SNK ADVISORS LLP

INDIA UNION BUDGET

2021-22

ECONOMY RECOVERY

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KNAV
PARTNERS BEYOND BOUNDARIES

Index

FOREWORD

FOREWORD

Announced amidst a medley of emotions and expectations, Union Budget 2021-22 is an **'Atmanirbhar Budget'** following the multiple mini budgets articulated in the form of COVID-19 relief packages and Pradhan Mantri yojanas over the pandemic hit 2020-21. The Government is set to revamp the Indian economic engine as we step into this transformational decade boasting a quick and sustainable V-shaped recovery curve. This trajectory is broadly shaped by robust growth momentum, digital economy expansion, increased capex buckets, improving fiscal deficit levels and a rationalised tax structure for the present and future.

In the post pandemic world order, wherein Asia is poised to occupy a prominent position and India will have a leading role, the Union Budget 2021-22 bases itself on six broad pillars of:

- Health & Well-being
- Physical & Financial Capital and Infrastructure
- Inclusive Development for Aspirational India
- Reinvigorating Human Capital
- Innovation and R&D
- Minimum government, maximum governance

Monetary and fiscal coordination will be the premise of the promised US$ 5 trillion Indian economy. With the current fiscal deficit standing at 9.8% for FY21, India is anticipated to record a targeted 4.5% fiscal deficit by FY26 as it stands strong to get back on the path of fiscal consolidation.

With the necessary impetus being actively pumped into core joints of the economy, there is a strong focus on improving the digital infrastructure of the nation. These endeavours foresee increased support by the way of setting up of a fintech hub at GIFT IFSC, use of artificial intelligence and machine learning in governance frameworks, enhancing digital payment mechanisms and boosting technological integration at grassroot level.

Promoting an umbrella market code for various security market regulations, relaxation of rules concerning NRI's, company law reforms and exemptions for start-up investors shall pave a long way in nurturing the Indian start-up ecosystem, attracting foreign investments and promoting ease of doing business. `

This budget puts a comprehensive lens on the economy revival measures with announcements of doubled healthcare spending and infusions supporting the human capital and infrastructure development.

In line with the Government's commitments, widespread reformative measures have been proposed for Agrarian India, with an INR 16.5 lakh crores agricultural credit targets. Considering the troubles faced by migrant workers over the pandemic phase, a **'One Nation, One Ration Card'** scheme has been introduced to covering 86% beneficiaries.

Serving the tax fraternity's expectations, Union Budget 2021-22 comes with reformative measures across the direct and indirect tax infrastructure with receipt levels for RE 2020-21 of INR 9.1 lakh crores and INR 9.9 lakh crores for direct and indirect taxation, respectively.

Whilst the income tax slabs and rate of taxation remains unchanged, residents above the age of 75 have been exempted from filing ITR's in case of no income apart from pension and interest receipts.

FOREWORD

Tax litigation has been eased for small taxpayers and the long-awaited faceless assessments have been fostered further with the setting up of a National Faceless ITAT centre. Adequate provisions have been proposed for the corporate chunk too with dividend exemptions from TDS, lower withholding tax propositions, relaxation on start-up taxation implications, added incentives to IFSC and broad boosters to ease income tax compliance for all.

One of the dream projects of the current Government, **"One Nation, One Tax"** is being further shaped with new measures being introduced such as doing away with concept of mutuality and introduction of agriculture infrastructure and development cess. GST collection is set to rise with the introduction of new infusions via development financial institution over the next five years.

While the Union Budget 2021 is more production centric than consumer centric, the overall boost to the economy should spur the consumer demand and move the consumption story ahead. The Governments focus on healthcare, research and innovation and infrastructure development is progressive and in the right direction towards an "Aspirational India".

We hope that this Budget 2021 analysis publication serves as a stimulative read.

Shall look forward to your comments and questions.

Thank you,

Team KNAV

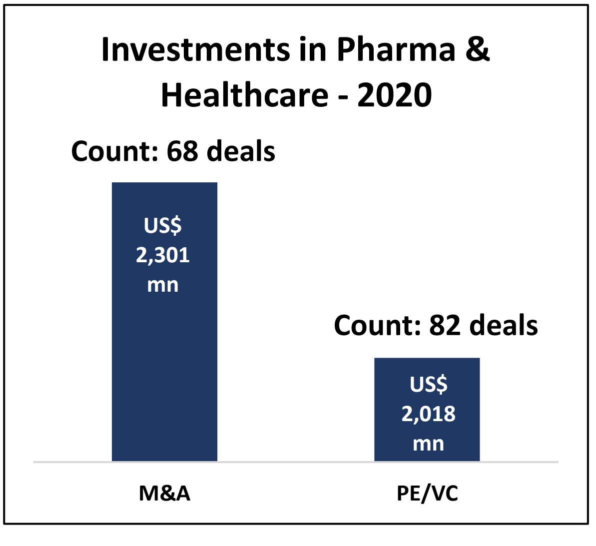
February 1, 2021

INDUSTRY ANALYSIS

INDUSTRY ANALYSIS

I. Healthcare & Pharmaceuticals

- As the nation steps foot on the path of economic recovery, healthcare has occupied the driver's seat with the historic budget allocation of INR 2.23 lakh crores (an increment of 137%) pillared on the holistic blend of preventive care, curative care and well being of citizens.
- ***Vaccination:*** Combating COVID-19 remains the highlight with INR 35,000 crores allocated towards vaccine rollout in 2021-22 whilst setting up of integrated public health labs and critical care blocks earned a notable place in the Union Budget. Government has also committed to provide further funds if required.
- ***Health Systems:*** Adding to the existing health missions, the Finance Minister has announced INR 64,180 crores under the Pradhan Mantri Atmanirbhar Swasthya Bharat Yojana to support health and wellness centres over a 6-year trajectory. This Scheme aims to develop capacities of primary, secondary, and tertiary care Health Systems, strengthen existing national institutions, and create new institutions, to cater to detection and cure of new and emerging diseases.
- ***Nutrition:*** To strengthen nutritional content and its outreach, Supplementary Nutrition Program and the Poshan Abhiyan to be merged under Mission Poshan 2.0 to intensify nutritional strategy across 112 Aspirational districts.
- ***Universal Coverage of Water Supply:*** Jal Jeevan Mission (Urban) will be launched with the vision of universal coverage of water supply. It aims to provide 4,378 Urban Local Bodies with INR 2.86 crores household tap connections, as well as liquid waste management in 500 AMRUT cities. Government intends to allocate INR 2.87 lakh crores over 5 years for this mission.
- ***Swachch Bharat, Swasth Bharat:*** The Urban Swachch Bharat Mission 2.0 will be implemented with a focus on waste-water and sludge management, reduction in air pollution and single use of plastic. The Government shall allocate INR 1,41,678 crores over a period of 5 years from 2021-2026 for this mission. To contain air pollution, Government shall allocate INR 2,217 crores for 42 urban centers. Also, voluntary vehicle scrapping policy is announced to phase out old and unfit pollution causing vehicles.

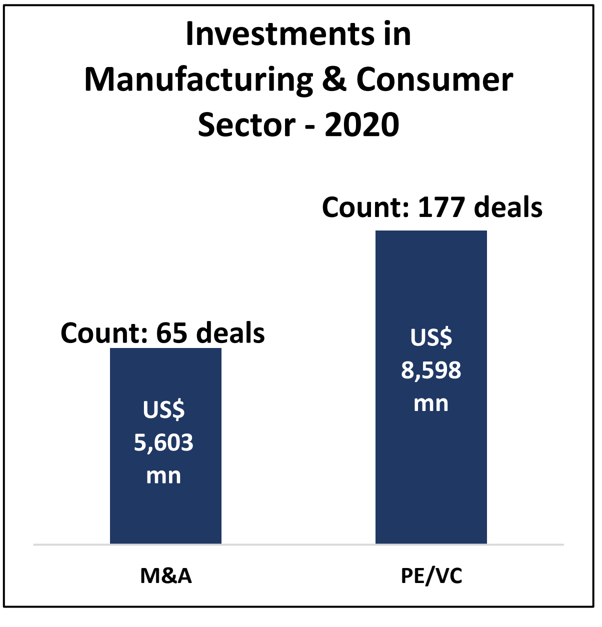


- During the year 2020, the pharmaceutical and healthcare sector witnessed a total of 68 and 82 deals for M&A and PE/VC respectively. The cumulative deal amounts that were disclosed for this sector totalled to US$ 2.3 bn within the M&A space and US$ 2 bn within the PE/VC space.
- With public healthcare taking centre stage post the pandemic, coupled with Government's constant efforts to promote formulation of innovative APIs, India is set to position itself as the ***"Pharmacy of the World"*** opening the sector up for large scale investments and big ticket deals, and continue the consolidation and aggregation play in this sector.

INDUSTRY ANALYSIS

II. Manufacturing & Consumer

- Production linked incentive (PLI) schemes have been announced for 13 sectors to create manufacturing global champions for an Atmanirbhar Bharat. The Government has committed nearly INR 1.97 lakh crores, over 5 years starting FY 2021-22. This initiative will help bring scale and size in key sectors and create global champions who shall provide jobs to our youth.
- In addition to the PLI scheme, to enable the textile industry to become globally competitive, attract large investments and boost employment generation, a scheme of Mega Investment Textiles Parks (MITRA) shall be launched. This will create world class infrastructure with plug and play facilities to create global champions in exports. The Government has set a target of setting up of 7 textile parks over the next 3 years.
- In a bid to improve agricultural infrastructure and enhance farmers' remuneration, the Agriculture Infrastructure and Development Cess (AIDC) has been proposed on a small number of items such as petrol & diesel and liquor. Cess on fuel prices is certainly a negative for consumers - reducing their share of wallet on items of discretionary consumption.
- Domestic electronic manufacturing has grown rapidly, and India is exporting items like mobiles and chargers. For greater domestic value addition, it is proposed to withdraw a few exemptions on parts of chargers and sub-parts of mobiles. Further, some parts of mobiles will move from **'nil'** rate to a moderate 2.5% under the indirect tax proposals.



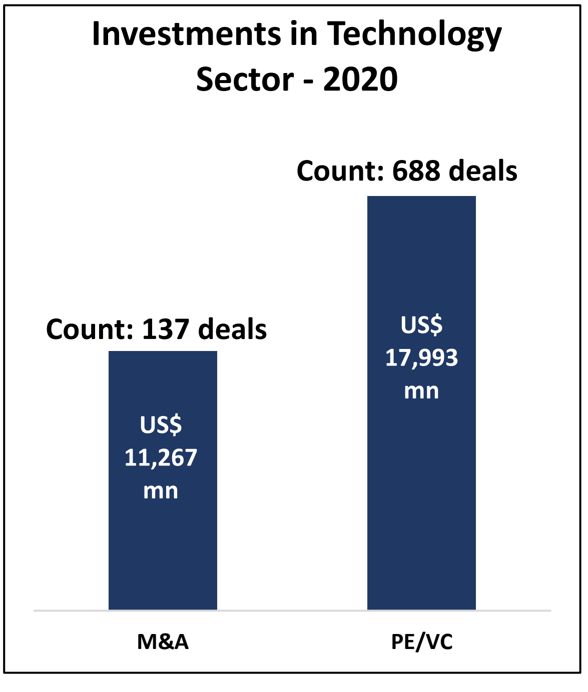
- During the year 2020, the manufacturing and consumer sector witnessed a total of 65 and 177 deals for M&A and PE/VC respectively. The cumulative deal amounts that were disclosed for this sector totalled to US$ 5.6 bn within the M&A space and US$ 8.6 bn within the PE/VC space.
- The announcements made in budget 2021 have further highlighted the Government's focus on making India a consumption driven economy, by providing impetus to the public capital expenditure towards manufacturing of consumer goods. The consumer goods segment is set to witness a surge in its demand and provide lucrative investment opportunities for funds and cash rich entities.

INDUSTRY ANALYSIS

III. Technology – Consumer & Enterprise

The budget lays heavy focus on digitization induced development and is a step in the right direction.

- With the first digital budget being presented, India is set to build a robust digital infrastructure driven by development of a world class Fin-Tech hub at the GIFT-IFSC providing much needed impetus to the startup ecosystem and Atmanirbhar Bharat mission.
- Traction has been recently shifting towards digital payments and as a step further, INR 1,500 crores have been allotted towards promoting digital modes of payment.
- Alongside introduction of AI, ML and data analytics for Ministry of Corporate Affairs tasks, the forthcoming census is set to be a digital census in the history of India fostered by an allocation of INR 3,768 crores.
- Receiving the necessary infra boost should act in the strides of electronics manufacturers and industries related to the technology space.
- Inculcating a digital first mindset in the Indian education system, the announcement of National Digital Educational Architecture (NDEAR) is placed to work leaps and bounds in the education system stakeholders adapting to the Indian Growth Mission.



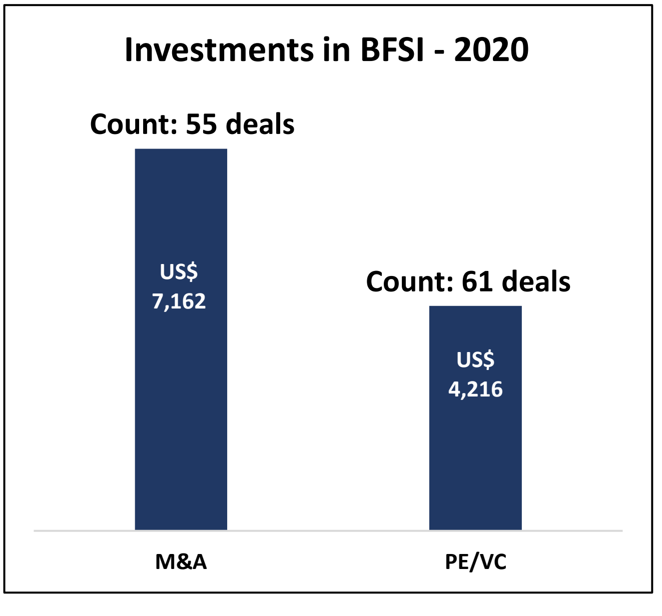
- During the year 2020, the manufacturing and consumer sector witnessed a total of 137 and 688 deals for M&A and PE/VC respectively. The cumulative deal amounts that were disclosed for this sector totalled to US$ 11.3 bn within the M&A space and US$ 18 bn within the PE/VC space.
- The Government's focus on building a digital infrastructure was evident as seen in the dedicated expenditure allocations towards innovation and R&D. Technology has been an omni-present factor across all budget announcements, right from the implementation of the new education policy to incorporation of state-of-the-art technology on government portals. This is expected to initiate a wave of fresh investments and acquisitions within the tech space in FY 2021-22.

INDUSTRY ANALYSIS

IV. Banking, Financial Services and Insurance

The banking sector had been hit hard by the COVID-19 pandemic and economic slowdown caused by it. While the Reserve Bank of India (RBI) has taken series of measures to revive this crucial sector, the Finance Minister has proposed various measures as part of Union Budget 2021-22 to give it a further boost.

- The Government has proposed to infuse INR 20,000 crore into state-owned banks, to consolidate their financial health.
- Two public sector banks and one general insurance company to be privatized
- LIC will be listed on the bourses in the FY 2021-22 as part of the consolidation in the banking and insurance sectors.
- Proposal to increase the permissible FDI limit from 49% to 74% in Insurance Companies and allow foreign ownership and control with safeguards is a welcome step and will provide access to world class insurance products.
- Proposal to set up an asset reconstruction company and an asset management company to take over the existing stressed debt and manage and dispose of the stressed assets. Creation of a stressed loan management framework shall enable the banks to focus on their core business which is credit, while also ensuring optimal value realization. These measures are expected to strengthen the state-owned banks and hasten the process of clean-up of their balance sheet.
- Deposit Insurance Cover for bank customers to be increased from INR 1 lakh to INR 5 lakhs. This would give a sense of safety and comfort to depositors.
- Minimum loan size eligible under SARFAESI Act 2002 for debt recovery for NBFCs with minimum asset size of Rs 100 crore to be reduced from INR 50 lakh to INR 20 lakhs.
- Creation of a permanent institutional framework for the corporate bond market will instil confidence amongst the market participants and enhance liquidity
- Introduction of an Investor Charter for investor protection across all financial products

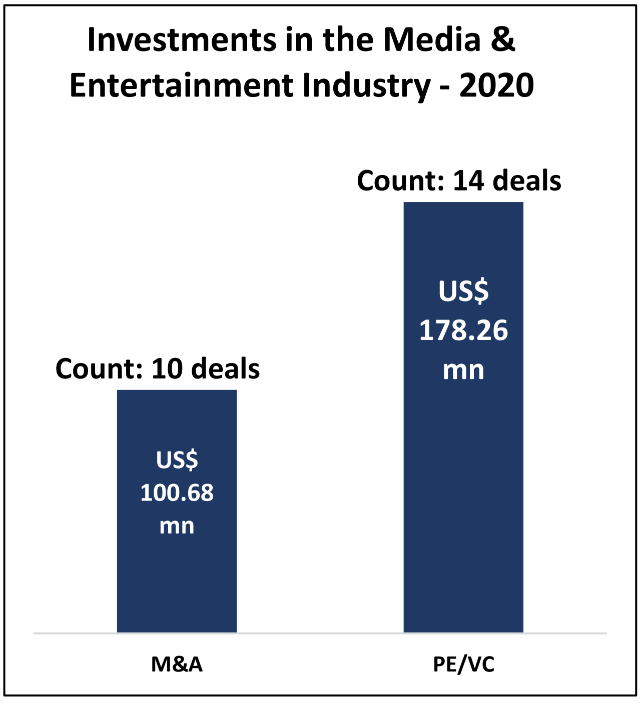


- During the year 2020, the BFSI sector witnessed a total of 55 and 61 deals for M&A and PE/VC respectively. The cumulative deal amounts that were disclosed for this sector totalled to US$ 7.2 bn within the M&A space and US$ 4.2 bn within the PE/VC space.
- With the budget proposing proactive steps for opening up the insurance industry to FDI and recommending robust measures for cleaning up the books of banks, the sector is well placed to experience a step up in investment activities going forward and will continue to see M&A deals with more intensity.

INDUSTRY ANALYSIS

V. Media & Entertainment

- The media and entertainment (M&E) sector is a vital part of the economy, both in terms of revenue and employment generation.
- During FY 2019-20, despite the pandemic the sector grew at a rate of 7.4 percent to reach INR 1.75 trillion as compared to a growth rate of 13.2 percent in FY 2018-19. Traditional modes of print and television witnessed a substantial decline whereas new age media digital media, OTTs and the gaming segment continued to grow.
- The industry has been asking for an industry status and infrastructure status for the broadcasting sector since many years, both the demands haven't been met yet in the current budget.
- Temporary import of costumes and props for film making is exempted from customs duty in the FY 21-22 Budget.
- Although there was no direct benefit for media and entertainment sector, the focus on privatization and providing support for **start-ups and innovation** is likely to benefit the overall corporate sector and in-turn help the media and entertainment industry, as it will lead to strong advertising growth, which accounts for two-thirds of the revenues of the broadcast sector.

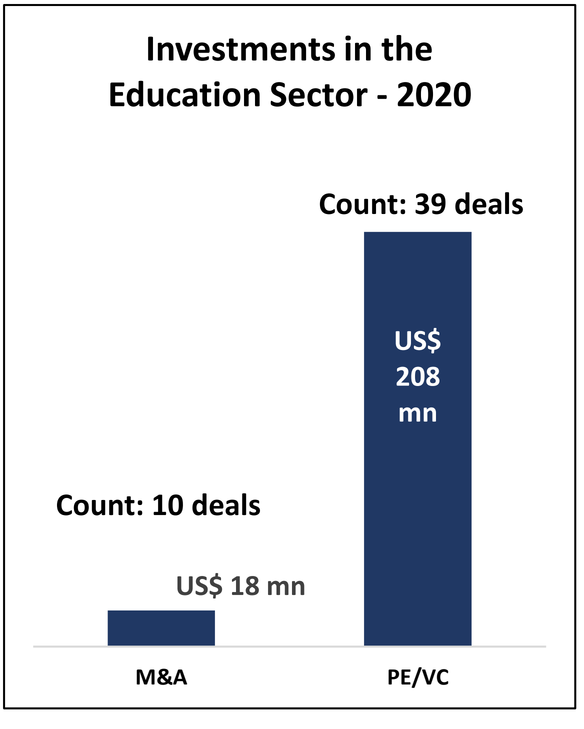


- During the year 2020, the Media & Entertainment sector witnessed a total of 10 and 14 deals for M&A and PE/VC respectively. The cumulative deal amounts that were disclosed for this sector totalled to US$ 100 mn within the M&A space and US$ 178 mn within the PE/VC space.
- During the year 2020, despite the pandemic, the sector grew at a rate of 7.4% to reach INR 17,500 crores as compared to a growth rate of 13.2% in FY19. Traditional modes of print and television witnessed a substantial decline whereas new age media digital media, OTTs and gaming segment continued to grow. The uptake in digital and online platforms coupled with the gradual opening up of the economy shall further aid the growth of the media and entertainment sector opening up newer investment opportunities for investors.

INDUSTRY ANALYSIS

VI. Education

- As a measure to enhance quality of education in India, government aims to qualitatively strengthen 15,000 schools under National Education Policy 2021. Government also plans to establish 100 new Sainik Schools in partnership with NGOs/private schools/states to encourage the youth towards armed forces.
- The Government is to set up Higher Education Commission of India, an umbrella body responsible for accreditation and regular funding. With a view to create better synergies between various research institutions, universities and colleges supported by the Government of India, a formal umbrella structure will be set up in 9 cities.
- For accessible higher education in the newly formed union territory of Ladakh, the government will set up Central University in Leh. To make the quality education accessible for tribals, government will establish 750 Eklavya model residential schools.
- Central Assistance in Post Metric Scholarship Scheme will be enhanced, government will allocate INR 35,219 crores for 6 years till 2025-2026, which is likely to benefit 4 crores SC students.
- To strengthen research ecosystem in the country with focus on identified national-priority thrust areas, government will allocate INR 50,000 crores over 5 years to the National Research Foundation.
- The Apprenticeship Act will be amended and realigned for providing post-education apprenticeship, training of graduates and diploma holders in engineering will be trained under the scheme.



- During the year 2020, the Education sector witnessed a total of 10 and 39 deals for M&A and PE/VC respectively. The cumulative deal amounts that were disclosed for this sector totalled to US$ 18 mn within the M&A space and US$ 208 bn within the PE/VC space. Edu-tech is the flavour of the market, with a lot of focus on solving classroom access problems.
- With the introduction of the New Education Policy, the Government has turned its focus towards a holistic approach for education and introduction of training and education across modern platforms. This provides a major boost to the small scale education start-ups who can make a crucial contribution in attaining this mission. With these announcements, the Government has established its intent towards reinvigorating the human capital. Improving learning outcomes for students will attract a lot of investments and M&A activity going forward.

OPPORTUNITIES FOR FOREIGN INVESTMENTS

OPPORTUNITIES FOR FOREIGN INVESTMENTS

With a focus to bring the economy back on a high growth trajectory and attracting investments, the union budget 2021 has created multiple opportunities for foreign investments in India.

Healthcare

Proposed to double healthcare spending to INR 2,23,846 crores (~ USD 30.2 billion) to help improve public health systems as well as the vaccination drive to immunize 1.3 billion people

Infrastructure

To augment the country's infrastructure, the Union Budget has proposed to enhance capital expenditure to INR 5.54 lakh crore (~ USD 74 billion) in the next fiscal year - 34.5% more than the budgeted estimate of 2020-21

Fisheries

Substantial investments in the development of modern fishing harbors and fish landing centers will develop the fisheries business eco-system. It will also help in improving the infrastructure and will improve the value of fish and fish products.

Textile

The Budget has proposed to set-up seven mega textiles parks in three years to make the country a manufacturing and export hub. These parks will be in addition to the INR 10,683 crores (~USD 1.5 billion) production linked incentive scheme.

Education and Skilling

The government is taking necessary steps to transform the Indian education system to make Indian youth future-ready. It is also working collaboratively with countries like UAE and Japan on skill development initiatives. These will create opportunities for foreign players to contribute to Indian education and skill development programs as well in edu-tech opportunities in India's vast ecosystem.

Renewable energy

To build the domestic capacity of solar energy, the Government has proposed a phased manufacturing plan for solar cells and solar panels. The raised duty on solar inverters from 5 percent to 20 percent and on solar lanterns from 5 percent to 15 percent will further encourage domestic manufacturing.

Capital Equipment and Auto Parts

India offers a huge potential in manufacturing heavy capital equipment domestically. To encourage it, the government has proposed to raise duty rates on certain items such as tunnel boring machines, auto parts, etc.

Insurance

Increase in Foreign Direct Investment (FDI) limit in insurance from 49% to 74%. The amendment to the Insurance Act 1938 will also allow foreign ownership and control with safeguards

DIRECT TAX

DIRECT TAX

I. Corporate Taxation

- **Tax Rates:**

  No change in the corporate rate taxation.

- **Tax Audit:**

  To further incentivise and promote digital economy as well as reduce compliance burden on small and medium enterprises, the threshold limit for the tax audit under section 44AB of the Act has been increased from INR 5 crores to INR 10 crores provided digital transactions constitute more than 95% of the total transactions. This amendment will be applicable from assessment year 2021-22, i.e., from April 01, 2021.

  Delayed deposit of employee's contribution to Welfare Fund will not be allowed as a deduction and will result in a permanent disallowance in the hands of the employer. This amendment will be applicable from assessment year 2021-22, i.e., from April 01, 2021.

- **Depreciation on 'goodwill':**

  The term 'block of assets' has been amended to exclude 'goodwill of a business or profession' from within its ambit. Section 32 has been correspondingly amended; no depreciation will be available even if such goodwill has been paid for.

  Further, Section 55 has been amended to provide that in case the goodwill has been paid for, then the said purchase price would be considered as the cost of such asset. It has also been provided that where depreciation has been claimed in the preceding years, the same will be reduced from / adjusted against the cost of such goodwill.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- **Rationalisation of Minimum Alternate Tax ('MAT') provisions:**

  - Dividend income will not be included in the book profits of the foreign companies. Similarly, the expenses incurred / claimed in respect thereof, will be added back.

  - Past year's income which is included in the book profits of the previous year on account of secondary adjustment as well as on account of an Advance Pricing Agreement ('APA') will be excluded from the book profits.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

DIRECT TAX

II. Individual

- **No change in income slabs as well as rate of taxation.**
- **Pre-filled return:**

  To further ease filing of tax returns, taxpayers will be provided with pre-filled tax return giving details of capital gains on listed securities, interest from banks and post offices, dividend from listed shares, etc.
- **Relaxation to senior citizens from tax filing:**

  Senior citizen (75 years and above) who are earning pension and interest income will be relaxed from filing the tax return. A declaration in this regard will need to be furnished to the specified bank which will deduct the necessary tax on such income.

  This amendment will be applicable from assessment year 2021-22 i.e. from April 01, 2021.
- **Avoiding mismatch in taxation of overseas retirement fund:**

  In order to address the mismatch in the year of taxability on the withdrawal of retirement funds and credit of taxes paid in India, a new section 89A is proposed to be introduced. In this regard Rules will be notified to address the issue of double taxation of income accrued to the non-resident in India from the retirement benefits.
- **Exemption on leave travel:**

  Tax exemption on account of the cash allowance in lieu of leave travel concession will be available subject to incurring the specified expenditure during the specified period. Further it has been provided that such amount of exemption shall not exceed INR 36,000 per person or one-third of specified expenditure, whichever is lower.

  This amendment will be applicable from assessment year 2021-22 i.e. from April 01, 2021.
- **Extension of time limit for additional interest deduction:**

  Additional interest deduction upto INR 1.5 lakhs on the loan taken on a purchase of affordable housing extended to March 31, 2022.

III. Dispute Resolution

- **Measures to reduce litigation :**
  - Reducing the time limit for issuance of notice for assessment or reassessment as under:
    - From six years to three years;
    - In cases of serious tax evasion, wherein there is evidence of concealment of income, the notice can be issued upto ten years provided such income is in excess of INR 50 lakh or more.

  Notice to be issued post prior approval from the specified authority being Principal Commissioner or Principal Director or Commissioner or Director (if three years or less have elapsed from the end of the relevant assessment year) and authority being Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General (if more than three years have elapsed).

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- **Dispute Resolution Committee ('DRC'):**

  In order to provide early tax certainty to small and medium taxpayers, it is proposed to introduce a new scheme for preventing disputes and settling the issue at the initial stage. Small taxpayers having taxable income of up to INR 50 lakhs and disputed income of up to INR 10 lakhs will be eligible to approach a new dispute resolution committee to reduce the tax litigation.

  The DRC will notify the person or class of person eligible to approach the DRC. The notified person will have an option to opt for or not opt for the dispute resolution through the DRC.

  The orders passed under search and survey provision or information received under an agreement referred to in section 90 or section 90A will not be eligible for being considered by the DRC. Further, if taxpayers who are in detention, prosecution or convicted under various laws as specified therein would also not be eligible.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- **Authority for Advance Rulings to be replaced by the Board for Advance Ruling:**

  Having recognized the difficulty in appointing the Chairman and Vice-Chairman and to ensure faster disposal of cases, it is proposed to replace the Authority for Advance Rulings ('AAR') with a Board for Advance Rulings ('Board').

  One or more Boards will be constituted in this regard and the Board will consist of two members, each being an officer not below the rank of Chief Commissioner.

  Advance rulings by the Board shall not be binding on the Applicant or the Department and if aggrieved, the Applicant or the Department may appeal before the High Court.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- It also proposed to discontinue Income Tax Settlement Commission and to constitute Interim Board of settlement for pending cases with effective from February 1, 2021.

• **Transparency and accountability in tax administration:**

  Similar to other faceless assessment and appellate schemes, it is now proposed that the Central Government will notify a scheme for conducting proceedings before the Income Tax Appellate Tribunal ('ITAT') in a faceless manner.

• This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

IV. Financial Service Sector

- **International Financial Services Centre ('IFSC') - exemptions:**
  - Income attributable to the investment division of the offshore bank located in IFSC;
  - Income accrued or arisen to, or received by a non-resident, as a result of transfer of non-deliverable forward contracts entered into with an offshore banking unit of IFSC;
  - Income of a non-resident by way of royalty on account of lease of an aircraft paid by a unit of an IFSC;
  - Any capital gains earned by the 'original fund' (set up by a non-resident outside India), on account of transfer of share of a company resident in India, to the 'resultant fund', upon its 'relocation' to IFSC;
  - Deduction for income arising from transfer of an asset, being an aircraft or aircraft engine leased by a unit in IFSC to a domestic company engaged in the business of operations of aircraft;

  The units / funds, wherever required, located in IFSC will have to be registered with Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 and will have to commence operations on or before March 31, 2024.

- Enabling infrastructure debt fund to Issue zero coupon bond. Necessary amendments will be made in this regard.
- Relaxation have been proposed from certain applicable conditions, if the eligible fund manager is located in the IFSC.
- Deduction of tax at source on dividend income earned by FII will be at 20 per cent or considering the rate or rates of income-tax provided in the agreement under section 90 or section 90A, whichever is lower, subject to furnishing the tax residency certificate to avail the DTAA benefits. This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.
- Exemption from deduction of tax at source on payment of dividend income to busines trusts where such dividend income was anyways exempt in hands of business trusts. This amendment will be retrospectively applicable from April 01, 2020.
- **Sovereign Pension Funds ('SWF') and other Pension Funds ('PF') – Incentives:**
- To encourage investments from SWF and PF into the infrastructure sector, exemptions are provided to such SWF and PF on the dividend, interest or long -term capital gains income arising from an investment made. In order to rationalize the same and remove difficulties in meeting certain specified conditions, the following amendments have been proposed:
  - Alternate Investment Fund (AIF) can make investment upto 50% in non-eligible investments;
  - Relaxation in the conditions of SWFs / PFs for allowing investment in infrastructure investment trust;
  - Investment through holding company for SWF and PFs ,where holding company being domestic company set up and registered on or after April 01, 2021 having minimum 75% investments in one or more infrastructure companies;
  - Allowing SWFs / PFs to invest in MBFC – IFC/IDF whereas NBFC-IDF/IFC having minimum 90% lending to one or more infrastructure entities.
- This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

V. Equalisation levy

- **Rationalisation of provision:**
  - Certain amounts which have been subjected to equalisation levy were exempted u/s 10(50) of the Act. The Bill provides that where any amount which is chargeable to income tax as royalty or fees for technical services ('FTS') will not get covered within the ambit of section 10(50) of the Act. As a result, such royalty and FTS will continue to be taxable u/s 9(1)(vi) of the Act read with relevant Article in the DTAA (and not as equalisation levy).
  - It has also been provided in the Explanatory Memorandum that suitable amendments will be made to section 163 of the Finance Act 2016 so as to exclude any income chargeable to tax as royalty or FTS from within the ambit of equalisation levy.
  - The scope of definition of the term "online sale of goods" and "online provision of services" has also been widened. The said terms will now include acceptance of offer for sale / purchase order, placing order, payment of consideration, etc.
  - The equlisation levy will be applicable irrespective whether the e-commerce operator owns the good or renders / facilitates services.
  - The applicability of exemption under the Income tax Act has been rectified to April 01, 2020.

- **Start-ups and innovators:**

  Start ups incorporated upto April 01, 2022 will be eligible to avail tax holiday. Similarly, capital gains arising from sale of residential property on or before March 31, 2022 and invested by eligible assessees to subscribe the equity shares of an eligible start up will be eligible for tax exemption. Such investment can be made by the due date of filing of return of income of such eligible assessee.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

DIRECT TAX

VI. Miscellaneous

- **Extension of income tax filing:**

  The due date for filing the original return of income is proposed to be extended to October 31 of the assessment year in case of spouse of a partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force, if the provisions of section 5A applies to both partner and spouse of a partner.

  The due date for filing the original return of income is proposed to be extended to November 30 of the assessment year in case a firm which is required to furnish report from an accountant for entering into international transaction or specified domestic transaction, as per section 92E of the Act.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- **Reducing time to file belated return:**

  The last date for filing belated or revised returns of income is proposed to be reduced by three months.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- **TDS on purchase of goods:**

  TCS is now replaced by requirement to undertake TDS on purchase of goods in excess of INR 50 lakhs in a previous year. The rate of withholding will be 0.1% (and in absence of PAN it will be 5%).

  Such amendment will be effective from July 01, 2021.

- **TDS/TCS on non-filer at higher rates:**

  Higher TDS / TCS will be applicable to taxpayers who have not filed tax return for two preceding previous years and where time limit for filing such returns have lapsed.

  TDS / TCS will be at higher of twice the applicable rates or 5% (threshold of INR 50,000). This provision will not be applicable to a non-resident who doesn't have a permanent establishment in India.

  Such amendment will be effective from July 01, 2021.

- Definition of 'demerger' u/s 2(19AA) has been amended to rationalize the reconstruction or splitting up of public companies into separate companies.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- Restriction of carry forward of losses in case of amalgamation of one or more public sector company or companies (which has undergone any disinvestment) with one or more public sector company or companies will not apply where:

  - the share purchase agreement entered into under such strategic disinvestment restricted immediate amalgamation of the said public sector company; and

  - the amalgamation is carried out within five year from the end of the previous year in which the restriction on amalgamation in the share purchase agreement ends.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

DIRECT TAX

- Proceeds of high premium unit linked insurance policy (ULIP) will be taxable subject to certain thresholds will be subject to capital gains taxation.

  This amendment will be applicable from assessment year 2021-22 i.e.. from April 01, 2021.

- Transfer of capital asset / money / other assets to partner / member on dissolution or reconstitution of the firm / AOP / BOI, as the case may be, will be subject to capital gains taxation in the hands of such entity. In this regard, the following are proposed:
  - Capital asset distribution up to the capital balance of the partner / member will be taxable;
  - Other assets / cash distributed in excess of capital balance will be taxable;

  The fair market value of the capital asset so distributed will be deemed to be the full value of consideration. Any revaluation of any asset / self-generated goodwill will have to be disregarded whilst determining the capital balance.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- Rationalisation of interest payment on shortfall in payment of advance tax liability by providing relaxation to pay advance tax on dividend upon declaration or receipt thereof.

- This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- **Definition of term – 'liable to tax':**

  The term 'liable to tax' isn't defined in the Act but finds place at several places e.g., section 6, DTAA, etc. The said term has been amended so as to mean that there is a liability of tax on such person under any law for the time being in force in any country. It shall also include a case where subsequent to imposition of tax liability, an exemption has been provided.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- **Reduction in time limit for assessment proceedings:**
  - The time limit for providing intimation under section 143(1) of the Act has been reduced from 1 year to 9 months from the end of the financial year in which return was furnished.
  - Reduction in time limit for issue of scrutiny assessment has been reduced from 6 months to 3 months from the end of the financial year in which return was furnished.
  - The completion of assessment for AY 2020-21 and subsequent years shall be completed within 9 months from the end of assessment year.

- **Slump sale:**

  The definition of 'slump sale' has been widened to include transfer of undertaking in lieu of another asset being non-monetary asset, including exchange by way of any means thereof. Currently, the valuation mechanism for non-cash consideration isn't provided and necessary clarifications in this regard will have to be provided.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

- Conversion of cooperative bank into banking company will be tax neutral. This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021.

DIRECT TAX

- **Safe harbour limit to remove difficulties faced by taxpayers:**
- To boost demand in the real estate sector and to enable the real estate developers to liquidate the unsold inventory at a lower rate to home buyers, the safe harbour threshold for a stamp duty value of property transferred under section 56(2)(x) of the Act viz a viz the consideration of the property is increased from 10% to 20% under section 43CA of the Act if following conditions are satisfied:-
  - The transfer of immovable property takes place during November 12, 2020 to June 30, 2021;
  - The transfer is by way of first-time allotment of the residential unit to any person;
  - The consideration as a result of such transfer does not excess INR 2 Crores.

  The stamp duty valuation shall be deemed as consideration only if the variation between the agreement value and stamp duty value is more than 20%.

  This amendment will be applicable from assessment year 2021-22 i.e., from April 01, 2021
- **One Person Company – relaxations and rationalization:**
  - Non-resident will now be allowed to incorporate a 'One Person Company' (OPC) and residency criteria has been reduced to 120 days (from 182 days) for ascertaining OPC. Also, in order to incentivize the incorporation of OPCs, the threshold restrictions on paid up capital and turnover limit have been rationalized. OPCs can now convert into any other type of company at any time.
- **Rationalisation of provisions relating to charitable trust and institutions:**

  To ensure that there is no double counting while calculating application or accumulation following has been proposed:
  - Voluntary contributions received for the corpus shall be invested/deposited in one or more of the forms or modes specified under Section 11(5) maintained specifically for such corpus.
  - Application out of corpus shall not be considered as application for charitable or religious purposes for the purposes of third *proviso* to Section 10(23C) and Section 11(a) and (b). However, it will be considered as application of income in the previous year when it is invested in the forms or modes specified under Section 11(5) maintained specifically for such corpus from the income of the previous year.
  - Application from loans and borrowings shall not be considered as application for charitable or religious purposes for the purposes of third *proviso* to Section 10(23C) and Section 11(a) and (b). However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.
- No set off or deduction or allowance of any excess application, of any of the year preceding the previous year, shall be allowed for computation of income required to be applied or accumulated during the previous year.

DIRECT TAX

- **Income Declaration Scheme ('IDS'):**
- Excess amount of tax, surcharge or penalty paid in pursuance of a declaration made under the IDS shall be refundable to the specified class of persons without payment of any interest.
- This amendment will be effective retrospectively from June 01, 2016.
- To curb the higher amount of exempt interest income accrued or received on employee contribution to a recognized provident fund, the threshold of INR 2.5 lakhs has been kept on the aggregate amount of contribution made by the employee in a previous year on or after April 01, 2021.
- This amendment will be effective from April 01, 2022.

INDIRECT TAX

INDIRECT TAX

GOODS AND SERVICES TAX (GST)

Effective from a date to be notified:

- The option to make zero-rated supply of goods or services on payment of integrated tax and claim refund thereon of such integrated tax paid would now be restricted only to a notified class of persons, goods or services.
- Where zero-rated supply of goods are made without payment of input tax credit and refund of unutilised input tax credit on account of zero-rated supply is received by the taxpayer and the sales proceeds are not realised by the supplier within thirty days after expiry of the time limit prescribed under Foreign Exchange Management Act, 1999 – the refund of unutilised input tax credit is required to be returned by the taxpayer, along with applicable interest.
- Supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit are zero-rated – the condition that supply should be 'for authorised operations' of such developer / unit now added.
- Furnishing of the invoices or debit notes by the supplier in their statement of outward supplies (i.e. in FORM GSTR-1), and communication thereof to the recipient, has been included as an additional condition for claiming input tax credit.
- Proceedings in relation to detention, seizure and confiscation of goods and conveyances in transit to be made separate from the proceedings for recovery of tax.
- Proceedings in relation to detention, seizure and release of goods or conveyances in transit is delinked from proceeding in relation to confiscation of goods or conveyances. Accordingly, penalty proceedings are also delinked.
    - Where owner of goods comes forward - on detention, where applicable tax and penalty equal to 100% of tax was payable earlier, now the amount payable would be as penalty equal to 200% of the tax payable.
    - Where owner of goods does not come forward - on detention, where applicable tax and penalty equal to 50% of value of goods was payable earlier, now the amount payable would be as penalty equal to 50% of value of goods or 200% of the tax payable, whichever is higher.
    - Time limit for issuance of notice and for issuance of order is also now specified.
    - Where penalty is not paid, within specified time limit from the date of receipt of order, the goods can be sold / disposed by tax authorities.
- Appeal to Appellate Authority against an order passed by the officer on account of detention or seizure of goods or conveyances in transit, to be made only after mandatory payment of 25 percent of the penalty, in addition to payment of 10 percent of the tax in dispute.

INDIRECT TAX

- Requirement of audit of annual accounts and submission of reconciliation statement has been done away with.
- Furnishing of Annual Return to include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statements.
- Power of provisional attachment of property, including bank account, by Commissioner significantly increased.
- Computation of self-assessed tax to also include tax payable as per details of outward supplies furnished in FORM GSTR-1 but not included in the return in FORM GSTR-3B.

Effective from July 1, 2017, on enactment of the Finance Bill:

- Transactions involving supply of goods or services between associations / clubs / societies / body of persons, etc. and its members for a consideration to be included in the scope of supply, thus, doing away with the principle of mutuality. For this purpose, the associations / clubs / societies / body of persons and its members or constituents are to be deemed to be two separate persons.
- Interest would be required to be paid only on the net cash liability. This may not apply where the supplies are not declared in the return for the tax period in which the supply was made. This would not apply where return is furnished after commencement of proceeding under section 73 or 74 of the Central Goods and Services Tax Act, 2017 / relevant State Goods and Services Tax law.

INDIRECT TAX

CUSTOMS DUTY

- Customs duty structure being overhauled. 80 outdated exemptions eliminated. 400 old exemption to be reviewed this year. From October 1, 2021, a revised customs duty structure, free of distortions, to be put in place.
- All conditional exemption customs duty notifications will have validity up to the 31st March following two years from the date of its issue, unless otherwise specified.

  In respect of all existing conditional exemptions in force, the period of two years shall be reckoned from February 1, 2021 (i.e. these exemptions will come to an end on March 31, 2023).
- Any inquiry or investigation, which culminates in issuance of notice, will be required to be completed by issuing such notice within a period of two years, further extendable by one year by the Commissioner, from the date of initiation of audit, search, seizure or summons.
- It is now mandated to file bill of entry before the end of the day preceding the day (including holiday) of arrival of goods.
- Where gold in any form has been seized by a proper officer under section 110 of Customs Act, 1962, the officer to dispose of the goods can make the application to Commissioner (Appeals) having jurisdiction, instead of making the application to the Magistrate.
- Any wrongful claim of remission or refund of any duty or tax or levy in contravention of the Act or any other law for the time being in force would lead to confiscation of goods being exported.
- Penalty for fraudulent utilisation of input tax credit for discharging any duty or tax on goods entered for exportation under claim of refund shall be equivalent to five times of the refund claimed.
- Service of order, summons, notice or any other communication can be done by making it available on the Common Customs Electronic Portal.
- Following facilities would now be allowed:
  - job-work of the materials (except gold and jewellery and other precious metals) imported under concessional rate of duty
  - 100% out-sourcing for manufacture of goods on job-work
  - imported capital goods that have been used for the specified purpose to be cleared on payment of differential duty, along with interest, on the depreciated value (depreciation norms would be the same as applied to EOUs, as per Foreign Trade Policy).

INDIRECT TAX

AGRICULTURE INFRASTRUCTURE AND DEVELOPMENT CESS (AIDC)

AIDC as duty of customs:

- AIDC to be imposed on import of following items at specified rates effective from mid-night of today, February 1, 2021. Basic customs duty has been simultaneously lowered on these items.
  - Apples, Crude palm oil, Crude soya-bean oil, Crude sunflower seed oil, Peas, Kabuli chana, Chick peas, Lentils, specified Alcoholic beverages, Coal, Lignite, Peat, specified Fertilizers, Cotton (not carded or combed), Gold, Silver, Gold dore bars, and Silver dore bars.
- Social Welfare Surcharge @ 10% would be levied on AIDC. However, Gold and Silver is exempted from Social Welfare Surcharge on AIDC.
- AIDC is exempted, where goods imported are exempted from customs duty under Free Trade Agreements, under advance authorisation schemes or for Export Oriented Units.
- Import value of goods for calculating AIDC shall be in the same manner as the value of goods is calculated under section 14 of the Customs Act, 1962.

AIDC as additional duty of excise:

- AIDC to be imposed as additional duty of excise on petrol and diesel from mid-night of today, February 1, 2021. Basic excise duty and special additional duty of excise has been simultaneously lowered on these items.

AIDC:

- With AIDC, the State's share may get reduced to that extent. There should not be additional burden on the consumers on most of these items.

SOCIAL WELFARE SURCHARGE

- SWS exemption on import of petrol, diesel, gold and silver in excess of 3% removed. Hence, import of these items would also attract SWS @ 10%.
- SWS exempted on marble or travertine (crude or roughly trimmed or blocks).

INDIRECT TAX

Change in rate of customs duty – some of the items:

Electronic and mobile phone:

- Few exemptions on parts of chargers and sub-parts of mobiles are withdrawn and for some parts the rate is increased to 2.5%.

Iron and Steel:

- Duty reduced to 7.5% on semi-finished products, flat, and long products of non-alloy, alloy, and stainless steels. ADD and CVD on certain steel products revoked.
- Duty on steel scrap exempted for a period up to March 31, 2022.
- Duty on copper scrap reduced from 5% to 2.5%.

Textile:

- Basic customs duty reduced on nylon fiber and yarn to 5%.
- Duty on raw silk (not thrown), silk yarn, yarn spun from silk waste (whether or not put up for retail sale) increased to 15%.
- Basic customs duty on raw cotton (not carded or combed), nylon fibre and yarn increased to 5% and duty on cotton waste increased to 10%.

Leather:

- Exemption on wet blue chrome tanned leather, crust leather, finished leather of all kinds, including splits and sides withdrawn, duty to be 10%.

Film making:

- Temporary import of costumes and props for film making is exempted.

Renewable Energy:

- Duty raised on solar invertors to 20%, and on solar lanterns to 15%.

Minerals, Chemicals and Plastics:

Duty on naptha reduced to 2.5% and on carbon black increased to 7.5%.

- Boron ore and concentrate to attract 2.5%.
- Duty on polycarbonates increased to 7.5% and on caprolactam and nylon chips reduced to 5%. Duty on other plates, sheets, films etc. of other plastics (falling under tariff item 3920 99 99) increased to 15%.

Precious Stones, Gold and Silver:

- Duty on cut and polished synthetic stones, including cut and polished cubic zirconia increased to 15%.
- Gold and silver to attract basic customs duty of 7.5%.

Capital Equipment and Auto Parts:

- Exemption withdrawn on tunnel boring machine, to attract customs duty of 7.5%; and its parts 2.5%.
- Duty on certain auto parts raised to 15%.

Project Import:

- High Speed Rail Projects are being brought under project imports. The rate of customs duty would be 5% to all items imported, instead of the applicable rates to respective items. National High Speed Rail Corporation Ltd. is being nominated as the ‘Sponsoring Authority’.

CORPORATE LAWS

CORPORATE LAWS

The following key amendments in Company Law processes and regulations have been proposed:

- To revise the definition of **Small Companies** under the Companies Act, 2013 by increasing the upper thresholds for paid up share capital from "INR 50 Lakh" to "INR 2 Crore" and turnover from "INR 2 Crore" to "INR 20 Crore". This reform will benefit more than 200,000 companies in India towards easing their compliance requirements.
- To benefit the **Start-ups and Innovators**, the Government has now proposed to incentivize the incorporation of One Person Companies (OPCs) by allowing OPCs to grow without any restrictions on paid up capital and turnover. Earlier, an OPC was required to mandatorily convert itself into private or public company in case its paid-up share capital exceeded INR 50 lakhs or its average annual turnover of last three financial years exceeded INR 2 crores. This relaxation will now also enable the OPCs to restructure themselves into any other type of company at any point of time.
- During FY 2021-22, the Ministry of Corporate Affairs (MCA) will launch **data analytics, AI, and ML** driven **MCA21 Version 3.0**. This will have additional modules for e-Scrutiny, e-Adjudication, e-Consultation and Compliance Management which augurs well for enhanced efficiencies.
- It has now been proposed to **decriminalize the provisions of the Limited Liability Partnership Act**, 2008. This will be a relief to the LLPs which have defaulted in complying with the legal requirements. The MCA had previously decriminalized the procedural and technical compoundable offences under the Companies Act, 2013.
- The MCA has also proposed to **reduce the residency limit from 182 days to 120 days** for an Indian citizen to set up an OPC; and allow Non-Resident Indians (NRIs) to incorporate OPCs in India. This will aid in promoting business opportunities and boosting FDI in OPCs as well.
- To ensure faster resolution of cases, strengthening of the NCLT framework, implementation of the e-Courts system, introduction of alternate methods of debt resolution and special framework for MSMEs have been proposed.
- Overall, these are steps in the right direction and will enhance much needed flexibility in the entrepreneurial ecosystem in the country.