

Key Impact on the Alcobev Sector Union Budget 2023-24

TDS U/S 194R ON ADVANTAGE OR PERQUISITES

Budget Proposal:

The Finance Bill 2023 proposes to amend Section 28(iv) of the Income Tax Act, 1961 (IT Act) to include cash/ monetary perquisites as well within its ambit. Similarly, it is proposed to clarify that withholding tax under Section 194R of the IT Act is applicable whether the perquisite received is in cash or in kind or partly in cash and kind. The amendment is proposed to be effective from 1 April 2023.

Background of the Issue:

It is a settled position under Section 28(iv), including the decision of Hon'ble Supreme Court in CIT v. Mahindra & Mahindra Ltd. [2018] 93 taxmann.com 32 (SC), that the said Section only taxes non-monetary business perquisites and excludes any cash / monetary perquisites from its ambit. Additionally, Finance Act, 2022 introduced withholding tax on business perquisites *vide* Section 194R. Further, the Guidelines to Section 194R specify that all business perquisites, whether in cash or in kind or partly in cash and kind, are subject to withholding of taxes. This created a controversy whether the Guidelines, being a delegated legislation, exceed its mandate and widen the ambit of Section 194R to cover monetary perquisites, which were otherwise not expressly covered within ambit of Section 28(iv).

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- Companies providing cash perquisites to their customers, service providers and vendors may have to withhold tax under Section 194R w.e.f. 1 April 2023.
- The proposal is likely to increase compliance burden on the businesses.
- The very purpose of introduction of the withholding provisions under Section 194R was to tap income on account of non-monetary perquisites to widen the tax net as these items were going unreported, in various cases, at the recipient's end. However, introducing withholding tax on cash perquisites may not have similar effect as monetary perquisites are generally accounted as income and thus, are taxed.

CUSTOMS DUTY EXEMPTION TO INDUSTRIAL ALCOHOL

Budget Proposal:

Basic Customs Duty has been exempted on Denatured alcohol (Tariff item 2207 20 00) which is used in the chemical industry.

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This move will bring tax parity between domestic and imported industrial alcohol. Exemption has been granted only from BCD and the imports will continue to attract GST (at par with domestic procurements). Higher imports may result in reduction of domestic prices which have seen a significant rise in the recent past.

IMPLICATIONS UNDER THE FOOD SAFETY AND STANDARDS ACT, 2006 ('FSS ACT') AND LEGAL METROLOGY ACT, 2009 ('LM ACT')

Proposal:

The Hon'ble Finance Minister highlighted the introduction of the Jan Vishwas (Amendment of Provisions) Bill, 2022 which proposes to make certain amendments *inter alia* to the FSS Act and the LM Act. It was introduced in Lok Sabha on December 22, 2022 and seeks to amend 42 Acts to reduce the compliance burden on individuals and businesses and ensure ease of doing business. The said Bill has been introduced to decriminalise and reduce the burden of compliances with regard to several legal provisions.

Following offences are proposed to be de-criminalized under the FSS Act:

Offence	Pre-Budget 2023	Proposed Amendment
Section 59: Punishment for unsafe food	Imprisonment upto 6 months and fine upto INR 1L	Fine upto INR 3L
Section 61: Punishment for false information	Imprisonment upto 3 months and fine upto INR 2L	Fine upto INR 10L
Section 63: Punishment for carrying out a business without licence	Imprisonment upto 6 months and fine upto INR 5L	Fine upto INR 5L

Following offences are proposed to be de-criminalized under the LM Act:

Offence	Pre-Budget 2023	Proposed Amendment
Section 25: Penalty for use of non-standard weight or measure	Each of these offences could result into fine upto INR 25K and imprisonment upto 3 years.	Fine ranging between INR 25k to INR 5L as specified for each offence, depending on the number of times the offence is committed.
Section 27: Penalty for manufacture or sale of non-standard weight or measure		
Section 28: Penalty for making any transaction, deal or contract in contravention of the prescribed standards		
Section 29: Penalty for quoting or publishing, etc., of non-standard units.		
Section 31: Penalty for non-production of documents, etc		
Section 34: Penalty for sale or delivery of commodities. etc., by non-standard weight or measure		
Section 35: Penalty for rendering services by non-standard weight, measure or number		
Section 48: Compounding of offences	Section 41 which provides for criminal prosecution for giving false information or false return, was not compoundable.	Offences under Section (for giving false information or false return) are now proposed to be compoundable.

Other proposed amendments:

- Under the Information Technology Act, 2000, disclosing personal information in breach of a lawful contract is punishable with imprisonment of up to three years, or a fine of up to INR 5L, or both. The Bill replaces this with a penalty of up to INR 25L.
- Some other Acts that are proposed to be amended by the Bill include: the Environment (Protection) Act, 1986, the Patents Act, 1970, etc.

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The proposed Bill is a welcome move for the Alcobev Sector and enhances the ease of doing business while engaging a trust based governance, which is also the motive and intention behind the said Bill.