective of enhancing the efficiency of the delivery system of the Income Tax Department, FM proposed to amend the provisions of the Income Tax Act to mandate the Central Board of Direct Taxes (CBDT) to adopt a Taxpayers' Charter. The details of the contents of the charter shall be notified soon.

## Instant PAN through Aadhaar

In the last Budget, the Finance Minister had introduced the interchangeability of PAN and Aadhaar for which necessary rules were already notified. In order to further ease the process of allotment of PAN, soon we will launch a system under which PAN shall be instantly allotted online on the basis of Aadhaar without any requirement for filling up of detailed application form.

# Indirect Taxes

- Simplified return shall be implemented from 1st April,2020. It shall make return filing simple including features like SMS based filing.

- Electronic Invoice is another innovation wherein critical information shall be captured electronically in centralized system. Features including Aadhaar based verification of taxpayers is being introduced. Deep data analytics and AI tools are being used for crackdown on GST input tax credit, refund, and other frauds. Invoice and input tax credit matching is being done wherein returns having mismatch more than 10% or above threshold are identified. In order to curb the practice of fake invoices, harsher provisions are proposed to be brought into the GST Act. If during the proceeding under the act it is found that in the books of accounts maintained by the registered person, there is: -

  i) False entry, or
  ii) Any entry relevant for computation of total income of such person has been omitted to evade tax liability

- Section 122 of the CGST Act is being amended by inserting new sub – section to make the beneficiary of the transactions of passing on or availing fraudulent Input Tax Credit liable for penalty equivalent to the amount of tax evaded or Input Tax Credit claimed. The said person shall be liable to a penalty which shall be equivalent to the aggregate amount of such false and/or omitted entries.

  The said proposal of penalty for issuance of fake invoices extends to taxpayers who cause in any manner a person to make false entry or omit any entry.

  Further, Section 132 of the CGST Act is being amended to make the offence of fraudulent

availment of input tax credit without an invoice or bill a cognizable and non-bailable offence; and to make any person who commits, or causes the commission, or retains the benefit of transactions arising out of specified offences liable for punishment.

- Section 10 of the CGST Act is proposed to be amended, so as to exclude from the ambit of the Composition scheme certain categories of taxable persons, engaged in making:
  - i) supply of services not leviable to tax under the Act, or
  - ii) inter-State outward supply of services, or
  - iii) outward supply of services through an e-commerce operator

- Sub section (4) of the section 16 of the CGST Act is proposed to be amended to de-link the date of issuance of debit note from the date of issuance of the underlying invoice for the purpose of availing input tax credit.
- Clause (c) of sub section (1) of section 29 of CGST Act is being amended to provide for cancellation of registration which has been obtained voluntarily under sub-section (3) of section 25.
- A proviso to sub -section 1 of section 31 of the CGST Act is being inserted to empower the jurisdictional tax authorities to extend the date for application of revocation of cancellation of registration in deserving cases.
- Section 51 of the CGST Act is being amended to empower the Government to issue form and manner to issue TDS certificate by the deductor.
- Section 140 of the CGST Act is being amended retrospectively w.e.f 01.07.2017, to prescribe the manner and time limit for taking transitional credit.
- Section 172 of the CGST Act and Section 25 of the IGST Act is being amended to make provisions for enabling issuance of removal of difficulties order for another 3 years, i.e. till five years from the date of commencement of the said act.
- Transfer of business as per sub clause a] & b] main clause 4 of schedule –II has been amended to remove the word "whether or not for consideration" for providing more clarity to clause.

## RETROSPECTIVE AMENDMENTS OF GST RATE NOTIFICATIONS

- Exemption from Central Tax, Union Territory Tax and Integrated Tax for fish meal [HSN 2301], for the period 01.07.2017 to 30.09.2019, subject to the condition that if GST has been paid, the same would not be eligible for refund.

- Levy of 12% rate of Integrated Tax and 6% Central Tax and 6% Union Territory Tax during the period 01.07.2017 to 31.12.2018, on pulley, wheels and other parts ( falling under heading 8483) and used as parts of agriculture machinery of headings 8432, 8433 and 8436, subject to the condition that if GST has been paid, the same would not be eligible for refund.

- The refund of accumulated credit of compensation cess on tobacco products arising out of inverted duty structure in Compensation cess is disallowed w.e.f. 1st October,2019 vide notification No. 3/2019-Compensation Cess (Rate) dated 30.09.2019. This notification is being

given retrospective effect from 01.07.2017 onwards. Accordingly, no refund on account of inverted duty structure would be admissible on any tobacco products.

## EXCISE

• Proposal to raise excise duty, by way of levy of National Calamity Contingent Duty on Cigarettes and other tobacco products.

## CUSTOMS

• Suitable amendments are proposed to be made in Rules of Origin to ensure that FTAs are aligned to the conscious direction and undue claims are ceased. Stringent provisions are brought in place on levy of safeguard duty on import of products which may cause serious injury to domestic industry.

Exemptions contained in Customs Act, 1961 being withdrawn on their account of being outdated.

Revision in rates of Customs Duty which shall include:

- raising duty on items like footwear and furniture
- Revision on duty on electrical vehicles and parts of mobile phones.
- Reduction in duty on import of news-print and light-weight coated paper from 10% to 5%.
- A levy of nominal health cess is proposed by way of duty of customs on import of medical equipment so as to promote domestic industry. The proceeds from this cess shall be used for creating infrastructure for health services in as pirational districts.

Rates in Customs duty have been changed in following groups broadly under the Custom Tariff Act,1975: -

| Product | Old | New |
|---|---|---|
| Walnuts, shelled | 30 | 100 |
| Other Chemical products and preparations of the chemical or allied industries, not elsewhere specified | 10 | 17.5 |
| Footwear | 25 | 35 |
| Part of footwear | 15 | 20 |
| Household Items | 10 | 20 |
| Coin | 10 | 12.50 |
| Furniture Goods | 20 | 25 |
| Toys | 20 | 60 |
| Stationary items | 10 | 20 |
| Miscellaneous under tariff heading 6702,7018,8306 | 10 | 20 |
| Wall fans | 20 | 20 |
| Pure-bread breeding horses | 30 | Nil |
| Product Duty change in BCD w.e.f 02.02.2020 | | |
| Open cell for television set | 15 | Nil |
| Solar cell, not assembled | 20 | Nil |
| Solar cells, assembled in modules up in panels | 20 | Nil |
| Sports goods | Applicable Rates | Nil |