

# Retrospective Amendments – Clarifying Legislative intent

## BUDGET PROPOSAL

The Budget 2026 introduces *four key retrospective amendments*; each aimed at clarifying legislative intent and has the impact of overturning certain prevailing High Court judgements in favor of the Taxpayers.

- **Section 92CA of IT Act, 1961 – Time limit for passing TPO order (r.e.f. June 1, 2007)**
  - Seeks to retrospectively provide that the time limit for passing a TP Order under section 92CA(3A) would include the last day of the limitation period while counting 60 days.
  - This proposal aims at overturn the Madras HC ruling in *Pfizer Healthcare India Pvt. Ltd. [2021] 433 ITR 28 (Madras)* wherein the TP Order issued after a delay of one day was quashed by the High Court.
- **Sections 144C/153/153B of IT Act, 1961 – (r.e.f. October 1, 2009)**
  - Confirms that sections 153 / 153B timelines apply only to forwarding of the draft assessment order.
  - Once the draft is issued, the DRP timelines (i.e. nine months) and AO finalization timeline (i.e. one month) operate independently.
  - Overturns judicial uncertainty arising from split verdict of the Hon'ble SC in case of *Shelf Drilling Ron Tappmeyer Ltd. [2025] 177 taxmann.com 262 (SC)* on the issue.
- **Section 147A of IT Act, 1961– JAO vs FAO controversy (r.e.f. April 1, 2021)**
  - Clarifies that the Assessing Officer, for the purpose of Section 148 and 148A, shall mean an Assessing Officer other than National Faceless Assessment Centre / Faceless Assessment Units.
  - This retrospective change overturns the Bombay HC ruling in the case of *Hexaware*

*Technologies Ltd. [2024] 464 ITR 430 (Bombay)* issued in favour of the taxpayers. The amendment is aligned with the contrary ruling by Delhi HC in case of *T.K.S. Builders (P.) Ltd [2024] 469 ITR 657 (Delhi)*.

- **Section 292BA – Document Identification Number (DIN) of IT Act, 1961 (r.e.f. October 1, 2019)**
  - Seeks to retrospectively provide that the assessments shall not be invalid due to DIN defects, provided the order makes a reference to a DIN in any manner.
  - High courts in certain cases such as *Tata Medical Centre Trust [2023] 459 ITR 155 (Calcutta)* has quashed the proceedings on account of not quoting DINs in a correct manner.

## ELP's INSIGHTS

The Government has introduced these retrospective amendments aimed at overturning High Court rulings rendered in favour of taxpayers, thereby neutralising procedural defences that had resulted in quashing of proceedings.

Taxpayers would have to reassess alternative legal and factual defences on merits in pending matters.

The constitutional validity of these retrospective amendments remains open to judicial scrutiny, if challenged before High Courts.