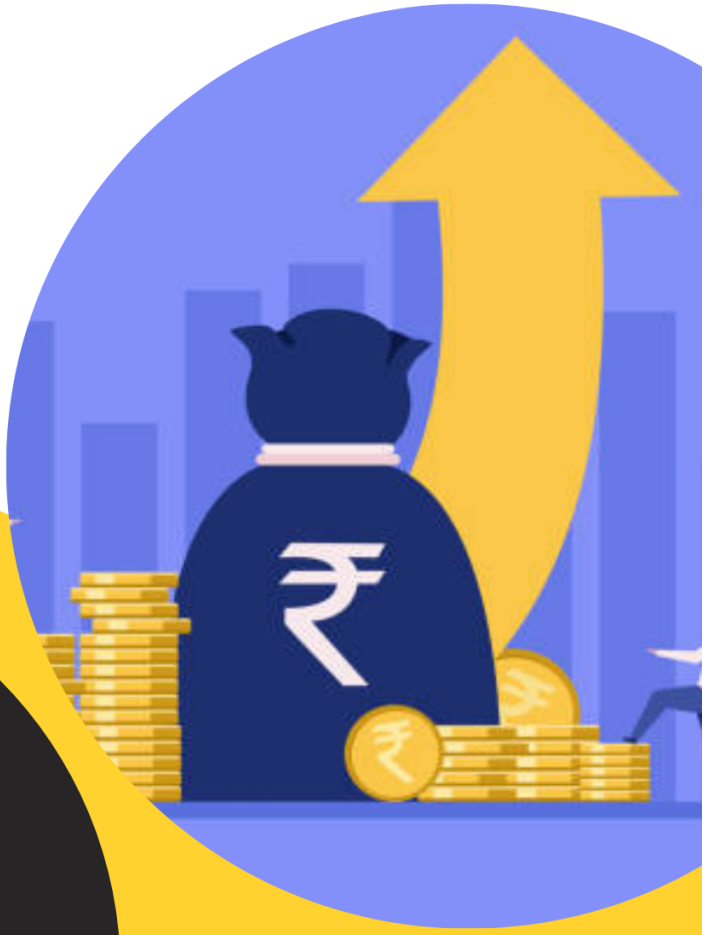
Cochin Chamber of Commerce & Industry

PRE-BUDGET MEMORANDUM 2023-24



Prepared by

Research Wing of Cochin Chamber of Commerce and Industry

Smt. Nirmala Sitharaman
Hon. Union Minister of Finance and Corporate Affairs
Ministry of Finance,
Government of India, North Block,
New Delhi 110 001.

Respected Madam,

Sub: Pre-Budget Memorandum 2023-24

We take this opportunity to submit a Pre-Budget Memorandum on Income Tax with a request to consider the same while framing proposals in the Finance Bill, 2022 for amendments to the Income-tax Act, 1961 and Customs Act, 1962

We have also included amendments required under other laws like Company Law and GST Law which may also be taken up for consideration apart from certain general policy matters. We wish to place on record here that one of our suggestion in the last year to bring in National Logistic Policy has been considered by Government

We hope you would consider this Memorandum favourably. We would feel highly obliged if we are given an opportunity to appear in person and offer clarification / explanation on the memorandum

Thanking you

Yours faithfully,

P.M. Veeramani
President

CC:

- The Prime Minister's Office
- Shri T.V. Somanathan IAS, The Finance Secretary, Ministry of Finance
- Shri Tarun Bajaj IAS, The Revenue Secretary, Ministry of Finance
- Shri Nitin Gupta IRS, Chairperson, Central Board of Direct Taxes
- The Member (Budget), Central Board of Direct Taxes

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1. **Changes in Income Tax Law**

Sl No	Existing Provision under Income Tax Act	Issue	Suggestion
1	Tax Rate for Non-Corporate Tax Payers	Tax rates for corporates have been reduced and MAT rates have also been reduced. However, the rates of tax for non-corporates, such as LLPs, partnership firms and AOPs, continue to be high. Similarly, the tax rates for individuals earning high income are also exceedingly high. Capital gains, other than those under section 111A, 112A or 115AD, are also subject to high surcharge applicable to individuals.	It is therefore suggested that the rate of tax (including surcharge and cess) for all non-corporate entities (including LLPs and AOPs) should be brought down to 25%. The tax rates for individuals should be reduced, say to maximum 30% (including surcharge and cess). Also, the maximum rate excluding surcharge, which is presently applicable for income over Rs 10 lakh should be triggered only at a much higher base, say Rs 35 lakh.
	Reinstatement of the concessional rate of tax on dividends received by Indian companies from foreign entities/subsidiaries.	The Finance Act, 2022 amended Section 115BBD of the Income Tax Act, 1961. Earlier, this provision stipulated that dividends received by Indian companies from their foreign subsidiaries are subject to a concessional tax rate of 15%. According to the amendment, the provisions of this	Jurisdictions like Singapore do not tax income from dividends, and some European countries give participation exemption, whereby dividend

		section shall not apply from assessment year 2023-24 onwards. This effectively means that dividends from foreign entities will be taxed at the applicable corporate tax rate. This will adversely impact all Indian companies, including holding companies,that have overseas subsidiaries in which they hold a stake of 26% or more. The most significant fallout of this amendment may be that corporates may shift their headquarters out of India, particularly those companies which are parent/holding companies based in India.	incomes are exempt from tax if the holding in a company exceeds a certain threshold. Therefore, it is imperative to review the need for this amendment to the Indian Income Tax Act, 1961.
2	Maximum marginal rate of tax	As per Section 2(29C) of the Income Tax Act, 1961, the term "maximum marginal rate" is defined as the rate of income-tax (including surcharge on income tax, if any) applicable to the highest slab of income in the case of an individual, association of persons or body of individuals as specified in the Finance Act With difference rates of surcharge based on income slabs, some AO have taken the view that rate of tax would include surcharge also at the highest rate. As a result even in cases of assesses where income is less than Rs.50 lakhs , surcharge is levied @37% which is	It is suggested that the section be amended to clarify that surcharge would be as applicable to the respective slab of assessed income

		applicable only for income above Rs.5 crores	
	Tax on interest income in the case of Mutual Societies	Mutual Societies such as Resident Welfare Association where the resources from the members are pooled to meet the common area expenses are made liable for income tax on the interest income from bank deposits. The Associations collect the contribution from members periodically and keep it in bank deposits to meet the expenses as and when they occur. This is done since it would not be practical to collect the contribution as and when the liability crystallises. The interest earned is purely incidental and it only goes on to reduce the future contribution to be made by the members. Hence , levy of tax on the gross interest income would amount to taxing the contribution from the members . The three conditions or tests to prove the existence of mutuality enumerated by Supreme Court in **Yum Restaurants Marketing Pvt Ltd vs CIT – 424 ITR 630 SC** are : (i) identity of the contributors to the fund and the recipients from the fund ; (ii) treatment of the company, though incorporated as a mere entity for the convenience of the members and policy holders, in other words, as an instrument obedient to their mandate ; and (iii) impossibility that contributors should derive profits from contributions made by themselves to a fund which could only be expended or returned to	It is submitted that the decision of the ITAT Hyderabad Bench in the case of Windsor Home Owners Welfare Association, Hyderabad vs ITO (ITA 2013/HYD/2018 – 73 ITR Trib SN 30 may be followed and the interest income may be considered as fully exempt in the case of resident welfare associations / housing society etc and only the net surplus for each year may be taxed in the case of other associations like clubs etc where the assesse also earn other income. Necessary amendments to law may be made following the principles laid down by Supreme Court in Yum Restaurants case (supra) .

		themselves.	
	Payment of advance tax – section 209	The threshold limit of INR 10,000 for payment of advance tax as per section 208 has been last amended by Finance Act, 2009. Considering the inflation in the economy, there is a need to increase this limit to a more realistic figure. Further, the requirement to pay 15% advance tax by 15th June causes unnecessary hardship, since it is extremely difficult to estimate the total income for the entire year within a mere 75 days from the commencement of the financial year. The hardship is further compounded by the levy of interest u/s. 234C for shortfall in the instalment of advance tax paid.	The requirement to pay 15% advance tax by 15th June for non-corporate assesses should be removed. This could be off set by prescribing higher percentage in the remaining three quarters
	Explanation 2 in sub-section (1) of section 37 provides that any expenditure incurred by an assessee on the activities relating to CSR referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession and deduction shall not be allowed.	As per the Companies Act, 2013, it is mandatory for specified companies (as per Section 135) to spend 2% of their average profits towards Corporate Social Responsibility. These expenses are all connected to social and charitable causes and not for any personal benefit or gain. It is, therefore, fair to allow the same as business expenditure. There is no bar on allowability of CSR expenditure falling under other sections like 35, 35AC etc.	There is a strong need to revisit this provision and companies should be allowed 100 per cent deduction of CSR under section 37, subject to necessary safe guards that can be brought in by way of rules
	Certain expenses being of revenue nature or of	Presently, expenditure of the nature described in first column suffers	Expenditure which are incurred in the course

	deferred revenue nature are considered as capital in nature and are disallowed. They are not allowed even by way of amortisation /depreciation. For example: 1.Fees for increase in authorised capital; 2.Website expenses for newly commenced business; 4.Amortisation of Lease premium for Land; 5. Expenditure for setting up separate and independent unit; 6. Non-compete fees;	permanent disallowance resulting into higher tax liability in the hands of an assessee. Though there are several decisions allowing depreciation on some of such expenses, in the absence of a clear legislative framework, it leads to increase in litigation. In order to simplify the computation of business income, such expenditure requires to be allowed either as revenue or in deferred manner or by way of depreciation/ amortisation	of business may be allowed either as revenue or, if treated as capital, then, such expenditure is to be allowed in deferred manner or by way of depreciation. Hence, specific provision may be inserted.
	Lease hold improvements	In the current business scenario, partly completed structures and taken on lease and improved to make it into showrooms / office space etc. In many cases, land is taken on lease and buildings are put up on the same. In all these cases, the lessee does not own the super structure and does not acquire any capital asset. Rather , the expenditure incurred results in savings of higher rent which otherwise would have to be incurred if such completed structure are taken on lease. However, in several cases, revenue takes the view that the expenditure in capital in nature and disallows the same.	Several high courts have held that lease hold improvements to building does not result in acquisition of capital asset and hence allowable as revenue expenditure . These decisions are rendered following the decision of SC in Empire Jute Mills case. Necessary amendments may be made to allow such expenditure as revenue expenditure. Reference: **PCIT vs**

			Jubiliant Foodworks Ltd (447 ITR 29 Allahabad); **Indus Motor Co Ltd vs DCIT** (382 ITR 503 Ker FB);
	Disallowance of belated payment of employee contribution to PF / ESI under section 36(1)(va)	The Supreme Court in **CheckMate Service Pvt Ltd vs CIT (civil appeal no.2833 of 2016)** has decided in favour of the Revenue, yet there are several practical situations where the disallowances may not be attracted For eg: Where the contribution is to be made to PF trust maintained by the respective employer and no due is prescribed in the said trust deed - **CIT vs MP Electricity Board - 429 ITR 349 MP** ; Delayed clearance of cheque by bank – **Pearey Lal and Sons Pvt Ltd vs ACIT – 90 ITR Trib 96 SN (Delhi)** Non clearance of payment due to glitches / issues in network / bank software	Therefore, it is suggested that necessary explanations be added to the section that the disallowances should not be resorted in cases where the ratio of the cited decisions are attracted and such decisions may be accepted by the Revenue . **This would help in reducing litigation**
	Disallowance of Bad Debts in respect of non-rural advances in the case of banks	There are several ITAT decisions to the effect that even after the amendment by the Finance Act, 2013, the bank can continue to claim the deduction u/s 36(1)(vii) in respect of non rural debts written off without adjusting the same against the provision account made u/s 36(1)(viia) for eg: **State Bank of Hyderabad vs. DCIT -2015 (8) TMI 836 - ITAT HYDERABAD** **Oriental Bank of Commerce vs Addl CIT - 2022-TIOL-331-ITAT-DEL** **Union Bank of India vs DCIT- 2022 (3)**	Therefore, it is suggested that CBDT may be directed to issue circulars accepting the ratio of the said decisions and not to pursue further appeals and also not to make disallowances in the assessment of banks. **This would go to reduce litigation in the case of banks as**

		TMI 1131 - ITAT BANGALORE JCIT vs Bank of Baroda - 2022 (3) TMI 669 - ITAT BANGALORE	**substantial amounts are blocked in the demands**
	Section 80 IBA – Deduction of 100% of profits derived from development of affordable housing projects	Under section 80-IBA, as inserted by the Finance Act, 2016 applicable w.e.f. 01.04.2017, deduction of 100% of profits derived from development of affordable housing projects approved on or after 01.06.2016 is available, subject to fulfillment of specified conditions. It prescribes multiple conditions to be fulfilled by assessee in order to claim deduction under this section. The Finance Act, 2017 has further relaxed some of the relevant conditions. As per section 80-IBA(2)(a), the project is to be approved by the competent authority on or before 31.03.2022. Further, another condition is that the project is to be completed within a period of five years from the date of approval by the competent authority. Real Estate developers engaged in such projects are finding it extremely difficult to meet this timeline of 5 years.	It is humbly requested to recommend suitable amendments such that the provisions of sub clause (b) of sub-section (2) of Section 80-IBA dealing with the project completion time-limit in Section 80IBA of the Act, be suitably amended so as to provide that the project ought to be completed within a period of ,say, seven years (instead of five years, as it currently provides) from the date on which an eligible assessee has obtained approval of the building plan (i.e. after having fulfilled the terms and conditions, so as to commence construction, as required by the respective competent authority) of such housing project by the competent authority.
	Taxation of Capital	Presently, most new constructions in	With a view to avoid

	Gains in case of Development Agreements	cities take place where the developer/builder acquires a property or development rights in a property and consideration is to be discharged fully or partly by giving the landowner constructed area in the developed property. This is a business reality. It is practically impossible for the landowner to discharge the capital gain tax liability when he has not received the consideration in form of constructed area in the developed property. This also leads to dispute with the Department as to the point of time when transfer as contemplated u/s 2(47) has taken place under a Development Agreement. Similar provision for taxing capital gain in a subsequent year exists u/s 45(2) of the Act where a capital asset is converted into stock in trade.	genuine difficulty in discharging the capital gains tax liability and avoid dispute as to the time of transfer, it is suggested that where the consideration for transfer of property in pursuance of a development agreement or otherwise is to be received in form of constructed area, capital gain may be computed in the year in which the transfer takes place but the capital gain so far as it relates to the consideration to be received in form of constructed area be charged to tax in the year in which such constructed area is received by the transferor landowner.
	Section 45(5A) Taxation of gains arising in case of Joint Development Agreements [JDAs]	Presently, JDAs between societies and developers are not covered as the new section refers only to 'Individual or HUF'.	The words "being an individual or a Hindu undivided family," referred in sub-section (5A) be deleted.
	Abandoning of project by Builder	At present while the land owner is liable for tax handing over possession in exchange of constructed area, there is	Since there are number of cases of builders failure to complete

		no recourse to land owner where the builder fails to complete the construction or abandons the same	construction , the taxation of capital gains of land owner be postponed to the year in which completion certificate is granted in cases where only constructed area is given as consideration
	Capital gains on acquisition of land for infrastructure development	Land Acquisition and Rehabilitation and Resettlement Act 2013 has come into force from 1.1.2014. As per section 24 all proceedings after this date has to be under the new law. However many state governments have continued to issue proceedings under the Land Acquisition Act 1894 and consequently, Income tax officers have refused to grant the relief under section 96 of the Act, being exempt from Capital gains. In certain cases, the AO have taken the view that interest on compensation would not be considered as exempt	IT is submitted that , necessary clarification be issued under the Income Tax Act, that all proceedings issued after 1.1.2014 in respect of Land Acquisition for the objects covered under new law shall be governed by the provisions of new law . Further, since the compensation is exempt any interest on the same would also be considered as part of compensation and considered as exempt. This would bring closure to several litigations before CIT(A) and ITAT as the assessee would be granted the relief which the Government intended to grant.

	Distribution of capital assets on dissolution of firm to partners - Sec. 45(4)	In the event of distribution of capital assets to partners on dissolution of a partnership firm, tax on notional capital gain is levied on the firm by taking fair market value of such capital assets as the consideration irrespective of causes or motives of dissolution. This, at times, results into serious hardships on a literal construction of Section 45(4) e.g. if a firm is dissolved due to demise or insolvency of one of the partners of the Firm.	Section 45(4) should not be made applicable in the event where a firm gets dissolved on account of the circumstances beyond the control of the partners such as demise or insolvency of a partner or on account of operation of statutory provisions of any other law etc.
	Credit for TDS a) As per the current scenario, the credit for TDS is allowed on the basis of TDS reflected in Form 26AS, whereas, the assessee claims the TDS on the basis of the income offered to tax by him. This results to mismatch of credit for TDS, requiring rectification and submissions of various details by the assessee. The reasons for mismatch are many, e.g. the deductor following mercantile system of accounting, therefore TDS is deducted at the time of credit and on the other hand deductee	a) The department routinely denies credit in the year in which income is submitted to tax if the TDS is reflected in the 26AS of an earlier year. The deductee may not be able to carry it forward, as the credit is not reflected when he files the return of income. It is not feasible for the deductee to revise his return/s repeatedly to avail of such credit. The assessee should not be denied credit for TDS merely because of different methods of accounting followed by the deductor and the deductee or because of mistake of the deductor. This will reduce unproductive and unnecessary work of the department as well as the assessee. b) In many cases, the demand remains outstanding in the department's records on account of non deposit of TDS by the deductor and the same are incorrectly adjusted against subsequent	a) It is suggested that rule 37BA(3) should be amended, to provide that the credit for TDS should be allowed in the assessment year immediately following the financial year in which the tax has been deducted at source. In the alternative if credit is to be allowed only on the basis of the income being assessable , a robust mechanism be put in place to ensure the grant of the credit only on the basis of a declaration by the deductee.

	following cash system of accounting and claiming credit for TDS in the year in which the income is actually received by him and vice-versa. As per the Finance Act, 1987, effective from 01/06/1987, the requirement for giving credit for TDS in the assessment year in which the income is assessable was introduced and has been applicable since then. Sec. 199 r.w. rule 37BA (3) states that credit for tax deducted and paid to the Central Government shall be given for the assessment year in which the income is assessable. ; In case deductor does not upload the details of tax deducted of the payee correctly, credit of the tax deducted is not allowed to the deductee thereby causing undue hardship to the deductee.	refunds due to the deductee, resulting in unnecessary hardship to the assessee from whom the tax is wrongly recovered. There are sufficient provisions in the law to recover the amount not deposited by the deductor who is an assessee in default.	The credit to the deductee should not be denied on account of mistake in data uploaded by the deductor or non-payment of TDS to the Government by the deductor as the deductee has no control over the Deductor. c) Rule 37BA(3) should be amended to the extent that in case of default on the part of the deductor for non deposit of tax deducted at source, the deductee should not be denied the credit of such tax deducted and the refund also should be allowed to the deductee.
	Scheme for Lump sum payments of TDS In	The introduction of such a scheme shall reduce the burden of the tax deductors	A scheme similar to Personal Ledger

	order to comply with the provisions of S. 200(1) read with Rule 30(1), the deductor has to deposit the tax deducted within the 7th day of the subsequent month	for making various payments every month under different sections within the due date. Considering the computerization of the entire TDS system, it is possible to keep a track of the appropriations made by the deductor as against the actual liability	Account (PLA) in erstwhile excise law should be inserted in Chapter XVIIB of the Act, wherein the deductor can deposit a lump sum amount to the credit of assessee's PLA and the PLA should be accessible to the deductor online. Such amount can be adjusted and appropriated against the liability of tax deducted by way of debit to the account. Excess amount to the credit of the assessee should be refunded or carried forward at the discretion of the assessee after filing and processing of the e-tds statement filed for the last quarter.
	Exemption of TDS when the deductee is a registered charitable organisation and approved by the new application made.	As per the amended charitable trust provisions, every charitable trust has to register afresh and get its objects verified. Where the Charitable Trust is a deductee, the TDS provisions should not apply so that such trusts are unnecessarily not put to hardship of claiming refund and blockage of their funds.	TDS provisions should not be made applicable when the deductee is an approved Charitable Trust. The newly registered Trusts are to be granted a unique registration number (URN). The

			exemption from deduction should be granted on the basis of such URN.
	TDS under section 194 R – need for clarity in respect of taxation of perquisites	The Finance Act, 2022 has introduced Section 194R, which requires tax to be deducted at the rate of 10% of value or aggregate of value of benefits or perquisites. As per section 28(iv) of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of profession is to be charged as business income in the hands of the recipient of such benefit or perquisite. While this rate by itself may be reasonable, and is more or less in consonance with the rate in other jurisdictions, clarity on several aspects is required: a) Section 194R does not make reference to benefits or perquisites taxable under section 28(iv) of the Act. Therefore, though the language under section 28(iv) of the Act and proposed section 194R of the Act is similar, there is an anomaly that whether an	Therefore, the Government should ideally provide clarifications on the aforementioned aspects. Further , the FAQ issued on the applicability included several points which may not directly fall under 28(iv). Therefore, it is suggested the necessary clarity may be provided in the Act itself for easy compliance

		assessee should refer to provisions and judicial precedence in respect of section 28(iv) of the Act to analyse applicability of provisions of section 194R of the Act. b) Clarity is needed on whether both monetary and non-monetary perquisites are taxable. This is because there is a conflict between a Supreme Court judgment[1] which mandates that only non-monetary perquisites are taxable, whereas the Section 194R brought in by the amendment provides for taxability of monetary perquisites as well. c) There is no clarity on the meaning of the term 'value' of benefit or perquisite.	
	Limit for deduction under section 80C to be increased	The original limit of Rs. 1 lakh was fixed with effect from 1.4.2006 which was only marginally increased to Rs. 1.50 lakhs with effect from 1.4.2015. With general increase in inflation and interest rates, the present limit of Rs.1.50 lakhs appears disproportionate.	It is therefore suggested that the limit under section 80C be increased to Rs. 5 lakhs.

		Increasing the limit under section 80C would also incentivise individuals to make further investments in banking and other sectors with lock in period thereby enabling the total system to have the money back into their hands for a longer period of time at the same time giving increased benefits to majority of individual tax payers.	
	Limit for deduction under section 54EC to be increased	The present limit of Rs. 50 lakhs was fixed with effect from 1.4.2007 With general increase in inflation and interest rates, the present limit of Rs.50 lakhs appears very insignificant compared to the increase in land prices and other incidental expenses in connection with real estate. Increasing the limit under section 54EC would also incentivise individuals to make further investments in real estate sector with lock in period thereby enabling the total system to have the money back into their hands for a longer period of time at the same time giving increased benefits to majority of individual tax payers.	It is therefore suggested that the limit under section 80C be increased to Rs. 100 lakhs.
	Section 144B- Faceless Assessments	Though the scheme canvasses the view that every assessment is carried out by an assessment unit consisting of officers of different hierarchy, in effect the assessment is carried out by junior officers and the assessment orders are some times pedestrian and mostly issued on the last day of limitation. This obviously shows that the final	The scheme may be modified that all actions from issue of show cause notice proposing revision of the return of the income to the issue of the assessment order shall be with the

		order is not seen by any higher officers . This will only result in higher litigation. We may bring to your attention the recent decision of Telegana High Court in **Mylan Laboratories vs NFAC (446 ITR 734)** where the court has remarked - Principles of judicial discipline require that the orders of higher appellate authorities should be followed unreservedly by the subordinate authorities. It is not open to the AO to try and evade from the binding effect of a Supreme Court decision by trying to find out "distinguishing features".	approval of the higher authority and such fact be incorporated in the assessment order
	Filing of revised return of income under section 139(5)	Supreme Court in the case of **PCIT vs Wipro Ltd (446 ITR 1 SC)** has held that :The assessee can file a revised return in a case where there is an omission or a wrong statement. But a revised return of income under section 139(5) cannot be filed to withdraw a claim and subsequently claim the carried forward or set-off of any loss. Filing a revised return under section 139(5) of the Act and taking a contrary stand or claiming an exemption, which was specifically not claimed earlier while filing the original return of income is not permissible. By filing the revised return of income, the assessee cannot be permitted to substitute the original	It is submitted that a literal following of the decision would cause unintended hardship to the assesse as even a genuine claim which was omitted to be made in original return but made in revised return could be denied. Therefore, it is requested necessary clarification may be included in the section not to deny the benefits in genuine cases

		return of income filed under section 139(1) of the Act.	
	Fallout in Supreme Court order in the case of educational institutions and charitable entities falling under GPU	The two recent Supreme Court decisions – viz. **ACIT vs Ahmedbad Urban Development Authority and Others (Civil Appeal no.21762 of 2017 dated 19.10.2022)** and **Noble Educational Society vs CCIT (Civil Appeal no. 73795 of 2014)** have set out various parameters to be looked into by the Revenue while granting registration under section 12A as well as granting exemption under section 10(23C) and 11. Some of them are subjective in nature and unless detailed directions are given, it could lead to further litigations	Following the Government's policy of reducing litigation and improve ease of doing business, it is suggested that the Board may come out with detailed guidelines to be followed , in the light of the SC decision, by the lower authorities so that there is uniformity in the application of the law as set out by the Supreme Court
	Giving effect to appellate orders	Due to the staff being deployed to various assessment and verification units pursuant to Faceless assessment scheme, there are no adequate staff to pass consequential orders giving effect to the appellate orders and also upload the same in system by allocating DIN numbers. As per section 244A , interest is payable for the delay in passing such consequential orders.	CBDT may be requested to place a report to the finance ministry the current status of consequential orders pending to be issued and a direction be issued to pass the same in a time bound manner. PCCIT may be requested to monitor the implementation of the same. Till such time, the PCIT may mark all such demands in the system as "not

			collectible" so that the assesse is also not put to difficulty
	Reduction of Litigation – Denometised cash remittance in bank assessed under section 115BBE	Several assessments have been completed for the assessment year 2017-18 and high pitched demands raised by invoking section 115BBE in cases where demonetised currency was deposited into bank and such appeals are pending before NFAC. In very many cases, the remittance represented cash balance arising out of sales and such sales were already included in the profit and loss account and tax paid, considering the same again as unexplained income and levying tax under section 115BBE is not correct and several tribunal decisions are rendered in favour of the assesse.	There fore it is suggested that the ratio of the decisions rendered in **ACIT vs Hirapanna Jewellers 96 ITR Trib 24 Vishakapatnam ; Charu Agarwal vs DCIT 96 ITR Trib 66** be accepted and direct CBDT to issue circulars directing NFAC to follow the same and also direct not to file further appeals.

2. Changes in Customs Law

Existing provision under Customs law	Issue	Suggestion
Repeal the recent amendments to the Customs Act nullifying the judgment of the Supreme Court in *Canon India Private Limited v. Commission*	The Supreme Court judgment as mentioned herein laid down that in the absence of an entrustment under Section 6 of the Customs Act 1962, an officer of the Directorate of Revenue Intelligence (DRI) will not have jurisdiction to exercise the functions entrusted to Customs Officers under the provisions of the Act. Hence, the Court held that the all	This is likely to lead to further litigation, and most importantly, these amendments do not showcase a stable and predictable taxation regime, thereby affecting the business ecosystem in the country.

er of Customs[2] (2021).	proceedings which was initiated in such manner was invalid. This led to several appellate courts squashing customs duty demands and proceedings arising out of show cause notices issued by DRI officials on the primary ground of lack of jurisdiction. The Finance Act, 2022 amended the Customs Act to specifically provide that a DRI officer is an officer of customs, along with a validation clause to validate all the actions of the DRI, with retrospective effect.	
Reinstate concessional import duty for solar projects	Very recently (on 20th October 2022), the finance ministry amended the Project Imports Regulations, 1986 to exclude solar power projects from the purview of the norms. Its effect is that the concessional import duty of 7.5% on solar modules and cells is not available to benefit from now. Moreover, India had imposed basic customs duty (BCD) of 40% on solar modules and 25% on cells with effect from 01st April 2022. Removing the concession and increasing the duty substantially in this manner, can be detrimental to importers, and can lead to rise in costs of setting up solar grids. This can also slow down the shift to renewable energy.	Therefore, it is imperative to reinstate the concession.

[2] AIR 2021 SC 1699.

Reduce import duty on capital goods to mitigate rising inflation in the country	In September 2022, the inflation rate in India reached 7.41%. The Central Government, under section 45ZA of the RBI Act, 1934, has fixed the CPI inflation target at 4% with an "upper tolerance limit" of 6%. However, actual year-on-year inflation in 2022 has ruled above 6% every single month from January to September. (Source: https://tradingeconomics.com/india/inflation-cpi) In light of this, we suggest that the customs duty on essential items, including edible oils and raw materials for manufacturing industries be reduced. The 2022 Union Budget had increased the customs duty rates on several items that are in effect Capital Goods;	we propose that the rate of these items be reversed to the pre-2022 Budget rates, considering the inflationary situation currently. The items mentioned above are as follows: a) Goods used in manufacturing static converters of automatic data processing machines: PCBA, transformer, battery, and copper enameled wires. b) Parts of electronic toys for manufacturing electronic toys. c) Over-load protector and positive thermal coefficient used in manufacturing refrigerator compressors. d) Capital goods for synthetic fibre/yarn, such as spindles, yarn guides, ballon control rings, and travellers. e) Goods imported by a

		manufacturer-supplier for manufacturing and supplying machinery and equipment to a power generation plant (other than a captive power generation plant). f) Specified parts for use in manufacturing transformers for chargers/adapters. g) Copper/aluminium-based copper clad laminate for use in manufacturing PCB/MCPCB. h) S. G. ingot castings used in manufacturing plastic processing machinery.

3. Changes in GST Law

Existing provision under GST law	Issue	Suggestion
As per Section 16(2)(c) of the CGST Act, 2017, a buyer can avail the input tax credit on the purchase of goods and services, but such ITC will depend upon payment of GST	The claim of the ITC is made by the purchaser of goods and services based on the entry in GSTR 2B which reflects the invoices uploaded by the vendor. There is no	It is therefore requested that unless and until system is in place for the assesse to know whether the vendor has paid the GST on the invoices uploaded, the implementation

by his supplier on the said supply. This law is brought into effect from 1.10.2022	mechanism for the buyer to know whether the tax on the said invoice was paid by the vendor and Government has also not put in place any methodology for the assesse to be aware of the same.	of the section be put on hold. As otherwise, the assesse claiming ITC can be held for wrong claim on which he has no control and would not be in line with government policy of "ease of doing business"

4. Changes in Company Law

Existing provision under Company law	Issue	Suggestion
Clause (v) of Schedule VII of Companies Act 2013 on the nature of CSR activities that could be undertaken by corporates read as : "(v) protection of National Heritage, art and culture including restoration of buildings and sites of historical importance and works of art, setting up public libraries, promotion and development of traditional arts and handicrafts	Any art form and culture always needs patronage whether by the Government or corporate. Even in ancient times, Art forms use to flourish in the Durbars and Mahals under the patronage of Kings and emperors. India is known across the world for its art and culture therefore this needs to be preserved, protected, and also promoted and all the time, it's our identity At present there is no clarity whether Donations given to an NGO which is engaged in preservation, protection, and promotion of Indian Classical and all its forms would be eligible for inclusion in approved CSR activities. Conducting of	It is therefore, submitted that necessary clarification may be issued by MCA that donations to NGO / Arts Societies for conducting dance, drama , music activities will be considered eligible as CSR spend under section 135 of the Act so that Corporates may generously support this cause.

	music / drama and other forms of arts and culture programs represents financial and moral support to Musicians / artists pursuing a traditional form of music, promoting traditional music through concerts, recording of classical music artists music, support to musicians. It also supports the artists who have pursued their skills and it formed their livelihood which has been seriously dented because of no concerts for the last two years due to COVID.	

5. General Policy Matters

Industry	GST on petroleum products	The Central Government may continue its efforts to obtain the approval of the GST council of placing oil products within the ambit of the Goods and Services Tax (GST) . The prices then do not have to be administered by the Government and people would treat oil as just another commodity, which depends on international prices
Industry	Parliamentary Budget Office	Experience across the globe suggests that the establishment of a Parliamentary Budget Office has considerably improved the quality of budgetary processes. The Government should consult stakeholders and place a proposal for the same in the Parliament. Parliamentary Budget Offices in the United States, Australia, Canada etc. have shown that these independent setups attached with the Parliament can act as a forum for regular engagement on

		budget related research, information, activities thereby enabling better quality interventions from the Parliamentarians. The Government may request the Law Commission of India to prepare a report on this topic in consultation with all relevant stakeholders. This is a reform that should be considered under Aatma Nirbar bharat
Industry	Public Procurement Law	At present we do not have a procurement legislation in India. The previous NDA Government had solicited comments on the Public Procurement Bill, 2012. According to this, all Government Contracts above Rs.50 lakh were to be governed by this proposed legislation ensuring "transparency, accountability and probity" in state purchases. However, the Bill has, as yet, not been placed in the Parliament for consideration and passing. The Government should consider placing the draft version of the amended Public Procurement Bill for initiating stakeholder consultations.
Industry	Possibility of Institutionalising Development Impact Bonds	Development Impact Bonds (DIB), is a resultsbased development investment contract that involves three parties: a private investor, an outcome payer, and an implementing partner/service provider. The private investor invests money to carry on certain evelopment projects that promises measurable social outcomes. On achieving these outcomes, the private player is paid back in capital along with interest. According to the India Development Review, the first DIB in India was launched by a non-profit, Educate Girls, in association with UBS Optimus Foundation and Children's Investment Fund Foundation, has surpassed both its targets (increased girls' enrolment and improved learning outcomes) by 116 percent and 160 percent respectively. A total of 768 girls were part of the experimental project initiated by Educate Girls. It was found that the learning outcomes were 28 percent higher than the girls who did not opt for the Educate Girls project. It would be fruitful to consider the

		possibility of a governmental level of institutionalisation/facilitation of Development Impact Bonds in India. A return on investment is expected to motivate more private players to the philanthropic sector.
Trade	Inclusion of more trade organisations in the Board of Trade	The Directorate General of Foreign Trade vide. Notification No. 11/2015-20 dated 17th July, 2019 merged the Council for Trade Development and Promotion (CTDP) with the Board of Trade (BOT) while retaining the name Board of Trade (BOT). The objective of BOT is to have regular discussions and consultations with trade and industry and advise the Government on policy measures related to the Foreign Trade Policy in order to achieve the objective of boosting India's trade and to bring about greater coherence in the consultation process. The presence of National Level Trade organisations like ASSOCHAM, CII, FICCI, FIEO etc. as ex officio members will definitely boost the morale of the industry players. We request you to consider the inclusion of reputed trade organisations from individual states to improve the quality of discourse. This will also be in consonance with the BOT's mandate to provide a platform for State Governments and UTs to articulate their perspectives on trade policy.
Health	Reducing GST rates on insurance policies	Post the global pandemic of COVID 19, the awareness and need for the public to take health insurance cover significantly increased . The policies are taken by middle and low income group and it is unfair to collect 18% GST on Health Insurance Policies. The Insurance Regulatory and Development Authority of India (IRDAI) had approached the Finance Ministry with proposals to reduce the same to 5%. The proposal for the same should be urgently placed before the GST Council and the GST rates should be minimised or nullified.

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