BOMBAY CHARTERED ACCOUNTANTS' SOCIETY

Date: 18 February 2026

To,

Smt. Nirmala Sitharaman
Hon'ble Finance Minister
Government of India
North Block, New Delhi – 110001

Shri Ravi Agrawal
Chairman
Central Board of Direct Taxes (CBDT)
Department of Revenue
Ministry of Finance
North Block, New Delhi – 110001

Subject: Submission of Suggestions – Post Budget Representation on Finance Bill, 2026

Hon'ble Madam / Sir,

We are pleased to submit herewith our Post Budget Representation containing detailed suggestions and recommendations on the provisions of the Finance Bill, 2026.

At the outset, we would like to place on record our sincere appreciation for the continued efforts of the Ministry of Finance and the Central Board of Direct Taxes in undertaking progressive tax reforms aimed at rationalisation, simplification and improving ease of compliance for taxpayers.

Pursuant to the proposals introduced in the Finance Bill, 2026, we have undertaken a comprehensive review of the amendments relating to direct taxes. Based on our practical experience and stakeholder inputs, we have compiled specific representations highlighting:

- Critical Provisions
- Other amendments
- FAST Disclosure Scheme 2026

Our endeavour through this representation is to provide constructive, practical, and implementable inputs that may assist the Government in achieving the stated objectives of transparency, efficiency and taxpayer facilitation.

We humbly request your good offices to kindly consider the enclosed suggestions while finalising the Finance Bill, 2026 and framing the subsequent rules / circulars / guidelines.

We shall be honoured to provide any further clarifications or participate in stakeholder consultations, if considered necessary.

Thanking You,

Yours faithfully,

For Bombay Chartered Accountants' Society

CA Zubin F. Bilimoria	**CA Deepak Shah**	**CA Anil Sathe**
President	**Chairman**	**Co-Chairman**

Direct Tax Committee, BCAS

POST BUDGET REPRESENTATION 2026

BOMBAY CHARTERED ACCOUNTANTS' SOCIETY
(ISO 9001:2015 Certified)
7, Jolly Bhavan No. 2, BCAS Chowk, Ground Floor, New Marine Lines, Mumbai-400 020.
T : +91 22 6137 7600 • **E :** bca@bcasonline.org • **W :** www.bcasonline.org
• E-Journal : www.bcajonline.org • E-Learning : https://bcasonline.courseplay.co/

Post Budget Representation 2026
Bombay Chartered Accountants' Society (BCAS)

Post Budget Representation 2026

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
A	**Critical Provisions**			
1	Combined order for Assessment and Penalty	Sections 471, 411, 379 of ITA 2025 (Sections 274, 220, 245MA of ITA 1961)	**Current Provisions** • There are 2 separate Orders passed for Assessment and for penalty by the Tax Officer. • The penalty proceedings are kept in abeyance until the appellate proceedings are under process • Penalty is levied on case to case basis on merits **Issue & Rationale** • The proposal to pass combined order for assessment and penalty is to avoid multiplicity of proceedings, though fundamentally they are different proceedings. • Assessment is for assessing the income i.e taxing proceedings whereas penalty proceedings are quasi-criminal proceedings.	• This is a highly objectionable proposal and should be withdrawn. The present law which has served well should be restored. In other words maintain status quo • Without prejudice, it should be explicitly provided in the law that no refunds of other years shall be adjusted against such penalty till passing of the order by CIT(A) or ITAT (for appeal against DRP orders), as the case may be.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
			• Penalty can be levied only after there is finality of addition in quantum assessment and certain additional conditions are fulfilled like satisfaction of AO, of intent to avoid tax etc. • There are separate threshold conditions for various penalties • Such additional conditions cannot be fulfilled until the quantum assessment is completed and taxpayer is made aware of the grounds for sustaining the addition and given opportunity of defending how the additional conditions for levy of penalty are not fulfilled. • Combined order runs the risk of penalty being levied in a mechanical manner without analysing the facts of the case. • Therefore, combined order will not reduce the pendency of appellate proceedings, but may actually increase it. • The demand outstanding will be shown at higher amount which may be unjustified and may finally not be sustained	

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
			• In case of listed companies, there is statutory obligation under SEBI LODR regulations to disclose levy of penalty by statutory authorities of material amount within 24 hours to the stock exchange. Higher demands (300% of current tax demands) may create negative sentiments for the stock price and lead to volatility of stock prices which is not desirable for any stakeholder. • Furthermore, the outstanding demand towards penalty will reflect on income tax portal (although no interest is payable till CIT(A)/ITAT order). The refunds for other years may get adjusted towards such penalty (in addition to income tax demand). • The tax arrears of the Income Tax Department will triple, giving a wrong public perception of mounting tax arrears which are not collected by the Department.	

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
2	Interest deduction prohibition against dividend income	Section 93 of ITA 2025	**Current Provision** • Deduction of interest expense up to 20% of dividend income is allowed against dividend income u/s. 93(2) of ITA 2025 (s.57(iii) of ITA 1961). **Issues and Rationale** • The amendment will lead to loss of interest payment in case of borrowed funds utilized for investment purposes. • Also, this will badly impact infrastructure, real estate (including REITs) and financial services companies, where separate SPVs are essential for different projects/ activities, and borrowings are at the parent company/REIT level. , There is high interest on borrowings and such parent companies/REITs will not be able to claim such interest, increasing the cost of borrowing, making many projects/activities commercially unviable. • These provisions would vitiate the concept of taxing the real income.	• The status quo should be maintained. • Besides, where interest expenditure is incurred in relation to investments in SPVs/subsidiaries, the interest should be fully allowed as a deduction, as it is for the same business carried on in another entity. • The concept of real income being taxed should be maintained.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
B	**Other Amendments**			
3	MAT exemption to all non-residents under presumptive taxation	Section 206(1)(l) of ITA 2025	**Current Provision** • The MAT exemption applies only where a foreign company solely derives income from the specified business. **Issues & Rationale** • This is irrational and unjustified because most foreign companies will inevitably earn incidental income (e.g., capital gains on business assets, interest on tax refunds, or bank deposit interest), which could disqualify them entirely from MAT protection — including on their core specified business income. This makes the relief largely illusory in practice.	• Remove "solely" from section 206(1)(l)(iii) of ITA 2025, or • Carve out incidental / ancillary income so that minor peripheral income does not disqualify the foreign company from MAT relief, or • Restructure the exemption by moving it to section 206(1)(d)(ii) of ITA 2025 — which protects only the income from specified activities rather than the company as a whole — so that other incomes remain subject to MAT while the core specified business income retains protection.
4	Relaxation of prosecution provisions	Section 490 & 440 of ITA 2025 (Section 278E of ITA 1961)	• Niti Aayog recommended full decriminalization of TDS/TCS lapses and return filing offences, noting that current law allows prosecution even for unintentional lapses — like cash flow issues, accounting errors, or administrative oversights — without any requirement of fraudulent or willful intent. This recommendation has been only **partially accepted.**	• The proposal to partially decriminalize such offences is welcome. But it is recommended to fully decriminalize the offences related to TDS/TCS and return filing offences in line with Niti Aayog's recommendations. • Furthermore, the Niti Aayog had recommended withdrawal of reverse burden on the taxpayer

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
			• Further a new restriction is proposed whereby immunity cannot be sought if any prosecution proceeding has been initiated under Chapter XXII. • The restriction effectively bars a taxpayer from availing immunity even in cases of mere under-reporting of income (liable to 50% penalty) where any prosecution proceedings have been initiated—whether for the same assessment year or a different year, and even where such prosecution relates to an unrelated matter, such as a TDS/TCS default.	to prove his innocence beyond reasonable doubt (rather than Tax Department proving the offence, which is generally the case in criminal proceedings). • It is recommended to withdraw this reverse burden on the taxpayers contained in s.490 of ITA 2025 (corresponding to s.278E of ITA 1961) in line with Niti Aayog recommendations. • Delete the proposed restriction of 440 of ITA 2025 or alternatively, restrict the bar only to prosecutions arising from the same addition or issue for which immunity is sought, thereby preserving the dispute resolution intent of the provision
5	MAT credit for companies which transitioned to new regime in past	Section 206 of ITA 2025	**Current Provisions** • The MAT credit accumulated lapses while transiting to new tax Regime from the old Regime. **Issue & Rationale** • The proposed amendment allows carry forward of the MAT credit into the new Tax Regime to companies which shift to the new tax regime	• Allow the companies opting for the new tax regime in AY 2026-27 also to carry forward and set off the accumulated MAT Credit.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
			in Tax Year 2026-27, which was not allowed to companies which shifted earlier, which is unfair to such companies • As such, the amendment allows MAT credit only for companies adopting new tax Regime for Tax Year 2026-27 and not for A.Y. 2026-27, which is unfair to companies entering the new Tax Regime for A.Y. 2026-27 also.	
6	MAT credit c/f under Old Regime	Section 206 of ITA 2025	**Current Provision** • Income distributed by REIT/InvIT out of dividend distribution by SPV of REIT or InVIT opting for new tax regime is taxable in hands of unit holders; while income distributed out of dividend distribution by SPV continuing under old regime is exempt in hands of unit holders. **Issue & Rationale** • SPVs of business trusts continuing under the old regime will be subject to MAT at 14% without allowing any utilisation of MAT credit in future,	• Section 223 r/w Schedule V, Table Sl. No 5 of ITA 2025 (S. 10(23FD) of ITA 1961) may be amended to provide exemption to unit holders in respect of dividend income from business trusts, irrespective of whether SPV has opted for the new or old regime **OR** • SPVs of business trusts which prefer to continue with the old regime may be allowed to utilise their accumulated MAT credit as per the position prevailing currently under the existing law.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
			• This will result in extra tax burden on such SPVs which seek to preserve the tax-free status of dividends for unitholders, reducing the rate of return for unit holders	
7	Capital Gain on Sovereign Gold Bond Scheme	Section 70(1)(x) of ITA 2025 (Section 47(viic) of ITA 1961)	**Current Provision** • Capital gains arising from redemption of Sovereign Gold Bonds issued by the Reserve Bank of India under Sovereign Gold Bond Scheme 2015 are exempt under section 70(1)(x) of the ITA 2025. **Issue & Rationale** • Withdrawal of Capital Gains exemption on such bonds purchased in secondary market adversely impacts those investors who already invested in them on the promise of getting tax free redemptions based on terms of issue.	• Amendment may be made applicable only to SGBs issued on or after 1st February, 2026. • This would be in line with the grandfathering provided for deemed short term capital gains treatment provided for debt mutual funds u/s. 50AA where units are acquired on or after 1 April 2023.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
8	Advance Pricing Agreement	Section 169 of ITA 2025 (Section 92(3) of ITA 1961)	**Current Provision** • Filing of a modified return of income only by the person who has entered into advance pricing agreement (APA) with the Board was allowed. • The provisions do not allow for modifying the return of income or filing of return of income by the associated enterprise whose income and tax liability is correspondingly modified consequent to the APA. **Issue & Rationale** • Section 169(1) is now amended to provide that where an income is modified as a result of APA entered into with any person then, such person shall, or any other person being an associated enterprise, may, furnish a return or a modified return, as the case may be, in accordance with and limited to the agreement. • The machinery provision allowing modified returns under section 169 (1) of ITA 2025 for AEs is rendered ineffective unless the substantive prohibition on downward adjustments as per section 161 (4) is also addressed.	• To correct drafting mistake and to give full effect to the policy/ legislative intent underlying APAs, particularly in the context of corresponding adjustments for AEs, a consequential amendment is needed to clarify that ALP determined under Section 168 and applied in tax return/ modified return filed under Section 169 would also override Section 161(4).

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
9	Mandatory Fees in lieu of Penalty for Tax Audit default	Section 446 of ITA 2025 (Section 271B of ITA 1961)	**Current Provision** • Delay in furnishing tax audit report is subject to levy of penalty of an amount which is lower of 0.5% of total turnover/gross receipts or ₹ 1.50 lakhs. • This was subject to "reasonable cause" protection u/s. 273B of ITA 1961 (s. 470 of ITA 2025) **Issue & Rationale** • Proposed amendment has converted the discretionary penalty into a mandatory graded fee of ₹ 75,000 for delay up to a month and ₹ 1,50,000 for delay beyond a month • There may be various issues beyond the control of the assessee, such as technical problems, emergency situations, such as serious illness or death, etc, which may be a reasonable cause for audit default, in spite of which the fee will be payable.	• Allow for substantiating reasonable cause for delay in filing the Tax Audit Report – fee should be levied only if there is no reasonable cause for the delay.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
10	TDS on NRI Rent payment	Section 393 (2) of ITA 2025 (Table S. no. 17)	**Current Provision** • Obtain TAN for payment of Rent to Non Resident • Further, no threshold limit for deduction of tax on rent payment to Non Resident **Issue & Rationale** • The amendment removing the requirement of obtaining TAN for purchase of immovable property from NRI is welcome and will be a relief to the resident Tax payers • Also, rent payment to residents has a threshold limit of ₹ 50,000 per month with one-time compliance at year end or on termination of tenancy	• The provision should also be made applicable to non-residents purchasing property from a non-resident, who also need to obtain TAN for a single transaction. • Rent payment to NRIs may also be made a one-time compliance without requirement of TAN, on lines of rent payment to residents
11	Form 15G/H	Section 393(6) of ITA 2025	**Current Provision** • Eligible assessees are required to furnish a declaration in Form 15G or Form 15H separately to each deductor for non-deduction of tax at source on dividend income, interest on securities, or income from units of mutual funds	• The said Forms should be extended to Interest on Fixed Deposits also • The Form may be submitted through income-tax portal such that once the taxpayer logs into his account and submits Form 15G/H with relevant names & IFSC/TAN of banks with which

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
			Issue & Rationale • The amendment now allows to submit single Form 15G/H through depository for dividend, interest on securities and income from mutual funds	he holds deposits, it may be processed by the portal and transmitted to relevant banks for compliance with intimation to taxpayer. Alternatively, a suitable mechanism may be devised for this, as this would cover a larger number of taxpayers, particularly senior citizens.
12	Rationalisation of TDS Rate – Professional vs. Technical Services	Clause 78 - relating to amendment of TDS provisions governing Fees for Professional Services, Fees for Technical Services and supply of manpower	**Current Provisions and Issues** • Differential TDS rates under section 194J presently apply to professional services and technical services. With evolving business models, the distinction between the two has increasingly blurred. • Consulting, advisory, engineering, analytics and technology services are now rendered in integrated formats, making classification highly interpretational. • This has resulted in frequent re characterisation disputes during assessments, exposure to disallowance of expenditure on account of short deduction, consequential levy of interest and penalty and significant working capital blockage due to higher withholding.	Align and standardise the TDS rate on professional services under section 194J with the rate applicable to technical services at 2%.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
13	Drafting Anomaly – Immunity from Penalty & Prosecution	Clause amending Section 440 of ITA 2025 (corresponding to Section 270AA of ITA 1961)	The Finance Bill proposes to extend immunity from penalty and prosecution even in cases involving misreporting of income subject to payment of prescribed additional tax. However, the drafting of the provision suggests that additional tax is payable on the entire under reported income rather than only on the misreported component. A literal interpretation would create disproportionate liability and defeat the legislative intent of facilitating dispute closure.	Amend the provision to insert the word "such" before the phrase "tax payable on under reported income" to clarify that additional tax applies only to the misreported portion.
14	Surcharge on Additional Tax – Buyback of Shares for Promoters	Clause 34 – Amendment to Section 69 of ITA 2025 read with First Schedule	• The Amendment proposes levy of additional tax on buyback of shares in the hands of promoters. • However, the First Schedule does not expressly provide for surcharge applicability in respect of such additional tax, particularly for non corporate promoters. • Absence of an express charging provision may give rise to interpretational disputes and litigation.	• Amend the First Schedule to expressly provide surcharge applicability on such additional tax. • Alternatively, integrate the levy within the capital gains charging provisions to avoid ambiguity. • The Surcharge to be capped at 15% like other capital Gains Provisions and Dividend provisions.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
15	Curative Amendments to be Granted Retrospective Effect	Multiple taxpayer beneficial amendments across Finance Bill 2026	Several amendments proposed in the Finance Bill are curative in nature and intended to remove hardship or anomalies. However, these are proposed prospectively, which may prolong litigation for prior years and create inequity between similarly placed taxpayers. Judicial precedents have consistently held that curative amendments should operate retrospectively.	• Provide retrospective effect to all curative amendments providing relief to taxpayers. This will reduce litigation, ensure parity, and align with settled judicial principles on retrospective application of remedial provisions.
16	Interest on delayed payment of Tax	Section 234B of the ITA 1961	**Issue & Rationale** • Interest under section 234B should not be applicable to cases where retrospective amendments are made	• Specified provision should be provided ensuring that for interest applicability to be prospective from the date that the amendment is made, in respect of tax on income becoming taxable due to the retrospective amendments
C	**FAST Disclosure Scheme 2026**			
17	NA	Sr. No. 2 of Table in section 117 of the Finance Bill, 2026 provides an eligibility condition of asset value being less than or equal to INR 5 crore	• This restricts the number of taxpayers who can avail the benefit under the Scheme, resulting in unnecessary litigation. • The taxpayers who would be opting for the Scheme under this clause would be those where there is no tax payable but only that the foreign asset has not been disclosed in the return.	• Given that there is no loss to the revenue and most would be genuine situations where the disclosure of the asset has been missed inadvertently without any ill-intent, the restriction in the value for availing the scheme under this clause (Sr. No. 2) should be removed.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
18	NA	Sr. No. 2 of Table in section 117 covers certain categories of assessee who can provide the declaration under the Scheme.	Sub-clause (a) refers to a non-resident when the asset was acquired but did not declare the assets in the ITR on becoming a resident. Sub-clause (b) refers to asset acquired out of income which has been offered to tax. This may not cover all situations, where there is only a non-disclosure of assets in the return but no tax payable under the Act. Some of these situations have been enumerated as under: • An assessee who has acquired the asset when he was a not ordinarily resident out of income accruing and received outside India • An assessee who has acquired the asset out of income which is exempt from tax either under the ITA 1961 itself or the relevant DTAA, as the case may be • An assessee who is only a legal owner but not a beneficial owner of the asset nor of the income. For example, in the case of joint holders where the other person's name has been added merely for the sake of convenience	• Sr. No. 2 should be amended to allow all assessee where neither the asset nor income is undisclosed, and it is merely a case of non-disclosure of the asset in the return, to also pay the fee of INR 1 lakh for such technical non-disclosure.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
			• An assessee who is neither the owner nor earned any income from the asset, such as a person who has signing authority in a foreign bank account or a beneficiary of a discretionary trust where no income has been distributed to the beneficiary	
19	NA	Sr. No. 2 of Table in section 117 covers certain categories of assessee who can provide the declaration under the Scheme	This clause refers to situations where there is no undisclosed asset or undisclosed income, but the disclosure has not been made in the relevant schedule of the return of income. The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 only provides that the foreign asset has to be disclosed in the return of income but does not refer to the specific schedule in which the asset has to be disclosed. Therefore, the courts have rightly held that where the asset has been duly disclosed in any other part in the return of income, such disclosure shall be sufficient and mere non-disclosure in Schedule FA would not result in a penalty under section 43 of the BMA.	The reference to the relevant schedule in the return should be replaced with anywhere in the return of income.

Sr. No.	Proposed Amendment	Relevant clause of the Finance Bill/Section of Income-tax Act, 1961 / 2025	Provision and Issues	Recommendations
			While not having a specific impact on the ability of the assessee to avail the Scheme, it is seen that during assessment proceedings under the BMA, the tax authorities often refer to such schemes while levying penalty. Referring to the relevant schedule for non-disclosure instead of the return as a whole could result in wrongly penalising a genuine assessee. There could be situations where the assessee has duly disclosed the asset elsewhere in the return (say for example the Schedule for bank accounts) but has missed disclosing the asset in Schedule FA, would result in the tax authorities wrongly penalising a taxpayer. The very fact that it has been disclosed elsewhere in the return of income itself shows that there is no malafide intent of the assessee.	
20	NA	Sr. No. 2 of Table in section 117 covers certain categories of assessee who can provide the declaration under the Scheme. The said clause provides a fee payable of INR 1 lakh.	As the scheme refers to the asset in singular and not in plural or aggregate, ambiguity exists as to whether the fee of INR 1 lakh is payable for each asset not disclosed in the return or the fee is payable for all assets in that year in aggregate.	Clarification should be provided that the fee of INR 1 lakh should apply for all assets not disclosed in that year in aggregate.