

2019-20

NEWSLETTER

INCOME TAX BAR ASSOCIATION RAIPUR

JULY 2019 EDITION



BUDGET

Table of Contents

President's Communiqué

ITBA Committees

Section 44AE Anomaly

Budget Highlights - Real Estate

Budget Highlights –GST

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INCOME TAX BAR ASSOCIATION, RIAPUR

President's communiqué

Dear Members,



CA B. SUBRAMANYAM

At the outset, I express my deep feelings of gratitude towards all the Past Presidents, senior members and members of the Bar Association who have reposed confidence on me and newly elected members of the Governing Body. I feel privileged to hold the baton of Presidentship of this esteemed organization for the 2019-20. While recognizing the confidence reposed on us, we are also aware of the onerous responsibility resting on us. It shall be the Endeavour of my team to come to the expectations of the members, in keeping with high standards set by my predecessors and their team. I extend congratulations from the bottom of my heart to the immediate Past President CA. Sunil Kumar Agrawal and his entire team for a very successful and vibrant tenure of 2018-19 and taking to our Bar at its new peak.

On 5th of July, 2019, the whole Nation applauded the first lady Finance Minister of India presenting the Union Budget in Parliament. After the landslide victory of the BJP in the latest general elections there were lot of expectations of the people of the country from the Finance Minister to be fulfilled in this budget. Economic reforms, tax relief, simplification of corporate tax structure have been met to some extent in the Union Budget 2019. However, expectations from the new Finance Minister that the basic slab rate and the exemption limit under the Income Tax Act shall be revised giving relief to the tax payers in the scenario of inflation has not been fulfilled. The Finance Minister has balanced well to fulfill the expectations of the people in general and on the other hand, take measures for the increase in the revenue collection as well as for the economic growth of the country. So far as the Goods & Services Tax is concerned, lot more to be done to simplify the procedures as well as lowering the tax rates.

New sub-committees have been formed and the details of membership of such committees are being published elsewhere in this news letter. I am confident and trust that, under the leadership of the respective chairman, the sub-committees would work efficiently, which will be a big help to the Governing Body of the Bar Association.

We have faced a very severe summer temperature this year and monsoon is looking weak. Our economy depends to a large extent on monsoon and therefore, it is essential to have good rains. I pray to Almighty for bestowing his grace by way of good monsoon.

I have the privilege to interact through this column in this year. I would request all the members to kindly give suggestions for improvement of the Bar activities so that we can plan the programme that cater to the need of the members. Your active participation in the activities of the Bar Association will definitely encourage us.

Looking forward to continued support & guidance from all the members.

Yours sincerely

CA. B. Subramanyam

President, ITBA, RAIPUR

ITBA COMMITTEES

INCOME TAX BAR ASSOCIATION – RAIPUR – 2019-20

NEW GOVERNING BODY FOR 2019-20

OFFICE BEARERS	NAME
1 President	: CA. B. Subramanyam
2 Vice President-I	: CA. Sanjay Bilthare
3 Vice President-II	: CA. Gulab Chandra Kedia
4 Secretary	: ADV. Praveen Sharma
5 Treasurer	: CA. Mayur Jain
6 Joint Secretary-I	: ADV. Harish Bajaj
7 Joint Secretary-II	: CA. Rahul Bhartia
8 Executive Members	: CA. Manoj Kumar Keswani CA. Parimal Jain ADV. Satish Agrawal ADV. Mahendra Pansari

SUB-COMMITTEES

1 NEWS LETTER EDITORIAL BOARD:	
Chairman	: CA. Gulab Chandra Kedia
Editor	: CA. Praveen Jain (Muhnot)
Members	: CA. Sanskar Agrawal CA. Dimple Warlyani CA. Bikram Jain CA. Chandan Jain
2 EDUCATION PROGRAMME COMMITTEE:	
Chairman	: CA. Sanjay Bilthare
Members	: CA. Manish Agrawal CA. Sakhshi Gopal Agrawal CA. Praveen Khandelwal CA. Veekaas S. Sharma
3 SUGGESTION & GRIEVANCE COMMITTEE:	
Chairman	: ADV. Susheel Kumar Jhabak
Members	: CA. Prakash Rath CA. Sanjay Jhabak CA. Rajesh Golchha ADV. Amit Maloo CA. Sunil Satyanarayan Agrawal
4 SPORTS COMMITTEE:	
Chairman	: CA. Ravi Gidiya
Members	: CS. Sanjay Mohta CA. Amit Chandra Sharma CA. Ashwin Ranglani CA. Pranjal Singh

ITBA COMMITTEES

INCOME TAX BAR ASSOCIATION – RAIPUR – 2019-20

5 SOCIAL & RECREATIONAL ACTIVITY COMMITTEE:

Chairman	:	CA.Vijay Maloo
Members	:	CA.Bivor Kumar CA.Dhawal Shah CA.Saurabh Agrawal

6 EXPERT ADVISORY COMMITTEE:

Chairman	:	CA..Ashutosh Shrivastva
Members	:	CA.Lalit Jain CA.Prafulla Pendse CA.Vikas Golchha CA.Jitendra Khanuja

7 MEDIA & PUBLIC RELATION COMMITTEE

Chairman	:	CA. Yogesh Purohit
Members	:	CA.Ankit Agrawal CA.M.R.Dewangan ADV. Vimal Shriwas

8 WEB SITE & MOBILE APP COMMITTEE

Chairman	:	CA.Rajesh Golchha
Members	:	CA.Atal Singh Hanspal CA. Manoj Keswani CA. Usuf Daudi

9 CATERING COMMITTEE

Chairman	:	CA.Manoj Rathi
Members	:	CA. Rajesh Rathi CA. Ashok Jhabak CA. Arvind Kukreja ADV.Durga Shankar sahu

10 WOMEN EMPOWERMENT COMMITTEE

Chairman	:	CA. Ruchi Talreja
Member	:	CA. Suchi Agrawal

11 TRAINING & WORKSHOP COMMITTEE

Chairman	:	CA. Suresh Agarwal
Members	:	CA. Rasik Chouhan CA. Vinay Sharma ADV. Ajay Goenka ADV. Deepak Kamatkar

DIRECT TAX

SECTION 44AE ANOMALY OF INCOME TAX ACT, 1961



CA Palak Jain

On account of amendment in section 44AE-presumptive taxation scheme for taxpayers engaged in the business of plying, leasing or hiring trucks, taxpayers are facing genuine hardships to compute income under this section. In this regards, following anomalies exist:

Income Tax Act

Deeming Provision u/s 44AE till AY 2018-19:

44AE(2) For the purpose of sub-section (1), the profits and gains from each goods carriage shall be an amount equal to seven thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from the vehicle, whichever is higher.

Deeming Provision u/s 44AE till AY 2019-20:

44AE (2) For the purposes of sub-section (1), the profits and gains from each goods carriage,—

- (i) being a heavy goods vehicle, shall be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher;*
- (ii) other than heavy goods vehicle, shall be an amount equal to seven thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such goods carriage, whichever is higher].*

Explanation.—For the purposes of this section,—

(a) the expressions "goods carriage", "gross vehicle weight" and "unladen weight" shall have the respective meanings assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(aa) the expression "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms.

DIRECT TAX

SECTION 44AE ANOMALY OF INCOME TAX ACT, 1961

Motor Vehicles Act, 1988 (59 of 1988)

2(14) “goods carriage” means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;

2(15) “gross vehicle weight” means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;

2(16) “heavy goods vehicle” means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms;

2(48) “unladen weight” means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body ;

QUERY

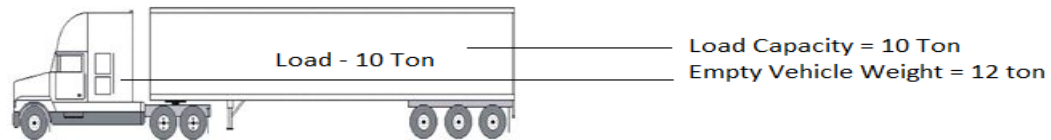
“Heavy goods vehicle” as per explanation to Sec 44AE of the Income Tax Act is Goods Carriage having Gross Vehicle Weight exceeding 12000 Kgs. Whereas “Heavy goods vehicle” as per Sec 2(15) of Motor Vehicles Act, 1988 is any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms. Thus following anomaly emerge:

Anomaly 1. As per Income Tax Act, “Heavy Goods Vehicle” means only Goods Carriage whereas as per Motor Vehicle Act “Heavy Goods Vehicle” means Goods Carriage, tractor, road Roller.

Anomaly 2. As per Income Tax Act “Heavy Goods Vehicle” means Vehicle having **Gross** Vehicle Weight exceeding 12000 Kgs whereas as per Motor Vehicle Act “Heavy Goods Vehicle” means vehicle having **unladen** weight exceeding 12000 Kgs.

DIRECT TAX

SECTION 44AE ANOMALY OF INCOME TAX ACT, 1961



Unladen Weight - Basic Weight of Empty Vehicle = 10 Ton
Gross Vehicle Weight - Unladen Weight + Load Carrying Capacity = 22 Ton

As per the definition of "Heavy Goods Vehicle" in Motor Vehicle Act, term Gross Vehicle weight is used for Goods carriage whereas term Unladen weight is used for tractor or road roller. Sec 44AE of the Income tax Act prescribes to take Gross Vehicle Weight or Unladen Weight, as the case may be. Following anomaly emerges:

- Anomaly 3. Since "Heavy Goods Vehicle" has already been defined in explanation to Section 44AE of the Income Tax Act then what does the term "as the case may be" in Section 44AE mean?
- Anomaly 4. Definition of "heavy goods vehicle" as per the Income Tax Act or Motor Vehicle Act does not include "trailer". The said term 'trailer' is mentioned in the definition of "Unladen Weight" as per the Motor Vehicle Act only. In such a situation whether trailers which usually have a very high capacity to carry shall have very low deemed profit inspite of the fact that Goods Carriage have very less capacity but shall have high deemed profit.
- Anomaly 5. A normal truck has Unladen weight of approximate 12,000 Kg and capacity of 10,000/- kgs. Thus Gross vehicle weight of a normal truck shall be minimum 22,000/- (22Ton). In such a situation minimum deemed profit of a truck for the year shall be as under:
For AY 2018-19 – Rs. 7,500 pm * 12 months = 90,000/-
For AY 2019-20 – Rs. 22,000 pm * 12 months = 2,64,000/-
The deemed profit for the normal truck which used to be Rs. 90,000 p.a has drastically increased approximately 3 times amounting to Rs. 2,64,000/-
- Anomaly 6. Whether it is justified to estimate Deemed profit based on "Gross Vehicle Weight" or "Unladen Weight" instead of "carrying capacity" of the vehicle?

DIRECT TAX

BUDGET HIGHLIGHTS - REAL ESTATE SECTOR



CA VINAY SHARMA

1. **Additional tax-break for buying an affordable house – Sec 80EEA**

Effective date: AY 2020-21

As announced in Budget 2019, an individual can claim additional deduction of Rs 1.50 lakh on interest paid on home loan under the newly introduced section 80EEA subject to certain conditions. The conditions are as follows:

- a) The loan must be taken between April 1, 2019 and March 31, 2020;
- b) The stamp duty value of house property must not exceed Rs 45 lakh; and
- c) Individual should not own any house on the date of sanctioning of loan.

Additional deduction of Rs 1.5 lakh is available over and above the existing Rs 2 lakh deduction on the home loan interest paid under section 24.

This will provide a total benefit of Rs 7 lakh over a loan period 15 years.

Former Finance Minister Piyush Goyal in his interim budget 2019 speech had announced exemption from income tax on the notional rent from second house property. In addition to that, one can also invest capital gains of up to Rs 2 crore arising from sale of house in two house property instead of one, as per the interim budget. However, this benefit is available only once in a lifetime.

2. **Tax Incentive for Affordable Housing – Sec 80-IBA**

Effective date: AY 2020-21

The existing provisions of the section 80-IBA of the Act, inter alia, provide that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to certain conditions, be allowed, a deduction of an amount equal to hundred per cent of the profits and gains derived from such business. With a view to align the definition of "affordable housing" under section 80-IBA with the definition under GST Act, it is proposed to amend the said section so as to modify certain conditions regarding the housing project approved on or after 1st day of September, 2019.

DIRECT TAX

BUDGET HIGHLIGHTS - REAL ESTATE SECTOR

The modified conditions are as under:

- the assessee shall be eligible for deduction under the section, in respect of a housing project if a residential unit in the housing project have carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region); and
- the stamp duty value of such residential unit in the housing project shall not exceed forty five lakh rupees

3. Parking and other charges come under the ambit of TDS – Sec 194IA

Effective date: 01/09/2019

As per section **194IA**, a buyer is required to deduct TDS at the rate of **1 per cent** of purchase price while purchasing an immovable property of more than Rs 50 lakhs.

With effect from 1 September 2019, the limit of Rs 50 lakhs would be towards consideration of the immovable property **including all other charges incidental to the purchase of immovable property such as parking fee, society fee, club membership fee** paid by the buyer.

Earlier, due to lack of clarity, the limit of Rs 50 lakhs was considered towards the purchase price of the immovable property only and such additional charges were not considered.

4. Time to sell attached property increased from 3 years to 7 years

Effective date: 01/09/2019

The existing provisions of rule 68B of the Second Schedule of the Act provide that no sale of immovable property attached towards the recovery of tax, penalty etc. shall be made after the expiry of three years from the end of the financial year in which the order in consequence of which any tax, penalty etc. becomes final.

In order to protect the interest of the revenue, especially in those cases where demand has been crystallised on conclusion of the proceedings, it is proposed to amend the aforesaid sub-rule so as to extend the period of limitation from three years to seven years.

DIRECT TAX

BUDGET HIGHLIGHTS - REAL ESTATE SECTOR

5. TDS on Payments exceeding Rs 50 lakh to contractor – Sec 194M

Effective date: 01/09/2019

Individuals and Hindu Undivided Families (HUFs), with effect from 1 September 2019, will have to deduct tax at the rate of 5 percent for payments made to contractors and other professionals if it exceeds Rs 50 lakh in a year, as per newly introduced section **194M**.

At present there is no liability on an individual or Hindu undivided family (HUF) to deduct tax at source on any payment made to a resident contractor or professional when it is for personal use. Further, if the individual or HUF is carrying on business or profession which is not subjected to audit, there is no obligation to deduct tax at source on such payment to a resident, even if the payment is for the purpose of business or profession.

This section 194M will cover those individual and HUF, who are not required to deduct tax at source under section 194C and 194J.

6. New Section 269 US / 271DB

Effective date: 01/11/2019

Entities having turnover of Rs. 50 crore in the preceding previous and more to provide option of Electronic payments. Failure to attract penalty of Rs.5000 per day till default continues.

7. New Section 194N for TDS on cash withdrawal

Effective date: 01/09/2019

Levy of TDS of 2 percent on cash withdrawal of more than Rs 1 crore from bank account in a year, to boost digital payments.

It is proposed to exempt payment made to certain recipients, such as the Government, banking company, cooperative society engaged in carrying on the business of banking, post office, banking correspondents and white label ATM operators, who are involved in the handling of substantial amounts of cash as a part of their business operation, from the application of this provision.

CA Vinay Sharma

HIGHLIGHTS OF BUDGET 2019

GOODS & SERVICE TAX



Final Budget 2019 brought about various changes in Goods and Service Tax. Government is making various endeavours to make it Good and Simple Tax and remove the complexities. In this initiative following are some of the amendments brought about in GST:

1) NEW RETURNS

To simplify business and to diminish the consistence weight to the assesses, instead of current arrangement of returns i.e. GSTR-1 and GSTR-3B, government proposed to bring just one return for each month/quarter alongside yearly return. The proposed returns will be taken off from Oct 2019 stage savvy and from Jan 2020 will be executed completely for the all the tax payers.

2) EXTENSION OF DUE DATE

Prior, due date of filing all the returns could be broadened distinctly through Removal of Difficulty order (uncommon order) issued by Government in exercise of power under Section 172. Correction has been proposed to engage the commissioner to extend the due date by issuing notice.

3) DISCLOSURE OF PAYMENT MODE IN INVOICE

The Government may indicate the class of taxpayer who will give the endorsed methods of payment in the invoice which will guarantee that such people get through electronic modes as it were. This is done as the government's thought process of moving towards cashless economy.

4) COMPULSORY AUTHENTICATION OF AADHAR

Over the timeframe, Aadhaar Authentication has become a primary requirement in all the Act being passed by the Government. It has been additionally proposed to be embedded in GST law for Aadhaar validation for GST registration.

HIGHLIGHTS OF BUDGET 2019

GOODS & SERVICE TAX

5) HIGHER THRESHOLD EXEMPTION FOR REGISTRATION

Through notification 10/2019 dated 7th March, 2019 effective from 1st April 2019, Government provided benefit to small taxpayers supplying only goods including interest. The exemption also has been provided to the persons having exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Further, restriction for claiming exemption had been provided under notification stating persons required to take compulsory registration under section 24 of the said Act and persons engaged in making supplies of the specified goods. Such restriction has not been provided under the proposed amendment to act which may be prescribed under the notification issued at the later date.

6) COMPOSITION SCHEME AMENDMENT

Person supplying services of the value not exceeding 10% of the turnover in a state/ Union territory in the preceding FY or 10 lakh whichever is higher could opt for composition scheme. Amendment has been proposed to exclude the income in the nature of interest or discount by way of extending deposits, loans etc. for computing such service turnover. Earlier, there was no specific provision in the Act for restricting casual taxable person and non-resident taxable person to opt for composition scheme. However, Rule 5 of CGST Rule provided for the same. Now the provision has been inserted in the Act itself.

The persons having turnover up to 50 Lakhs may opt for payment of tax at the rate of 6% notified under notification.02/2019 dated 7th March, 2019 effective from 1st April 2019 is given legal sanctity by making corresponding provision in the Act.

7) ENHANCED POWER TO NATIONAL ANTI-PROFITEERING AUTHORITY

There was no particular punishment for the resistance of the order passed by the National Anti-profiteering Authority and the orders were given uniquely to recuperation of amount so profiteered. So as to anticipate the so profiteering and to recoup the amount early government has proposed to punish the person not complying with amount proportional to 10% of the sum so profiteered. Profiteered amount has additionally been characterized on which punishment must be paid.

HIGHLIGHTS OF BUDGET 2019

GOODS & SERVICE TAX

8) POWER TO CENTRAL GOVERNMENT TO REFUND THE STATE GOVERNMENT TAXES

The Government has proposed to offer power to the Central Government to dispense the refund amount of State taxes. Prior there was no power to the Central Government to dispense the refund amount to the citizens in regard of refund of State taxes. This has diminished the inconveniences of requesting state government authorities once the order has been passed by the Central Government.

9) CLARIFICATION ON LEVY OF INTEREST

After Various cases being filed on whether to levy interest on net liability instead of gross liability, the Government has now proposed to levy interest on the net liability of cash payment after adjusting the input tax credit. Although still there is no clarity as to the applicability of the amendment whether prospective or retrospective.

10) TRANSFER OF CASH BALANCE OF PARTICULAR HEAD TO OTHER HEAD

Till now there was a common problem amongst all the tax payers that if mistakenly tax is paid in some other head, they were not allowed to rectify it. After this budget Government has provided with a facility which will enable the taxpayers to consider the cash ledger as one account whereby deposits can be made in the electronic cash ledger any head i.e. IGST, CGST, SGST, Cess or any other head, which can then be used to pay either IGST, CGST, SGST, UTGST or Cess. However, penalties and interests cannot be paid from the already existing cash balances under other heads. Settlement of taxes between Centre and States consequent to transfer of taxes from one account to other has also been provided in the law.

CA SANSKAR AGRAWAL

CONTACT

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- **CA Praveen Jain** - **94077-00003**

*Thank
you!*

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