# INCOME TAX

# AMENDMENTS

## Finance Act, 2021

## Relevant for:

CS – Executive: JUNE/DEC. 2022

CA – INTER: MAY/NOV 2022

CMA – INTER: JUNE/DEC. 2022

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# INDEX

# CHAPTER-1
# BASIC OF INCOME TAX

## Amendment: 1

For May/June or Nov/Dec. 2022 Exams: PY 21-22 & AY 22-23 is Relevant

## Amendment: 2

**Tax Rates for Domestic Company**

| | |
|---|---|
| If the total turnover of gross receipt of the company in **P.Y. 2019-20** ≤ ₹ 400 Crore | 25% of Total Income |
| In any other case | 30% of Total Income |

**Note:** Other Tax Rates & Provisions are same as December 2021

# CHAPTER -2
# RETURN OF INCOME

## Amendment: 1

1. **Sec.139(1) Meaning of due date:** Due Date Means-

| | Assessee | Due Date |
|---|---|---|
| (i) | Where the assessee, other than an assesseereferred to in clause (ii), is-<br>a. A company<br>b. A person (other than a company) whose accounts are required to be audited under the Income-tax Act, 1961 or any other lawin force; or<br>**b)** A partner of a firm whose accounts are required to be audited under the Income Tax Act, 1961 or any other law for the time being in force **or the spouse of such partner if the provisions of section 5A applies to such spouse**. | **31St October** of theA.Y. |

| | | |
|---|---|---|
| (ii) | In the case of an assessee **including the partner of the firm or the spouse of such partner (if the provisions of section 5A applier to such spouse), being such assessee** who is required to furnish a report referred to in section 92E. | **30th November** of A.Y. |
| (iii) | In the case of any other assessee. | **31st July** of A.Y. |

## Apportionment of income between spouses governed by Portuguese Civil Code (Section 5A):

(1) Where the husband and wife are governed by the system of community of property (known under the Portuguese Civil Code of 1860 as "COMMUNIAO DOS BENS") in force in the **State of Goa and in the Union territories of Dadra and Nagar Haveli and Daman and Diu**, the income of the husband and of the wife under any head of income shall not be assessed as that of such community of property (whether treated as an association of persons or a body of individuals), **but such income of the husband and of the wife under each head of income (other than under the head "Salaries") shall be apportioned equally between the husband and the wife** and the income so apportioned shall be included separately in the total income of the husband and of the wife respectively, and the remaining provisions of this Act shall apply accordingly.

(2) Where the husband or, as the case may be, the wife governed by the aforesaid system of community of property has any income under the head "Salaries", such income shall be included in the total income of the spouse who has actually earned it.

## Amendment: 2

## Sec.139(4) BELATED RETURN

1) **Furnishing of belated return of income:** Any person who has not furnished a return within the time allowed to him under section 139(1),may furnish the return for any previous year at any time -
   a) **Before 3 months prior** to the end of the relevant assessment year; (i.e. 31.12.2022 for PY 21-22) or
   b) Before the completion of the assessment,

   whichever is **EARLIER.**

### Example: 1

For A.Y 2022-23, No return of income has been filed and no assessment has been made under section 144. Upto what time can be the assesse file the return of income?

Solution: Return of income under section 139(4) can be filed upto 31st December, 2022 subject to Section 234F.

### Example: 2

For A.Y 2022-23, No return of income has been filed. The assessing officer makes a best judgement assessment under section 144 on 30th November, 2022/31se December, 2022/31st March 2022. Upto what time can be the assesse file the return of income?

Solution: Return of Income u/s 139(4) could have been filed upto 20.11.2022/30.12.2022/31.12.2022 subject to section 234F.

## Amendment: 3

# REVISED RETURN [SECTION 139(5)]

If any person having furnished a return under section 139(1) or section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return **AT ANY TIME**

a) **Before 3 months prior** to the end of the relevant assessment year; or
b) Before the completion of the assessment, Whichever is **EARLIER.**

**Example 1:** For Assessment year 2022-23, the due date of filing of ROI was 31-10-2022 and ROI is filed on 31-10-2022 declaring an income of 4,00,000. Revised return is filed on 31-12-2022 declaring loss of 7,30,000. Can the loss be carried forward?

**Solution:**

As per the judgement of Dhampur Sugar Mills Ltd., revised return under section 139(5) substitutes the original return from the date original return was filed. Hence, revised return filed on 31.12.2022 substitutes the original return filed on 31.10.2022 and is deemed to be filed on 31.10.2022. Thereby, as per the provisions of section 80 read with section 139(3), the loss of 7,30,000 shall be carried forward.

**Example 2**: If in the above question, the original return was filed on 10.11.2022 instead of 31.10.2022, whether the loss can be carried forward?

**Solution:**

The return filed under section 139(4) can be revised under section 139(5) Therefore, revised return filed on 31-12-2022 is valid. As per Dhampur Sugar Mills Ltd., the revised return substitute the original return from 10-11-2022 and is deemed to be filed on 10-11-2022 As per the provision of section 80 read with section 139(3) the loss cannot be carried forward.

**Example 3:** For the assessment year 2022-23, the due date of filing of ROI was 31.10.2022 and ROI is filed on 10.11.2022 declaring a loss of Rs. 2,50,000. Revised return is furnished on 31.12.2022 declaring a loss of Rs. 7,00,000. Comment

**Solution:**

The return filed on 10.11.2022 is a return filed u/s 139 (4) and as per the provisions of section 80 read with section 139(3), the loss of Rs. 2,50,000 cannot be carried forward. Further the return filed on 31.12.2022 is a valid return, as per SC in Kumar Jagdish Chandra Sinha amendment made by Finance Act, 2016. As per Dhampur Sugar Mills Ltd., the revised return is deemed to be filed on 10-10-2022 As per the provision of section 80 read with section 139(3) the loss of Rs. 7,00,000 cannot be carried forward

**Example 4:** For the assessment year 2022-23, the due date of filing of ROI was 31.10.2022 and the return is not filed up to 31.10.2022 The Assessing officer issues notice under section 142(1)

**Case 1:** On 1-1-2023 and ask the assessee to file the return on 31-1-2023. Assessee files the return on 31-1-2023/10-2-2023.

**Solution:**

The late return has been filed after the period given under section 139(4) and therefore, cannot be revised. This is because the law provides that a return filed under section 139(1) or 139(4) can be revised.

## Amendment: 4

## Sec.234F Fees for Delay in filling ROI

Where a person who is required to file ROI u/s 139 fail to do so within prescribe time u/s 139(1), he shall pay by way of fees, a **sum of Rs.5000** However if Total Income of the person does not exceed 5L the Fees payableshall be 1000.

**Space for Example:**

**Amendment: 5**

## Sec.234H Fees for default relating to Intimation of AADHAR Number

Where a person required to intimate his Aadhar number u/s 139AA fails to do so **before 30th September 2021**, he shall be liable to pay such fees as may be prescribe, at the time of making intimation u/s 139AA after 30th Sep 2021. However, such **fees shall not exceed Rs.1000.**

**Space for Example:**

# Chapter 3
# Residential Status

## Amendment: 1

**Significant economic presence [Explanation 2A to section 9(1)(i)]**

**Significant economic presence of a non-resident in India shall also constitute business connection in India.**

| | *Nature of transaction* | *Condition* |
|---|---|---|
| *(a)* | *in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India* | ***Aggregate of payments** arising from such transaction or transactions during the previous year **should exceed ₹2 crores.*** |
| *(b)* | *systematic and continuous soliciting of business activities or engaging in interaction with users in India* | ***The number of users should be at least 3 lakhs**.* |

Further, the above transactions or activities shall constitute significant economic presence in India, whether or not,—

(i) the agreement for such transactions or activities is entered in India;

(ii) the non-resident has a residence or place of business in India; or

(iii) the non-resident renders services in India:

However, where a business connection is established by reason of significant economic presence in India, only so much of income as is attributable to the transactions or activities referred to in (a) or (b) above shall be deemed toaccrue or arise in India.

## Space for Example:

# CHAPTER-3 SALARIES

## Amendment: 1

**1. Interest Credited on Contribution by such person/employee**

As per section 10(11), any payment from
1. Public Provident Fund(PPF)
2. Statuary Provident Fund (SPF)
3. Recognize Provident Fund (RPF)

Accumulated balance due and becoming payable to an employee is exempt under section 10(11) & 10(12). The Finance Act 2021 provided that any interest to the extent it relates to the amount of Provident Fund contribution exceeding Rs 2,50,000 made by employees would be subject to tax [Assume, if employee contributes Rs. 4,50,000, the interest on 2,00,000 shall not exempt] . However, in cases where only the **employee is making contributions to the Provident Fund, the threshold limit of Rs 2,50,000 would be enhanced to Rs 5,00,000** [Assume, if employee contributes Rs. 6,00,000 then interest on Rs. 1,00,000 shall not be exempt]. Thus, such an amendment would lead to dual accounts within the Provident Fund account i.e. the Taxable as well as the Non-Taxable component.

It may be noted that interest accrued on contribution to such funds upto 31st March, 2021 would be exempt without any limit, even if the accrual of income is after that date.

**Note: Exemption of PF will be available in following Circumstances:**
1. Employee has completed the service of 5 years.
2. Employee has not completed the service of 5 years but service was Terminated by reason of
   a) Ill health
   b) Discontinuation by Employee
   c) Reason beyond the Control of Employee.
3. Employer Transfer the accumulated balance related to employee towards
   a) Account of New Employer
   b) NPS u/s 80CCD
   c) Govt. Notified Account

## Illustration 1 Based on Amendment

Mr. Pinku retires from service on December 31, 2021, after 25 years ofservice. Following are the particulars of his income/investments for the previous year 2021-22:

| Particulars | ₹ |
|---|---|
| Basic Pay @ ₹20,000 per month for 9 Months | 1,80,000 |
| Dearness pay (50% forms part of the retirement benefits) ₹ 10,000per month for 9 months | 90,000 |
| Lump sum payment received from the Unrecognised Provident Fund | 7,00,000 |
| Deposits in the PPF account | 50,000 |

Out of the amount received from the unrecognized provident fund, the employer's contribution was ₹ 2,80,000 and the interest thereon ₹ 55,000. The employee's contribution was ₹3,00,000 and the interest thereon ₹ 65,000.What is the taxable portion of the amount received from the unrecognizedprovident fund in the hands of Mr. Sohan for the assessment year 2022-23?

**Solution-**

Taxable portion of the amount received from the URPF in the hands of Mr.Sohan for the A.Y. 2022-23 is computed hereunder:

| Particulars | ₹ |
|---|---|
| Amount taxable under the head "Salaries": | |
| Employer's share in the payment received from the URPF | 2,80,000 |
| Interest on the employer's share | 55,000 |
| **Total** | **3,35,000** |
| Amount taxable under the head "Income from Other Sources": | |
| Interest on the employee's share | 65,000 |
| **Total amount taxable from the amount received from the fund** | **4,00,000** |

Note: The employee is not eligible for deduction under section 80C for his contribution to URPF at the time of such contribution. Hence, the employee's share received from the URPF is not taxable at the time of withdrawal as thisamount has already been taxed as his salary income.

**Illustration-2 (Based On Amendment).**

Will your answer be any different if the fund mentioned above was a recognised provident fund?

**Solution-**

The receipt of accumulated balance in a recognized provident fund would be exempt in the hand of the employee if the employee has rendered continuous service of 5 years or more. In the given case, since the withdrawal is taking place after a service of 25 years, the entire amount received from the RPF will be fully exempt from tax.

## Amendment: 2

**Annual accretion to the balance at the credit of the recognised provident fund/ NPS/ approved superannuation fund which relates to the employer's contribution and included in total income (on account of the same having exceeded ₹ 7,50,000)**

Any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the recognized provident fund or NPS or approved superannuation fund to the extent it relates to the employer's contribution shall also be Taxable as Perquisite.

**The CBDT has, vide Rule 3B**, notified the manner to compute the annual accretion by way of interest, dividend or any other amount of similar nature during the previous year-

$$TP = (PC/2)*R + (PC1 + TP1)*R$$

Where,

| | |
|---|---|
| TP | Taxable perquisite under section 17(2)(viia)for the current previous year |
| PC | Excess Contribution for the Current Previous year. |
| PC1 | Amount or aggregate of amounts of employer's contribution in excess of ₹ 7.5 lakh to recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund for the previous year or years commencing on or after 1st April, 2020 other than the current previous year |
| TP1 | Aggregate of taxable perquisite under section 17(2)(viia) for the previous year or years commencing on or after 1st April, 2020 other than the current previous year |
| R | I/ Favg |
| I | Amount or aggregate of amounts of income accrued during the current previous year in recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund |

| | |
|---|---|
| Favg | (Amount or aggregate of amounts of balance to the credit of recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund on 1st April, 2021 + Amount or aggregate of amounts of balance to the credit of recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund on 31st March, 2022)/2 |

Where the amount or aggregate of amounts of TP1 and PC1 exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on 1st April, 2021, then, the amount in excess of the amount or aggregate of amounts of the said balance shall be ignored for the purpose of computing the amount or aggregate of amounts of TP1 and PC1.

**Illustration 1 Based on Amendment.**

Mr. X is appointed as a CFO of ABC Ltd. in Mumbai from 1.5.2020. His basic salary is ₹ 5,50,000 p.m. He is paid 10% as D.A. He contributes 11% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. The accumulated balance in recognized provident fund as on 1.4.2021 and 31.3.2022 is ₹ 15,35,000 and ₹ 33,55,000, respectively. Compute the perquisite value chargeable in the hands of Mr. Xu/s 17(2)(vii) and 17(2)(viia) for the P.Y. 2021-22.

**Solution-**

1. Perquisite value taxable u/s 17(2)(vii) = ₹ 7,98,600, being employer's contribution to recognized provident fund during the P.Y. 2021-22 – ₹ 7,50,000 = ₹ 48,600

2. Annual accretion on perquisite taxable u/s 17(2)(vii) = (PC/2)*R + (PC1 + TP1)*R

   = (48,600/2)*0.091 + 0

   = ₹ 2,211

PC ABC Ltd.'s contribution in excess of ₹ 7.5 lakh to recognized providentfund during P.Y. 2021-22 = ₹ 48,600

PC1 Nil since employer's contribution is less than ₹ 7.5 lakh to recognizedprovident fund in P.Y. 2020-21.

TP1 Nil

R I/Favg = 2,22,800/24,45,000 = 0.091

I RPF balance as on 31.3.2022 – employee's and employer's contributionduring the year – RPF balance as on 1.4.2021 = ₹ 2,22,800 (₹ 33,55,000 – ₹ 7,98,600 – ₹ 7,98,600 – ₹ 15,35,000)

Favg Balance to the credit of recognized provident fund as on 1st April, 2021 + Balance to the credit of recognized provident fund as on 31st March, 2022)/2 = (₹ 15,35,000 + ₹ 33,55,000)/2 = ₹ 24,45,000

**Note –** Since the employee's contribution to RPF exceeds ₹ 2,50,000 in the P.Y.2021-22, interest on ₹ 5,48,600 (i.e., ₹ 7,98,600 – ₹ 2,50,000) will also be chargeable to tax.

# CHAPTER-4
# PGBP

## Amendment: 1

1) **Sec.2(11) Block of assets:**
Block of Assets: A "block of assets" is defined in section 2(11), as a group of assets falling within a class of assets comprising—
   - ✓ Tangible assets, being buildings, machinery, plant or furniture;
   - ✓ Intangible assets, being know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature, **not being goodwill of a business or profession.**

## Amendment: 2

2) **Sec.43(6) Written down value**
While computing W.D.V. of the block of assets as on 1.4.2020 i.e., for P.Y. 2020- 21, if goodwill of a business or profession was part of the block of assets and depreciation was allowed on that to the assessee upto P.Y. 2019-20, actual cost of the goodwill as reduced by the amount of depreciation that would have been allowable to the assessee for such goodwill as if goodwill was the only asset in the block, has to be reduced. However, such amount of reduction cannot exceed the WDV.

## Amendment: 3

3) **Sec.36(1)(VA) Amount received by assessee-employer as contribution from his employees towards their welfare fund to be allowed only if such amount is credited on or before due date**

any sum received by the employee as contribution towards any welfare fund of such employees will be allowed only if such sum is credited by the taxpayer to the employee's account in the relevant fund on or before the due date.

As per EPF Scheme 1952, the amounts under consideration in respect of wages of the employees for any particular month shall be paid within 15 days of the close of every month.

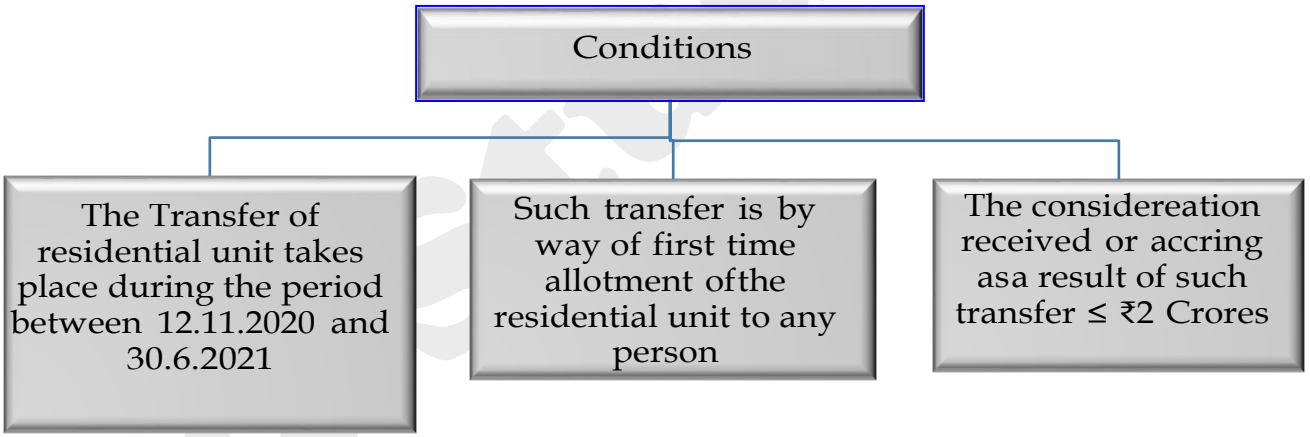
Note - It is clarified that the provisions of section 43B shall not be applicable.

## Amendment: 4

4) **Sec.43CA: Land & Building Held as Stock in trade.**

Where the stamp duty value exceed 110% of the consideration received or accruing then Stamp duty value shall be Full Value of consideration for the purposes of computing PGBP.

Instead of 110% take **120%** if Following Conditions are satisfied




***Meaning of residential unit*** **–**

An independent housing unit with separate facilities for living, cooking and sanitary requirement, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.

## Example based on amendment

X Purchases a newly constructed residential unit of 4,500 sq.ft (under first allotment) from DEF Builders Ltd. The following information is available-

| | Case 1 | Case 2 | Case 3 |
|---|---|---|---|
| Date of agreement | October 18,2020 | October 18,2020 | October 18,2020 |
| Agreed Consideration | Rs. 2 Crore | Rs. 2 Crore | Rs. 2 Crore |
| Advance paid on October 14, 2020 through NEFT | Rs. 20 Lakhs | Rs. 20 Lakhs | Rs. 20 Lakhs |
| Stamp duty value onOctober 14, 2020 | Rs. 2.4 Crore | Rs. 2.7 Crore | Rs. 2.3 Crore |
| Date of conveyance deed and its registration in favour of X | March 7, 2021 | June 30, 2021 | July 25, 2021 |
| Stamp duty value on the date of registration | Rs. 2.5 Crore | Rs. 2.4 Crore | Rs. 2.6 Crore |

X and DEF Builders Ltd. want to know tax implications of aforesaid transaction under sections 43CA and 56)2)(x).

## Solution:-

In the above cases, a part of consideration is paid through NEFT on the date of agreement, Consequently, stamp duty value on the date of agreement shallbe taken for the purpose of safe harbour limit. Moreover, safe harbour limit for the purpose of sections 43CA and 56(2)(x) has been increased from 10% to 20% if a few conditions are satisfied. These conditions are discussed in the table (infra) along with the data given in the case study-

| | Whether conditions for applying the safe harbour limit of 20% are satisfied- | | |
|---|---|---|---|
| | Situation 1 | Situation 2 | Situation 3 |
| **Condition 1-** Residential Unit istransferred during November 12, 2020 and June 30, 2021 | Yes<br>Yes | Yes<br>Yes | Yes<br>Yes |
| **Condition 2-** Residential unit istransferred by way of first allotment | Yes | Yes | Yes |
| **Condition 3-** Consideration does not exceed Rs. 2 Crore | | | |
| What is safe harbour limit under Sec. 43CA & 56(2)(x)Sale consideration | 20%<br>Rs. 2 Crore | 20%<br>Rs. 2 Crore | 10%<br>Rs. 2 Crore |
| Sale consideration as increasedby safe harbour | Rs. 2.4 Crore | Rs. 2.4 Crore | Rs. 2.2 Crore |

| | | | |
|---|---|---|---|
| limits | | | |
| Stamp duty value on the date of agreement (as a part of consideration is paid through | Rs. 2.4 Crore | | |
| NEFT on the before the date of agreement<br>Whether stamp duty value exceeds 120%/110% of sale consideration | No | Rs. 2.4 Crore<br><br>No | Rs. 2.4 Crore<br><br>No |
| Full value of consideration in the hands of DEF Ltd. under section 43CA<br>Amount taxable in the hands of X under Section 56(2)(x) | Rs. 2 Crore<br><br>NIL | Rs. 2.7 Crore<br><br>Rs. 70 lakh | Rs. 2.3 Crore<br><br>Rs. 30 lakh |

## Amendment: 5

### AUDIT OF ACCOUNTS OF CERTAIN PERSONS CARRYING ON BUSINESSOR PROFESSION [SECTION 44AB]

| | **Persons** | **When tax audit is required?** |
|---|---|---|
| **(1)** | **(2)** | **(3)** |
| | **Business** | |
| (a) | In case of a person **carrying on business** | If his total sales, turnover or gross receipts in business > ₹ 1 crore in the relevant PY<br>Note – The requirement of audit u/s 44AB does not apply to a person who declares profits and gains on presumptive basis u/s 44AD and his total sales, turnover, or grossreceipts does not exceed ₹ 2 crore. |
| | If in case of **such person carrying on business -**<br>(i) Aggregate cash receipts in the relevant PY≤ 5% of total receipts (including receipts for sales, turnover, gross receipts); and<br>(ii) Aggregate cash payments in the relevant PY ≤ 5% of total payments (including amount incurred for expenditure) | If his total sales, turnover or gross receipts in **business > ₹ 10 crore** in the relevant PY |
| | **Note –** For this purpose, the payment or receipt, as the case may be, by acheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the payment or receipt, as the case may be, | |

| | | |
|---|---|---|
| | in cash. | |
| (b) | In case of an assessee covered u/s 44AE i.e., an assessee engaged in the business of plying, hiring or leasing goods carriages who owns not more than 10 goods carriages at any time during the P.Y. | If such assessee claims that the profits and gains from business in the relevant P.Y. are lower than the profits and gains computed on a presumptive basis u/s 44AE [i.e., ₹ **1000 per ton of gross vehicle weight** or unladen weight in case of each heavy goods vehicle and ₹ 7,500 for each vehicle, other than heavy goods vehicle, for every month or part of the month for which the vehicle is owned by the assessee]. |
| (c) | In case of an eligible assessee carrying on business, whose total turnover, sales, gross **receipts ≤ ₹ 200 lakhs**, and who has opted for section 44AD in any earlier PY (say, P.Y.2020-21) | If he declares profit for any of the five successive PYs (say, P.Y.2021-22) not in accordance with section 44AD (i.e., he declares profits lower than 8% or 6% of total turnover, sales or gross receipts, as the case may be, in that year), then he cannot opt for section 44AD for five successive PYs after the year of such default (i.e., from P.Y.2022-23 to P.Y.2026-27). For the year of default (i.e., P.Y.2021-22) and five successive previous years (i.e., P.Y.2022-23 toP.Y.2026-27), he has to maintain books of account u/s 44AA and get them audited u/s 44AB, if his income exceeds the basic exemption limit. |
| **PROFESSION CASES** | | |
| (a) | In case of a person carrying onprofession | If his gross receipts in profession > ₹ 50 lakh in the relevant PY |
| (b) | In case of an assessee carryingon a notified profession under section 44AA(1) i.e., legal medical, engineering, accountancy, architecture, interior decoration, technical consultancy, whose **grossreceipts ≤ ₹ 50** lakhs | If such resident assessee claims that the profits and gains from such profession inthe relevant PY are lower than the profitsand gains computed on a presumptive basis u/s 44ADA (50% of gross receipts)and his income exceeds the basic exemption limit in that PY. |

## Example Based on Amendment

Let us consider the following particulars relating to a resident individual, Mr. A, being an eligible assessee carrying on retail trade business whose total turnover do not exceed ₹ 2 crore in any of the previous years relevant to A.Y.2022-23 to A.Y.2024-25

| Particulars | A.Y.2022-23 | A.Y.2023-24 | A.Y.2024-25 |
|---|---|---|---|
| Total turnover ( ₹) | 1,80,00,000 | 1,90,00,000 | 2,00,00,000 |

| | | | |
|---|---|---|---|
| Amount received through prescribed electronic modes on or before 31stOctober of the A.Y. | 1,60,00,000 | 1,45,00,000 | 1,80,00,000 |
| Income offered for taxation ( ₹) | 11,20,000 | 12,30,000 | 10,00,000 |
| % of gross receipts | 6% on ₹ 1.60 crore and 8% on ₹ 20 lakhs | 6% on ₹ 1.45 crore and 8% on ₹ 45 lakhs | 5% on ₹ 2 crore |
| Offered income as per presumptivetaxation scheme u/s 44AD | Yes | Yes | No |

In the above case, Mr. A, an eligible assessee, opts for presumptive taxation under section 44AD for A.Y.2022-23 and A.Y.2023-24 and offers income of ₹ 11.20 lakh and ₹ 12.30 lakh on gross receipts of ₹ 1.80 crore and ₹ 1.90 crore, respectively.

However, for A.Y.2024-25, he offers income of only ₹ 10 lakh on turnover of ₹ 2 crore, which amounts to 5% of his gross receipts. He needs to maintain books of account under section 44AA and gets the same audited under section 44AB. Since he has not offered income in accordance with the provisions of section 44AD(1) for five consecutive assessment years, after A.Y. 2022-23, he will not be eligible to claim the benefit of section 44AD for next five assessment years succeeding A.Y.2024-25 i.e., from A.Y.2025-26 to 2029-30.

# CHAPTER-5
# CAPITAL GAINS

**Amendment: 1**

## SECTION 2(14) CAPITAL ASSET

According to section 2(14), a capital asset **means** –

a) Property of any kind held by an assessee, whether or not connected with his business or profession;
b) Any securities held by a Foreign Institutional Investor
**c) Any unit linked insurance policy (ULIP) issued on or after 1.2.2021, to which exemption under section 10(10D) does not apply on account of –**

**i. Premium payable exceeding ₹ 2,50,000 for any PY during the term of such policy; or**

**ii. The aggregate amount of premium exceeding ₹ 2,50,000 in any PY during the term of any such ULIP(s), in a case where premium is payable by a person for more than one ULIP issued on or after 1.2.2021.**

**Amendment: 2**

## Sec.45(1B) (iii) Unit Linked Insurance Policy Receipts [Section 45(1B)]

Where any person receives, at any time during any previous year, any amount, under a ULIP issued on or after 1.2.2021, to which exemption under section 10(10D) does not apply on account of –

(i) premium payable **exceeding ₹ 2,50,000** for any of the previous yearsduring the term of such policy; or

(ii) the aggregate amount of premium **exceeding ₹ 2,50,000** in any of the previous years during the term of any such ULIP(s), in a case where premium is payable by a person for more than one ULIP issued on orafter 1.2.2021, then, any profits or gains arising from receipt of such amount by such person shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of the such person for the previous year in which such amount was received. The income taxable shall be calculated in such manner as may be prescribed.

## Amendment: 3

### Sec.55(2) Cost of Acquisition of Goodwill:

Goodwill of a **business or profession** or a trademark or brand name associated with a business or profession or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, tenancy rights, stage carriage permits and loom hours COA will be NIL if Self generated.

**In case of Purchased Goodwill:** However, in case of a capital asset, being goodwill of a business or profession, in respect of which depreciation under section 32(1) has been obtained by the assessee in any previous year (upto P.Y.2019-20), the cost of acquisition of such goodwill would be the amount of the purchase price as reduced by the total amount of depreciation (upto P.Y.2019-20) obtained by the assessee under section 32(1).

**In case of Purchase of Goodwill by Previous Owner:**

However, in case of a capital asset, being goodwill of a business or profession, in respect of which depreciation under section 32(1) has been obtained by the assessee in any previous year (upto P.Y.2019-20), the cost of acquisition of such goodwill would be the amount of the purchase price for such previous owner as reduced by the total amount of depreciation (upto P.Y.2019-20) obtained by the assessee under section 32(1).

## Amendment: 4

### Sec.50B Slump Sale: Deemed full value of consideration [Section 50B(2)(ii)]

Fair market value of the capital assets as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

Accordingly, the CBDT has inserted Rule 11UAE to determine fair market value of the capital Assets.

## Amendment: 5

**Cost Inflation Index: 317 for FY 21-22.**

## Amendment: 6

### Applicability of Sec.111A/112A on ULIP

Section 111A and 112A has been amended to cover the Taxation of ULIP, if any, and therefore is conditions of those section are satisfied then ULIP shall be taxed at the rate of 15% or 10% (beyond 1 lakh as the case may be)

# CHAPTER-6
# INCOME FROM OTHER SOURCES

**Amendment: 1**

**1. Sec.56(2)(X) Immovable property [Land or building or both]:**

**I. If an immovable Property is received**

a) **Without consideration:-** The Stamp duty value of such property would be taxed as the income of the recipient, if it exceeds ₹ 50,000.

b) **For Inadequate consideration:-** If Consideration is less than the stamp duty value of the property and the difference between the stamp duty value and consideration is more than the higher of –

i. **₹ 50,000 and**

ii. **10% of consideration**

The Difference between the stamp duty value and the consideration shall be chargeable to tax in the hands of the assessee as "Income from other sources".

In case immovable property, being a residential unit fulfilling the stipulated conditions mentioned below, is received for inadequate consideration from a person who holds such property as his stock-in-trade, then, only if the stamp duty value of the residential unit exceeds the sale consideration by **20%** of the consideration or ₹ 50,000, whichever is higher, would the difference between the stamp duty value and the actual consideration be chargeable to tax in the hands of the recipient of immovable property. The benefit of higher threshold of 20% of consideration vis-à-vis 10% of consideration shall be available, subject to the satisfaction of **following conditions** –

i. The residential unit is transferred during the period between 12.11.2020 and 30.6.2021;

ii. Such transfer is by way of first time allotment of the residential unit and

iii. The consideration paid or payable as a result of such transfer ≤ ₹ 2 crores.

Note – Though the residential unit should be the stock in trade of the sellerfor applicability of the higher threshold of 20%, it should be a capital asset inthe hands of the buyer in the first place for attracting the provisions of section 56(2)(x).

**Meaning of residential unit** – An independent housing unit with separate facilities for living, cooking and sanitary requirement, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and notby walking through the living space of another household.

It may be noted that the above limit shall be considered for each property separately.

## Amendment: 2

**2. Non-applicability of section 56(2)(x):**

However, any sum of money or value of property received in the followingcircumstances would be outside the ambit of section 56(2)(x) -

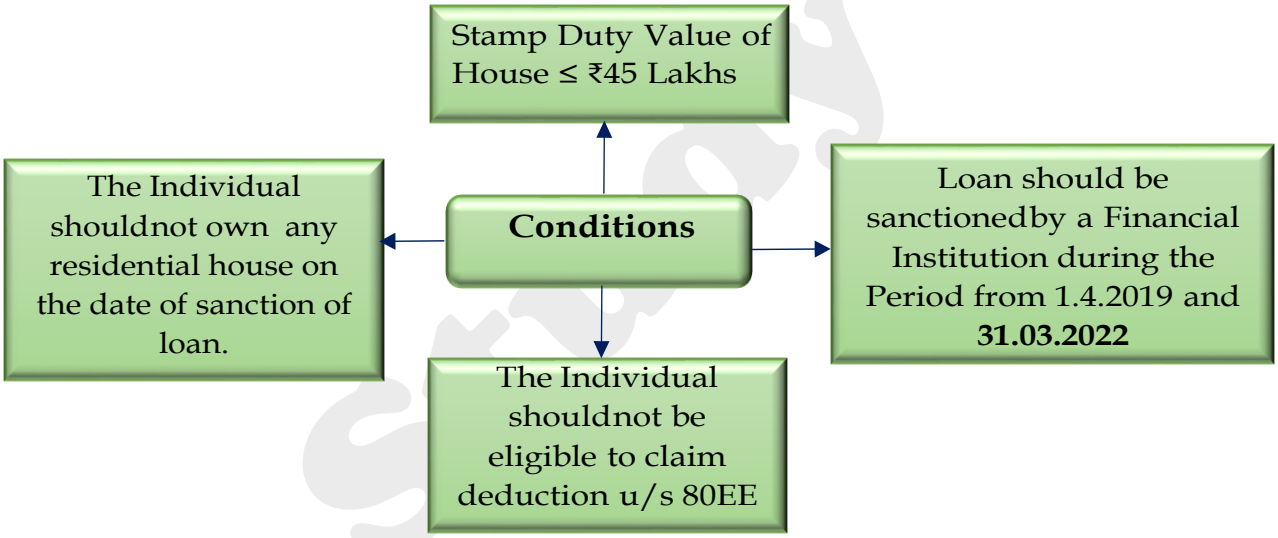
(i) From any relative; or
(ii) On the occasion of the marriage of the individual; or
(iii) Under a will or by way of inheritance; or
(iv) In contemplation of death of the payer or donor, as the case may be; or
(v) From any local authority as defined in the Explanation to section 10(20);or
(vi) From any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or
**(vii)** From or by any trust or institution registered under section **12A or section 12AA or section 12AB; or**
(viii) By any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in Section 10(23C)(iv)/(v)/ (vi)/(via).
**(ix)** By way of transaction not regarded as transfer under section 47(i)/(iv)/(v)/(vi)/(via)/ (viaa)/(vib)/(vic)/(vica)/(vicb)/(vid)/(vii)/**(viiac)/(viiad)/(viiae)/(viiaf).**
(x) From an individual by a trust created or established solely for the benefitof relative of the individual.
(xi) From such class of persons and subject to such conditions, as may beprescribed.

# CHAPTER-7
# DEDUCTIONS

**1. Deduction in respect of interest payable on loan taken for acquisition of residential house property [Section 80EEA]**

(i) **Eligible assessee:** An individual who has taken a loan for acquisitionof residential house property from any financial institution. Interest payable on such loan would qualify for deduction under this section.

(ii) **Conditions:** The conditions to be satisfied for availing this deductionare as follows:




(iii) **Quantum of deduction:** The maximum deduction allowable is ₹ 1,50,000. The deduction of upto ₹ 1,50,000 under section 80EEA is over and above the deduction available under section 24(b) in respect of interest payable on loan borrowed for acquisition of a residential house property.

# CHAPTER-8
# TDS/TCS

**Amendment: 1**

## Section 194P: Deduction of tax by a specified bank in case of specified senior citizen (1) Applicability and rate of TDS

A notified banking company shall compute total Income of specified senior citizen for the relevant assessment year, computed after giving effect to -

- Deduction allowable under Chapter VI-A; and
- Rebate allowable under section 87A

### Exemption from filing return of income

The specified senior citizen is exempted from filing his return of income for the assessment year relevant to the previous year in which the tax has been deducted under this section.

### Meaning of certain terms

| S. No. | Term | Meaning |
|---|---|---|
| (i) | Specified bank | A banking company which is a scheduled bank and has been appointed as agents of Reserve Bank of India under section 45 of the Reserve Bank of India Act, 1934 |
| (ii) | Specified senior citizen | An individual, being a resident in India, who<br>1. is of the age of 75 years or more at any time during the previous year;<br>2. is having pension income [Also, he should have no other income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income]; and<br>3. has furnished a declaration to the specified bank containing such particulars, in the prescribed form and verified in the prescribed manner. Accordingly, CBDT has inserted Rule 26D to prescribe the form and manner for furnishing the declaration<br>discussed below. |

## Amendment: 2

# Deduction of tax at source on purchase of goods [Section 194Q] [w.e.f1.7.2021]

1. **Applicability and rate of TDS.**
Section 194Q requires any person, being a **buyer who is responsiblefor paying any sum to any resident-seller for purchase of goods of the** value or aggregate of such value **exceeding ₹ 50lakhs** in a previousyear, to deduct tax at source **@0.1% of such sum exceeding₹ 50 lakhs.**

**Non-applicability of TDS under section 194Q**

Tax is not required to be deducted under this section in respect of a transaction on which -

(a) Tax is deductible under any of the provisions of this Act; and

(b) Tax is collectible under the provisions of section 206C, other thansection 206C(1H).

In case of a transaction to which both section 206C(1H) and section194Q applies, tax is required to be deducted under section 194Q.

**Meaning of buyer**

Buyer means a person whose total sales, gross receipts or turnover from the business carried on by him during the financial year immediately preceding the financial year in which the purchase of goods is carried out.

However, buyer does not include a person as notified by the Central Government for this purpose, subject to fulfillment of the stipulated conditions.

**Example Based on Amendment:**

Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y.2020-21 was ₹ 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2021-22 was ₹ 95 lakh (₹ 20 lakh on 1.6.2021, ₹ 25 lakh on 12.8.2021, ₹ 22 lakh on 23.11.2021 and ₹ 28 lakh on 25.3.2022). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for F.Y.2020-21 was ₹ 15 crores.

1) Based on the above facts, examine the TDS/TCS implications, ifany, under the Income-tax Act, 1961.
2) Would your answer be different if Mr. Gupta's turnover for F.Y.2020-21 was ₹ 8 crores, all other facts remaining the same?
3) Would your answer to (1) and (2) change, if PAN has not been

furnished by the buyer or seller, as required?

**Solution:**

1) Since Mr. Gupta's turnover for F.Y.2020-21 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the P.Y.2021-22, he is liable to deduct tax@0.1% of ₹ 45 lakhs (being the sum exceeding ₹ 50 lakhs) in the following manner –

   No tax is to be deducted u/s 194Q on the payments made on 1.6.2021 and 12.8.2021, since the aggregate payments till that date i.e. 45 lakhs,has not exceeded the threshold of ₹ 50 lakhs.

   Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 22 lakh on 23.11.2021 [₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit]. Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 28 lakhs on 25.3.2022.
   Note – In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q.

2) If Mr. Gupta's turnover for the F.Y.2020-21 was only ₹ 8 crores, TDS provisions under section 194Q would not be attracted. However, TCS provisions under section 206C(1H) would be attracted in the hands of Mr. Agarwal, since his turnover exceeds ₹ 10 crores in the F.Y.2020-21and his receipts from Mr. Gupta exceed ₹ 50 lakhs.
   No tax is to be collected u/s 206C(1H) on 1.6.2021 and 12.8.2021, since the aggregate receipts till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.
   Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be collected u/s 206C(1H) on 23.11.2021 (₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit). Tax of 2800(0.1% of 28 lakh has to be collected u/s 206C(IH) on 25.03.2022.

3) In case (1), if PAN is not furnished by Mr. Agarwal to Mr. Gupta, then, Mr. Gupta has to deduct tax@5%, instead of 0.1%. Accordingly, tax of ₹ 85,000 (i.e., 5% of ₹ 17 lakhs) and ₹ 1,40,000 (5% of ₹ 28 lakhs) has to be deducted by Mr. Gupta u/s 194Q on 23.11.2021 and 25.3.2022, respectively.
   In case (2), if PAN is not furnished by Mr. Gupta to Mr. Agarwal, then, Mr. Agarwal has to collect tax@1% instead of 0.1%. Accordingly, tax of
   ₹ 17,000 (i.e., 1% of ₹ 17 lakhs) and ₹ 28,000 (1% of ₹ 28 lakhs) has to be collected by Mr. Agarwal u/s 206C(1H) on 23.11.2021 and 25.3.2022, respectively.

## Amendment: 3

### Higher rate of TDS for non-filers of income-tax return [Section 206AB]

1. Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person (deductee) **to a specified person,** at higher of the following rates-
   a) At Twice the rate prescribed in the relevant provisions of the Act;
   b) At Twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
   c) At 5%

However, section 206AB is **not** applicable in case of tax deductible at sourceunder section 192, 192A, 194B 194BB, or 194N.

In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required tobe deducted at higher of the two rates provided in section 206AA and section206AB.

**Meaning of "Specified person"-** A person who has **Not** filed the **Return of income**

— **For both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted** for which the time limitof filling return of income under section 139(!) has expired.And

— The **aggregate of tax deducted at source and tax collected at source in his case is₹ 50,000 or more in each of these two previous years.**

However, the specified person does not include a non-resident whodoes not have a permanent establishment in India.

## . Amendment: 4

### Higher rate of TCS for non-filers of Income tax return and non furnishers of PAN [Section 206CCA & 206CC]

(i) Section 206CCA, inserted w.e.f. 1.7.2021, requires tax to be collected at source under the provisions of this Chapter on any sum or amount received by a person (collectee) from a specified person, at higher of the following rates –
   a) At twice the rate specified in the relevant provision of the Act;
   b) At 5% Section

(ii) The provisions of section 206CC require tax collection at the higher ofthe following two rates, in case of failure by the person paying any

sum or amount on which tax is collectible at source to furnish PAN to the person responsible for collecting tax at source -

- At twice the rate specified in the relevant provision of the Act
- At 5% [1%, in case tax is required to be collected at source u/s 206C(1H)]

The provisions of section 206CC does not apply to a non-resident who does not have a permanent establishment in India.

It may be noted that whereas section 206CC is applicable to persons paying any sum or amount (on which tax is collectible at source) who have not furnished PAN, section 206CCA is applicable to specified persons who have failed to file return of income.

(iii) **Meaning of "specified person" –** A person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be collected, for which the time limit of filing return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in each of these two previous years.

However, the specified person does **not** include a non-resident who does not have a permanent establishment in India.

In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.

# CHAPTER- 9
# OTHER AMENDMENTS by FA, 2021

## AMENDMENT: 1

### SURCHARGE ON INDIVIDUAL & HUF

**Where total income *done not include* dividend income and capital gains referred to section 111A/112A:**

| Total Income | Surcharge |
|---|---|
| Upto Rs. 50 lakhs | Nil |
| Above Rs. 50 lakhs but upto Rs. 1 crore | 10 % |
| Above Rs. 1 crore but upto Rs. 2 crore | 15% |
| Above Rs. 2 crore but upto Rs. 5 crore | 25% |
| Above Rs. 5 crores | 37% |

**When total income *includes* Dividend Income and/ or Capital Gains referred to in section 111A and/or 112A:**

| Total Income | Surcharge |
|---|---|
| (i) Does not exceed Rs. 50 lakhs | Nil |
| (ii) Exceeds Rs. 50 lakhs but does not exceed Rs.1 crore | 15% |
| (iii) Exceeds Rs. 1 crore but does not exceed 2 crores Exceeds Rs. 2 crores | 15% |
| **(iv) Exceeds Rs.2 crores**<br>A. On tax computed on Capital Gains under section 111A & 112A and dividend income<br>B. On tax computed on **Total Income - Capital Gains under section 111A & 112A and dividend income**<br>**If Total Income - Capital Gains under section 111A & 112A and dividend income** | 15% |
| (a) Is upto Rs. 2 crore | 15% |
| (b) is above Rs. 2 crores but upto Rs. 5 crores Above Rs.5 crores | 25% |
| (c) Above Rs. 5 crore | 37% |

## AMENDMENT: 2

### As deduction under section 35(1)(iv).

4. The notification under section 32(1)(ii)/(iia)/(iii) shall be withdrawn unless such institution/ company intimates the prescribed authority by 30.06.2021 & its approval then shall be valid for a period of 5 years, otherwise it shall be deemed to be withdrawn. **[Intimation in Form 10A]**

5. Such institution/company also files a statement [prescribed donation details] and furnishes a certificate to the donor by 31st May of the succeeding F.Y. failing which donor shall not get deduction & donee institution/ company liable to 200/day late fee [Section 234G] and/or penalty of 10,000 to 1,00,000. **[Section 271K]**

## AMENDMENT: 3

### Section 44AD

Applicable to all resident assesses **individuals and partnership firms** other than LLPs

## AMENDMENT: 4

### NOTICE UNDER SECTION 142(1)

Section 142(1)(i): If return of income has not been furnished under section 139(1), then the Assessing Officer may issue a notice requiring the assessee to furnish the return of income within the time specified in the notice. The notice under section 142(1)(i) **can also be issued after 31st December of the relevant AY.**

## AMENDMENT: 5

As per section 143(1), the intimation for tax payable refundable shall not be sent **after the expiry of 9 months from the end of the financial year in which return is filed.** However, the limitation of 9 months shall not apply to issue of cheque of refund.

## AMENDMENT: 6

**SECTION 153 : TIME LIMT FOR COMPLETION OF ASSESSMENT OR REASSESSMENT**

| | **Normal Period of Assessment / Reassessment** | **Period of Assessment / Reassessment where a reference has been made to Transfer Pricing Officer to determine Arm's Length Price** |
|---|---|---|
| **Assessment under section 143(3) or under section 144** | **9 months** from the **end of the relevant Assessment Year.** | **21 months** from the **end of the relevant Assessment Year.** |
| Assessment or reassessment under section 147 | **12 months** from the end of the financial year in which notice under section **148 was served.** | **24 months** from the end of the financial year in which notice under section **148 was served.** |
| Fresh assessment under section 143(3) / 144 / 147 where assessment has been cancelled and referred cancelled and referred back to Assessing Officer for fresh | **12 months** from the end of the financial year in which order under section 254 is **received by CIT** or order under | **24 months** from the end of the financial year in which order under section 254 is **received by the CIT** or order under section 263 or 264 **was passed by the CCIT/CIT.** |

## AMENDMENT: 7

**Slump sale**
**[defined under section 2(42C)]**

As per Finance Act, 2021, slump sale of an undertaking **includes:**

(i) Transfer of undertaking for monetary consideration.

(ii) Transfer of undertaking for non-monetary consideration e.g., assets or undertaking received on transfer of undertaking.

(iii) Transfer of undertaking for monetary and non-monetary consideration e.g., assets/undertaking and money received on Transfer of undertaking.

## AMENDMENT: 8

For Making Assessment u/s 143(3) the A.O is required to serve a notice u/s 143(2). This Notice has to be **served within 3 Months** from the end of the F.Y in which return is furnished

**For Any Doubt:**
**Whatsapp at : 9643036663**
**Love**
**CA Vivek Gaba (TAX LOVE)**