



**BUDGET**

- 
- 
- 
- 

# **BUDGET PANORAMA 2022**

**advith**  
CONSULTING  
[www.advithconsulting.in](http://www.advithconsulting.in)

## Content

1. FOREWORD	3
2. MACRO-ECONOMIC SCENARIO	4
3. DIRECT TAX RELATED PROPOSALS	8
1. Rates of Tax for individuals	8
2. Proposals relating to filing of Income-tax Return	8
3. Proposals relating to Business Income and Companies	9
4. Proposals relating to Capital gains taxation	11
5. Proposals relating to Tax Incentives - International Financial Services Centre(IFSC)	11
6. Proposals relating to Covid-19 Relief	12
7. Proposals relating to Business Reorganisation	12
8. Proposals relating to Taxation of Virtual Digital Assets	12
9. Proposals specifically relating to exemptions of trusts and certain institutes	13
10. Proposals specifically for Faceless Assessment Scheme	16
11. Proposals relating to Income escaping assessment provisions	17
12. Proposals relating to Start-ups	18
13. Proposals relating to deduction and collection of tax at source	18
14. Proposals relating to assessments and dispute resolution	20
15. Miscellaneous Provisions	21
16. Penalty Provisions	22
3. INDIRECT TAX RELATED PROPOSALS	23
1. Central Goods and Services Tax Act, 2017	23
2. Customs Law	25
4. OTHER ALLIED LAWS	26

## Foreword

Amidst the growing worry due to the 3rd Covid wave, in particular the Omicron wave, the Hon'ble Finance Minister of India (FM) presented the Budget 2022 on 1st February 2022. The Economic Survey which was tabled before the India Parliament indicated a real GDP expansion of 9.2% in 2021-22, which showed a faster recovery of the economy after it contracted in FY 2020-21. This is a positive sign and also shows the resilience that the Indian economy inherently has.

The FM has set a vision for the next 25 years and sought to lay foundation towards that. This is an extremely welcome approach. This Budget saw a shift towards digital push for all the activities, including reading out the Budget from a Digital mode clearly indicates that this Government is heavily banking on digital modes to achieve the vision that has been set. In addition, paving way for Digital Rupee using blockchain is a bold step, so far, no major economy in this world has done.

The FM mentioning the usage of drones, Battery swapping policy in the Budget speech clearly indicates that the Government is proactive and open to adopt newer technologies in public policy. With a wide number of announcements relating to agricultural, food processing, providing water to each household etc, the FM clearly gave a very balanced message throughout the budget speech. Like any other long-term goal-oriented activity, the implementation holds the key. One can only hope that the implementation is as focused and proactive as the proposal itself.

Coming to the revenue collections, Government has been successful in ensuring record collections in GST and expanding the tax base as far as Income taxpayers in the last one year. This, no doubt, provides a strong validation to Government's policy measures, it is also essential that the Government does not become complacent and forget its promises to ensure 'Minimum Government & Maximum Governance'. The difficulties that the taxpayers have been facing due to some impractical amendments in the GST law, fluctuating IT infrastructure for the GST and Income Tax compliances have been a matter of huge disappointment to the taxpayers and tax professionals. It is essential that the Government provides enough focus on ensuring that 'Ease of doing business' is reflected on all the fronts of the Government till the last mile.

On the amendments proposed to Income tax law, the good thing is that there aren't too many amendments made. However, some of the amendments, especially those relating to charitable trust and institutions, in some instances, seem extremely onerous. Further, the amendment relating to putting the onus on the borrower of money to prove the source of the lender, goes against the principles laid down by Supreme Court in various judgements. This also seems to be a burden on the taxpayer when the Income tax department has the means to collect enough and more information about any person under various provisions of the Income tax law. The proposal on Updated Return seemed like a big deal when announced but practically to me it is a non-starter on reading through the fine print.

Overall, the budget for 2022-23 is growth oriented, seeks to heavily rely on new technology and focuses largely on long term objective. It may also be essential for the Government to consider to be more open to public consultation as far as tax laws and practices. This would provide the taxpayers a sense of ownership and satisfaction in nation building.

**Krishna Upadhyia S**  
Lead, Direct Tax Services

## Macro-Economic Scenario

The Budget for the year 2022-2023 was presented with a renewed vision that the Government has for the next Fiscal Year. The upcoming Fiscal Year's focus was drawn towards the following four programs:



### 1. PM GatiShakti

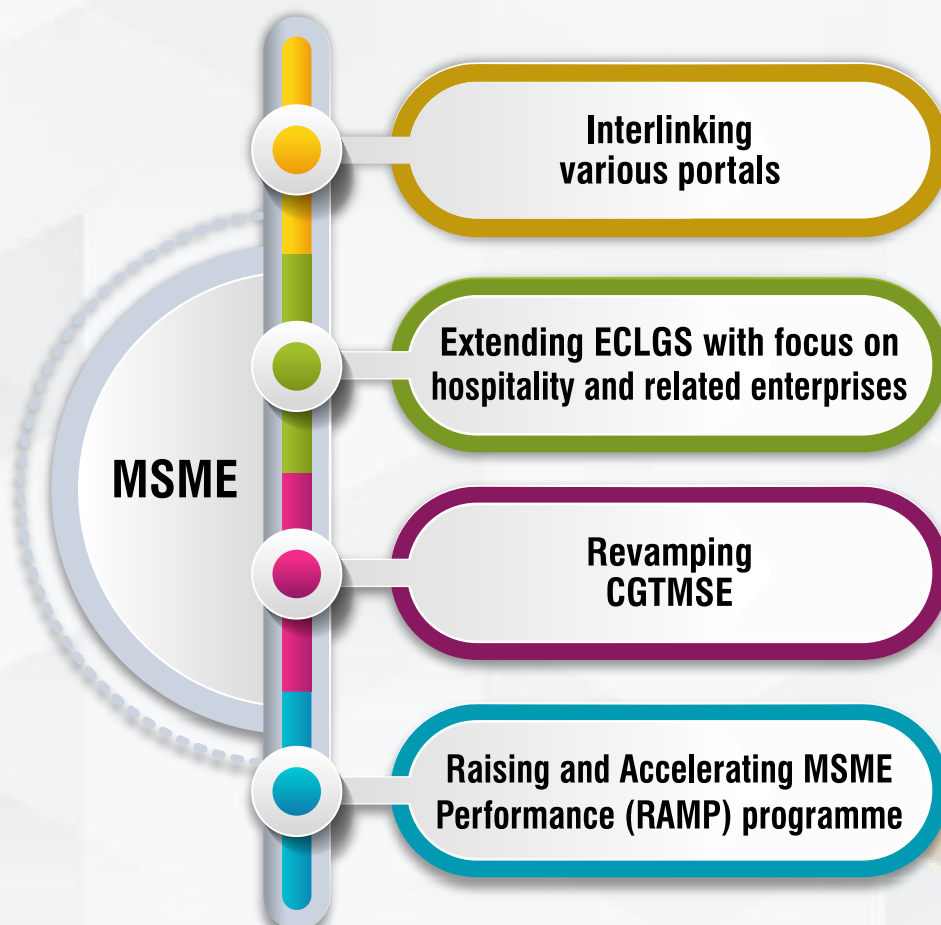
The PM GatiShakti represents a plan of transformation wherein the improvement of the entire infrastructure inclusive of Roadways, Railways, Waterways, Airways and the other Logistics Infrastructure. There is a National Master Plan that will cover the scheme of PM GatiShakti. The Plan can be briefed as below:

- ◆ Synergy of all modes of transport and Logistics Infrastructure.
- ◆ A fund of Rs. 20,000 crores has been budgeted for expansion of the National Highways by 25,000 kms.
- ◆ A Unified Logistics Interface Program (ULIP) shall be developed for data exchange and seamless travel.
- ◆ “One Station- One Product” and other such new products and services will be launched for helping the small farmers and MSMEs.
- ◆ Over the next 3 years, a plan of launching 400 new generation trains along with 100 PM GatiShakti Cargo Terminals has been laid out.
- ◆ A focus on innovation towards designing of metro systems and civil structures has been drawn.
- ◆ A National Ropeways Development Program, “Parvatmala” has been proposed to be launched for better connectivity in the Hilly Areas as well as tourism promotion.
- ◆ Technology as well as management support will be drawn from the Central and State Ministries for the implementation of the National



## 2. Inclusive Development

- ◆ **Increased Focus on Agriculture:** The Budget announced promotion of Chemical Free Farming and focus on increased production of Millets and Oilseeds to for domestic consumption and imports. Digitalization in Agriculture was also announced including the usage of 'Kisan drones' by farmers for monitoring, digital transforming of records and usage of technology for the farming and other agricultural activities. Knowledge improvement measures included the change of the University Syllabus for those who study Farming and Capital Improvement measures included infusion of fund blended capital by NABARD.
- ◆ **Ken Betwa Project:** The budget for the project was announced at Rs. 1,400 crores for 2022-23 and various rivers will be linked for the implementation of this project and meeting the irrigational needs of the farmers.
- ◆ **MSMEs:** The Emergency Credit Line Guarantee Scheme (ECLGS) would be further extended upto March 2023 and the Credit Guarantee Trust for Micro and Small Enterprises (CGTMSE) will be further improved to extend an additional credit of Rs. 2 lakh crores. Another Raising and Accelerating MSME Performance (RAMP) program will be launched and implemented over the next 5 years.



- ◆ **Har Ghar, Nal Se Jal:** Allocation of Rs. 60,000 crores has been made in the Budget for the next Fiscal Year has been made for covering additional 3.8 crore households.
- ◆ **Prime Minister's Development Initiative for North-East Region (PMDevINE):** This scheme is announced for focused development of the North-Eastern States with an initial budget of Rs 1,500 crores has been allotted.
- ◆ **Skill Development:** For National development of Skills, the DESH-Stack eportal– will be launched, enabling digital skill development and promotion will be extended to Start-ups for facilitating 'Drone Shakti' apps as well as for Drone-As-A-Service (DrAAS).
- ◆ **Digital Banking and Payments:** The Government has proposed to set up 75 Digital Banking Units and increased promotion of digital payment platforms has been announced.

### 3. Productivity Enhancement & Investment, Sunrise Opportunities, Energy Transition, and Climate Action

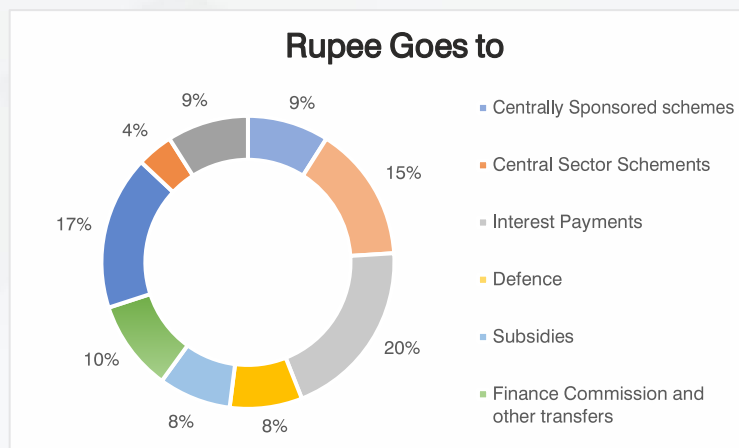
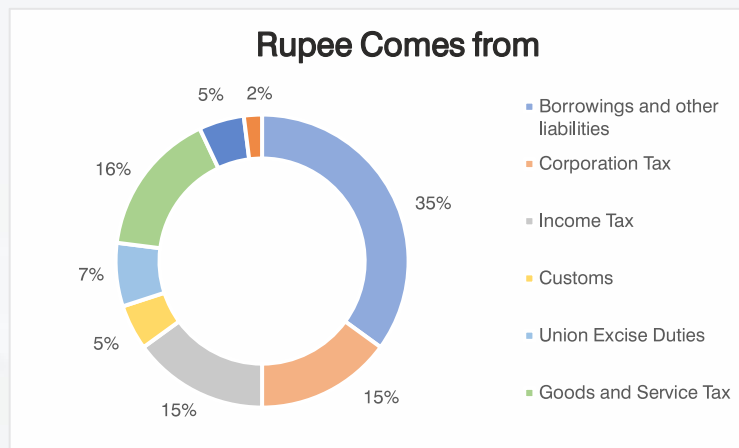
- ◆ Introduction of E- passports for enhancement and convenience for international travel was announced.
- ◆ Promotion of zero fossil-fuel policy and EV vehicles was announced, wherein to improve availability of EVs, 'Battery or Energy as a Service' will be introduced.
- ◆ In view of integration and digitization of land records, 'One-Nation One-Registration Software' will be introduced.
- ◆ Centre for Processing Accelerated Corporate Exit (C-PACE) will be introduced for faster winding up of Companies.
- ◆ Amendment of the Special Economic Zones Act has been proposed.
- ◆ The budget for equipment for Armed Forces has been increased to 68%, thereby reducing imports.
- ◆ An additional fund of Rs. 19,500 crores has been announced for production of solar power.

### 4. Financing of investments

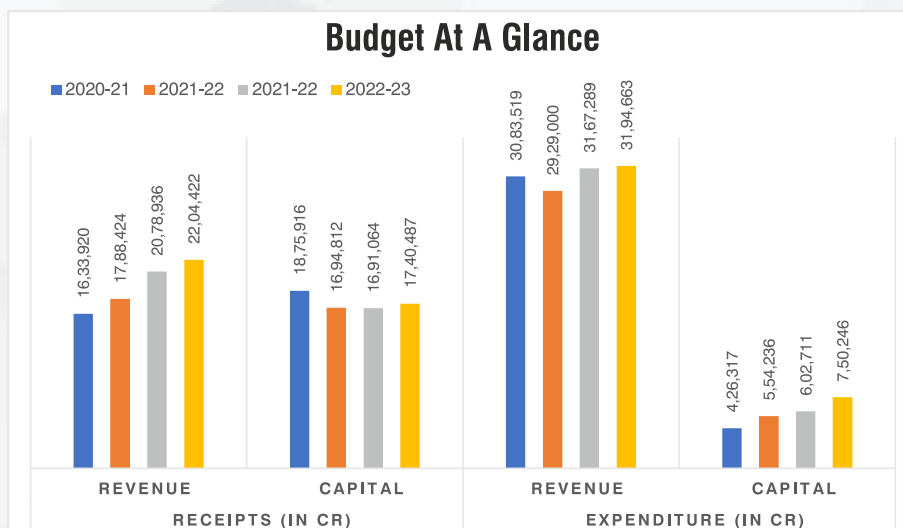
- ◆ The Capital Expenditure has been increased by 35% resulting to Rs. 7.5 lakh crores in the upcoming year. This, put together with the grants to states, amount to Rs. 10.68 Lakhs making it to 4.1 % of the GDP.
- ◆ The proceeds of Government Bonds issued will be used for projects that help in reducing the carbon emission, thereby termed as “Green Bonds”.
- ◆ The set-up of Foreign Universities, International Arbitration Centers and Capital Facilitating centers in the GIFT City has been planned in the Budget.

- ◆ Digital Rupee will be introduced, backed up by the Reserve Bank of India using blockchain and other technologies.
- ◆ The outlay under 'Scheme for Financial Assistance to States for Capital Investment' has been enhanced to Rs. 15,000 crores.

## Rupee - Incoming and Outgoing



- ◆ The total expenditure in 2022-23 is estimated at Rs. 39.45 lakh crore, while the total receipts other than borrowings are estimated at Rs. 22.84 lakh crore.



## Direct Tax Related Proposals

All the proposals are applicable from AY 2023-24, unless specifically specified.

### 1. Rates of Tax for individuals

- There are no changes proposed in the tax rate or tax slabs for any of the taxpayers

### 2. Proposals relating to filing of Income-tax Return

#### Section 139(8A) - Option to file updated tax return

- A new sub-section (8A) has been introduced under the Section 139 which proposes to allow a taxpayer to file an updated tax return within two years from the end of the relevant AY. This option is available whether or not an original return was filed by such taxpayer.
- The option to file the updated return will not be available in the following cases:
  - ◆ If it is a return declaring a loss; or
  - ◆ Has the effect of decreasing the total tax liability, results into a refund or increases a refund as compared to the return which was originally filed
  - ◆ Where search has been initiated or survey has been conducted or when there are some other connected scenarios, for the relevant AY and two years preceding the relevant AY.
  - ◆ If an updated return has already been filed for the same AY.
  - ◆ If assessment/reassessment/revision/re-computation is pending or has been completed for the same AY
  - ◆ The tax office has information available under specified laws (relating to Smugglers Act or Black money laws) and the same has been communicated by the tax officer to taxpayer.
  - ◆ The tax officer has information obtained under India's tax treaties and the same has been communicated to the taxpayer prior to filing the updated return.
  - ◆ Prosecution proceedings have been initiated prior to filing of updated return.
  - ◆ Such person as may be notified by the Board.
- In addition to the above provision for filing updated returns, it has also been proposed to insert a new Section 140B which provides for payment of tax on filing the updated return.
- Section 140B mandates payment of tax, interest, fees for delay in filing of return, along with payment of additional income tax, as further provided in the same section.



- The additional income tax to be paid will be worked out as under:
  - ◆ 25% of aggregate tax and interest if the updated return is filed within 12 months.
  - ◆ 50% of aggregate tax and interest, if updated return is filed beyond 12 months
- A consequential amendment to Section 234A and Section 234B to include that interest is not payable on the additional income tax has been proposed.
- There have been consequential amendments in section 144, section 153 [allowing a time limit of 9 months from the end of the financial year in which 139(8A) return has been filed] and 276CC [non-initiation of prosecution if the return is filed u/s 139(8A)].

### 3. Proposals relating to Business Income and Companies

- No change in tax rates for Corporates or any other form of entity has been proposed.
- The option to choose lower rate of tax for new manufacturing companies as available in Section 115BAB which was erstwhile available for companies incorporated till 31 March 2023 is now proposed to be extended for those companies incorporated till 31st March 2024.
- Concessional rate of tax available to Indian companies receiving dividends from Foreign Companies, where the Indian company held 26% or more equity shares, as per section 115BBD is proposed to be abolished from AY 2023-24.

#### Section 35 – Expenditure on scientific research

- Section 35 provides for deduction on certain expenditure made towards scientific research. In Finance Act, 2021, an amendment was made that such expenditure paid to certain institutions are allowed for the Donor, only if such research association, university, college etc furnishes the statement of donations.
- It has been now proposed to alter the language of this provision (owing to a drafting error earlier), which earlier appeared to mean that deduction was not allowed for such research association, university, college, which in the first place is not even claiming them as expenditure.
- The above proposed amendment will take effect retrospectively from 1 April 2021

#### Section 37 – Non-allowance of expenses

- Explanation 1 provides that no deduction shall be allowed in respect of expenditure incurred for purpose which is an offence, or which is prohibited by law.
- Now, it has been proposed to insert an Explanation enhancing the definition of what constitutes expenditure incurred for purpose which is an offence, or which is prohibited by law. The Explanation provides the following:



- ◆ Expense for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India, or
  - ◆ Providing any benefit or perquisite to a person (whether carrying on business or profession) and providing such benefit or perquisite is in violation of any law or rule or regulation or guidelines
  - ◆ To compound an offence under any law for the time being in force, in India or outside India.
- The memorandum also explains the example of pharmaceutical companies providing freebies to the medical practitioners which violates the provision of Indian Medical Regulations are the kind of scenarios which are sought to be covered in this provision.

### **Section 40(a)(ii) - Treatment of Cess or Surcharge**

- Section 40(a)(ii) provides that any taxes levied by the Act on the Income would not be allowable as an expenditure while computing Income from Business or Profession.
- Whether Education cess and Surcharge levied over, and above tax is covered under as a disallowance under Section 40(a)(ii) or not was a subject matter of litigation and various tax tribunals had held that such cess and surcharge is not disallowed
- It has now been proposed to clarify that the term “tax” includes any surcharge or cess. This means that it shall not be deducted (allowable expenditure) while computing the income chargeable under the head "Business Income".
- This clarification will have a retrospective effect from 1st April, 2005 and accordingly, will apply in relation to the assessment year 2005-06 and subsequent assessment years.

### **Section 43B – Certain deductions on actual payments**

- Section 43B allows certain expenditures as a deduction while computing Business income only on actual payment basis. One of such expenditures was Interest on Loans. Explanation 3 in 43B had clarified earlier that converting the interest on loan to loan does not tantamount to payment.
- Now it is proposed to also include that conversion of Interest payable on loan into debenture or any other instrument which will defer the payment would not construe as payment for allowing it as a business expenditure.
- These amendments are applicable from AY 2023-24

### **Section 79 - Carry forward of losses in case of disinvestment**

- Sub-section (1) of Section 79 provides that in case of private company, loss of any previous year shall not be carried forward if shares carrying not less than 51% of voting power during the previous year were beneficially held by the same persons who were the beneficial owner of the shares which carries not less than 51% of the voting power during year of loss.

- Sub-section (2) of section 79 provides circumstances in which provisions of sub-section (1) shall not apply.
- It is now proposed to insert additional clause in sub-section (2) that the sub-section (1) shall not apply to erstwhile public sector company (company which cease to be a public sector company by way of strategic disinvestment by the Government) where after strategic disinvestment, the holding company of erstwhile public sector company continues to hold, directly or through its subsidiary/ies, not less than fifty-one per cent of the voting power of such company in aggregate.

### **Section 79A - No setting off of losses against undisclosed income**

- It is proposed to insert new section which provides that losses including brought forward losses or unabsorbed depreciation cannot be set off against the undisclosed income included in the total income of any previous year as a result of search initiated under section 132 or a requisition made under section 132A or a survey conducted under section 133A, other than under sub-section (2A) of section 133A.

## **4. Proposals relating to Capital gains taxation**

- Reduction of goodwill from block of assets to be considered as 'transfer' for the purpose of section 50.
- Surcharge on capital gains taxable under Section 112 is proposed to be capped at 15% irrespective of the quantum of income.

## **5. Proposals relating to Tax Incentives - International Financial Services Centre (IFSC)**

- Transactions carried out in IFSC have been provided with various tax exemptions subject to fulfilment of specified conditions
- The following additional exemptions have been provided to non-residents
  - ◆ Income from offshore derivative instruments or over-the-counter derivatives [Section 10(4E)]
  - ◆ Income from royalty and interest on account of lease of ship [Section 10(4F)]
  - ◆ Income received from portfolio management services [Section 10(4G)]

The above proposed amendment will take effect from AY 2023-24

- Rigorous taxation for unlisted private limited companies on issue of shares at values in excess of Fair Market value is provided in section 56(2)(viib). The section also provides for exception of application of these provisions provided the investment is received from certain type of investors. Amendment has now been proposed to include investment by a Category I and Category II AIF registered under IFSC law under such list of exceptions.



## 6. Proposals relating to Covid-19 Relief

- **Provision to Section 17(2)** is amended to include that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject to such conditions, as may be notified by the Central Government, shall not be forming part of “perquisite”.

### Section 56(2)(x) - Exemption on amount received on account of COVID 19

- ◆ By employee or any other person - It has been proposed that amount paid by the employer or any other person in respect of any expenditure actually incurred on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 shall not be treated as income from other sources
- ◆ By Family of the deceased person – Amount received from employer of the deceased person by the family of the deceased person from the employer is fully exempt upto an amount of INR 10 lakhs, the sum is received within twelve months from the date of death of such person and such other conditions as maybe notified by Central Government. The term family for this provision is to be understood as provided for in Explanation 1 to section 10(5).

## 7. Proposals relating to Business Reorganisation

- Section 170(2A) - It is proposed to insert sub-section that in case of business reorganization by amalgamation, merger or demerger; assessment or reassessment or other proceedings conducted during the pendency of such reorganisation on the predecessor entity shall be deemed to have been made on successor entity.
- A new **section 170A** is proposed to be introduced to mandate filing a modified return by a successor entity within six months by from the end of the month of passing an order of business reorganisation by High Court or Tribunal or adjudicating authority as defined in Insolvency and Bankruptcy Code, 2016

## 8. Proposals relating to Taxation of Virtual Digital Assets

- There has been tremendous increase in the transaction through Virtual Digital Assets. The extent of its widespread and frequency of transaction made tax authorities to look for specific tax regime and it was one of the key aspects expected in the rolled-out budget.
- Section 2(47A) has been newly inserted to provide the definition of Virtual Digital Assets as under:

- ◆ Information, code, number, or token generated by cryptographic means which provide a digital representation of value whether for consideration or not with the promise or representation of having inherent value, or functions as a store of value or a unit of account and includes its use in any financial transaction or investment, but not limited to, investment schemes and can be transferred, stored or traded electronically.





- ◆ Non fungible token and any other token of similar nature are also included in the definition.
- ◆ Central Government may notify any other virtual digital assets by way of notification in the Official Gazette
- **Section 115BBH** has been newly inserted (which is applicable from AY 2023-24) to provide for the income-tax payable where the total income of the taxpayer includes any income from transfer of any virtual digital asset
  - ◆ At flat rate of 30 percent.
  - ◆ No deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed to the taxpayer in computing the income for this purpose
  - ◆ No set off or carry forward of any loss arising from transfer of virtual digital asset shall be allowed against any income computed under any other provision of the Act
- Section 194S has also been newly inserted with the intent to provide for deduction of tax at source on payment for transfer of virtual digital asset to a resident at the rate of 1 percent of such sum including the scenarios where transactions are settled partly in cash and partly in Virtual Digital Assets. This provision is applicable from 1st July 2022.
- Monetary threshold proposed for trigger of Section 194S prescribed as of now are:
  - ◆ For Individual/HUF not having tax audits – Rs 50,000, and
  - ◆ Others Rs 10,000.
- If tax has been deducted under section 194S, then no tax is to be deducted in respect of these transactions including 194-O (Payment of certain sums by e-commerce operator to e-commerce participant).
- The bill proposes to bring 'gift of virtual digital assets' also in the ambit of taxation. Such gift to be taxed in the hands of the recipient. An amendment to Section 56(2)(vii) and Section 56(2)(x) has been proposed to include virtual digital assets under the definition of property. Such amendment is expected to be in effect from AY 2023-24.

## 9. Proposals specifically relating to exemptions of trusts and certain institutes

### Voluntary Contribution

- Amendments are proposed to be inserted in Section 10(23C) and Section 11 in respect of those trusts or institutions having temple, mosque, gurdwara, church or other place (for brevity referred as place of worship) and receiving voluntary contribution for the purpose of repair or renovation for such place of worship. Accordingly, such trust or institution can treat the voluntary contribution as part of corpus on satisfaction of the following conditions:
  - ◆ Applies such corpus only for the purpose for which the contribution was made

- ◆ Does not apply such corpus for making contribution or donation to any person
- ◆ Maintains such corpus separately identifiable and
- ◆ Invests or deposits in mode prescribed in 11(5)

If such conditions are not satisfied, then such sum shall be the income of such trust or institution during year of violation

This will be in effect retrospectively from 1st April 2021 and therefore applicable for AY 2022-23.

### **Accumulation of Income**

- An Explanation has been proposed to be added under section 10(23C), in case 85% per cent of the income is not applied as per the objects but is accumulated or set apart for application for the object of the institution, accumulation shall not be considered income of the trust or institution on satisfaction of following conditions
  - ◆ Such person furnishes statement in a prescribed form to the Assessing Officer before the due date of filing the return
  - ◆ The money so accumulated or set apart is invested or deposited as per the Act

In case of violation of the above conditions, the same will be treated as income in the Assessment Year in which the condition has been violated. These provisions are similar to what was available for those institutions covered for exemption under section 11 of the Act.

### **Books of accounts to be maintained**

- There is a proposal to amend the 12A(1)(b) and section 10(23C) of the Act to provide that where the total income of the trust or institution, without giving effect to the exemption section (Section 10(23C), Section 11 or Section 12), exceeds the basic exemption limit, such trust or institution shall keep and maintain books of account and other documents, as may be prescribed. This is in addition to the requirement for audit which already existed in these provisions. These provisions are applicable from AY 2023-24.

### **Power of Principal Commissioner/Commissioner**

- The below amendment has been proposed to be made u/s 10(23C) and 12AB and are applicable from 1st April 2022.

It is proposed that where the registration or provisional registration of a trust or an institution has been granted under either of the above provisions and PCIT/CIT

- ◆ Notices any occurrence of one or more specified violation, or
- ◆ It has received a reference from the Assessing officer u/s 143(2), or
- ◆ Such cases have been selected under risk management strategy

In case of any of the above occurrences, PCIT/CIT shall:

- ◆ Call for such documents/information, or
  - ◆ Make such inquiry as he thinks necessary or
  - ◆ Pass an order in writing cancelling the registration after giving opportunity of being heard or refuse to cancel the registration if he is not satisfied of the occurrence of one or more specified violation.
- Specified violation is defined to include applying income other than for objects of the trust or institution; has income from Business or Profession which is not incidental to the objects; carries on activities which are not genuine or in accordance with all or any conditions for which it was established; or has not complied with any other law and the finality on such non-compliance has been achieved.

### **Taxable Income Calculation**

- It is proposed to provide for a method of calculation of Income of Trust or Institution, which violate some of the conditions prescribed u/s 10(23C) or for violation of certain conditions u/s 11 as provided in section 13. The computation of income is informed to be carried out by deducting expenses (other than those spent from corpus or from loan), depreciation (other than on assets which were claimed as application in a previous year), donations cannot be claimed as expenses and also no loss set-off shall be allowable.

While taxability of income on violation of the provisions existed in the law. However, mode of computing the income has been inserted now, w.e.f AY 2023-24.

### **Application of income only on actual payment basis**

- It is proposed that an income is considered as having been applied for the purpose of the trust or institution u/s 10(23C) and section 11 only on actual payment basis. Where such application is merely provided for, it will not be allowed in such year and will be allowed only when it is actually paid.

### **Tax rates (Section 115TD, Section 115TE and Section 115TF)**

- Provisions of Section 115TD, 115TE and 115TF regarding taxation of accreted income has been made applicable to trust or institution registered under Section 10(23C) as well.
- **Section 13** – It is proposed amend provision of Section 13 to cover trust or institution registered under 10(23C). Accordingly, trust or institution registered under 10(23C) are not allowed to pass on any unreasonable benefit to the trustee or any other specified person.

### **Penalty provisions under Section 271AAE**

- It is also proposed to insert a new section 271AAE to provide for the penalty on trusts or institution which is equal to amount of income transferred for the benefit of specified person where the violation is noticed for the first time during any previous year and twice the amount of such income where the violation is notice again in any subsequent year.

## **Section 115BBI – Tax on specified incomes**

- A new section 115BBI has been inserted, according to which the following incomes (specified incomes) of the trust or institution registered under section 11, or under section 10(23C) be taxable at the rate of 30%
  - ◆ Income accumulated or set apart in excess of 15%
  - ◆ Deemed income as referred to in Section 11(1B) or Section 11(3)
  - ◆ Income which is not exempt under 10(23C) because of violations of the provision of section 10(23C)
  - ◆ Income which is applied for charitable or religious purpose outside India.

## **10. Proposals specifically for Faceless Assessment Scheme**

- Existing procedure of the Scheme has been amended to streamline process:
  - ◆ The entire Section 144B has been proposed to be amended
  - ◆ Regular Assessment (Section 143), Best Judgement Assessment (Section 144) and Re-assessment (Section 147) to be covered under the Scheme
  - ◆ Special Audit under Section 142(2A) may be initiated under the Scheme
  - ◆ National Faceless Assessment Centre (NaFAC) will be the coordinator between the taxpayer, Specific Assessment Unit, Verification Unit, Technical Unit and Review Unit
  - ◆ Draft Order issued by NaFAC in Transfer Pricing cases and Assessment Proceedings on Non-Residents, Final Orders in case other cases
  - ◆ In case of Draft Order,
    1. For Acceptances – the taxpayer will have to inform the NaFAC
    2. For Objections – the taxpayer will have the objections with the Dispute resolution Panel and the NaFAC
  - ◆ Taxpayers can request for an personal hearing to make oral submissions or present his case. In such circumstance, such personal shall be granted by NaFC through Video Conferencing or Video Telephone [Section 144B(6)(viii)]
  - ◆ NaFAC will have the authority to transfer the proceedings to jurisdiction of the Assessing Officer [Section 144B(8)]
  - ◆ Sub-section (9) of Section 144B is proposed to be omitted retrospectively.



- Deferment of faceless assessment / appeal for Transfer Pricing provisions, Dispute Resolution Panel, filing of appeals before the Appellate Tribunal to 31 March 2024
- Proposals relating to Faceless Appeals – The proposed Faceless appeal before ITAT which were to be notified before 31st March 2023 has been deferred upto 31st March 2024.

## 11. Proposals relating to Income escaping assessment provisions

### **Section 148 - Issue of notice where income has escaped assessment.**

- It is proposed to insert a new proviso in Section 148 that no further approval shall be required to be obtained by the Assessing Officer for issuing notice under section 148 in case of order has been passed under section 148A(d).
- The scope of reasons for reopening assessment has been expanded to include the following:
  - ◆ Any audit objection
  - ◆ Any information received under arrangement as provided in section 90 / 90A
  - ◆ Information received by Assessing Officer under faceless collection of information
  - ◆ Information requires action in consequence of the order of the tribunal or court

### **Section 148A - Conducting inquiry, providing opportunity before issue of notice under section 148**

- It is proposed to amend that prior approval of the specified authority is not required to provide an opportunity of being heard
- It is also proposed to insert additional clause to proviso that section 148A is not applicable in case Assessing Officer received information under faceless collection of information scheme
- **Section 148B (New Section)** - It is proposed to insert that Officer below the rank of Joint Commissioner shall not pass order without prior approval of Additional Commissioner or Additional Director or Joint Commissioner or Joint Director in case assessment made based on information obtained by Assessing Officer as provided under Explanation 2 to section 148

### **Section 149 – Time limit to Issue notice**

- It is proposed no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st April, 2021, if a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of section 149 or section 153A or section 153C



- Section 149 is amended to provide that notice under Section 148 can be issued beyond 3 years and up to 10 years from the end of relevant Assessment Year, only where the AO possesses evidence that income escaped assessment for Rs. 50 lakhs or more is represented
  - ◆ In the form of an asset, or
  - ◆ Expenditure in respect of a transaction or in relation to an event or an occasion (newly insert), or
  - ◆ An entry in the books of account (newly inserted)
- Further, if the expenditure incurred relates to more than one Assessment Year, notice under issuance of separate notices under Section 148 for each of such Assessment Year is proposed.

### **Section 153B – Timelimit for completion of assessment in case of search**

- It is proposed that time limit provided section 153B shall not apply to any search or initiated under section 132 or requisition made under Section 132A on or after the 1st Day of April 2021.

## **12. Proposals relating to Start-ups**

- The existing provisions of section 80-IAC provide for a deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up for 3 consecutive assessment years out of 10 years, at the option of the taxpayers. This provision had a sun-set clause of start ups incorporated before 1st April, 2022. This is now proposed to be extended upto 1st April, 2023.

## **13. Proposals relating to deduction and collection of tax at source**

### **TDS on sale of immovable property (other than agricultural land) – Section 194-IA**

- Section 194-IA of the Act requires that buyer of an immovable property shall deduct tax from a resident seller at the rate of 1% of consideration for transfer of immovable property. Further, such tax is to be deducted only if the consideration for the transaction is INR 50 lacs or more. Now, 194-IA has been amended to apply 1% tax deduction on higher of stamp duty value or the transaction value. Further, no deduction is required to be made where the consideration for transfer and the stamp duty value are both less than INR 50lacs.
- An explanation to the phrase “stamp duty value” has been provided referring to Section 56(2)(vii) viz. the value adopted or assessed or assessable by any authority of the Central Government or a State government for the purpose of payment of stamp duty in respect of an immovable property.
- The provision for taxation on transfer of immovable property (section 43CA or 50C) provides that the transaction value itself could be considered as consideration where the variation between the transaction value and stamp duty value is less than 10%. No such leeway is provided in 194-IA. This could result in a situation where taxation to the seller is on transaction value but TDS under section 194-IA could be on the stamp duty value.

This amendment will take effect from 1st April 2022.

## **TDS and TCS provisions – Sections 206AB, 206CCA and 194-IB**

- Section 206AB and 206CCA were introduced in the Act through Finance Act, 2021 which required a higher rate of TDS (as per section 206AB) and TCS (as per 206CCA) to be deducted/collected in case of such persons, who have not filed their income tax returns in each of the immediately preceding 2 previous years and aggregate TDS and TCS exceeds Rs 50,000.
- Sections 206AB is not applicable for deduction of tax at source under sections 192, 192A, 194B, 194BB, 194LBC or 194N.
- It is now provided that requirement to deduct/collect higher rate of tax is also not required under the provisions of section 194-IA, 194-IB and 194M. These are those TDS provisions, where the payer is not required to obtain TAN. A consequential amendment has also been made in 194-IB to remove the reference to section 206AB.
- Amendment has also been made in section 206AB and 206CCA, to reduce the test of non-filing of IT returns on payee for applying higher TDS/TCS from existing 2 years to 1 previous year immediately preceding the current financial year.

These amendments will take effect from 1st April 2022.

## **TDS on the value of benefit or Perquisite arising from business or profession – Section 194R**

- A new Section 194R has been introduced, which provides that tax has to be deducted on a resident at the rate of 10% of the value of benefit or perquisite arising from business or profession if value of such benefit or perquisite during the financial year exceeds INR 20,000. However, the term benefit or perquisite is not defined.
- This TDS shall be deducted by person providing such benefit or perquisite or in case of a company, the company itself including the principal officer.
- The section further goes on to state that, if the benefit or perquisite is wholly in kind or partly in kind and partly in cash and cash part is not sufficient to meet the TDS deduction, then person responsible for providing such benefit or perquisite should ensure that tax has been paid on the benefit or perquisite before releasing such benefit or perquisite. However, no mechanism for ensuring that such liability has been settled has been brought out in the provisions.

This amendment is effective from 1st April 2022 [However, the memorandum mentions that the amendment is effective from 1st July 2022 and that seems to be an error]

## **Computation of Interest – Section 201 and Section 206C**

- A second proviso has been inserted to Sub-section (1A) of Section 201, which provides that where an order has been made by the Assessing officer for default under section 201(1), interest shall be paid in accordance with Assessing Officer's order.
- An exactly same proviso has been inserted as second proviso to sub-section (7) of 206C. This amendment is effective from 1st April 2022

## 14. Proposals relating to assessments and dispute resolution

### Section 68 – Cash Credit

- Section 68 provides for treating amounts credited in the books of a taxpayer but the taxpayer either doesn't explain the source of the same or the explanation is not satisfactory. Till now, the requirement to explain the source of the source was only applicable for amounts received in the form of share capital, share premium or any such amount.
- Now it is proposed that the requirement to explain the source of the source also extends to loans and borrowings.

### Section 119 – Instruction to sub-ordinate authorities

- It is proposed to extend the powers of Income tax authority to relax penalty under Section 234F towards default or late filing of return of income

### Section 156A (New Section) – Revision of Notice of Demand

- It is proposed to amend that in case outstanding tax demands are reduced by the Adjudicating Authority (AA) of Insolvency and Bankruptcy Code, 2016 ('IBC Code'), Assessing Office shall serve the revised notice of demand in conformity with order of AA or in case the order is modified by National Company Law Appellate Tribunal or Supreme, tax officer has been provided powers to revise the demand notice.
- **Section 158AB** (new Section) provides that if a collegium of 2 or more Chief Commissioner/Principal commissioner /Commissioner of Income tax is of the opinion that case of Taxpayer's case is similar to any pending case in jurisdictional High Court or Supreme Court (in case of the same Taxpayer for other year or in the case of any other taxpayer) then Principal Commissioner will be directed to not to appeal against order of the Appellate Authority before the High Court or Supreme Court. However, the Assessing Officer will do so only after acceptance of the Taxpayer.

### Section 239A - Provisions relating to Tax Liability and Refund for TDS (newly inserted)

- This provision is proposed to apply when a taxpayer is required to deduct tax at source u/s 195 for payment to non-residents and based on an agreement or arrangement is required to bear such tax at source on their own account.
- After having paid the tax, if the taxpayer claims that no tax was required to be deducted on such income, may within 30 days from the date of payment make an application for refund of such taxes. On receiving such an application, the tax office is required to pass an order accepting or denying the same within 6months.
- If the outcome of the Order passed by the tax officer is not satisfactory to the taxpayer, an appeal can be filed before the Commissioner (Appeals) under section 246A.
- Earlier, in similar circumstances the taxpayer had to file an appeal before Commissioner (Appeals) directly, which is now proposed to be deleted.



## Dispute Resolution Committee – Order Giving effect

- The Bill has proposed to amend Section 245MA to enable the Assessing Officer to pass an order giving effect to the resolution of dispute by the Dispute Resolution Committee.

## Revisory Power under Section 263

- The amendment includes providing revisory powers to cover transfer pricing matters. Consequential amendment is also proposed to section 153 to provide timeline for passing order pursuant to orders passed under Section 263 for Transfer Pricing cases.

## 15. Miscellaneous Provisions

### Section 14A – Expenditure incurred in relation to income not includible in total income

- Clarification has been provided that expenditure in respect of Exempt Income shall not be allowed even if there is no exempt income during the financial year, which will apply retrospectively.

Further this provision has also been made non-obstinate.

- **Section 80CCD** provides for deduction in the hands of the employee in connection with contribution made to NPS by Central Government or any other employer. Now, it is proposed to also add State Government employees under the ambit of this exemption.
- **Section 94** provide certain anti avoidance provisions relating to dividend stripping. This provision is proposed to amend to include bonus stripping in the case of securities and to include the units of Real Estate Investment Trusts, Investment Trusts and AIF also within the ambit of avoidance of bonus/dividend stripping.

### Miscellaneous - Changes in Surcharge Rates

Provisions	Rates	Remarks
Surcharge on Cooperative Societies	7%	Surcharge reduced from 12% to 7% in instances where the Income is between Rs 1 Crore to Rs 10 Crores
Alternate Minimum Tax for Cooperative Societies	15%	The AMT has been reduced from 18.5% to 15% Consequential amendment in Section 115JF
Surcharge on AOP consisting of only companies as its members	15%	Reduced from 37% to a maximum of 15%

## 16. Penalty Provisions

- **Section 271AAB** - In case of search now penalty can be also levied by CIT(A), prior to this the power was only with the Assessing Officer.
- **Section 271AAC** - Penalty on undisclosed Income can also be levied by CIT(A), prior to this the power was only with the Assessing Officer.
- **Section 271AAD** - Penalty for false entry in books can also be levied by CIT(A), prior to this the power was only with the Assessing Officer.
- **Section 272A** - Penalty for failure to answer questions, sign statements, furnish information, return or statements, allow inspections etc has been enhanced from Rs 100 to Rs 500 per day with effect from 1st April 2022
- **Section 285B** - Any transaction over INR 50,000 in a year to be reported by film producers, event manager, documentary producer, producers of programme in TV or OTT or any other platform. Earlier this requirement was only for cinematographic film producer.



**PENALTY**

## Indirect Tax Related Proposals

### 1. Central Goods and Services Tax Act, 2017

*[GST proposals shall be effective from date to be notified, unless specified otherwise]*

#### Amendments Related to Input Tax Credit

- Input tax credit with respect to supply of goods or services can be availed only if such credit has not been restricted in the details communicated to the recipient under Section 38 of the Central Goods and Services Tax Act 2017 ('CGST Act') i.e. GSTR 2B.
- The credit may be restricted by the department for the reasons as listed in Section 38(2) of the CGST Act which is as follows
  - ◆ Inward supplies from a registered period within prescribed period from taking new registration
  - ◆ Invoices from Supplier who has defaulted in payment of tax beyond a prescribed period
  - ◆ Supplier whose output tax payable as per GSTR 1 exceeds output tax liability paid through GSTR 3B by a prescribed limit
  - ◆ Supplier whose ITC availed in GSTR 3B exceeds unrestricted credit availed in GSTR 2B by a prescribed limit
  - ◆ Supplier whose proportion of output tax discharged through ITC exceeds the prescribed limit under newly inserted Section 49(12) of the CGST Act
  - ◆ Supplies from such other class of persons as may be prescribed

#### Change in return default period for cancellation of registration

- Registration can be cancelled, in case of composition dealers, if annual returns remain un-filed beyond 3 months from the due date
- In clause (c) of Section 29(2) of the CSGT Act, for the words “a continuous period of six months”, the words “such continuous tax period as may be prescribed” is substituted. By this amendment, the default period will now be prescribed which could differ for different categories of taxpayers



## ➤ Changes / Extension in time limits

Time Limit	Existing Provisions	Proposed provisions
Corrections to GSTR – 1	Earlier of ♦ Furnishing of returns for September or ♦ Filing of annual returns	Earlier of following dates: ♦ 30th November of following year; or ♦ Filing annual returns to Rs 10 Crores
Corrections to GSTR – 3B	Earlier of ♦ Due date of filing GSTR 8 for the month of September following year; or ♦ Filing annual returns	Earlier of following dates: ♦ 30th November of following year; or ♦ Filing annual returns
Avail ITC	Earlier of ♦ Due date of filing GSTR 8 for the month of September following year; or ♦ Filing annual returns	Earlier of following dates: ♦ 30th November of following year; or ♦ Filing annual returns
Corrections to TCS return under Section 52 of CGST Act	Earlier of ♦ Due date of filing GSTR 8 for the month of September following year; or ♦ Filing annual returns	Earlier of following dates: ♦ 30th November of following year; or ♦ Filing annual returns
Raise credit note	Earlier of ♦ Furnishing of returns for September or ♦ Filing of annual returns	Earlier of following dates: ♦ 30th November of following year; or ♦ Filing annual returns

## GOODS AND SERVICES TAX





## **Omission of Section 42, 43 and 43A of the CGST Act**

- The section 42, 43 and 43A relating to the matching, reversal and reclaim of ITC, output tax liability has been omitted

## **Miscellaneous proposals**

- Proposed to amend Notification No. 13/2017 – Central Tax, Notification No. 6/2017 – Integrated Tax, Notification No. 10/2017 – Union Territory Tax, all dated June 28, 2017, retrospectively w.e.f. July 1, 2017, to notify the rate of interest on delayed payment of GST from 24% PA to 18% PA. Section 50(3) is also retrospectively amended to state that interest shall apply in case of reversal of ITC wrongly “availed and utilised” – to be effective retrospectively from 1 July 2017.
- Late fee for delay in TCS return - Levy of late for delayed filing (Rs. 100+100 per day of delay)
- Transfer of cash ledger balance - Allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the CGST Act or the IGST Act of a distinct person
- Due date to furnish GSTR 5 for non-residents has been changed from 20th of subsequent month to 13th of subsequent month

## **2. Customs Law**

### **Amendment in Law and Procedures**

- Advance rulings revamped - The advance ruling shall remain valid for three years or till there is a change in law or facts based on which the advance ruling has been pronounced, whichever is earlier
- Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 are being amended to provide the following facilities:
  - ◆ To introduce end to end automation in the entire process. Requirement of submitting all the necessary details electronically, through a common portal, is being brought out in the Rules itself.
  - ◆ Standardizing and notifying the various forms in which details are to be submitted electronically.
  - ◆ Leveraging the advantage of such submissions electronically, the need for any transaction-based permissions and intimations are all being done away with.
  - ◆ Consequently, the procedure to claim the notification benefit is being simplified and automated.
  - ◆ For effective monitoring of the use of goods for the intended purposes, a Monthly Statement is being proposed which is to be submitted by the importer on the Common Portal.
  - ◆ An option for voluntary payment of the necessary duties and interest, through the Common Portal is being provided to the importer

## Rate Changes

- 350 exemptions withdrawn
- 40 exemptions relating to capital goods and project imports to be withdrawn in phased manner
- Changes in rates across board [effective immediately, or from 1 April 2022 or later in a phased manner]



## Other Allied Laws

- Amendments are proposed to Reserve Bank of India Act, 1934 whereby it is proposed that bank note includes those issued in digital form, paving way for RBI to issue digital currency.
- Further, a new provision under Section 22A is proposed to be inserted. This Section will bring in the non-applicability of the following sections on this Digital Currency:
  - ◆ Section 24 - Denominations of Notes
  - ◆ Section 25 - Form of bank notes
  - ◆ Section 27 - Re-issue of Notes
  - ◆ Section 28 - Recovery of notes lost, stolen, mutilated or imperfect
  - ◆ Section 39 - Obligation to supply different forms of currency



## About Advith Consulting

Advith Consulting is a multi-disciplinary consulting Firm offering range of services to cater clients with their professional needs. What makes Advith Consulting, a class apart is:

- Energetic, experienced and vibrant professionals driven by knowledge-centric client servicing practices.
- Fluidic organization helping clients achieve their business goals by providing solutions to various requirements by seamlessly integrating all professional services.
- Belief in upholding the highest standards of business ethics with a total commitment to quality.
- Adequately backed by a committed team of employees, talent and expertise in multiple areas, which is the key for timely deliverables.



Reach us at:

**Advith Consulting LLP**

📍 No. 72/1, 1st Floor, Jnanodaya  
School Road, Shankarapark,  
Shankarapuram, Bangalore 560 004

☎ 6364133111, 080 49589484

✉ info@advithconsulting.in

🌐 www.advithconsulting.in

Follow us on



Disclaimer: The content of this alert is intended solely for the purpose of information. This should not be treated as a technical tax advice for making decisions. You would have to contact your tax advisor to seek specific applicability of the contents of the alert for your case. We bear no responsibility of any loss occasioned to any person acting or refraining from action as a result of any material in this alert.

[Back to index](#)