CALCUTTA CHAMBER OF COMMERCE

PRE-BUDGET MEMORANDUM

ON

UNION BUDGET

2025-26

PRE BUDGET-MEMORANDUM ON UNION BUDGET: 2025-26

Suggestions on Direct Taxes

Sl.	Section	Issue	Recommendation
1	10(32) -Income of minors- to increase exemption limits	At present income of minors included in the hands of parents is exempt to the extent of Rs.1,500/- for each minor. The average expenditure to meet cost of a minor's education/health/living expenses has gone up considerably in recent years, limit of Rs.1,500/- fixed is woefully inadequate.	It is suggested that this should be raised to at least Rs. 10,000/- for each minor child.
2	12(1) –Contribution received in kind without specific direction to form part of the corpus under tax net	Some charitable and religious trusts receive voluntary contributions in the form of gold, silver, jewellery, land etc. The donation in kind received by some charitable and religious trusts is in big volume and carry high value. Many times, it is received from unknown donors. Some trusts are not maintaining proper record of it. Hence, it is necessary to bring it under tax net.	In order to bring contribution received in kind (such as gold, silver, jewellery etc.) without specific direction to form part of the corpus under tax net, it is suggested to amend section 12 so as to insert the term "either received in cash or in kind". The value shall be the market value as on date of receipt of such donation. Alternatively, details of voluntary contribution received in kind should be made mandatory to upload with ITR. - To include donation in kind in Form 10BD - Clarity on donation received in kind and how to disclose.
3	Taxability of income on notional basis u/s 22	The concept of taxability of income on a notional basis either under the head 'income from house property' or under other provisions of Income-tax Act should be done away. Only the actual income received by an assessee should be chargeable to tax.	Restrict taxation of house property income to rent income actually received /receivable and remove taxation of notional income based on annual letting value.

4	23	New clause be inserted to provide deduction of maintenance charges paid to Society, federation etc In most urban areas, maintenance of building is undertaken by the society, federation, company or common body and the expenses for such maintenance are substantial. The same need to be allowed as deduction against rental income so as to ensure that it is only the real income that is brought to tax. There is a spate of litigation that prevails in the country on account of this item of expense. Amending the law and allowing a deduction for the same would lead to considerable reduction in litigation	Contribution towards maintainnence paid through bank should be allowed as deduction on actual basis or 30% whichever is higher.
5	Section 35D - Amount paid for increase in authorized capital	Currently, the amount paid for increase in authorized capital is not allowed as deduction. After a company is incorporated with a minimum paid up capital (for which there is no minimum limit now), and it wishes to increase its authorized capital, the company is required to pay registration fee to Registrar of Companies. Fee on incorporation of a company is allowed as per specified limits in 5 instalments u/s 35D, however the amount paid for increase in authorized capital is not allowed as deduction at all, though the amount is paid to government as a fee.	It is suggested that fees paid to Registrar of companies for increase in authorized capital may be allowed as revenue expenditure in 5 equal instalments u/s 35D.
6	37	Corporate Social Responsibility Expenditure As per the Companies Act, 2013, it is mandatory for specified companies (as per Section 135) to spend 2% of their average profits towards Corporate Social Responsibility. These expenses are all connected to social and charitable causes and not for any personal benefit or gain. It is, therefore, fair to allow the same as business expenditure. There is no bar on allowability of CSR expenditure falling under	As spending on CSR by the corporate sector is for laudable purposes and effectively assisting the Government in undertaking social projects for the country, the deduction must be allowed for expenses on CSR for the purpose of Income tax.

		other sections like 35, 35AC etc. At present the Income Tax Act provides that the expenses incurred by the taxpayer on the activities relating to CSR referred to in Section 135 of the Companies Act, 2013 shall not be deemed to be incurred for the purpose of business and hence, shall not be allowed as a deduction for computation of income.	
7	44AB	Tax audit in case of partners of firm In case of a partner of a partnership firm, his share of profit is exempt under Section 10(2A) as the firm pays the tax at the maximum marginal rate. The remuneration and interest received by the partners from the firm is taxable as Business Income. In such cases, an issue has been raised in some cases that even partners are required to get their accounts audited if their share in profit and/or remuneration / interest from the firm exceeds the threshold provided in Sec. 44AB notwithstanding the fact that the accounts of the partnership firm have already been audited under Section 44AB	A clarificatory amendment should be made in Section 44AB to provide that for the purpose of applying Section 44AB in the hands of the partners, the share of profit and/or remuneration/interest received from the firm shall not be taken into account while determining the amount of threshold provided in Section 44AB. This will match with the Government agenda of ease of doing business.
8	44AD	Section 44AD excludes LLP, for which there appears to be no cogent reason. Otherwise under the Act, a LLP and a Firm are treated at par. Even section 44ADA does not exclude LLP.	The benefit of section 44AD should also be made available to LLP.
9	44AD -Monetary limit for presumptive basis	Explanation to the Section 44AD defines “eligible business”. It means total turnover or gross receipts does not exceed an amount of Rs. 2.00 crores. 6% is deemed to be the profit on total turnover or gross receipts if receipts are through prescribed banking channels. Some of the contractors are executing works for various Government departments and Private agencies. Most of the payments are received through proper banking channels.	a) Eligibility criterion should be increased to Rs 5 Crores. b) Rate of presumptive profit should be reduced from 8% to 5% and from 6% to 4% (in case of digital transaction) c) All three segments like manufacturing, Service and Trading should be eligible for presumptive taxation system. Above will reduce Tax litigation to a great extent and untaxed business will be

			encouraged to contribute in Nation's economy
10	44ADA	Presumptive Taxation for professionals Professions have to offer profit percentage of 50%, the initial recommendation was 33.33% for professional fees less than INR 50 Lakh. From assessment year 2021-22, partnership firms **are entitled to the benefit of the presumptive provision**. However, it appears that the profit percentage of 50% has to be submitted to tax after allowance of partner's remuneration. The profit of most professional firms is shared by the partners by way of remuneration which is subjected to tax in their hands and is in fact treated as a special share of profits. Therefore, achieving a 50% percentage of profit after remuneration is extremely improbable if not impossible. This would then necessitate all professional firms with receipts of less than INR 50 lakhs to conduct a tax audit	The percentage should reduce considering that lot of expenses are incurred by professionals too these days specially for human resources, technology, marketing and inflation. The presumptive percentage should reduce to 33 % and even the gross receipts limit should be enhanced to INR 1 crore from INR 75 Lakhs. The profit percentage of 50% should apply before remuneration to partners. - **LLP should also get benefit of this section.**
11	Conversion of Current Asset into Stock In Trade - Sec 45(2)	It is suggested to provide deferment of payment of tax on business income from conversion of stock in-trade to capital asset till the final disposal of such capital asset to avoid hardship of payment of tax as both capital gain and income tax are chargeable to tax in the year in which stock in trade were sold or transferred otherwise.	It is suggested to provide deferment of payment of tax on business income from conversion of stock in-trade to capital asset till the final disposal of such capital asset to avoid hardship of payment of tax on unrealized gain and bring clarity with the method adopted on conversion of capital asset into stock-in-trade.
12	Consequential amendment required in section 47(xiiib)	The existing section 47(xiiib) provides that no capital gains tax is payable on conversion of a private limited or unlisted public company into LLP subject to certain conditions. Proviso (e) states that this provision will not apply if the total sales, turnover or gross receipts in the business of any of the three preceding years exceed Rs. 60	Many companies are now converting themselves to LLP. With a view to popularize the concept of LLP and also in view of the fact that such provision should apply to all cases of revenue neutral conversions from one form of entity to another form of entity, there should be no threshold on turnover, to avail the benefit

		lakhs. Since this was an amendment to facilitate conversion of private limited companies and unlisted companies into LLPs, ideally, there should be no restriction on the turnover to avail the benefit of section 47(xiiib). It may also be noted that the parent Act i.e. Limited Liability Partnership Act 2008, allows this conversion without any such restrictions.	under section 47(xiiib) or alternatively, the limit of sixty Lacs rupees should be substantially enhanced or the condition of the turnover should be deleted.
13	47(xiiib) - Conversion of company into LLP -Clarification required relating to additional condition	LLP is a preferred form of organization for smooth conduct of business. Accordingly, section 47(xiiib) provides for an exemption enabling smooth conversion, subject to compliance with the conditions. There was a case for making the exemption more liberal by relaxing the turnover limit which is one of the present conditions. However, conversion will become all the more difficult as a result of an additional condition which will deny exemption in a case where the company was possessed of total assets worth Rs. 5 crores in any of the 3 years. The expression "value of total assets appearing in the books of accounts" is not defined and may create certain interpretational issues such as whether status of assets is to be seen on balance sheet date or even one day's presence during the year will be considered if asset no longer exists with the assesse as on balance sheet date. Also, whether 'Miscellaneous Expense' as an item reflected on balance sheet will constitute an asset, treatment of advance tax paid shown on asset side (with corresponding provisions for tax on liability side), etc. are the other issues which need to be addressed.	a. In view of the aforesaid, it is suggested that the condition of asset base being less than Rs. 5 crores be rationalized and may be increased to Rs 10 crore. b. Also, the scope of the term 'value of total assets as appearing in the books of accounts' be clarified to provide certainty and reduce litigation. c. Another alternative that could be considered is that on conversion, the assessee pays tax @ 15% subject to compliance of only sub clauses (a), (b) and (c).
14	54EC	The section restricts exemption for investment in capital gains bonds up to INR 50 Lakh. In	a) The ceiling for making investment in specified assets be increased from

		addition, thereto the benefit is available only for transfer of land or building. On account of the restrictive nature of the current provision the benefit is restricted only to a few taxpayers. Those taxpayers who transfer assets other than land and building say shares are not eligible. Further since the words used are land and building, it is debatable whether rights therein or in regard thereto, say tenancy or leasehold rights will qualify. Further the limit is also small considering the possible gains by senior citizens who have held assets for a very long period.	Rs. 50,00,000 to Rs. 1,50,00,000. b) The restriction in regard to the asset class should be removed. This will also help the Government in generating funds at much lesser cost, especially when the government is burdened with high cost of borrowing. This step will also will provide impetus to the infrastructure sector. c) Further, since the lock in period has now been increased to 5 years, if the limit is also increased, the government will have more funds for a longer period at lower cost. d) the time limit for making investment in such Bonds should be allowed upto the due date of filing the Income Tax Return by the assessee instead of present time period of only 6 months from the date of sale of original asset. e) Moreover the benefit of section 54 EC should also be extended to capital gains on all assets. It should not be restricted to only in case of capital gain arising from land or building or both.
15	56(2)(x) – Clarification w.r.t. issue of shares	As per the Section 56(2)(x), if any person receives any property on or after 1 April 2017, without consideration or for consideration which is less than the aggregate fair market value by an amount exceeding Rs 50,000, the difference shall be taxable under the head Income from Other Sources' in the hands of the recipient.The intent of legislation is to bring within ambit of taxation instances of 'transfer' for inadequate consideration and not 'issue' of shares.	A suitable clarification may be issued that section 56(2)(x) is applicable only for transfer of shares and not for issue of shares

16	Section 71(3A) - Loss from House Property	Section 71 of the Act provides for set off of any loss arising under the head "Income from House Property" against any other head of income. As per section 71, it is restricted to set off the losses to the extent of Rs 2,00,000 against any other head of income and the unabsorbed loss to be carried forward up to subsequent 8 assessment years. The amount of interest paid is always higher than the rental income earned against such property and as per the current provisions the loss could be set off against other income. Many of them have borrowed to acquire a house which is self-occupied. Further, the Finance Minister in his budget speech focused on housing development	It is therefore suggested to withdraw the said amendment. Alternatively, the limit of Rs 2 lakhs may be raised to at least Rs 5 lakhs. Alternatively, 2 lacs limit per property loss should be allowed.
17	NATIONAL PENSION SCHEME 80 CCD	Government introduced National Pension Scheme in 2012, but the same is not so popular (especially among the young generation), as its withdrawals are not fully exempt. Further, the social security system of India is not so robust that it will take care of the individuals after their retirement.	Improve the participation under the NPS, withdrawals should be made fully exempt from taxation
18	80G – Request to reconsider cap of 10%	Section 80G provides deduction to the certain prescribed donations subject to the ceiling of 10% of gross total income. This ceiling gives additional tax burden for generous donors	It is suggested that the ceiling of 10% of gross total income may be reconsidered u/s 80G.
19	**115BAB**	The company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2024	a) This should be extended to 31st March 2026. b) MSMEs who are expanding capacity should also be given similar tax benefit.
20	**115BAC**	**Personal Income tax:** We appreciate the alternate tax regime offered for personal taxation under section 115BAC.	Deduction for medical insurance premium under section 80D should be allowed to help taxpayers to keep their medical policies alive in view of exorbitant medical

			expenses. No social security is available.
21	Tax under sec. 115BBE:	If the department treats surrendered income as deemed income, it will be subject to tax at the rate of 60 per cent plus 25 per cent surcharge and education cess. The effective aggregate rate u/s 115BBE now 78 per cent. If the A.O. makes addition penalty under section 271AAC may also be levied @ 10 per cent of tax, which will make the overall burden @84 per cent on assesse. It is prohibitive and needs urgent review.	It is desirable that tax under sec. 115BBE should be at best 30 per cent or the maximum marginal rate. The rate was basically increased drastically due to demonetisation. It should be brought back to pre asst. year 2017 -18 level. It may kindly be appreciated that additions under sec. 68. 69, 69A, 69B and 69C of the Income Tax Act, 1961 are deemed additions and not necessarily the actual or real income.
22	Section 144B- Faceless Assessments	The opportunity for personal hearing is given under the section only at the discretion of the authority. Further, the transfer of case from faceless to JAO can be done only at the discretion of authorities.	a) Opportunity should also be given to assessee for personal hearing of video conference and the same being a constitutional right, it cannot be subject matter of discretion. b) In some complicated cases, the assessee should be given opportunity to ask for transfer of case physically to JAO. c) Some suitable exceptions are required in the faceless assessments like set aside assessments, cases of super senior citizens, cases of individuals having only salary income and paying TDS, technologically backward states etc.
23	179	In many cases provisions of section 179 are being resorted by the Assessing Officer even prior to decision in appeal by CIT (A) or ITAT and also without firstly exhausting its remedy for recovery of tax demand against the company.	Provisions of section 179 are to be resorted to only if the demand has been finally settled and the Assessing Officer is not able to recover the same from the company. Proceedings are not to be used for harassment of the directors, or threatening them by attaching their personal bank accounts.

			Necessary provision needs to be made in the section to exclude action at least in case of Independent Directors.`
24	194IB / 195-TDS on Payments of Rent by Certain Individuals / HUF	It is presently provided that rent payment exceeds Rs. 50,000 per month /, TDS of 5%, is required to made. As an important compliance relaxation, it has been further provided that, TDS can be made once in a year and 1 Challan cum Return can be filed without going through the regular elaborate TDS Compliances / procedures In contrast, if the owner / lessor happens to be a NRI, Section 195 becomes applicable resulting in the following ▫ TDS at the rate of 31.2% without threshold limit▫ Tenants (who usually would not be registered for TDS) would have to comply with elaborate TDS related compliances & procedures	Even in cases where Rent payments are made to NRI, provisions on lines with 194IB, needs to be introduced. It would ease compliance for Individuals /HUF who are not registered for TDS. Section 194IA - Pan to pan tds option should be there as in case payment made to NRI then tan number is required that should not be required like it is done in 26QB return where tan is not reqd.
25	206C(1H)	Only listed securities have been carved out of section 206C(1H) of the Act. Further, the key terms such as 'goods', 'turnover' etc. are not defined in the section. The term 'goods' on which the entire gamut of section 206C(1H) depends, is not defined. Hence, support needs to be taken from other Acts. GST Act and Sale of Goods defines the terms 'goods' differently and thus the Tax Officer may take different definition than the one taken by the assessee. Further, while the key terms are not defined, CBDT has issued a circular clarifying various queries. One of the clarifications given by the CBDT is that the provision of section 206C(1H) of the Act would not apply to listed securities. Thus, it appears that unlisted securities could get covered by section 206C(1H) of the IT Act.	Securities, whether listed or not, should be out of the purview of section 206C(1H). Further, key terms such as 'goods', 'turnover', may be defined so as to minimise the risk of protracted litigation.

26	234F – Fee for default in furnishing the return of income.	a return claiming refund can be filed within one year from the end of the assessment year. As per section 234F, even such cases are covered and are liable to the fee u/s 234F. This results in such persons having to unnecessarily pay a fee even though the revenue is not adversely affected by the late filing of the return.	No fee should be charged from a person who files the return of income beyond the normal time limit and in whose case, a refund is due as per the return filed.
27	Time limit for carrying out appeal effect by the Assessing Officer or passing Order by Appellate Authority u/s 250(6A)	Presently, the Act provides for time limit for completing assessment by the Assessing Officer. There is no doubt as regards the legal position that in case the assessment order is not framed within the specific time limit, the Assessing Officer cannot make the assessment order thereafter. Similar should be the position in regard to appeal effect. In case the Assessing Officer does not take the necessary action within the stipulated time limit, the action will be deemed to have resulted in favour of the assessee and no adverse order can be passed. Otherwise, placing time limits for appeal effect, etc. have not brought any effective result and still the matters continue to be pending with the Assessing Officer for quite long time.	In case the appeal is not decided by CIT(A) within the time limit u/s 250(6A) of the Act, the appeal should be deemed to be allowed. Making the aforesaid provisions in the Act will not in any way bring any adverse result for the obvious reason that when there is compulsion under law the Assessing Officer or the CIT(A) will definitely take the necessary action within the stipulated time limit. It will bring a discipline in the performance of the officers.
28	Exercising of powers u/s 263 of the Act	It is being practically seen that powers u/s 263 are exercised in a routine manner and in spite of detailed submissions or legal requirements, no care is taken by the concerned officers. It is necessary that the provisions should be more specific, duly supported by the necessary guidelines for exercising the powers under these sections.	There should also be proper training and also check within the department so that actions taken are upheld in appeals. It is well known that because of casual approach of the officers' actions taken under above sections in most of the cases fail in appeals. We welcome the amended provisions of sec. 147, 148 and new section 148A inserted in Finance Act, 2020.
29		Inquiry in the firms by Income tax and GST officer.	Income tax and GST officer should go for inquiry only in those firms whose annual sales are 10 crores or more.

30	Tax Rates for Partnership	The rate of income tax on a partnership firm or LLP registered under GST should be in tandem with Corporate Law. But currently it is being charged at 30 percent.	This effective rate of Income Tax should be 22 percent for New Regime where AMT benefit will not be available to Assessee in line with section 115BAB.
31	Charitable purpose Section 2(15) Limit of 20% in the definition of "Charitable Purpose"	Several difficulties are faced by small charitable organisations and therefore there is a need to amend the definition and relax the upper limit of 20% of total receipts.	In place of existing clause (ii), the following may be substituted: "The aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, or rupees One crore, whichever is higher, of the trust or institution undertaking such activity or activities, of that previous year."
32	Faceless Assessment Scheme-2019 :	a) The concept of accountability may be established in the faceless assessment scheme. b) Imposing unrecoverable tax demand on the assesse may be equivalent to killing the small taxpayers / citizens. To a great extent, human touch was there during the earlier physical assessment system. However, this human touch is totally missing in the faceless assessment scheme and abrupt high pitched assessment orders are passed without realizing the fact that the taxpayers are human beings.	a) It is humbly prayed that penalty may be imposed on the assessing officer for error or intentional high pitched. Assessee may be given the right to demand for fixing the accountability of the assessing officer. Independent "Accountability Examination committee" may be formed wherein not only the departmental team but also people from profession & ITAT may be taken so as to ensure the intended purpose. b) It is humbly prayed that every order proposed with addition of amount more than the returned income may be passed through the test of "Human Touch" whereby the case may be examined from human angel as well.
33	Limited Liability Partnership (LLP) - (a) Section 47 – Insertion of clause (vi ab) to provide exemption in respect of transfer of capital asset consequent to amalgamation of foreign companies - Consequent	Clause (vi ab) is inserted in section 47 so as to provide exemption in respect of any transfer in a scheme of amalgamation, of a capital asset, being a share of a foreign company, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating	New clauses may be inserted in section 47 to provide for: Consequent exemption in respect of transfer of shares by the resident shareholders of the amalgamating foreign company if transfer is made in consideration of the allotment to him of any shares or shares in the amalgamated foreign company. exemption in

	exemption to be provided in respect of transfer of shares by resident shareholders	foreign company to the amalgamated foreign company. However, no clause has been inserted to provide consequent exemption in respect of transfer of shares by the resident shareholders of amalgamating foreign company in consideration of allotment of shares of amalgamated foreign company. This appears to be an inadvertent omission, since in case of exemption under section 47(vi) in respect of transfer of capital asset in a scheme of amalgamation by an amalgamating company to the amalgamated company, where the amalgamated company is an Indian company, consequent exemption has been provided under section 47(vii) in the hands of the shareholders of the amalgamating company for transfer of shares of amalgamating company in consideration of allotment of shares of amalgamated company. Further, transfer in a scheme of business reorganization of a capital asset, being a share of a foreign company, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company should also be exempt under section 47.	respect of transfer in a scheme of business re-organization of a capital asset, being a share of a foreign company, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company.
34	Surcharge above Tax	In case of income off individual of ₹50,00,000 or more there is a surcharge	Considering inflation this surcharge should be levied once income crosses Rs 1 crore.

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