



# India Union Budget 2023-24

## Point of view

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## Energy and Natural Resources

# Key announcements for the sector

### Direct Tax

- No change in corporate tax rates
- No extension in sunset date provided under section 115BAB for availing the benefit of lower corporate tax rate of 15% by new manufacturing/power generation domestic companies
- Scope of business income expanded to include benefit or perquisite, received fully or partly in cash or in kind. Similar amendment also proposed in section 194R to align with CBDT circular
- Set off of losses not allowed to non-resident oil and gas service provider availing benefit of presumptive taxation scheme under section 44BB [losses computed without applying the presumptive scheme against the profits computed after applying presumptive scheme not permissible for set off]
- Consideration received by a closely held company from a non-resident investor on issuance of shares in excess of the Fair Market Value brought under the ambit of section 56(2)(viib)
- Payment to MSMEs beyond the time limit specified under the MSMED Act proposed to be allowed only on actual payment
- Similar to goodwill, cost of acquisition and cost of improvement of all intangible assets or any other rights shall be Nil
- Non-Banking Financial Companies excluded from restriction on interest deductibility under section 94B of the Act
- To further facilitate Strategic Disinvestment, the definition of Strategic Disinvestment u/s 72A proposed to be amended to include sale of shareholding by Central Government, State Government, a public sector company into a public sector company or a company which results in reduction of shareholding to below fifty one percent and transfer of control to the buyer
- Penalty under section 271C and prosecution under section 276B on failure to pay/ ensure payment of tax under section 194R
- Removal of exemption from TDS on payment of interest on listed debentures to a resident
- Facilitation of credit of TDS deducted on payments which have been offered to tax in past years on accrual basis. An application to be made to the assessing officer within two years from the end of the financial years in which TDS has been deducted to allow the credit of such TDS
- Time limit for completion of assessment proceedings for AY 2022-23 shall be 12 months from the end of relevant AY as against timeline of 9 months for the immediately preceding AY
- Introduction of new authority of Joint Commissioner (Appeals) to reduce burden of Commissioner appeals and clear backlog, JCIT (Appeals) will now handle appeals of such nature as will be notified by CBDT
- Introduction of taxability with respect to repayment of debt by business trusts in the hands of unit holders

- Extension of sunset date for sovereign and pension funds investing in InvITs and infrastructure sector at large, is a clear miss
- It is proposed to roll out a next-generation Common IT Return Form for tax payer convenience, and also plan to strengthen the grievance redressal mechanism.

## Indirect Tax

### • Customs Duty

#### — Legislative changes

- The Customs Tariff Act, 1975 is amended to introduce new tariff lines or modify the existing tariff lines effective from 1 May 2023
- The proposed changes are for various tariff items covering the import of coal, refractory items, capital goods and spares covered under customs tariff heading 27, 38, 84, 85 etc.

### • Changes in Customs Duty

- Benefit of concessional rate of Basic Customs Duty ('BCD') available under Project Import Regulations, 1986 (herein referred as 'Regulation') on goods required to be imported for setting up the 'Solar power project' / 'Solar power plant' is proposed to be removed by virtue of below-mentioned amendments:
  - Amendment is proposed in the Customs Tariff Heading 9801 to carve out the benefit of Project Import to 'Solar power project / Solar power plant'. [to be effective from the date of enactment of Finance act 2023]
  - Removal of the solar projects/plants from the term 'Any other Plant and Project' appearing in Entry no. 4 of the Project Import Regulation. [Effective from 2nd February 2023]
- Concessional rate of 5% BCD has been withdrawn for specified goods required for setting up crude petroleum refinery [effective from 31 March 2023]
- Concessional rate of 5% BCD has been withdrawn for specified goods required for setting up fertiliser plant [effective from 31 March 2023]
- BCD on coal, peat and lignite increased to 2.5% from 1% whereas exemption from AIDC is extended, leading to no changes in the effective rate of customs duties
- BCD on denatured ethyl alcohol reduced from 5% to Nil, for use in the manufacture of industrial chemicals through Customs Import of Goods at Concessional Rate of Duty (IGCR) route
- BCD on Naphtha is being increased from 1% to 2.5%
- Customs duty exemption is provided for the import of specified capital goods and machinery required for the manufacture of lithium-ion cells, for batteries used in electric vehicles.

### • Goods and Services Tax

- Place of supply of international transportation of goods services to GST registered customer will be determined basis the location of recipient of services and will not be construed as inter-state supply as per the existing provision (to be effective from future date)
- Transactions of supply of goods from non-taxable territory to non-taxable territory without goods entering into India, supply of warehoused goods before clearance for home consumption and high sea sale transaction are construed as neither supply of goods nor supply of services retrospectively from 1 July 2017
- Supply of warehoused goods to any person before clearance for home consumption is proposed to be construed as exempt supply and will require a reversal of input tax credit on value of such activities or transactions as may be prescribed
- Input tax credit is proposed to be restricted in respect of goods or services or both received and used pertaining to the Corporate Social Responsibility under section 135 of the Companies Act, 2013
- Proposal to decriminalise following offences:
  - obstructs or prevents any officer in the discharge of his duties under GST Act

- tampers with or destroys any material evidence or documents
- failure to supply any information which he is required to supply under or supplies false information.
- Proposal to increase monetary threshold (from one crore to two crores) for launching prosecution for the offences to two crores except for offences related to issuance of invoices without supply of goods or services or both
- Proposal to amend definition of non-taxable online recipient so as to provide for taxability of OIDAR service provided by any person located in non-taxable territory to an unregistered person receiving the said services in a taxable territory.
- **Central Excise**
  - Central excise duty exemption is being provided on blended Compressed Natural Gas (CNG) from so much of the amount as is equal to the GST paid on Bio Gas /Compressed Bio Gas contained in such blended CNG.
- **Central Sales Tax**
  - Legislative changes.

Customs, Excise and Service Tax Appellate Tribunal ('CESTAT') will be Appellate Authority for settlement of inter-State disputes falling under section 6A and 9 of the CST Act.

## Sectoral announcements

- Focus remains on Green growth with many programmes for green fuel, green energy, green farming, green mobility, green buildings, and green equipment, and policies for efficient use of energy across various economic sectors. These green growth efforts help in reducing carbon intensity of the economy and provide for large scale green job opportunities
- Capital investment outlay is being increased by 33% to INR10 lakh crore, which would be 3.3% of GDP
- The Budget provides INR35,000 crore for priority capital investments towards energy transition and net zero objectives, and energy security by Ministry of Petroleum & Natural Gas
- Battery Energy Storage Systems with capacity of 4,000 MWH will be supported with Viability Gap Funding
- A detailed framework for Pumped Storage Projects will also be formulated
- The inter-state transmission system for evacuation and grid integration of 13 GW renewable energy from Ladakh will be constructed with investment of INR20,700 crore including Central support of INR8,300 crore
- A Green Credit Programme will be notified under the Environment (Protection) Act. This will incentivise environmentally sustainable and responsive actions by companies, individuals and local bodies, and help mobilise additional resources for such activities
- PM Programme for Restoration, Awareness, Nourishment and Amelioration of Mother Earth" will be launched to incentivise states and union territories to promote alternative fertilisers and balanced use of chemical fertilisers
- 500 new 'waste to wealth' plants under GOBARDhan (Galvanising Organic Bio-Agro Resources Dhan) scheme will be established for promoting circular economy. These will include 200 compressed biogas (CBG) plants, including 75 plants in urban areas and 300 community or cluster-based plants at a total investment of INR10,000 crore
- In due course, a 5 per cent CBG mandate will be introduced for all organisations marketing natural and biogas. For collection of biomass and distribution of bio-manure, appropriate fiscal support will be provided
- Allocation of adequate funds to scrap old vehicles of the Central Government. States will also be supported in replacing old vehicles and ambulances
- To avoid cascading of taxes on blended compressed natural gas, exemption provided for excise duty on GST-paid on compressed biogas contained in it

- As an impetus to green mobility, customs duty exemption is being extended to import of capital goods and machinery required for manufacture of lithium-ion cells for batteries used in electric vehicles for a year
- For electronics, the concessional duty on lithium-ion cells for batteries extended for another year.

## Implications for the sector

- The allocation of INR35,000 crore for priority capital investments towards energy transition and net zero objectives and energy security by MoPNG will be helpful in further accelerating the green push
- Announcement of Viability Gap Funding (VGF) for 4000 MWh Battery Energy Storage System (BESS) is a welcome step. The increase in battery storage prices over the last year has led to higher price discoveries in BESS projects making it challenging to find buyers for such energy. The VGF comes as a welcome move to help in reducing the cost of energy
- Funding for development of power evacuation and grid integration of 13 GW Renewable Energy (RE) in Ladakh with a total investment of INR20,700 crore will help in tapping into the vast potential that Ladakh has for solar
- Framework for Pumped Hydrogen Energy Storage (PHES) to be rolled out. This will be helpful to give a boost to the sector which has yet been largely untapped in India but having enough potential to support India's Net Zero journey without being reliant on material imports and raw metal vulnerabilities. A dedicated policy framework for the sector will further increase investments into the sector
- Extension of Customs duty exemption to import of capital goods and machinery required for manufacture of lithium-ion cells for batteries used in electric vehicles. Extension of customs duty exemption for EV batteries will help in reducing the upfront cost differential of EVs with ICEs further as the battery makes up to around 40% of EV cost. This will further help in accelerating EV penetration in India
- CoEs for Artificial Intelligence (AI) in academic institutions and new 5G labs will liven up the innovation ecosystem
- Extension of timelines for registration of start-ups and increasing loss carry forward period from 7 years to 10 years will help innovators and also provide a boost to the start-up ecosystem
- Continuance of additional borrowing space (0.5%) of GSDP linked to power sector reforms will provide some relief to utilities and hopefully further the reforms agenda.

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