

Finance Bill, 2018

24th February, 2018

J B Nagar CPE Study Circle of WIRC

Mumbai

Tax Rates

- No Changes in Tax Rates of Individuals, HUF's, firms
- Corporate Tax Rate:

In case of domestic company:

The tax rate has been reduced in case of certain companies from 30% to 25%.

Earlier, the concessional tax rate of 25% was applicable for domestic companies whose total turnover or gross receipts in the previous year 2015-16 does not exceed Rs. 50 crores. The limit of Rs. 50 crores has been increased to Rs. 250 crores to cover medium level enterprises. The turnover for the previous year 2016-17 shall be base to apply the tax rate.

- Cess has been increased by 1%. It is proposed to substitute the present “Education Cess on income tax”, and “Secondary and Higher Education Cess on income tax”, by “Health and Education Cess on income tax”, leviable for AY 2019-20

Accumulated Profits - I

s.2(22), Expl. 2A

- **W.e.f. AY 2018-19**
- Explanation 2A under s. 2(22) under which Accumulated Profits or Loss of the amalgamated company will include:
 - accumulated profits of Amalgamating Company
 - Whether Capitalized or not
 - As On the date of amalgamation
- **Rationale**
 - The said amendment is proposed with a view to prevent companies with large accumulated profits which resort to amalgamation route to reduce capital and circumvent the provisions of sub-clause (d) of clause (22) of Sec. 2 of the Act. Proposed amendment is an anti-avoidance measure

Accumulated Profits - II

s.2(22), Expl. 2A

- **Comments:**
 - Proposed amendment overrules the decision in the case of ACIT v. Gautam Sarabhai Trust (2002) (81 ITD 677) (Ahd ITAT)
 - Applicable to all clauses of s. 2(22)
 - Covers all Companies
 - Date of amalgamation would be would mean the ‘Appointed Date’ mentioned in the scheme in view of the decision in case of Mashall Sons & Co. (India) Ltd. v. ITO (1996) 223 ITR 809 (SC)
 - Whether accumulated loss of amalgamating company to be included?
 - Is this provision necessary when GAAR is already in place?

DDT on Deemed dividend - I

s.2(22)(e), s.115O&Q

- **W.e.f. 01.04.2018 - Absolute date**
- Section 115-0/115-Q amended – explanation to s. 115Q deleted – now also applicable to s. 2(22)(e) deemed dividend
- Rate at 30% + SC + H & EC without gross up
- Effective tax rate of 2(22)(e) would be 34.94% and other than dividend referred to in s. 2(22)(e) would be 20.56%
- Consequential exemption u/s. 10(34) to shareholders
- **Rationale**
 - Tax on deemed dividend on shareholders entailed difficulties of collection and also litigation. In order to overcome these difficulties it is proposed to shift taxability from shareholders to the company.

DDT on Deemed dividend - II

s.2(22)(e), s.115O&Q

Comments:

- Existing conflicts
 - Recipient or shareholder
 - Registered and/or beneficial holder

Case Laws

- CIT v. Madhur Housing & Developments Co. C.A. No. 3961 of 2013 dated 05.10.2017 – loan to beneficial shareholder not taxable if he is not registered shareholder
 - Gopal & Sons (HUF) v. CIT [2017] 391 ITR 1 (SC) – loan to HUF if karta is registered shareholder taxable as deemed dividend of HUF
 - National Travel Services v. CIT [2018] 89 taxmann.com 332 (SC) beneficial owner need not be registered owner, matter referred to larger bench
- Loans & Advances as dividend - a debatable charge – onus now on companies
 - Possibility of set-off on dividend declaration in the hands of shareholder unlikely

DDT on Distribution of Income by equity oriented mutual funds

s. 115R

- **W.e.f. 01.04.2018 - Absolute date**
- Distribution of income by equity oriented mutual funds was not subjected to tax on distribution of income u/s. 115R of the Act.
- It is proposed to withdraw the exemption and levy DDT at the rate of 10% on any income distributed by an equity oriented fund to bring parity with non-growth schemes and new regime on taxation of long term capital gains
- **Comments:**
 - In case of redemption of units of equity oriented fund, the gain, if any, up to January 31, 2018 is proposed to be exempt. This benefit is not available for distribution of income by equity oriented mutual funds. Such funds may therefore distribute accretions before March 31, 2018
 - Amendment not to apply to growth schemes

Tax free withdrawal from NPS to non-employees s.10(12A)

- **W.e.f. AY 2019-20**
- Exemption for 40% of amount payable
 - on closure of account or on opting out of the scheme.
- Presently available to only employee subscribers
- Amendment to cover all subscribers

LTCG on sale of equity shares - I

s.10(38) s.112A

- **W.e.f A.Y. 2019-20**
- New provision applicable where ;
 - Income chargeable under head ‘Capital Gains’
 - Transfer of Long Term Capital Asset being ;
 - Equity share in a company
 - Unit of Equity oriented fund (EOQ)
 - Unit of Business Trust (BT)
 - STT paid
 - On acquisition & transfer of Equity share
 - On transfer only for units of EOF or BT
 - Power to notify exemption from STT paid condition
 - IFSC transactions exempted
 - Overrides provisions of section 112 of the Act

LTCG on sale of equity shares - II

s.10(38) s.112A

- Exemption u/s. 10(38) removed for LTCG on transfer of listed equity shares, units of equity oriented funds and units of business trust, subject to STT – now taxable
- Taxation provided for u/s. 112A
- New provision @ 10% on such LTCG exceeding Rs. 1 lakh, provided STT paid on acquisition & transfer of shares, subject to certain exceptions – to be notified - CBDT FAQ No. 2
- On Balance income, as if it were total income
- For resident individual/HUF, reduce unutilized basic exemption from LTCG
- Deduction under Chapter VIA allowable excluding such LTCG
- Rebate u/s 87A allowed on tax excluding tax on such LTCG
- Exemption for transfer at IFSC: GIFT

LTCG on sale of equity shares - III

s.10(38) s.112A

- Computation of Capital Gains
 - To ignore the benefit of Foreign currency calculations for NR
 - To ignore the benefit of indexation for Resident
 - COA for pre-budget acquisitions to be higher of :
 - Actual cost of asset &
 - lower of the FMV on 31.01.2018 or sale consideration
- FMV Computation –
 - Highest price recorded on RSE on 31.01.2018
 - If not traded on 31.01.2018, highest price on immediately preceding date when last traded
 - for unlisted unit, the NAV as on 31.01.2018

LTCG on sale of equity shares - IV

s.10(38) s.112A

Illustrations:

Particulars	Scenario I	Scenario II	Scenario III	Scenario IV
Actual cost of acquisition (A) - 1 Jan 2017	100	100	100	100
Fair Market Value (B) - 31 Jan 2018	200	200	50	200
Full value of consideration received on transfer (C) - 1 April 2018	250	150	150	50
(D) = Lower of (B) or (C)	200	150	50	50
Cost of acquisition = Higher of (A) or (D) - (E)	200	150	100	100
Capital Gains/(Loss) (C - E)	50	NIL	50	(50)

LTCL on sale of equity shares - V

s.10(38) s.112A

- **Comments:**

- Cannot result in loss on account of 31.01.2018 valuation
- Bonus issue before 31.01.2018 repriced at 31.01.2018 value (CBDT FAQ)
- Buy-back in listed companies to continue with tax of 10%
- Mutual Fund Houses distribution before 31.03.2018
- Status of 14A Disallowance
- Mere difference in rate of STCG & LTCL taxes
- Losses within scrips can be set off and aggregate gains in excess of Rs. 1 lakh taxed at 10%
- LTCL whether can be set off against other LTCL? – s. 70 specifies under similar computation
- Whether s. 112A is complete code by itself, providing for computation as well as rate of tax?

LTCLG on sale of equity shares - VI

s.10(38) s.112A

- **Comments:**

- DTAA would override provisions – eg Netherland
- Indexed loss cases, may be advantageous to sell off market – cannot substitute 31.01.2018 valuation
- If sold prior to 31.03.2018 LTCL can be set off against other LTCLG - **Raptakos Brett & Co. Ltd. v. Dy. CIT[2015] 58 taxmann.com 115/69 SOT 383 (Mum. - Trib.) – high litigation**
- The levy results in a double tax outlay i.e. payment of STT as well as tax on LTCLG. This contradicts the perceived objective of levy of STT in 2004 when the Hon. Finance Minister, while introducing STT and simultaneously exempting LTCLG on listed shares, said “the new tax regime will be win-win situation for all concerned”

LTCG on sale of equity shares - VII

s.10(38) s.112A

- **Comments:**

- FMV of unlisted company going for listing post 31.01.2018?
- shareholders of such a company, if they were to sell shares of the company on or after April 01, 2018, post its listing it would not be covered under the new section unless such a situation is specifically exempted under the notification in respect of STT payment at the time of acquisition
- In such one can say the determination of “cost” to be deducted from sales consideration while computing capital gains is not possible and therefore applying the rationale of Supreme Court’s decision in case of B. C. Srinivasa Setty (128 ITR 294), the computation mechanism fails and hence the sale consideration cannot be subject to tax. This is more so since in case of unlisted capital asset being a unit there is a cost determination as on January 31, 2018, by applying the net asset value of such unit; but the same is not currently provided for shares

Taxation of Exempt Entities - I

s. 11, 10(23C), s.40a(ia), s.40A(3) & 3A

- **W.e.f. AY 2019-20**
- Measures to promote less cash economy
- In determining 85% application of income for charitable/religious purposes, disallowance u/s.:
 - 40(a)(ia) – 30% if amount on which TDS not deducted
 - 40A(3) – no deduction for aggregate payments made to a person in day exceeding Rs. 10,000 otherwise than by account payee cheque/bank draft/ECS through bank account
 - 40A(3A) – allowance in earlier year and payment subsequent year – deemed to the profits and gains and chargeable as income of subsequent year

Taxation of Exempt Entities - II

s. 11, 10(23C), s.40a(ia), s.40A(3) & 3A

- **Comments**

- 40A(3A) cases – whether reduce from expenditure or add to income?
- If TDS deducted in subsequent year, to be treated as application of income in subsequent year
- Audit Report in Form 10B may be modified to report such amounts
- Problem for trusts operating in remote areas, or areas of natural disasters

Taxation of Exempt Entities - III

s. 11, 10(23C), s.40a(ia), s.40A(3) & 3A

- **Comments**

- As per CBDT Circular No.5-P(LXX-6), dated 19.6.1968, “income” for the purpose of Sec. 11 of the Act will be commercial income as per accounts of the trust, as increased by the appropriations towards the purpose of the trust or otherwise, and also after adding back any debits made for capital expenditure incurred for the purposes of the trust or otherwise. Thus, the starting point for computing “income” of a charitable trust/institution is after reducing normal outgoings for running of such trust.
- The proposed amendment restricts deduction towards application of income, which is after computing the commercial income of the trust/institution. Hence, the proposed amendment does not apply to expenses in the nature of normal outgoings of the trusts/institutions

Standard Deduction on Salary

s.16(1)

- **W.e.f. A.Y. 2019-20**
- Standard Deduction reintroduced – s. 16(ia)
- Rs. 40,000 or amount of salary, whichever is lower
- Discontinuation of exemptions
 - Transport allowance (i.e. 1600 pm)(Rs.19,200 pa)
 - Medical expenses reimbursed (Rs.15,000)
- Other medical reliefs to continue to be exempt
- **Comments:**
 - increase in deduction is only optical, as deduction for transport allowance and medical re-imburements amounts to Rs. 34,200/-. The additional deduction of Rs. 5,800 is coupled with an increase in cess of 1%, thereby resulting in higher tax outgo for employees with salaries higher than approx. Rs. 10.10 lacs p.a

Taxability of compensation -I

s.28, s.56

- **W.e.f. AY2019-20**
- Tax on receipt of compensation
 - On termination or modification of Terms & Conditions of
 - Contract relating to business
 - Contract relating to employment
 - Whether Revenue or Capital
 - Due or received
 - Taxable under respective heads u/s. 28(ii)(e) & s. 56(2)(xi)
 - Taxable at ordinary rates
- Amendment in s. 2(24) for employment contract
 - Insertion of cl. (xviib)

Taxability of compensation- II

s.28, s.56

- **Comments:**
- Relevant decisions
 - Khanna & Annadhanam, 351 ITR 110 (Del.)
 - Kettlewell Bullen & Co. 53 ITR 261(SC)
 - Oberoi Hotel Pvt. Ltd. 236 ITR 903 (SC)
 - CIT v. Parle Soft Drinks (Bangalore (P.) Ltd.) 252 Taxman 147 (Bom HC)
- It is a well settled principle of law that if the compensation is to recoup the loss suffered by the assessee in its normal trading activity, then the same will be a revenue receipt. If, however, the purpose is to recoup the loss suffered by way of impairment to the trading structure, then it would be a capital receipt not chargeable to tax.
- Compensation paid for breach of contract – not covered
- Compensation of profession not covered – only business is covered
- Contract is necessary

Taxability of compensation- III

s.28, s.56

- A specific provision already exist u/s. 17(3)(i) of the Act pursuant to which such any compensation in connection with termination of employment or modification of the terms and conditions relating thereto is chargeable to tax as 'profits in lieu of salary'
- In the case of CIT vs. Pritam Das Narang [2016] 381 ITR 416 (Delhi) it has been held that amount received by assessee from prospective employer as compensation for non-commencement of employment would not be in nature of 'profit in lieu of salary' but in nature of capital receipt not chargeable to tax. In view of the proposed amendment, such cases of compensation from prospective employer, which are not chargeable to tax u/s. 17(3) would now be chargeable to tax under the Act

Conversion of stock-in-trade into capital asset -I

s.2(24), s. 2(42A), s.28, s.49

- **W.e.f. AY 2019-20**
- Conversion/treatment made liable to tax u/s.28(via)
- FMV on conversion to be chargeable income
 - Simultaneous amendment - s. 2(24)(xiia)
 - FMV to be determined in prescribed manner
- S. 49 amended for Cost of Acquisition of Capital Asset
 - FMV on conversion date to be COA
- S. 2(42A) amended for Period of Holding – cl. (ba) of Expl.1
 - Date of Conversion to be the Date of Acquisition for POH

Conversion of stock-in-trade -II

- Whether a transfer u/s 2(47)
 - Kikabhai Premchand, 24 ITR 605 (SC)
 - Dhanuka & Sons , 124 ITR 24 (Cal)
 - Sharkey v. Wernher, 29 ITR 962 (House of Lords)
 - Shirinbhai Kooka, 46 ITR 86 SC)
- Cost of acquisition of capital assets
 - Historical or fair market value
 - Bright Star Ltd., 24 SOT 288 (Mum)
 - Kalyani Exports Ltd., 78 ITD 95 (Pune)
 - Jhanvi Investments Ltd. 304 ITR 276 (Bom)
 - Abhinandan Investments Ltd, 63 taxmann.com 263 (Del)
 - Deepak Financial Services Ltd, 393 ITR 395 (Cal)
- Treatment of income on transfer
 - Capital gains or business income or both
 - TISCO Ltd., 48 ITR 123(SC)

Conversion of stock-in-trade - III

Example - Conversion of stock in trade into capital asset

Particulars	Date	Amount (INR)
Cost of stock in trade	December 2017	100
Fair market value on date of conversion	December 2018	110
Sales consideration	February 2020	150

Taxable event	Taxable in which year	Taxable income
On conversion	FY2018-19	Business income = 10
On eventual sale	FY2019-20	*Capital gains = 40

* Period of holding from December 2018

Conversion of stock-in-trade - IV

- **Comments:**
- Unlike 45(2), the proposed provisions seek to tax hypothetical income which is not earned by the assessee – genuine hardship to pay tax
- Whether withdrawal of stock would be covered? – withdrawal means drawings – treatment or conversion would mean asset remains with the assessee
- Builders letting out inventory till actual sold? Have clauses in agreement – such as lock in period, terminate within 2 months prior notice, board resolution for temporary renting it out, agreement of 11 months

Tolerance Band

s.43CA, s.50C and s.56

- **W.e.f AY2019-20**
- Transactions in Land and/or Building
- Provisions for adopting higher of SDV and Actual Consideration
- Amendment to Introduce a tolerable limit of 5%
- **Comments:**
- Clarificatory or prospective?
- However, the limit of 5% specified in the proposed amendments is much lower than the tolerance limit provided in section 55A r.w.r 111AA, which is 15%.
- Already decisions of Tribunal – that 10% would be the tolerance limit

International Financial Services Centre (IFSC)

s.47,s.115JC.s.115JF

- **W.e.f. AY 2019-20**
- Capital gains exemption
 - in relation to transfer of bonds, GDR or derivatives
 - Carried out in foreign currency by a non resident
 - on a stock exchange situated in any IFSC
- It is also proposed to amend the provisions of Sec. 115JC by insertion of new sub-section (4) to provide that where any person, other than a company, is a unit located in an IFSC and derives its income solely in convertible foreign exchange, the rate of tax would be 9% as against 18.5%, applicable to other assesseees covered u/s 115JC. (companies in IFSC already tax @9% under 115JB)
- Corresponding amendments for change in rate are proposed to be made in Sec. 115JF of the Act which provide for definition of the term ‘alternate minimum tax’ for the purpose of Chapter XIIBA
- **Comments:** AMT is assessee wise – how does one claim lowe rate unit-wise, when assessee has both IFSC units as well as non-IFSC units?

Exemption on reinvestments in Bonds

s.54EC

- **W.e.f. A.Y.2019-20**
- Scope restricted for specified LTCGs only
- Lock in period is now increased from 3 years to 5 years for investments after April 01, 2018
 - LTCA being Land or building or both.
 - Whether rights in land or building covered?

Mediclaim of senior citizens

S. 80D

- **W.e.f. AY 2019-20**
- Premium on health insurance policy, or preventive health check-up, or medical expenditure
- Increased to Rs.50,000 from Rs.30,000
- Single premium policy having cover of more than 1 year
 - proportionate deduction spread over policy period
 - Subject to yearly quantum limits
- the difference between senior citizens and super senior citizens is removed

Medical treatment of senior citizens

S. 80DDB

- **W.e.f. AY 2019-20**
- Medical treatment of specified diseases –
 - senior & very senior citizens
- Increased to Rs.1,00,000 from Rs.60,000/80,000 respectively.
- the difference between senior citizens and super senior citizens is removed

Interest income to senior citizens

s. 80TTB, s.194A

- **W.e.f. AY2019-20**
- Section 80TTB - Deduction up to Rs. 50,000 – interest on specified deposits
- Section 80 TTA not applicable to senior citizens to avoid double deduction
- Section 194A - TDS threshold increased from Rs. 10,000 to Rs.50,000

Incentive for employment generation

s.80JJA

- **W.e.f. AY2019-20**
- Existing benefit of weighted deduction @ 130%
 - For payment of wages, etc.
 - Subject to fulfilment of conditions
 - To specified industries
- Amendment to relax minimum employment days i.e. 150 days instead of 240 days to Footwear and Leather industries
- If employed during the year for less than 240/150 days in immediately succeeding year, deemed to have been employed in immediately succeeding year and eligible for deduction
- In every eligible year, 240/150 days employment to be fulfilled

Start up companies I

s. 80IAC

•W.e.f. AY 2018-19

•**Existing Provision:**

- Deduction @ 100% for 3 consecutive years out of 7 years
 - at the option of the assessee, if
- Incorporated on or after the 1.04.2016 but before the 1.04.2019;
- TO not to exceed Rs. 25 crore in previous years ending on 31.03. 2021;
- Business of innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.

Start up companies II

s. 80IAC

•Proposed Amendment:

- Benefit extended to start ups incorporated
 - on or after 1.04.2019 but before the 1.04.2021
- TO limit of Rs 25 Crore to apply to 7 years from incorporation;
- broaden the definition of “**eligible business**” to mean a business carried out by an eligible start up engaged in innovation, development or improvement of products or processes or services or a scalable business model with **a high potential of employment generation or wealth creation**
- Comments:
 - It may be noted that the criteria provided in the amended definition of ‘eligible business’ are highly subjective in nature and open to interpretation, which could lead to difference of opinion between the assessee and the tax department, thereby resulting in litigation
 - High potential for wealth creation but turnover of 25 crs? Irony
 - Reversal of exemption if the turnover condition is not complied with for 7 years?

Income of Farm Producer Companies (FPC)

s. 80PA

•W.e.f. AY 2019-20

•**Existing Provision:**

•Section 80P provides for deduction in respect of profit of co-operative societies

- Providing assistance to its members
- engaged in primary agricultural activities

•**Proposed amendment:**

• FPC having T/O up to 100 crore,

•GTI includes any income from :-

•marketing of agricultural produce grown by its members, or

•purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or

•processing of the agricultural produce of its members

•Benefit available for 6 years from AY 2019-20 to AY 2024-25 (explanatory memorandum says 5 years)

IBC, 2016 I

s.115JB, s.79 & s.140

- **W.e.f. AY 2018-19**
- **Section 115JB:**
 - Deduction is available in respect of the amount of brought forward loss or unabsorbed depreciation, whichever is less, as per the books of accounts, to compute book profit for section 115JB of the Act. In case brought forward loss or unabsorbed depreciation is nil, no deduction is allowed. This acts as a barrier to rehabilitating companies seeking insolvency resolution.
- **Proposed amendment –to be effective from assessment year 2018-19:**
 - It is now proposed that in case of company whose application for corporate insolvency resolution process under the IBC, 2016 has been admitted by Adjudicating Authority, the aggregate amount of unabsorbed depreciation and brought forward loss (excluding unabsorbed depreciation) shall be allowed to be

IBC, 2016 II

s.115JB, s.79 & s.140

- **W.e.f. AY 2018-19**
- **Section 79:**
 - Section 79 of the Act provides that carry forward and set off of losses in a closely held company shall be allowed only if there is a continuity in the beneficial owner of the shares carrying not less than 51% of the voting power, on the last day of the year or years in which the loss was incurred. A company seeking insolvency resolution under IBC, 2016 involves change in the beneficial owners of shares beyond the permissible limit under section 79.
- **Proposed amendment –to be effective from assessment year 2018-19:**
 - It is proposed that conditions in section 79 shall not be applicable to companies whose resolution plan has been approved under the IBC, 2016, and reasonable opportunity of being heard, to the jurisdictional Principal Commissioner or Commissioner, is given.
- **S.140:** ROI to be verified by IP.

IBC, 2016 III

s.115JB, s.79 & s.140

- **Comments:**

- S. 115JB benefit at the time of admission of the insolvency application
- S. 79 benefit when resolution plan is approved

New Scheme for Scrutiny Assessment

S.143(3A)(3B)

- **W.e.f. AY2018-19**
- New scheme of assessment u/s. 143(3A)
 - Central Government to notify in Official Gazette
 - To impart efficiency, transparency and accountability by :
 - Elimination of human interface
 - Optimal utilization of resources
 - Team based assessment with dynamic jurisdiction
 - Assessment to be u/s. 143(3)
- Power to save cases from application of scheme
 - To be notified by Central Govt. in Official Gazette
 - No direction after 31.03.2020
- Notifications to be laid before houses of Parliament
 - Subsequent to issue of Notification

Prima-facie Adjustments

s.143(1)(a)(vi)

- **Applicable to ROI for A.Y. 2018-19 and onwards**
- No adjustment permitted for addition under cl.(vi)
 - Mismatch of TDS claim with Forms 26AS, 16 and 16A
- Clarificatory or Retrospective

Taxation of Unexplained Income

s.115BBE

- **W.r.e.f. A.Y. 2017-18**
- Provision for taxing unexplained income @ 60%
 - Introduced w.e.f. AY 2013-14
 - Amended w.e.f. AY 2017-18
- No deduction for expenditure or allowance
- No set-off of losses
- Restriction was limited to inclusion in ROI by assessee
- **Amendment to cover both the cases**
 - Where included by assessee in ROI
 - Where determined by AO in assessment

ROI by due date for deductions under Ch.VIA s.80AC

- **W.e.f. AY 2018-19**
- Return to be filed by due date u/s. 139(1)
- Present Provision – s. 80IA, 80IB, 80IC, 80ID & 80IE
- Amendment to cover all income based deductions
 - under part C of chapter VI-A
 - Deduction under section 80H to 80RRB proposed to be covered under the aforesaid amendment

Application for PAN

s. 139A(1)(v) & (vi)

- **W.e.f. 01.04.2018 – Absolute date**
- PAN as Unique Entity Number for non-individual entities
- Financial transaction =>250,000 in aggregate
 - In a financial year
- Persons acting on behalf of such entities to apply for PAN
 - Director, Karta, partner, trustee, office bearer etc.
 - Author, founder, CEO, any other person
- **Comments:**
 - ‘Financial transactions’ not defined
 - Whether same as SFT in s. 285BA(3) or broader?
 - Whether trust is non-individual and covered?
 - Status of trustees individual – Shardaben Bhagubhai Mafatlal Charitable Trust 247 ITR 1 (Bom HC)

ICDS Amendments -I

s.145, s.145A, s.145B, s.36,s.40A, 43AA, 43CB

- **10 ICDS notified and made effective from AY 2017-18.**
- Many provisions and parts of ICDS struck down by
– CTC v. Union of India, 252 Taxman 77 (Del) (WP)
- Amendments ;
- Mark-to-market losses/ other expected losses to be allowed
 - only where allowed by provisions of any specific ICDS.
- Year of taxation of escalation claim in contract/ export incentive
 - On reasonable certainty of its realisation
- Subsidy/grant/cash incentive etc. receivable from Govt. etc.
 - income in the year of receipt of same if not charged to tax
- Inventories to be valued at Cost or NRV whichever is lower,
- To be computed in manner provided in ICDS.

ICDS Amendments -II

- Value of purchase & sale of goods or services and inventory
 - To include amount of tax, duty, cess, fee etc.
 - incurred to bring the goods or services to the place of its location and condition as on date of valuation.
- Inventories of unlisted securities / unquoted listed securities
 - To be valued at actual cost initially recognised.
 - Other securities to be valued at Cost or NRV whichever is lower, in accordance with provisions of ICDS.
 - Category wise approach is to be followed for valuation purpose (i.e. cost or NRV is to be determined for category of securities as a whole like shares, debt securities, etc. and not individually for each item of security)
- Gain or loss arising on changes in foreign exchange rates
 - To be treated as income/loss computed as per ICDS.

ICDS Amendments -III

- Percentage of completion method
 - for profits determination of construction/service contracts
- Project completion method for service contracts
 - duration of ninety days or less.
- Straight Line Method for contracts for providing services
 - having indeterminate no.of acts over a specified time.
- Contract Revenue shall include retention money.
- Interest, dividend or capital gains not to reduce contract costs

Comments:

- The taxpayers, who relied on the Delhi HC's decision, while taking positions contrary to the ICDS, may have to revisit their positions

TDS on 7.75% GOI Bonds

s.193

- **W.e.f. 01.04.2018**
- New 7.75% GOI Savings (Taxable) Bonds, 2018.
- Interest received to be taxable
- TDS u/s 193 for TDS on payment of interest to residents.
 - No TDS if amount of interest is less than or equal to Rs. 10,000
- Discontinue the existing 8% Savings (Taxable) Bonds, 2003

Penalty for failure to furnish statement of financial transaction or reportable account s.271FA

- W.e.f. 01.04.2018

Particulars	Present	On Amendment
Statement of Financial Transactions or Reportable Account u/s. 285BA(1)	Rs. 100	Rs. 500
Statement of Financial Transactions or Reportable Account u/s. 285BA(5)	Rs. 200	Rs. 1000

Prosecution s.276CC

- W.e.f., 01.04.2018-Absolute date
- Prosecution for failure to furnish ROI u/s 139(1)
- Exemption for low tax companies withdrawn
 - Rs. 3000 of tax demanded
- Provision to prevent abuse by shell companies

