

FINANCE ACT, 2023

Significant Amendments

Wednesday 3rd May, 2023
BCAS

Pradip N. Kapasi
Chartered Accountant

SYNOPSIS

Exemptions

PGBP

Capital
Gains

IFOS

Assessments

TDS and
TCS

Appeals

Charitable
Trusts &
Institutions

EXEMPTIONS

A decorative graphic consisting of a solid red horizontal bar that transitions into a white background. On the right side, there are several horizontal lines of varying lengths and colors (red and white) that create a layered, stepped effect.

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AGNIVEER SCHEME

s.10(12C), 17(1) & 80CCH

- W.e.f A.Y. 2023-24
- Employment of Agniveer for Armed Force
 - Agniveer Scheme - Agniveer Corpus Fund –Tenure of Force
 - Payment of remuneration
 - Contribution of 30% to Fund by Employer & Agniveer
 - Interest – refund of corpus with interest on expiry of 4 years
- Tax provisions
 - Remuneration to be taxable as salary-s.17(1)
 - to include contribution by both
 - Deduction u/s 80CCH for both contributions –s.115BAC also
 - Exemption for receipt of corpus including interest

SEZ UNITS

s. 10AA, s.155(11)

- W.e.f A.Y. 2024-25
- Mfg. and service units in SEZ
 - Operations commenced during 01.04.2005 to 31.03.2020 (30.09)
 - Tax Holiday for 15 years
 - Specified conditions
- Four amendments
 - ROI to be filed by due date u/s. 139(1) of Income Tax Act
 - Proceeds in CFE in 6 months from end of year or extended time
 - Deposit in bank out of India permissible on approval by RBI
 - ‘Competent Authority’ and ‘Convertible Foreign Exchange’ defined
- Rectification u/s 155(11) on receipt of CFE

PROFIT AND GAINS FROM BUSINESS



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BENEFITS/PERQUISITES -I s.28(iv)

- W.e.f. 01.04.2024 AY 2024-25
- Existing: *the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession*
- Expanded: to include cases *where benefit or perquisite provided is in cash or in kind or partly in cash and partly in kind*
- Judgments on the subject
 - *CIT v. Ramniyaman Homes (P) Ltd. , 384 ITR 530 (Mad.)*
 - *CIT v. Mahindra and Mahindra (2018) 404 ITR 1 (SC)*
- Consequential amendment in s.194R, making B & P liable for TDS
 - *Circular No 12 dated 16th June, 2022*
- S. 276B amended for prosecution for violation of s.194R

BENEFITS /PERQUISTES – II

- Clarificatory or prospective
- Meaning of benefit or perquisite
 - S. 2(24), s. 17 and Rule 3 and S. 194R
 - Relevance of circular of CBDT for s. 194R
 - Benefit of clarification for "removal of difficulties"
- Gratuitous receipts
- Business, profession and personal
- Method of accounting and retroactive application
- Scope of sub-clause (a) &(b) and reconciliation, if possible
- ‘Convertible in to money or not’ -retained

BENEFITS /PERQUISTES – III

- Where receipt is in consideration of payment made
- Cases of composite payments
- Relevance of actual enjoyment and the point of taxation
- Relevance of TDS by the provider
- Receipt of Damages
- Benefits in the capital field
- Subsidies, subventions, and interest-free loans
- *Excel Industries, 385 ITR 295 (SC)*

BENEFITS /PERQUISTES – IV

- Waiver of business debt
- Waiver of loan - unilateral - capital in nature
- Cases of reimb., trips, conf., samples, rebates and discounts
- Influencers and promotions
- Receipt of right and bonus shares
- Redemption and buyback of bonds and shares
- After sale services, warranties and performance guarantees
- Incentives and freebies

DEDUCTION ON ACTUAL PAYMENT -I

s. 43B

- W.e.f. A.Y. 2024-25 insertion of new clause (h)
- Any sum payable to a Micro & Small Enterprise
 - beyond specified time limit; deduction only on payment
 - method of accounting not relevant
- Tax Audit Report reporting under cl. 22 of Form 3CD
 - Interest inadmissible u/s.23 of MSME Act
- Proviso for deduction for payment by s.139(1) due date
 - **not applicable**
- Disallowance only where deduction claimed

DEDUCTION ON ACTUAL PAYMENT -II

s. 43B

- Overriding provision
- Business Income, only
- Payment after year end
 - Allowance in year of accrual if paid as per s. 15
 - Allowance in year of payment in other cases
- Applicability to service providers
- Case of acceptance after 31.03 2023
- Late payment during the year
- Advance payment – allowed in year of payment (SC)

MSMEDA - I

- Micro & Small enterprises as per s.2(h) and s.(m) of Act
 - Micro – Rs.1CR investment and 5CR turnover
 - Small – Rs.10CR Investment and 50CR turnover
- Time limit as per s.15 of Act – for payment
 - 45 days of acceptance - if written agreement
 - 15 days of acceptance - in other cases
- Notification No. SO 2119(E) dt. 26.06.2020
- Registered under Uydham w.e.f. 01.07.2022
- Micro and Small are covered – Medium not covered

MSMEDA – II

- Protection to MSME under Act
- Payment to Supplier by ‘Appointed date’
- Provisions for interest, disclosure, disallowance, recovery and arbitration / decree

MSMEDA-III

- Supplier to be registered under
 - defined under S. 2(a) of Act
 - to file Memorandum as per s. 8(1) of Act
 - includes
 - NSIC, SIDC, State, UTT
 - Any company society, trust or body selling services goods or services produced or provided by MSME
 - ‘Medium enterprise’ not a supplier
 - Applies qua ‘buyer’ - S. 2(d) of Act
 - of goods and /or services in India

MSMEDA-IV

- Appointed day – S. 2(b) of Act
 - Day after 15 days of the ‘acceptance’ of goods or services
 - Agreed date not beyond 45 days
 - Extension in case of written objection
 - Terms of payment not relevant
- Acceptance time- Deferral / obligations
- Case of Real Estate Developer
- Payment in Kind / adjustment
- Suggestions
 - Exchange of information
 - Invoice - Circular

Points to ponder for S. 43B

- Payments to non-supplier
- Payments for non- goods /services – interest on loan
- Applicability to Capital Expenditure
- Case of supply before 01.04.2023
- Cases of no agreement - year of payment only
- Supply by One Micro or Small to another MSE
- Not registered
- Registered post contract?

PRESUMPTIVE TAXATION AND TAX AUDIT

S.44AB, S.44AD & S.44ADA

- W.e.f. 01.04.2024
- **S.44AD-** Presumptive taxation for eligible business
 - Threshold extended from Rs.2cr. to 3cr.
 - WHERE cash receipts upto 5% of TO /GR
 - If Cash receipts > 5% - existing limit of Rs. 2crore continue to apply
- Non a/c payee cheque or draft drawn on a bank - deemed to be cash receipt
- **S.44ADA-** Presumptive taxation for specified professionals
 - Threshold extended from Rs.50 L to 75 L,
 - WHERE cash receipts up to 5% of GR
 - If cash receipts > 5% - existing limit of Rs. 50 lakh continue to apply
- Non a/c payee cheque or draft drawn on a bank deemed to be cash receipt

Things to Note

S. 44 AD/ADA

- No change in quantum of presumed income
- ‘Cash’ – Currency, non-account payee cheques
 - Difference between S. 44(AD)(1) and s. 44AB
- Non- cash INR transactions, credits cards, barter, JE
- Receipt of cash by third party
- Cash received in next year
- Receipt of dues of earlier year
- S. 44AB v. S. 44AD for aggregation
- Capital receipts in cash
- Non-Business Receipts in cash
- TO / GR and cash – same method
 - Exclude capital / non-business receipts
- GN of ICAI for non-business receipts
- Automatic or optional
- 8% for cash component of TO / GR – 6% for rest

AUDIT OF ACCOUNTS - I

S.44AB

- W.e.f. A.Y. 2024 -25
- No tax audit for cases of presumptive taxation - clarified
 - s.44AD(1) or s.44ADA(1)
- No amendment for changing threshold for Tax Audit
- Changes consequential to amendments in s. 44AD and 44ADA
- **Refreshed TA status for Business assessee:**
 1. TO up to Rs. 1 crore – exempt u/s 44AB but required if not opted for s.44AD
 2. TO up to Rs.2 crore – exempt u/s 44AB where assessee has opted for s.44AD
 3. TO up to Rs.3 crore - exempt u/s 44AB where assessee has opted for s.44AD AND his receipts in cash are not > 5% of TO
 4. TO up to Rs. 10 crore – exempt u/s44AB where the receipts in cash are not > 5% of receipts AND payments in cash are not > 5% of payments
 5. Rs.1cr. – 2cr - No tax audit even more than 5% cash receipts only if s.44AD applied
 6. Rs. 2cr –3cr- No tax audit only if cash receipt not > 5% of aggregate turnover/gross receipts AND only if s.44AD applied
 7. Rs. 3cr-10cr- No tax audit if cash receipts AND cash payments equal to / less than 5% of aggregate Turnover/gross receipts.

AUDIT OF ACCOUNTS - II

Refreshed TA status for Professional assessee:

- Gross receipts up to Rs. 50Lakh - No tax audit (income 50% or more) **even** if cash receipts more than 5%
- Gross receipts > Rs. 50 Lakh – 75 Lakh (income 50% or more) - No tax audit **only** when cash receipts less than 5%
- If Income is less than 50%, Tax audit must in all cases

CAPITAL GAINS

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ELECTRONIC GOLD RECEIPT -I

s.2(42A), 47,49

- W.e.f. A.Y. 2024-25
- Deposit of gold in Vault for EGR
- Receipt of gold against EGR
- Conversion of gold into EGR & Recon. of EGR to gold
- Both conversion and reconversion to be Tax Neutral
- No transfer under s.47 – G –EGR – G
- Cost of Acquisition as per s. 49- historical
- Period of Holding to be date of acquisition of gold s.2(42A)
- No tax on capital gains
- No set off for losses

EGR - POINTS TO PONDER - II

- Dematerialization
- Trading on stock exchange
- Exemption u/s. 47(vi) for all taxpayers
- Exemption for conversion / reconversion
 - gold to EGR to gold
- Conversion in SIT and / or capital asset
 - S.45(2) and S.28(via) of ITA
- Sales of EGR/gold not covered
 - issues of POH & COA in case of taxability
 - for gold & for EGR
- POH for Gold → EGR → sale after 12 months
- Golden rule is not to sale gold unless LTCA
- Application of FIFO u/s. 45(2A) for EGR held in Demat Form
- Trading in EGR

EGR – POINTS TO PONDER – III

- Gold held as stock-in-trade.
- Case of Transfer of EGR – post conversion
- Combined period of holding and S. 2(42A)
- Transfer in open market

SPECIFIED AGREEMENT & TDS

s.45(5A)

- W.e.f. A.Y. 2024-25
- Provision for deferment of tax on JDAgreement
- Special provision for computing FVC
 - Consideration in kind and cash
 - Misinterpretation alleged
- Differences between S. 45(5A) and S. 194 IC
 - Cash v. cash, cheque, draft or other mode
- Amendment in S. 45(5A) to bring it on lines of S. 194 IC
- Pre-amendment position
- Amendment to be prospective
- Doubts on status for gains up to A.Y. 2023-24

MLD & SMF - I

s.50AA

- W.e.f. AY 2024-25
- MLD as defined vide Explanation (i)
 - a security with underlying principal component of a debt
 - where returns linked to market returns on other securities
 - incl. any securities classified/regulated as MLD by SEBI.
- SMF as defined vide Expl. (ii) - < 35% in equity shares DC
- Gains on transfer, maturity or redemption
- Gains long-term where held for more than 12/24 months
- Was taxed as LTCG without Indexation @ 10/20 %, u/s 112
- Listed or not

MLD & SMF -II

s.50AA

- Amendment to deem the Gains to be Short term capital gains
 - *irrespective of the period of holding and tax @ regular rates*
- Deduction for COA and Expenditure - Not STT
- Benefit of Indexation may be denied
- Stand alone provision of s. 50AA
- No amendment in s.2(42A) or s.54EC,etc.
- Character of Income
- Year of taxation
- Tax under FA at regular rates – threshold exemption
- Benefit of Reinvestment oriented tax exemptions
- Rate of tax u/s.112 ?
- Case of regular debentures

S. 50AA - POINTS FOR CONSIDERATION

- Retroactive application for MLD - Grandfathering not provided
- Prospective application for SMFs
- Acceptance for Capital Gains up to 31.03.2023
- Acceptance of Head of Taxation for MLDs - Capital Gains
- Dealer's transaction not covered by s. 50AA
- Cases of Transfers not covered - s. 46, s. 47
- Application of s. 50AA to cases of transfer u/s. 45(2) to s. 45(6)
- Determination of FMV – s.2(22B)
- Benefits of indexation/exchange fluctuations/ COI not provided
- Denial of benefit of s.48(iii) in a.45(4) cases

REINVESTMENT OF CAPITAL GAINS - I

S.54, S54F

- W.e.f. 1.4.2024, AY 2024-25
- Pre-amendment - no upper limit for exemption of gains u/s.54/54F
 - Criteria
 - amount of capital gains or net consideration
 - purchase / construction cost of new residential house
- Amendment to cap **reinvestment/exemption or both** to Rs.10 crores
- For both s.54 and u/s.54F
- Consequential amendment in Capital Gains Accounts Scheme

REINVESTMENT OF CAPITAL GAINS - II

- Limit per co-owner or value of new premises
- Consequences on transfer within three years – COA
- Provisions may not be mutually exclusive
- Exemption u/s.54F may involve reinvestment > Rs. 10 crs.
- S.54EC may independently be available.
- Case of sale of more than one house
- Case of purchase of more than one house
- Transfer on or before 31.03.2023
- Cases of conversion u/s. 45(2) up to 31.03.2023
- Maximum amount of relief u/s. 54F < Rs. Ten crore

INTANGIBLE ASSETS & OTHER RIGHTS - I

s.55

- W.e.f. 1.4.2024 AY 2024-25
- Existing position : Cost of acquisition and improvement Nil in cases:
 - Goodwill of business or profession - Trademark/brand of business
 - Tenancy rights - Loom hours –
 - Right to carry on any business/profession - Stage carriage permits
 - Right to produce or purchase any article or thing
- COA /Improvement for **remaining intangible assets/rights** not NIL
 - non determinable follo. B.C. Srinivasa Shetty 128 ITR 294 (SC),
 - no capital gains.
- Amendment to widen scope of NIL cost assets to include ;
 - **Any other Intangible asset** and **Any other right**
 - Exception where asset or right acquired for a consideration.

INTANGIBLE ASSETS & OTHER RIGHTS-II

s.55

- Scope of Any other Intangible Asset – s.2(11), Expl. 3(b) to s.32
 - Ejusdem Generis
 - narrower or wider – akin to goodwill -similar nature
 - COI; where relating to profession
 - only where held as capital asset
- Scope of ‘any other right’
 - to manufacture, produce or process
 - to carry on business or profession
 - unrelated right
 - ROFR, TDR, FSI, Personal right, capital asset related
 - Actionable claims – compensation – allowances
 - mesne profit - license – right to sue – voting right

INTANGIBLE ASSETS & OTHER RIGHTS -III

- Case of slump sale
- Requisites of capital asset and transfer
- Business transaction
- Clarifcatory or prospective

INTEREST & COA - I

S. 48 (ii)

- W.e.f. A.Y. 2024-25
- *Interest on borrowed capital for acquisition of house property shall not be included in the cost of acquisition or cost of improvement of the house property transferred if such interest has been allowed as a deduction while computing income from house property or under Ch.VIA*
- *C.Ramabrahmam, 27 taxmann.com 104(Chennai)*
- Deduction under S. 24(b), 80EE and 80EEA
- Interest not covered by S. 80C
- Retroactive application

INTEREST & COA -II

- Acceptance of possibility of including interest in COA
- Interest on housing loans
- Cases of non-housing loans
- Interest for pre- acquisition period
- Case of deduction under Chapter VI-A
 - Cases where deduction allowable but not claimed.
- No claim u/s 80C possible
- Deduction claimed but not allowed by AO.

IFOS

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INCOME DEEMED TO ACCRUE OR ARISE IN INDIA

s.9(1)(viii)

- W.e.f A.Y. 2024-25
- Income arising outside India
- Being ‘any sum of money’
- Referred to in s. s.2(24)(xviiia) - income
- Income referred to in s .56(2)(x) - receipt
- **Amendment to include payment by R to NOR u/s. 6(6)**
 - On or after 1st April, 2023
 - Individual and HUF
- Receipt without consideration
 - Case of inadequate consideration

INCOME DEEMED TO ACCRUE OR ARISE - II

- Case of over legislation
- Limited to ‘receipt’ of ‘any sum of money’
- Exemption of receipt up to Rs. 50,000/-
- Exemption for receipt from relatives and specified cases
- Cases of accrual /receipt in India
 - Application of S. 9 / DTAA
- Source of resident not relevant

RECEIPT ON ISSUE OF SHARES -I

s.56(2)(viib)

- W.e.f. 01.04.2024
- Receipt from a person **including Non-Resident**
 - by company in which public are not substantially interested
 - of any consideration for issue of shares
 - that exceeds the Face Value of the shares from any person
- To be taxed under IFOS where the receipt exceeds FMV of shares
 - Rule 11UA or substantiated value
 - Issues in determination of values
 - Anti-abuse provision
 - Related party transactions
 - Holding ; subsidiary transactions with business motive Receipt
 - Approved under FEMA

RECEIPT ON ISSUE OF SHARES - II

- Case of RNOR – Amendment in S. 9(1) and S. 56(2)
- Receipt form NR was not covered
 - *Ruchi J. Oil (P) Ltd, 129 taxmann.com 432 (Indore)*
- Share Application Money from Non-resident
 - *EduLink (P) Ltd., 178 ITD 174 (Bang)*

LIFE INSURANCE POLICIES - I

s. 2(24), 10(10D) & 56(2)(xiii), s.194DA

- W.e.f A.Y.2024-25
- Provision for exemption of receipts of LI Policies/ULIP
 - Tax on certain ULIP & LI where premium > Rs.2.50L/10%
- Present day exemption for high premium LI Policies
 - Against legislative intent –social welfare –subsidy
- To prevent misuse by denying exemption u/s 10(10D)
 - for policies issued on or after 01.04.2023
 - in cases where annual premium exceeds Rs.5,00,000
 - cases of more than One policy
 - tax on proceeds less premium paid under IFOS u/s56(2)(xiii)
 - computation to be prescribed – s.2(24)(xviid)
 - exemption for receipts on death
- Circular 2 of 2021 dt. 19.01.2021 for ULIP maturity taxation

LIFE INSURANCE POLICIES- II

- Bonus included
- Rules for computation of premium to be prescribed
- Objective of amendment – Discourage investment
- TDS u/s. 194DA @ 5% of Income / s. 195
- Other conditions of S. 10(10D) to continue to apply

LIP - III

- Point of taxation - year of receipt.
- Bonus not eligible for exemption.
- ‘Premium payable’ – ‘part’
- Deduction for aggregate premium paid in computing income
 - not where claimed as deduction.
- IFOS, not capital gains.
 - eligible deductions and S. 58.
- Exemptions denied even where.
 - IRDA approved.
 - No deduction was allowed for premium.
 - Deduction under chapter VI-A limited to ceiling.

LIP-IV

- Ceiling of Rs.5 lakhs w.r.t. all policies – post 31.03.2023
- Cases of KIP, ULIP, non-life policies.
- Single premium policy - one time payment.
- Cases of Advance and Arrears payment.

LIP -V

- Policies of Foreign Insurance Company.
- Case of non-resident and RNOR.
 - S. 9(1) (i) and DTAA – Intangible asset
- Capital Receipts-Income from Other Sources.
- Cases where S. 64 is applicable
- Gross or net of GST and other levies
- Assignment of Policy
- Receipt on death of insured person

BUSINESS TRUSTS

- W.e.f. A.Y. 2024-25
- S. 2(24)(xviic) – Income to include specified income
- S. 56(2)(xii) – Specified sum -income to be taxed as ‘IFOS’
- S. 48(ii) – Reduction in Cost of Acquisition
- S. 115UA(3) – No tax on BT in respect of SS
- S. 10(23FC) – Exemption for SI for Foreign Trusts
- S. 193- No TDS on interest by SPV to BT on securities
- S.194 LBA – TDS by BT on payment of income to UH
- S. 197 - Possible to apply for lower or Nil deduction by BT on Income distribution to UH
- Pre –amendment scheme of taxation of BT and UH

SPECIFIED SUM - I

- Defined vide Explanations
- Formulae based definition $SS = to A - B - C$
- Specified sum taxable in hands of unit holders
 - On Receipt by UH from BT in respect of unit
 - Receipt by UH taxable in the year of receipt
 - Receipt by UH taxable under the head 'IFOS'
- Tax at regular rates

SPECIFIED SUM - II

- Computation of SS ; A-B-C
- A= Aggregate of sum distributed by BT to UH
 - w.r.t. units
 - during previous year / s
 - to UH who held units on the date of distribution
 - which amount distributed is ;
 - not an income referred in s. 10(23FC) / (23FCA)
 - not chargeable to tax u/s. 115UA(2)
- B = issue price of unit by BT
- C = Amount charged to tax u/s. 56(2)(xiii) in any year

COA OF UNITS OF BT - I

- COA - s. 48(ii) amended by insertion of Explanation 1 and 2
- Reduction of COA of units by an amount received by UH but not taxed in hands of BT and UH
- Explanation 1 for removal of doubts
 - Reduction or deemed reduction of COA
 - By any sum received by unitholder
 - From BT in respect of units
 - Which is;
 - not an income referred to in S. 10(23FC) / (23FCA)
 - not chargeable to tax u/s. 56(2)(xii)
 - not chargeable to tax u/s. 115AU(2)

COA OF UNITS OF BT - II

- Explanation 2 for the purposes of Explanation 1
 - Clarification that sum received before or after s. 47 transaction to be reduced from COA in cases where CAO of Previous Owner is determined u/s.49

ASSESSMENTS

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INVENTORY VALUATION

s. 142(2A), 153, 295

- W.e.f. 01.04.2023
- Power to direct Inventory Valuation by Cost Accountant
- To ensure value is as per provisions of law
- Impact of such valuation
- TAR
- Cost Auditor
- Physical or not
- Report
- Fees by Government
- Extension of time limit
- S.295 for prescribing Rules
- ICDS II, s.145, 145A, 'at cost', lower of cost or market value

NOTICE & RETURN U/S 148

s. 148

- W.e.f. A.Y. 2023-24
- Time limit for compliance –instead of *as prescribed by AO*
 - 3 Months from the end of the month of issue of notice, or
 - such extended period as allowed by AO
- Any return of income, furnished beyond the period allowed shall not be deemed to be a return under section 139

TDS & INCOME MISMATCH

s. 155

- W.e.f. 01.10.2023
 - In case where income is included in ROI
 - But the tax thereon has been deducted and paid in subsequent year,
 - The AO shall amend the assessment or intimation
 - within a period of 2 years from the end of the F.Y. in which tax was deducted at source
 - on application made by the assessee and
 - Credit of such tax deducted at source shall not be allowed in any other assessment year
 - Period of 4 years u/s. 155(7) shall be calculated from the end of the F.Y. in which tax was deducted at source.

FACELESS SCHEMES

s. 135A

- W.e.f. 01.04.2023
- Amendment to regularize and validate the scheme to call for information u/s.133,133B,133C, 134, 135
 - notified in the Official Gazette by the Central Government
 - u/s. 135A(2) on or before 31.03.2022 .
- Amendment to rectify /amend any of the schemes
 - notified by the prescribed date
 - S.135A,245MA,245R,250 & 275

TDS & TCS

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TAXATION OF CHANCE WINNINGS -I

s. 115 BB, 115BBJ, 194B, 194BB, 194BA

- Present scheme
 - Winning from lottery or crossword puzzle or card or other game (s.115BB, s.194B)
 - Winning from horse race (s.115BB, s.194BB)
 - No separate provision for Winning from online games
 - All income taxed u/s. 115BB @ 30% + surcharge + cess
 - Payment in excess of Rs. 10,000
 - TDS u/s. 194B(30%) or 194BB(30%)

TAXATION OF CHANCE WINNINGS -II

s. 115 BB,115BBJ, 194B, 194BB, 194BA

- New Scheme of taxation & TDS
 - Under 3 provisions
 - Income taxed u/s. 115BB (30%) or 115BBJ(30%)
 - TDS u/s 194B(30%) 194BA(30%) and 194BB(30%)
 - TDS u/s 194BA at the time of payment or at the end of the F.Y
 - on amount of net winnings (194BA)
 - Deduction on aggregate of payments / winnings w/o splitting
- Kind or cash – ensures TDS
- Power to remove difficulty
- Certain terms defined
- Online games exclude 194B and 194BB cases

SECTION 115 BBJ -I

- W.e.f. A.Y. 2024-25
- Overriding provision
- Tax on specified income
 - Offered on internet
 - Accessible through computer resources / telecommunication device
 - Dream 11, Rummy Circle, Ludo Supreme Gold, etc.
- Computed in prescribed manner
- Tax at 30% of income – net winnings

S.115 BBJ - II

- Income under S.2(24) (ix)
- Income from other sources – S.56(2)
- No deduction for expenditure or allowance – S.58(4)
- Gambling or betting covered under S.115 BB
- No provisions for TDS on gambling or betting before S. 194BA

S.115 BBJ - III

- Tax + surcharge + cess
- Threshold exemption not provided
- Set of losses – same source or other sources
 - Tax on gross or net set-off of loss
 - Circular no.461 of 1986
 - Dr. M.A.M Ramaaswamy, 53 taxmann.com 231 (Mad)
- Possibility of rebate under s.87A
- Case of winning from online competition
- Taxation of income of online gaming company
- Income of the gamers other than winnings

S.115 BBJ - IV

- Non-resident gamer
- Sec.4, 5, 9(1)(i) & 14 of ITA
 - Income and deemed income
 - Application of DTAA for deemed income
 - Tax on accrual or receipt in India under Section 5
 - Relevance of source of income & place of income
 - Intangible asset and situs
- Application of BMA for offshore winnings
- E-wallet and virtual card – ‘bank accounts’
- Head of income

TDS u/s. 194BA - I

- W.e.f. 01.04.2023
- Overriding provision
- TDS on net winnings on online games
- At rates in force – s. 2(37A)
- By payer of winnings
- Net winning to be computed as per prescribed rules
- TDS at the end of Financial Year
 - on earlier withdrawal
- Cash or kind
 - Payer to ensure TDS
- Guidelines for removal of difficulties
 - Approval of Parliament
- Tax as per s.115BBJ
- Consequential amendments in s. 194B/BB

TDS u/s. 194BA - II

- Nature of Income of Recipient – Not relevant
- Residence of Deductor / Deductee.
 - two views possible.
- Computation of net winnings to be prescribed
- ‘Rate in force’. S. 2(37A)(ii).
 - 1st Schedule , Part II @ 30% .
 - No Surcharge + EC for TDS
 - Applicability of DTAA - 2(37A) amended
- Special Cases @ 30%.
 - Non-filer- No PAN.
- Application of S. 197(?)
- Threshold limit for TDS not provided
- Character of Payment not relevant

TCS ON REMITANCES, ETC - I

s. 206C (1G)

- W.e.f. 01.07.2023
- Increase the TCS rate on remittance outside India to 20% in case of overseas tour package and for purposes other than education / medical treatment, without any threshold.
- Removal of threshold limit of INR 7 lakhs for remittance for any other purpose other than education / medical treatment.
- Maintain rate of TCS @ 5% and threshold limit of INR 7 lakhs for education / medical treatment.

TCS ON REMITANCES, ETC - II

- W.e.f. 01.07.2023

Type of remittance	Present rate	Proposed rate
Education from any FI u/s 80E	0.5% of the amount or the aggregate excess of Rs.7 lakh.	No change.
Education, other than above or medical treatment	5% of the amount or the aggregate excess of Rs.7 lakh.	No change.
Overseas tour package	5% without any threshold limit.	20% without any threshold limit.
Any other case	5% of the amount or the aggregate excess of Rs.7 lakh.	20% without any threshold limit.

APPEALS

A decorative graphic consisting of a solid red horizontal bar that transitions into a white background. On the right side, there are several horizontal lines of varying lengths and colors (red and white) that create a layered, architectural effect.

Pradip N. Kapasi
Chartered Accountant

DCIT/JCIT/Addl.CIT(APPEALS)

s. 2(19B), 2(28C), 246

- W.e.f 01.04.2023
- Post created to reduce backlog & burden of CIT(A)
- JCIT(A) empowered to deal with appeals of class of cases
- Powers of CIT(A)
- Provision for transfer and retransfer of cases
- Exclusion of certain class of cases

JOINT COMMISSIONER (APPEALS)

- Substitution of s.246 new section
- Empowered to try appeals against orders of AO
 - cl.(i) to(viii) to s.246
- Insertion for new post of JCIT(A)
 - Orders u/s. 143(1) &(3), 147, 154,155, 200, 200A,201, 201(1C) and Penalties orders
 - Provision for transfer of existing appeals
 - New appeals u/s 246 with JCIT(A) for prescribed class orders
- To include Addl. CIT(A)
 - shifted from s.2(19B)
- Faceless procedure and hearing
- Consequential amendments

POWER OF JOINT COMMISSIONER (APPEALS)

s. 251

- W.e.f. 01.04.2023

–Powers

- to confirm, reduce, enhance or annul the assessment;
- to confirm or cancel an order or vary it so as either to enhance or to reduce the penalty
- to pass such orders in the appeal as he thinks fit.

JCIT (APPEALS) – CONSEQUENTIAL AMENDMENTS

- W.e.f. 01.04.2023
- Amendments in provisions to include JCIT (Appeals)
 - s. 270A – Penalty u/s. 270(A)
 - s. 271 – Penalty u/s. 271
 - s. 271A – Books of Account, etc.
 - s. 271AAC – Undisclosed Income, etc.
 - s. 271AAD – False entry, etc.
 - s. 271J – Incorrect reports or certificates
 - s. 275 – Limitations
 - s. 279 – Prosecution by Commissioner, etc.

APPEALS TO THE APPELLATE TRIBUNAL

- Amendment to provide for an Appeal to ITAT by assessee ^{s. 253}
 - against orders of CIT(A)
 - levying penalty u/s. 271AAB, AAC and AAD – **271AA & J**
 - against orders of JCIT(A)
 - u/s. 154, 250, 270A, 271, 271AAB, AAC, AAD & J
 - against an order u/s 154 passed
 - for amending any of orders of PCIT/CIT
 - against order u/s 154 passed
 - for amending any of orders of PCCIT/CCIT/PDGIT/DGIT/PDIT/DIT
 - passed u/s 263 or s. 272A
- Amendment to permit AO filing of Cross Objections - s. 253(4)
 - in appeal against ‘any order’ – not restricted to CIT(A)’s orders
 - S. 12AA/AB, 80G, 154, 263, 270A, 271, 272A – not by an AO

CHARITABLE TRUST, EDUCATIONAL & MEDICAL INSTITUTIONS



Pradip N. Kapasi
Chartered Accountant

CHARITABLE INSTITUTIONS - I

- S. 12A / AB - Registration
 - Provisional where for 1st time
 - Activity yet to commence
 - Regular for 1st time
 - Activity commenced
- S. 12A(2) - exemption for prior period on registration
 - Benefit withdrawn
- S. 12AB – Donation to another Trust, etc
 - ‘Application restricted to 85% of Donation
- S. 11 - Forms 9A and 10
 - To be filed 2 months before due date u/s 139(1)

CHARITABLE INSTITUTIONS-II

- S. 11 and S. 12
 - ROI to be filled within time permissible u/s. 139(1)/(4)
- S. 11(1), Explanation 4(i)
 - Conditional deduction for application out of corpus donation
 - Conditional deduction for application out of loans or borrowing
- S. 12A(1)(ac) and S. 115TD
 - False or inaccurate particulars in registration application.
 - Case of ‘specified violation’
 - Application of S. 115 TD – Accreted Income
- S. 12A(1)(ac) and S. 115TD
 - Deemed ‘conversion’ on failure to apply for renewal of registration
 - Case of specified violation
 - Exit tax u/s. 115TD

CHARITABLE INSTITUTION S- III

- S. 80G - certain Trusts, etc
 - Not eligible tax deduction for donors
 - Parallel provisions for application for provisional/regular registration
- S. 10(23C) - Institutions
 - Parallel/similar amendments

Thank You

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